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MANITOBA PUBLIC UTILITIES BOARD

Re: APPLICATION BY MANITOBA HYDRO FOR APPROVAL OF  
RATES FOR THE DIESEL ELECTRIC SERVICE IN  
BROCHET, LAC BROCHET, SHAMATTAWA AND TADOULE  
LAKE

Before Board Panel:

- Gerry Forrest - Board Chairman
- Kathi Avery-Kinew - Board Member
- Bob Mayer - Board Member

HELD AT:

Public Utilities Board  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
January 7th, 2004  
Volume II  
Pages 252 to 478

## APPEARANCES

1  
2  
3 R.F. Peters )Board Counsel  
4  
5 Patti Ramage )Manitoba Hydro  
6 Doug Bedford )  
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8 Byron Williams )CAC/MSOS  
9 Randal T. Smith, Q.C. )Indian and Northern  
10 Affairs Canada  
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12 Michael Anderson )Manitoba Keewatinowi  
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16 Carol Geehan )Court Reporter  
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1 --- Upon commencing at 9:07 a.m.

2

3 THE CHAIRMAN: Good morning ladies and  
4 gentlemen. If I may I would like to call the Hearing to  
5 Order this morning. Mr. Peters, you were in the midst of  
6 your cross yesterday, are you ready to continue?

7 MR. BOB PETERS: Yes, sir, I am and thank you  
8 very much.

9

10 MANITOBA HYDRO PANEL, Resumed;

11

12 CONTINUED CROSS-EXAMINATION BY MR. BOB PETERS:

13 MR. BOB PETERS: Good morning, ladies and  
14 gentlemen. Panel, yesterday you were reviewing with the  
15 Board, page 15 of the Application which contained the current  
16 rates and the proposed rates together with the current  
17 revenue at -- sorry, the revenue at current rates and the  
18 revenue at proposed rates.

19 Do you recall that, Mr. Thomas?

20 MR. CHIC THOMAS: I do.

21 MR. BOB PETERS: Mr. Thomas, you went on to  
22 explain to the Vice-Chair and to myself that there were  
23 assumptions made and the assumptions led to an increase in  
24 revenue for both the residential customer and the general  
25 service customer, correct?

1                   MR. CHIC THOMAS:    What assumptions are you  
2 referring to, Mr. Peters?

3                   MR. BOB PETERS:    A fair question.  When we  
4 look at page 15, we see the revenue at forecast usage  
5 currently is about four hundred and seventeen thousand  
6 dollars (\$417,000) and the proposed revenue, if your  
7 Application is granted by this Board, is seven hundred and  
8 thirty-nine thousand dollars (\$739,000).

9                   MR. CHIC THOMAS:    There is a correction to  
10 that number Mr. Peters.  As a result of the error we noted  
11 yesterday, that number -- I think I have the exact number if  
12 you would bear with me one moment.

13                  MR. BOB PETERS:    Certainly.

14

15                                   (BRIEF PAUSE)

16

17                  MR. MICHAEL ANDERSON:  Mr. Chair, if I might  
18 just briefly while this little bit of working is just to  
19 introduce Mr. Dale Hildebrand with STANTEC Consulting, who's  
20 attending proceedings this morning.  I just wanted to  
21 acknowledge his presence in the room.

22                  THE CHAIRMAN:    Thank you.  Welcome, Mr.  
23 Hildebrand.  Back to you, Mr. Thomas.

24                  MR. CHIC THOMAS:   That number, Mr. Peters,  
25 should actually be \$1,049,023.

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CONTINUED BY MR. BOB PETERS:

MR. BOB PETERS: And so the percentage change -- are we talking about the residential class here, sir?

MR. CHIC THOMAS: That's correct.

MR. BOB PETERS: And so the seven hundred and thirty-nine thousand four hundred and seventy-seven dollars (\$739,477) is increased to \$1,049,230?

MR. CHIC THOMAS: Twenty-three dollars (\$23).

MR. BOB PETERS: I'm sorry. Twenty-three dollars (\$23). And what percentage changes does that then become, sir?

(BRIEF PAUSE)

MR. CHIC THOMAS: Approximately 150 percent.

MR. BOB PETERS: And can you tell the Board whether that now changes any other numbers on that page in terms of total revenue from all classes?

MR. CHIC THOMAS: It does change the surcharge rate.

MR. BOB PETERS: Okay. Can you --

MR. CHIC THOMAS: From the one thirty-one (1.31) quoted in that page to the one dollar and twenty-two cents (\$1.22).

1                   MR. BOB PETERS:    But it doesn't change the  
2 total revenue under proposed rates of \$8.977 million from all  
3 customer classes?

4                   MR. CHIC THOMAS:    The bottom line number does  
5 not change 8.9 million but the number just above it for the  
6 government rate will also change slightly as a result of the  
7 surcharge.

8                   MR. BOB PETERS:    And did you do that  
9 calculation?

10                  MR. CHIC THOMAS:    I -- I believe Mr. Wiens is  
11 doing that right now.

12                  THE CHAIRMAN:     Ms. Ramage, for the clarity of  
13 the record, particularly for the future, could I get an  
14 undertaking that Schedule 5, page 15 is refiled with the  
15 corrections as noted?

16                  MS. PATTI RAMAGE:    Certainly.

17                  THE CHAIRMAN:     Thank you.

18

19 --- UNDERTAKING NO. 3:            Schedule 5, to be refiled with  
20                                        the corrections as noted.

21

22

(BRIEF PAUSE)

23

24                  MR. CHIC THOMAS:    Sorry about that.  So that  
25 number that is stated in the book at 7,293,506 now becomes

1 6,983,960.

2 MR. ROBERT MAYER: Don't we have to change  
3 the line above as well, "Total per kilowatt hour for  
4 government rate"?

5 MR. CHIC THOMAS: Yes, that also changed to  
6 two oh-one (2.01).

7

8 CONTINUED BY MR. BOB PETERS:

9 MR. BOB PETERS: All right then, Mr. Thomas,  
10 just to review that. You've changed the proposed forecast of  
11 revenue under the Application before the Board to \$1,049,023;  
12 correct?

13 MR. CHIC THOMAS: That's correct.

14 MR. BOB PETERS: And that was under the  
15 residential class only?

16 MR. CHIC THOMAS: That's correct.

17 MR. BOB PETERS: There were no changes to the  
18 general service rates or forecast or current revenues?

19 MR. CHIC THOMAS: That's right.

20 MR. BOB PETERS: And then under the  
21 government, the surcharge per kilowatt hour has changed from  
22 a dollar thirty-one (\$1.31) to one dollar and twenty-two  
23 point one cents (\$1.22.1)?

24 MR. CHIC THOMAS: That's correct.

25 MR. BOB PETERS: And then as the Vice Chair

1 has noted, the total per kilowatt hour calculation would then  
2 be the summation of the rate per kilowatt hour, which was the  
3 full cost rate plus the surcharge, to now total two dollars  
4 and one cent and decimal two (\$2.012) as well?

5 MR. CHIC THOMAS: Yes.

6 MR. BOB PETERS: And the revenue forecast  
7 from government becomes lower to \$6,983,960?

8 MR. CHIC THOMAS: That's correct.

9 MR. BOB PETERS: There are no other changes  
10 that you're aware of to that page?

11 MR. CHIC THOMAS: No, sir.

12 MR. BOB PETERS: And you will file the -- re-  
13 file that with the revised percentage -- percentages?

14 MR. CHIC THOMAS: Yes, we will.

15 MR. BOB PETERS: All right. Thank you for  
16 that. When we look at -- back to residential customers and I  
17 don't want to spend much time on it. But, we talked  
18 yesterday that the significant increase in revenue that is  
19 being sought is targeted to come from those residential  
20 consumers who are currently using in excess of two thousand  
21 (2,000) kilowatt hours a month?

22 MR. CHIC THOMAS: I believe that's what Mr.  
23 Wiens had mentioned yesterday, yes.

24 MR. BOB PETERS: All right. And the increase  
25 under the general service class, again, is targeted to come

1 from those consumers who consume more than two thousand  
2 (2,000) kilowatt hours per month?

3 MR. CHIC THOMAS: That's right.

4 MR. BOB PETERS: As a result of increasing  
5 those rates, do you expect the consumption will decrease from  
6 those customers?

7 MR. ROBIN WIENS: Yes, that would be the  
8 expectation. We can't be certain by how much, but, I would  
9 think that if customers are responding to that change in the  
10 rates, they will yes, decrease their consumption.

11 MR. BOB PETERS: And that's one (1) of the  
12 very purposes that you're telling the Board that you're  
13 increasing those rates, is to send this price signal that  
14 people, if they're going to use in excess in a residential  
15 capacity of two thousand (2,000) kilowatt hours per month,  
16 it's going to get very expensive for everything over two  
17 thousand (2,000) kilowatt hours?

18 MR. ROBIN WIENS: That's correct.

19 MR. BOB PETERS: And if that price signal is  
20 received and acted upon, you're indicating that you expect  
21 consumption would decrease above that two thousand (2,000)  
22 kilowatt hour per month level?

23 MR. ROBIN WIENS: Yes.

24 MR. BOB PETERS: This Application that you  
25 filed with the Board does not contain any assumptions as to

1 how much that consumption will decrease, does it?

2 MR. CHIC THOMAS: No, it doesn't.

3 MR. BOB PETERS: What you've done, Mr. Thomas,  
4 is you have assumed under the current rate category and the  
5 proposed, exactly the same consumptions?

6 MR. ROBIN WIENS: That's correct.

7 MR. BOB PETERS: Why did you do that, instead  
8 of assuming there would be price signals received and acted  
9 upon and reduced consumption resulting?

10 MR. CHIC THOMAS: There's a couple of reasons  
11 for that. Number one (1) is we take the forecasted  
12 consumption based on forecasts done in the Corporation and  
13 other departments.

14 And the other reason also is that should we be  
15 over-optimistic on the consumption on one (1) year, the way  
16 the diesel study is done, the differences will be picked up  
17 in the -- in the surplus or deficit in the following year.

18

19

(BRIEF PAUSE)

20

21 MR. ROBIN WIENS: And, of course, some of the  
22 costs will not be incurred because diesel fuel won't be  
23 burnt, the hours won't be run to the same extent as they  
24 would have been without that price increase.

25

MR. BOB PETERS: But you don't embed that in

1 the proposed Application, Mr. Wiens?

2 MR. ROBIN WIENS: No, that hasn't been our  
3 practice.

4 MR. BOB PETERS: If I follow it through then,  
5 just conceptually Mr. Wiens and Mr. Thomas, if the price  
6 signals you are sending to the residential customer, as well  
7 as the general service customer, and the signal is that over  
8 two thousand (2,000) kilowatt hours per month is going to  
9 become very costly, you're hoping and expecting consumption  
10 is reduced, correct?

11 MR. ROBIN WIENS: Yes.

12 MR. BOB PETERS: If that consumption is  
13 reduced then the revenue that you receive, will also be  
14 reduced?

15 MR. ROBIN WIENS: Yes, that's true.

16 MR. BOB PETERS: And if the revenue you  
17 receive from those two (2) customer classes is reduced that  
18 has the effect of then increasing the amount that would have  
19 to be recovered through the subsidy by the government class  
20 customers?

21 MR. CHIC THOMAS: No, that's incorrect, Mr.  
22 Peters. What happens is the kilowatt hours are therefore  
23 decreased, so the surcharge would not increase as a result.

24 MR. BOB PETERS: You're telling the Board the  
25 surcharge -- the kilowatt hours for the residential and

1 general service class would reduce and therefore there would  
2 not be additional amounts added to surcharge.

3 MR. ROBIN WIENS: Not in that year, Mr.  
4 Peters. The -- what would happen is a number of things. If  
5 the kilowatt hours were reduced, somewhere around 50 percent  
6 of the cost is variable and that would not be incurred.

7 The remaining cost related to -- to -- to  
8 fixed expenditures would -- would occur. A number of things  
9 could happen, consumption by full cost customers or  
10 Government customers could increase and make up for some of  
11 it, or it -- it may fall short of what was forecasted and  
12 exacerbated, in which case in following with past practice,  
13 we would look to any -- any insufficiencies in revenue that  
14 we would have collected in this year, we would roll over into  
15 future years.

16 MR. BOB PETERS: And -- and the point I was  
17 getting at, Mr. Wiens, is when you roll those over into  
18 future years, who becomes primarily responsible to pay that  
19 -- that deficit from the prior year?

20 MR. ROBIN WIENS: Well, it would primarily be  
21 collected through the surcharge in future years.

22 MR. BOB PETERS: Thank you.

23 THE CHAIRMAN: Mr. Wiens, I'm having some  
24 difficulty, and if I can take you to page 15 of your cost of  
25 service study, together with the bill comparison material

1 that is also in the filing.

2 MR. BOB PETERS: That would be in attachment  
3 1, Mr. Chair?

4 THE CHAIRMAN: Yes.

5 MR. BOB PETERS: Thank you.

6 THE CHAIRMAN: Do you have that.

7 MR. ROBIN WIENS: Are you referring to page 15  
8 of the Application?

9 THE CHAIRMAN: Yes, and as well as attachment  
10 1 to the Application.

11 MR. ROBIN WIENS: Yes, I do, thank you.

12 THE CHAIRMAN: Just so that I'm clear now,  
13 under the current rates that are approved, the residential  
14 class generates four hundred and seventeen thousand dollars  
15 (\$417,000); is that correct?

16 MR. ROBIN WIENS: That's correct.

17 THE CHAIRMAN: And under the proposed, now  
18 with the amended figures, the proposed revenue is \$1,049,000  
19 plus change?

20 MR. ROBIN WIENS: Yes.

21 THE CHAIRMAN: Now, if I go to the attachment  
22 1, there are forty (40) -- four hundred and ninety (490)  
23 customers in the residential class?

24 MR. ROBIN WIENS: Yes.

25 THE CHAIRMAN: And the figures that were put

1 on the record yesterday suggest that the changes that are  
2 being proposed in this Application would affect approximately  
3 6 percent of the bills that are sent out; is that correct;  
4 that is the bill frequency is about 6 percent?

5

6

(BRIEF PAUSE)

7

8

MR. ROBIN WIENS: Yes.

9

10 THE CHAIRMAN: Does that then follow that 6  
11 percent of four hundred and ninety (490) customers, or  
12 approximately thirty (30) customers would be impacted by this  
13 change?

13

14 MR. ROBIN WIENS: I -- I think we had some of  
15 this discussion yesterday and --

15

16 THE CHAIRMAN: Yes, I just want to make sure I  
17 understand.

17

18 MR. ROBIN WIENS: And I believe that it was  
19 more than thirty (30) customers and the reason for that is  
20 that although it may be 6 percent of the bills, there may be  
21 a number of customers who are affected for only one (1) bill  
22 during the year and so that it's probably some -- somewhat  
23 more than 6 percent of the customers.

23

24 I believe we did have that information in  
25 front of us yesterday, we can probably locate it and give you  
that number again today.

1                   THE CHAIRMAN: No, it's not necessary, but I  
2 guess the question that I posed to you and maybe through to  
3 you to Mr. Warden, is that given that we're talking about  
4 thirty (30) or perhaps fifty (50) customers of the five (5)  
5 -- five hundred (500) or four hundred and ninety (490)  
6 customers, has any attempt been made through analysis of the  
7 bills that have been submitted in the past and which you know  
8 will change in the future.

9                   Has there been any attempt to sit down with  
10 some of those customers and say, hey, we have a problem. I  
11 guess the concern I have is if we're going to try and  
12 generate six hundred thousand dollars (\$600,000) in revenue  
13 in residential class, out of perhaps thirty (30) or fifty  
14 (50) customers, and that's a very inordinate amount, and  
15 without any sort of pre-warning, is there any attempt to try  
16 and say and get out there and determine whether or not, what  
17 the problem is and how we can correct the problem?

18                  MR. VINCE WARDEN: Mr. Chairman, I think the  
19 number we put on the record yesterday was a hundred and  
20 sixty-six (166) customers that would be affected. You really  
21 have to take the four hundred and ninety (490) customers and  
22 multiply that by twelve (12) for customer months, and then in  
23 -- in that -- from that total, a hundred and sixty-six (166)  
24 customers could be affected up to -- well, at least once per  
25 -- during that twelve (12) month period.

1                   We as Mr. Cox testified there has -- there  
2 have been various meetings within the communities.

3                   We do firmly believe that the two thousand  
4 (2,000) kilowatt hour cap that we've -- were proposing here,  
5 is as we described it yesterday, somewhat generous. There is  
6 virtually no way that a customer can -- a residential  
7 customer can exceed that cap unless there is supplementary  
8 electric heat. And as we've stated, that's one of the things  
9 that we try to prohibit in these communities. We just can't  
10 allow customers to use electric heat. Otherwise the cost  
11 would escalate even higher than they are.

12                   So with that cap in there, yes there has to be  
13 some consultation but we think this will provide -- because  
14 of the very high cost when they exceed that two thousand  
15 (2,000) kilowatt hours, it will provide the right price  
16 signals and consumption, as Mr. Wiens indicated will very  
17 likely decrease.

18                   THE CHAIRMAN: Mr. Warden thank you for that  
19 and don't take my questions as suggesting that the  
20 Application is correct or incorrect. I'm not going down that  
21 route. I did last night to everyone's knowledge here.

22                   I did examine my own consumption patterns in  
23 my own home last night to determine where I might sit on that  
24 particular schedule. I also know the equipment that I have  
25 in my house which is using electricity. So I have in the

1 back of my mind an understanding, I think, of the use  
2 patterns.

3 But I guess, I still go back to the issue  
4 whether it's sending right price signals or you have a  
5 reasonably small customer segment here and I guess I'm trying  
6 to get a sense as have you met with the Band Councils, have  
7 you met with the Band Administration and indicated in these  
8 communities, you have a few homes that are causing the  
9 difficulty.

10 Has there been any attempt to try and get some  
11 benefit and knowledge to say how we can perhaps move forward  
12 without necessarily just relying strictly on the price signal  
13 issue?

14 MR. VINCE WARDEN: Yes, I think Mr. Cox is  
15 going to speak to that issue.

16 MR. ROBERT COX: Yes Mr. Chair. Back in '94  
17 when the 60 amp service was first allowed in these  
18 communities, we went out and did extensive presentations to  
19 the community as a whole to make them aware of the various  
20 items in their home that could incur some consumption and  
21 cause their bills to rise.

22 Certainly if this two thousand (2,000)  
23 kilowatt max is approved, we would again undertake that and  
24 work with the Chief and Council to make sure all of the  
25 people understood what they could do to make sure that they

1 did not exceed that limit.

2 THE CHAIRMAN: Thank you, Mr. Cox. Mr.  
3 Peters...?

4

5 CONTINUED BY MR. BOB PETERS:

6 MR. BOB PETERS: Mr. Cox, just to follow that  
7 up, let's make the assumption and I -- I'm cognizant of the  
8 comments made by Mr. Wiens yesterday and Mr. Warden this  
9 morning, but if we make the assumption that to consume more  
10 than two thousand (2,000) kilowatt hours per month, there  
11 must be electric heat being used. That heat would be by way  
12 of portable baseboard heaters or perhaps installed baseboard  
13 heaters. Would that be fair?

14 MR. ROBERT COX: I would think it would be  
15 portable heaters that would be just plugged into the normal  
16 circuitry in the house.

17 MR. BOB PETERS: Okay. Help the non-  
18 engineering side of me. These are these long skinny  
19 baseboards that plug into the wall socket and have a radiant  
20 heat with a fan in them to blow it out?

21 MR. ROBERT COX: Some wouldn't have fans but  
22 yeah basically that's what it would be, yes.

23 MR. BOB PETERS: All right. You are of the  
24 view then that the houses were not built within installed  
25 baseboard electric heat units.

1                   MR. ROBERT COX:   Definitely not, because  
2 prior to being connected, we do have our electrical  
3 inspection done and they would make sure at that point and  
4 time that permanently installed heaters were not installed.

5                   MR. BOB PETERS:   So you're with me then on  
6 the assumption that to go in excess of two thousand (2,000)  
7 kilowatt hours per month, it is because there's now temporary  
8 or portable electric baseboard heaters being used.

9                   MR. ROBERT COX:   That is one possibility.  
10 But there is a possibility that they did after we did  
11 complete our inspection, install some permanently connected  
12 heaters.

13                   MR. BOB PETERS:   All right, now let's assume  
14 as the Chairman was just discussing with you that the price  
15 signals are sent and it now becomes cost prohibitive to those  
16 one hundred and sixty-six (166) customers.

17                   At least for one of their bills or some of  
18 their bills every year, to incur consumption in excess of two  
19 thousand (2,000) kilowatt hours per month. Are you with me?

20                   MR. ROBERT COX:   Yes, I am.

21                   MR. BOB PETERS:   All right. So they're going  
22 to disconnect their portable baseboard heaters, their  
23 portable electric heaters, what heating source would they  
24 then have to go to?

25                   MR. ROBERT COX:   Normally, they would be

1 using space oil heat is what they would be using.

2 MR. BOB PETERS: Has Manitoba Hydro satisfied  
3 itself that each of the homes has the capacity to use  
4 alternate heat other than the portable electric heat?

5 MR. ROBERT COX: That is something that  
6 Manitoba Hydro wouldn't get involved in. We would leave that  
7 up to the First Nations to decide what their alternate source  
8 best use was.

9 MR. BOB PETERS: Is it possible then that  
10 some of these houses that are using electric heat, now, do  
11 not have a viable alternate source of heat?

12 MR. ROBERT COX: I can't answer that. I  
13 don't know.

14 MR. BOB PETERS: Manitoba Hydro hasn't done  
15 any studies or checked on any of those matters?

16 MR. ROBERT COX: No, we have not, not to my  
17 knowledge.

18 MR. BOB PETERS: Mr. Warden --

19 MR. ROBERT MAYER: Just before you leave  
20 that, if the inspection was done prior to hook up, somebody  
21 must have identified a heat source if you made sure that  
22 there was no baseboards hooked up?

23 MR. ROBERT COX: Based on my knowledge, in a  
24 lot of cases there would have been a -- a wood furnace in the  
25 place or there would have been a oil-fired space heater.

1

2 CONTINUED BY MR. BOB PETERS:

3 MR. BOB PETERS: And maybe I wasn't clear on  
4 my question, but you have no understanding as to whether  
5 those units are functional at this point in time in the  
6 houses that have been using, as I have assumed, electric  
7 baseboard heating?

8 MR. ROBERT COX: No, Manitoba Hydro doesn't  
9 have ready -- ready, able access to the homes. We do not do  
10 ongoing inspections to see if they are, in fact, using  
11 electric heat.

12 MR. BOB PETERS: I want to turn with the  
13 Panel to the -- to the deficit that's been talked about and a  
14 number of them have been talked about. But the practice, Mr.  
15 Wiens and Mr. Thomas, that I understood was that if there was  
16 a deficit or a surplus in the preceding year, that would  
17 become known when the actual diesel cost of service was  
18 performed for that year; am I correct?

19 MR. CHIC THOMAS: Yes, that's right.

20 MR. BOB PETERS: And so if there was a  
21 deficit from the previous year, you would take that deficit  
22 and you would include that in the revenue requirement in your  
23 prospective cost of diesel study going forward for the -- for  
24 the new year?

25 MR. CHIC THOMAS: That's right.

1 MR. BOB PETERS: And that has a way of  
2 balancing itself out or, at least, recovery after the fact or  
3 refund after the fact by using that methodology?

4 MR. CHIC THOMAS: Yes, that's right.

5 MR. BOB PETERS: And that methodology, Mr.  
6 Thomas, was utilized up until your fiscal year 1999/2000;  
7 correct?

8 MR. CHIC THOMAS: The methodology is the  
9 same, we haven't included the accumulated deficit in the  
10 surcharge portion of the calculation, yes.

11 MR. BOB PETERS: Okay. So if I understand  
12 your answer, it wasn't a surprise to you that on March 31st,  
13 2000, you were approximately \$3 million in a deficit position  
14 for the diesel communities; you knew that?

15 MR. CHIC THOMAS: Yes, we knew that.

16 MR. BOB PETERS: And Manitoba Hydro made a  
17 conscious decision not to recover that \$3 million through the  
18 surcharge for the subsequent fiscal year ending March 31st,  
19 2001?

20 MR. ROBIN WIENS: Mr. Peters, is there a  
21 particular IR response that you're referring to for that  
22 number?

23 MR. BOB PETERS: Ask the hard questions, Mr.  
24 Wiens, we'll try to find you the answer. I believe there  
25 was --

1 MR. ROBIN WIENS: You ask the hard questions,  
2 Mr. Peters.

3 MS. PATTI RAMAGE: Mr. Peters, I believe it's  
4 PUB/Manitoba Hydro-26.

5  
6 (BRIEF PAUSE)

7  
8 THE CHAIRMAN: Thank you, Ms. Ramage.

9  
10 CONTINUED BY MR. BOB PETERS:

11 MR. BOB PETERS: Mr. Wiens, your counsel has  
12 assisted the Board in identifying PUB/MH-26 --

13 MR. ROBIN WIENS: And I have those numbers  
14 before me right now and we see that the accumulated deficit  
15 as of March 31st, 2000?

16 MR. BOB PETERS: Yes.

17 MR. ROBIN WIENS: 2.4 million.

18 MR. BOB PETERS: Right. And the current  
19 deficit for that year is 2.6 million?

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

21 MR. BOB PETERS: And it increases for those  
22 three (3) years or for those next three (3) years by  
23 approximately \$3 million a year?

24 MR. ROBIN WIENS: Yes.

25 MR. BOB PETERS: All right. So I apologize if

1 my rounding off was in error, but, Manitoba Hydro knew that  
2 on March 31st of 2000, there was a deficit from the -- from  
3 running the diesel operation of about \$2.6 million and when  
4 that was netted against the prior years surplus there was a  
5 \$2.4 million deficit?

6 MR. ROBIN WIENS: It's safe to say that we  
7 knew there was a deficit of \$2.4 million as of March the  
8 31st, 2000. We would not have compiled that information and  
9 been aware of it until July of that year. So, we would have  
10 realized it sometime during the summer months, probably in  
11 July.

12 MR. BOB PETERS: All right. And in July when  
13 you became aware of the \$2.4 million accumulated deficit, you  
14 had -- you embarked on preparing the next diesel cost of  
15 service study, Mr. Thomas, would that be correct?

16 MR. CHIC THOMAS: Yes.

17 MR. BOB PETERS: And even though you know --  
18 knew at the time that there was a \$2.4 million deficit, a  
19 decision was made not to include that deficit in the revenue  
20 requirement for the subsequent year?

21 MR. ROBIN WIENS: I don't think that was the  
22 case. I think when we realized that and I think we've had  
23 some discussion about this as well, on the record, we had  
24 finally gotten through to the post north central project era.

25 This study for 1999/2000 was carried out. We

1 became aware that we were in a growing -- seriously growing  
2 deficit situation and we determined at that time, that we  
3 were going to have to deal with that.

4           We had some discussions internally with our  
5 rates review committee, about the magnitude of the deficit  
6 and as well, what would have been predicted for the following  
7 year.

8           And this is when we began to embark on our --  
9 our consultative effort with Indian and Northern Affairs  
10 Canada, was somewhere in that time period, in order first of  
11 all, to apprise them of the growing seriousness of the  
12 situation and to indicate to them that we would have to be  
13 shortly applying to the Public Utilities Board for a rate  
14 change to -- a rate increase to deal with it.

15           We had not made a determination at that time  
16 what the specific request would be in the Application. And  
17 unfortunately, we did spin our wheels for awhile in having  
18 some further discussions with Indian and Northern Affairs  
19 Canada, to determine if there was any other approach, other  
20 than bringing a Rate Application before the Public Utilities  
21 Board, of the standard format that the Board had seen in  
22 1994.

23           So, if you say -- if your question is leading  
24 to, well you were aware there was a deficit, why were you not  
25 rolling it into -- rolling it into a future year and bringing

1 that before the Public Utilities Board, that was very much on  
2 our mind at that time, but it did take some further length of  
3 time for us to act on it.

4 MR. BOB PETERS: Fair answer, Mr. Wiens, and I  
5 will also remind the Board that the very question you thought  
6 I was going to ask you was asked in PUB/MH-1 and that was why  
7 it's taken so long for a Diesel Rate Application coming  
8 forward and your full answer is there, as well, correct?

9 MR. ROBIN WIENS: That's correct.

10 MR. BOB PETERS: My point here is, when you  
11 became -- well, first of all, the -- prior to the year 2000,  
12 your last increase in full cost rates and subsidy was back in  
13 1994, that's correct?

14 MR. ROBIN WIENS: I believe we had an interim  
15 approval in 1993 and it was subsequently confirmed in 1994.

16 MR. BOB PETERS: But, 1994 was the year of the  
17 last approval of the rate increases for the subsidy and the  
18 full cost?

19 MR. ROBIN WIENS: That's correct.

20 MR. BOB PETERS: And I'm not going to go  
21 through the consultative process or negotiating process, but,  
22 Manitoba Hydro made various efforts to recover this deficit  
23 in some means, other than consumer rate increases, would that  
24 be fair?

25 MR. ROBIN WIENS: We had some discussions

1 about alternative methods for recovery. I don't know if I  
2 would characterize it that we had lots of efforts to do so.  
3 We had some discussions about that.

4 MR. BOB PETERS: And those alternative efforts  
5 to recover would include lump sum funding from the Government  
6 of Canada?

7 MR. ROBIN WIENS: That was one (1) of the  
8 suggestions that we put to them.

9 MR. BOB PETERS: Do you recall any others, off  
10 hand, Mr. Wiens?

11 MR. ROBIN WIENS: I think it was mostly  
12 variance on that, whether the lump sum, capital contribution  
13 or an agreement to provide annual or periodic operating  
14 grants.

15 MR. BOB PETERS: Mr. Thomas, can you help the  
16 Board and myself in taking that \$12.5 million number, and  
17 updating it to bring the Board as current as possible.

18 I noted that on page 4 of your Diesel Cost of  
19 Service Study, you projected a deficit that I would assume  
20 would add to your deficit at existing rates of approximately  
21 \$5.8 million; am I correct?

22

23 (BRIEF PAUSE)

24

25 MR. CHIC THOMAS: Yeah, that's fair.

1                   MR. BOB PETERS: And of that 5.8, 5.2 million  
2 would end up as going into the accumulated deficit column,  
3 because the 5.2 million takes into account the -- I'll call  
4 it the Manitoba Hydro subsidy or the grid customer subsidy to  
5 the deficit.

6                   MR. CHIC THOMAS: Yes, that's right.

7                   MR. BOB PETERS: So, would it be correct for  
8 the Board to look at PUB/MH-26, and pencil in for 2003/04,  
9 another approximate \$5.2 million?

10                  MR. CHIC THOMAS: I'd -- I'd -- I'd have to  
11 double check it, but approximately that would be correct,  
12 yes.

13                  MR. BOB PETERS: So, that brings the  
14 approximate accumulated deficit to \$17.9 million?

15                  MR. CHIC THOMAS: Give or take, that would be  
16 close, yes.

17                  MR. BOB PETERS: And, Mr. Warden, yesterday,  
18 I've looked at my notes last night, and I also saw in PUB/MH-  
19 27, Manitoba Hydro was asked:

20                         "How are you going to recover that  
21 accumulated deficit?"

22                  And yesterday I understood your answer in my  
23 notes to reflect that, you're not against talking further to  
24 the Government of Canada, but in my words, at some point in  
25 time you stop hitting your head against the wall and you're

1 going to have to launch into legal action?

2 MR. VINCE WARDEN: We -- I think I indicated  
3 in my direct, Mr. Peters, that it was first important to us  
4 to establish through these Proceedings, to reaffirm the  
5 principles that have been -- that have persisted throughout  
6 this time period, and which were approved by the Public  
7 Utilities Board back in 1994 at the last Proceeding.

8 Having done that, reaffirming the surcharge  
9 and its applicability to Government customers, we would hope  
10 that the Government would then see fit to come to the table  
11 and -- and talk to us about how that \$17.9 million, if that's  
12 the number -- if -- how that would be funded.

13 It would be possible to roll that forward into  
14 a surcharge, but it would make the surcharge obviously  
15 extremely high. And there comes a point at which that just  
16 does not seem to be practical.

17 So, we would prefer that the Government, the  
18 Federal Government that is, saw fit to make some kind of a  
19 contribution towards -- towards that accumulated deficit,  
20 rather than do it through the surcharge.

21 MR. BOB PETERS: All right, just so I can tidy  
22 that up. The very next Interrogatory, PUB/MH-28, you tell  
23 the Board that if -- if this accumulated deficit was going to  
24 be recovered by way of a surcharge, and the surcharge that  
25 you're asking for today is a dollar twenty-two (\$1.22) per

1 kilowatt hour, that would have to jump to approximately four  
2 dollars and ninety-four cents (\$4.94) a kilowatt hour, to --  
3 to recover that kind of a deficit; is that correct?

4 MR. VINCE WARDEN: Yes.

5 MR. BOB PETERS: Now, you also said that you  
6 wanted to reaffirm the principles that Manitoba Hydro has  
7 been operating under.

8 Is it Manitoba Hydro's assessment that the  
9 Government of Canada and Manitoba Hydro are having a  
10 misunderstanding or a disagreement on the principles that  
11 apply to setting of the rates for this community?

12 MR. VINCE WARDEN: I think the -- the ultimate  
13 responsibility for providing basic services, the service  
14 we're interested in of course is electricity in these  
15 communities.

16 The ultimate responsibility, being that of the  
17 Federal Government, I think has to be reaffirmed, and the  
18 method of recovering those costs, our preferred method going  
19 forward would be the surcharge, but we're certainly open to  
20 other means, direct contributions.

21 But ultimately the government, the Federal  
22 Government has, in our view, that responsibility to provide  
23 those services and the funding associated therewith.

24 MR. BOB PETERS: And you have some evidence  
25 that the Federal Government is already paying surcharge on

1 some accounts and I'll use the RCMP as an example.

2 MR. VINCE WARDEN: That is correct, yes.

3 MR. BOB PETERS: But the surcharge portion on  
4 First Nations accounts is where the real dispute lies.

5 MR. VINCE WARDEN: Yes, we've been led to  
6 believe that the Government is providing funding. The  
7 sufficiency of that funding we're not really privy to.

8 MR. BOB PETERS: And in this proceeding Mr.  
9 Warden and your counsel might have their hands close to the  
10 trigger on this one, is there an expectation from Manitoba  
11 Hydro's perspective that a pronouncement by this Board would  
12 be determinative of whether or not ultimate responsibility  
13 lies with the Federal Government?

14 MR. VINCE WARDEN: Well really, all we're  
15 looking for I think is, essentially, no change from what was  
16 approved by the Public Utilities Board back in 1994. At that  
17 time the structure of rates was approved including a  
18 surcharge.

19 We're really just asking for the same  
20 structure to be approved. The surcharge methodology of  
21 recovering our cost to be approved through these proceedings.

22 MR. BOB PETERS: All right, thank you for  
23 that. And just to -- just to conclude on that, for the  
24 Board's reference Mr. Warden, in PUB/MH-28-B you were asked  
25 to tell the Board what would be required by way of a

1 surcharge if the recovery period was extended to 2, 3, 4, 5  
2 and 10 years and your answer is on the record there.  
3 Correct?

4 MR. VINCE WARDEN: Yes, it is.

5 MR. BOB PETERS: And you said that at some  
6 point that surcharge becomes prohibitively high. If I  
7 understood one of your previous answers to me, was that  
8 correct?

9 MR. VINCE WARDEN: Well at some point it  
10 becomes -- I suppose there's -- there's really no point at  
11 which the mechanics of the surcharge wouldn't work. It's a  
12 question of whether or not we've passed the point of  
13 reasonableness when we get up into the five dollar (\$5) range  
14 per kilowatt hour. At that point I think we should look at  
15 other means of funding.

16 MR. BOB PETERS: And those other means would  
17 mean cap --

18 MR. VINCE WARDEN: Direct contributions.  
19 Yes, yes.

20 MR. BOB PETERS: And do you have any advice  
21 to the Board as to where -- sorry if I've -- I didn't want to  
22 interrupt if there was further discussion of prior question.  
23 I've moved on with Mr. Warden. I didn't mean to do that. If  
24 there was more that you thought could be helpful to the  
25 Board.

1 MS. PATTI RAMAGE: No, I'm satisfied that  
2 we've answered correctly.

3 MR. BOB PETERS: Okay, thank you. Mr.  
4 Warden, just before I leave, PUB/MH-28, could you give any  
5 advice to the Board as to where on that schedule or the  
6 preceding page would be the point at which it's no longer  
7 reasonable to use the surcharge mechanism and some other  
8 mechanism would have to be utilized.

9  
10 (BRIEF PAUSE)

11  
12 MR. VINCE WARDEN: I want to be clear that  
13 the mechanics of the -- of the surcharge are sound and that  
14 the basis of recovery of costs through the surcharge is an  
15 equitable way of recovering those costs. So, there's  
16 probably no level at which the surcharge doesn't achieve the  
17 objective of recovering costs in an equitable manner.

18 It just seems that when the accumulation  
19 reaches \$15 million, \$17 million that there's a more  
20 effective way of recovering costs. And we have to be  
21 cognizant too of the presentation that was made by the  
22 Frontier School Division and the problems that is -- the  
23 rates are causing them in terms of their funding. Those  
24 problems could be alleviated with a direct contribution by  
25 government.

1                   So, although the mechanics are good, I think  
2 there are more efficient ways of recovering those monies from  
3 -- from government than -- than the surcharge.

4                   MR. BOB PETERS: Thank you, Mr. Warden. In  
5 terms of account receivables for the four (4) diesel  
6 communities, you told the Board in PUB/MH-23 that you're  
7 sitting with approximately -- I guess, as of January 2003,  
8 ninety-seven thousand dollars (\$97,000) of accounts  
9 receivable from residential customers and if my math is  
10 close, about \$2.5 million dollars in accounts receivable from  
11 general service and government customers; is that corr -- is  
12 that correct?

13                   MR. VINCE WARDEN: I don't actually see the  
14 numbers on PUB-23 --

15                   MR. BOB PETERS: Yes, sir, I just added up  
16 the columns of residential and general service. I'm looking  
17 at PUB/MH-23A -- yes, thank you, Mr. Wiens.

18  
19  
20

(BRIEF PAUSE)

21                   MR. VINCE WARDEN: Yes, I think we're there  
22 now, Mr. Peters.

23                   MR. BOB PETERS: All right. And you've  
24 provided some accounts receivable. Would I be correct that  
25 the residential accounts receivable would not be expected to

1 have grown from last year or they'd be approximately the same  
2 as at this point in time?

3

4

(BRIEF PAUSE)

5

6 MR. VINCE WARDEN: It's a reasonable  
7 assumption, although, I'm sorry, I don't have a current  
8 number on that.

9 MR. BOB PETERS: No, that's -- that's fair.  
10 Can you tell the Board whether the general service and  
11 government account receivable includes -- includes the unpaid  
12 surcharge portion of the accounts that have been rendered?

13

14

(BRIEF PAUSE)

15

16 MR. VINCE WARDEN: It -- it certainly looks  
17 that way although we don't have absolute confirmation. I'm  
18 going to -- going to have to confirm that for you.

19

20

MR. BOB PETERS: If you could, Mr. Warden,  
that would be appreciate unless --

21

22

MR. VINCE WARDEN: Yes, yes we will do that.

23

MR. BOB PETERS: -- Mr. Wiens has rescued you  
here.

24

25

MR. ROBIN WIENS: Mr. Peters, I'm advised  
that the amount in PUB-23-A under the general service and

1 government heading which totals about 2.45 million includes  
2 1.9 million which is in respect of the surcharge related  
3 amounts that INAC has declined to pay.

4 MR. BOB PETERS: All right. Thank you, Mr.  
5 Wiens. You can also confirm to the Board that in respect of  
6 residential customers, you follow the same policy in the  
7 diesel community as you do in the grid communities in terms  
8 of collection procedures and ultimately disconnection of  
9 electrical service?

10 MR. VINCE WARDEN: Yes, we do.

11 MR. BOB PETERS: Could you file a copy of  
12 that policy with the Board?

13 MR. VINCE WARDEN: Yes, we'll do that.

14

15 --- UNDERTAKING NO. 4: File copy of collections procedures  
16 policy for both diesel communities and grid  
17 communities

18

19 MR. BOB PETERS: And, Mr. Warden and Mr.  
20 Wiens, you'd be familiar that under the gas side of your  
21 operation there is a protocol required through statute that -  
22 - that Centra Gas Manitoba Inc. follows before it will  
23 disconnect service in the heating season; correct?

24 MR. VINCE WARDEN: Yes.

25 MR. BOB PETERS: Do you follow a Simi --

1 similar protocol for electrical customers?

2 MR. VINCE WARDEN: Well, the protocol isn't  
3 exactly the same but the end result is very similar. Yes, we  
4 don't disconnect during the winter months.

5 MR. BOB PETERS: You told the Board, Mr.  
6 Wiens, that approximately \$1.9 million dollars of uncollected  
7 surcharge is included in the general service and government  
8 account receivable as of January 2003?

9 MR. ROBIN WIENS: Yes, I did.

10 MR. BOB PETERS: Can you tell the Board, you  
11 or Mr. Warden, what are your plans for recovery of that  
12 surplus which is no longer 1.9 million but, I think, it was  
13 approximately \$2.8 million dollars of uncollected surcharge  
14 according to Mr. Warden's prior evidence?

15 Did I have that right?

16

17 (BRIEF PAUSE)

18

19 MR. VINCE WARDEN: Our plans for the  
20 collection of the 2.8 million accumulated surcharge -- unpaid  
21 surcharge, is not dissimilar from our -- our plans with  
22 respect to the 15 million. We would -- following these  
23 proceedings, we would have discussions, hopefully productive  
24 discussions with INAC and attempt to recover through that  
25 manner. If that wasn't successful then we would have to

1 resort to other means.

2 MR. BOB PETERS: And other means, meaning  
3 lawsuits and legal collection procedures?

4 MR. VINCE WARDEN: Yes.

5 MR. BOB PETERS: Is there a reason that those  
6 legal collection procedures have not been taken to date?

7 MR. VINCE WARDEN: We thought, again, that it  
8 was important to go through these proceedings first.

9 MR. BOB PETERS: In turning to various  
10 options, Mr. Warden, one (1) of the options for the diesel  
11 zone customers was to roll them into the existing cost of  
12 service for the grid conne -- connected customers, correct?

13 MR. VINCE WARDEN: Sorry, would you please  
14 repeat that question?

15 MR. BOB PETERS: Certainly. In terms of the  
16 options, in terms of how you would treat customers in the  
17 diesel zone, one (1) of the options that Manitoba Hydro would  
18 have considered would be rolling those customers into the  
19 cost of service of the grid connected customers and treating  
20 them the same as grid connected customers?

21 Would you agree with that?

22 MR. VINCE WARDEN: No, we haven't really  
23 considered that seriously.

24 MR. BOB PETERS: While you haven't considered  
25 it seriously, it -- it was an option and it was an option as

1 late as when the Provincial government energy policy, through  
2 its uniform rates legislation, came into effect, is that  
3 correct?

4 MR. VINCE WARDEN: No, not really. We -- I  
5 think the legislation was -- was worded such that it provided  
6 some flexibility to Manitoba Hydro, but we did not consider  
7 rolling those into -- with gri -- other grid customers.

8 MR. BOB PETERS: All right. And you were --  
9 you told the Board in PUB/MH 30, some of your reasons why you  
10 wouldn't want to do that, but can I take from the answers  
11 you've given so far, that your primary reason for not -- not  
12 recommending going to a grid rate for all customers, is that  
13 that would amount in your view -- in Hydro's view to  
14 offloading federal government responsibility onto Manitoba  
15 Hydro's ratepayers?

16 MR. VINCE WARDEN: Yes, absolutely.

17 MR. BOB PETERS: And in terms of  
18 quantification, and I'm not sure, Mr. Thomas, if you did this  
19 answer, but it was indicated in the materials that if the  
20 diesel community customers were treated as grid customers in  
21 their rates, PUB/MH 30B, discloses that there would be \$8.8  
22 million of additional monies required from the grid  
23 customers, correct?

24 MR. CHIC THOMAS: That's correct.

25 MR. BOB PETERS: And that's -- that's looking

1 at your forecast for 2004 -- to March 31st, 2004?

2 MR. CHIC THOMAS: The forecast of 2004, yes.

3 MR. BOB PETERS: All right. And that \$8.8  
4 million dollars would -- would amount to a 1.2 percent  
5 increase to general consumers revenue that would be required  
6 to fund the diesel communities, if it was treated as a -- the  
7 same as grid customers?

8 MR. CHIC THOMAS: That was a rough calculation  
9 done there, but yes, that's approximate.

10 MR. BOB PETERS: All right. And -- and I  
11 gathered from your answer, as well, that a further concern  
12 you have is that if diesel communities were treated as grid  
13 customers, it would be very reasonable to expect there to be  
14 load growth of a very significant portion?

15 MR. CHIC THOMAS: Yes, that's one (1) of our  
16 fears.

17 MR. BOB PETERS: And again, you've not tested  
18 that or surveyed on that, but that was intuitive to the  
19 Corporation that that would happen?

20

21

(BRIEF PAUSE)

22

23 MR. ROBIN WIENS: Yes, yes, we were certainly  
24 expanding the customer base which has access to unlimited  
25 service at grid rates. We certainly believe that that would

1 expand consumption, given our inability today to police the  
2 use of electric heat, I think that -- that we would have some  
3 concerns that open ended grid rates would encourage the  
4 proliferation of electric heat to a far degree -- greater  
5 degree, even than today.

6           We attempted to capture this impact in the  
7 response to this question, by looking at what type of  
8 residential consumption was occurring in the rural part of  
9 the Province served by the grid.

10           I'm -- I'm not suggesting, nor was I intending  
11 to suggest in this answer that that is exactly what would  
12 happen, but it is illustrative of what might happen.

13           MR. BOB PETERS: And is it also illustrative,  
14 Mr. Wiens, that the worst case scenario that you present to  
15 the Board is that if the diesel community was on the grid  
16 rate system, that could add an additional deficit of about  
17 \$19 million to -- to the cost of service for the Corporation?

18           MR. ROBIN WIENS: Yes, yes, that was again,  
19 our attempt to illustrate what we thought the impacts could  
20 be.

21           MR. BOB PETERS: And do you agree with my  
22 characterization that that would be a worst case scenario in  
23 terms of the maximum amount to which consumers would be  
24 exposed; that is the \$19.6 million of additional cost?

25           MR. ROBIN WIENS: I hesitate to characterize

1 it as worst case, it's -- it -- it -- it's probably toward  
2 that end, but I wouldn't say necessarily worst case.

3 MR. BOB PETERS: And -- and that end, as  
4 indicated in the interrogatory, would be a general consumer  
5 rate increase on average of 2.7 percent?

6 MR. ROBIN WIENS: Yes.

7 MR. BOB PETERS: In terms of some of the  
8 discussions we've had in terms of options, we're talking  
9 about equivalent grid rates, Manitoba Hydro has also  
10 investigated whether or not it's economically feasible to  
11 hook these four (4) communities up to the grid; is that  
12 correct?

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

14 MR. BOB PETERS: And in one (1) of the  
15 responses, PUB/MH-20, there was an indication that it was  
16 approximately \$45 to \$48 million dollars per community, to --  
17 to run in the transmission facilities from the grid.

18 MR. ROBIN WIENS: Those -- those are -- those  
19 are approximate figures that we obtain from our transmission  
20 design people, yes.

21 MR. VINCE WARDEN: Just clarification though,  
22 not per community I don't believe. That was 40 -- the 45  
23 million was at Shamattawa.

24  
25

(BRIEF PAUSE)

1                   MR. BOB PETERS: I appreciate that Shamattawa  
2 has a bit longer history, Mr. Warden, but there was also a --  
3 in my words, a guesstimate made as to what it would cost to  
4 hook up the other three (3) communities as well, and I  
5 estimated that from your answer to be about 45 million, am I  
6 -- am I correct in that?

7                   MR. VINCE WARDEN: Yes, as I read this a  
8 little bit further, I -- I'll agree with your -- your  
9 comment, thanks.

10                   MR. BOB PETERS: And in terms of Shamattawa,  
11 there were efforts made in past to see if it could be hooked  
12 up to the grid, but those efforts didn't result in grid  
13 connection?

14                   MR. VINCE WARDEN: Yes, and I guess I replied  
15 because that is the study I am most familiar with the --  
16 there was a -- a fairly detailed study conducted of what it  
17 would cost to extend a land line to Shamattawa and it was in  
18 the order of \$45 million dollars, in terms of costs.

19                   MR. BOB PETERS: And the reason it didn't  
20 proceed is that third party funding wasn't provided?

21                   MR. VINCE WARDEN: Right, it did -- at that  
22 level of capital expenditure, it didn't compete with the --  
23 with the diesel alternative.

24                   MR. ROBERT MAYER: Mr. Warden, where were you  
25 going to extend the line from? The estimate of \$45 million

1 to Shamattawa, would that be coming out of your lower end of  
2 the Nelson?

3 MR. VINCE WARDEN: Yes.

4

5 CONTINUED BY MR. BOB PETERS:

6 MR. BOB PETERS: Mr. Warden, in your answers  
7 to Ms. Ramage of yesterday, you told her to the affect that  
8 even customers on the grid are accountable for a surcharge,  
9 although it's not called that, it's called a third party  
10 contribution. Have I got that right?

11 MR. VINCE WARDEN: Yes.

12 MR. BOB PETERS: What you're telling the  
13 Board, as I understood yesterday, is that even customers that  
14 are presently on the grid, do not get an absolute connection  
15 for free from Manitoba Hydro?

16 MR. VINCE WARDEN: Correct.

17 MR. BOB PETERS: You -- it has to pass an  
18 economic viability or a feasibility test?

19 MR. VINCE WARDEN: Yes.

20 MR. BOB PETERS: Has that feasibility test, is  
21 that reduced into writing, where it's a policy of the  
22 Corporation?

23 MR. VINCE WARDEN: Yes, we have standard  
24 allowances that we -- we do provide to customers. But if we  
25 were looking at a stand alone community, an example might be

1 a group of cottage owners who get together and want to have a  
2 line extended to -- to serve their -- their remote community,  
3 we would -- would look at the capital cost of extending that  
4 line.

5                   Look at the revenue that would be derived from  
6 being on grid rates and they would -- those cottage owners  
7 would be responsible for paying the difference through a  
8 capital contribution.

9                   MR. BOB PETERS:    And would that capital  
10 contribution have to return a positive financial return to  
11 the Company at some point in time?

12                   MR. VINCE WARDEN:    Yes, we do a five (5) year  
13 test so there has to be a -- sorry, three (3) year test,  
14 three (3) year test -- that's right -- three (3) year test --  
15 and it would have to return a revenue within that three (3)  
16 year period.

17                   MR. BOB PETERS:    It would have to have a  
18 positive revenue to class ratio by the third year? By the  
19 end of the third year?

20                   MR. ROBIN WIENS:    Simply speaking and -- and  
21 is -- it is a fairly generous allowance policy that Manitoba  
22 Hydro has, is that there are some variations and certainly we  
23 have to deal with special circumstances, dedicated facilities  
24 and so on.

25                   But the general rule is Manitoba will -- Hydro

1 will invest up to three (3) years of anticipated revenue to  
2 serve a new load. And the -- we will expect the customer, or  
3 somebody acting on behalf of the customer, to fund any of the  
4 investment over and above that which would be equal to three  
5 (3) year's of revenue from the expected loads.

6 So we do not do a net present value test on  
7 it, we do not do a revenue class coverage test on it. We  
8 simply say we will invest up to three (3) years of  
9 anticipated revenue.

10 MR. VINCE WARDEN: I might just mention  
11 though, just to elaborate on Mr. Wiens' answer. The three  
12 (3) years was established many, many years ago by -- by  
13 Manitoba Hydro based on a net present value calculation.

14 So the fundamentals of -- of -- of the  
15 customer paying a contribution over and above whatever can be  
16 derived from that service extension through revenue is still  
17 the principle on which the three (3) revenue test is built.

18 MR. BOB PETERS: I'm going to ask Mr. Warden  
19 through your counsel, that you -- you file a copy of that  
20 service extension policy and -- and resulting tests. Would  
21 that be permitted?

22 MR. VINCE WARDEN: Certainly.

23

24 --- UNDERTAKING NO. 5: To file a copy of service extension  
25 policy and resulting tests

1                   MR. BOB PETERS:    Can you explain to the Board  
2 and maybe just for myself briefly.  You're familiar with your  
3 Centra Gas Manitoba Inc. has a net present value feasibility  
4 test where there is to be a positive revenue to cost ratio by  
5 the end of the fifth year.

6                   MR. VINCE WARDEN:    Yes.

7                   MR. BOB PETERS:    And I'm trying to gather  
8 from your last answer to the Board Mr. Warden, is the Centra  
9 test more strict or less strict than the one that Manitoba  
10 Hydro is using?

11                  MR. VINCE WARDEN:    I would say that they're  
12 very similar.  The objective is the same.

13                  MR. BOB PETERS:    All right, thank you for  
14 that.  In terms of another option Mr. Warden, can you tell  
15 the Board whether it has come to the corporate mind as to  
16 whether it's time for Manitoba Hydro to discontinue and get  
17 out of the diesel service -- diesel electricity service?

18                  MR. VINCE WARDEN:    Would you just repeat that  
19 question, sorry.

20                  MR. BOB PETERS:    I was just throwing out  
21 another option Mr. Warden and I'm wondering if one of the  
22 options is for Manitoba Hydro to divest itself of the diesel  
23 electric service portion of its business.

24                  MR. VINCE WARDEN:    In the interests of the  
25 consumer, I think Manitoba Hydro is best positioned to

1 provide that service. Does it provide as a Corporation --  
2 it's certainly provided a lot of headaches to us over the  
3 years and in some ways it might be nice to divest ourselves  
4 of that -- of that headache.

5                   However, I -- I really firmly believe that  
6 would not be in the best interest of the consumers in those  
7 communities.

8                   MR. BOB PETERS: I take from that answer then  
9 that it's something that's not actively being looked at by  
10 Manitoba Hydro.

11                   MR. VINCE WARDEN: It is not at this time,  
12 no.

13                   MR. BOB PETERS: And indulge me Mr. Warden,  
14 if it was, the options would include turning it to the  
15 various communities to run by themselves or turning it back  
16 to the Government of Canada?

17                   MR. VINCE WARDEN: Those would seem to be the  
18 logical options, yes.

19                   MR. BOB PETERS: But those aren't steps that  
20 have been heretofore investigated with any serious nature?

21                   MR. VINCE WARDEN: They haven't.

22                   MR. BOB PETERS: One of the other options  
23 that struck -- strikes me as possible is that you've told the  
24 Board that 45 percent of the surcharge that's getting billed  
25 is getting paid, if I understood correctly from your rebuttal

1 evidence, Mr. Wiens?

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

3 MR. BOB PETERS: And what that tells the  
4 Board is that provincial government, with their  
5 responsibility, albeit limited, and the federal government  
6 departments other than, perhaps, Indian and Northern Affairs  
7 Canada, appear to be paying the surcharge that is charged to  
8 them on their rates?

9 MR. ROBIN WIENS: Yes.

10 MR. BOB PETERS: Why then, Mr. Wiens and Mr.  
11 Warden, wouldn't you simply go to the RCMP or the National  
12 Health and Welfare Departments of the federal government and  
13 revise the surcharge calculation and charge the government of  
14 Canada through the agencies that are paying their bills as  
15 opposed to those who aren't paying their bills?

16 MR. ROBIN WIENS: I think there's a --  
17 there's a couple of reasons for that. The biggest one is  
18 that we have some -- already some trepidation about the size  
19 of the surcharge that we're coming to this Board with today.

20 If we were to take that approach we would be  
21 looking at more than doubling the surcharge and we would be  
22 looking at asking agencies like the Royal Canadian Mounted  
23 Police, National Health and Welfare Canada and the provi --  
24 the government of Manitoba to pay surcharges in respect of  
25 service that is being provided at grid rates to -- to parties

1 who -- whose -- whose responsibility for basic service to  
2 serve parties who are not the -- those particular agencies.

3 MR. BOB PETERS: Shouldn't that be a matter,  
4 Mr. Wiens or Mr. Warden, that you allow the government of  
5 Canada to sort out with its various departments and agencies?

6 MR. VINCE WARDEN: We -- we certainly  
7 considered that as a possibility. However, as Mr. -- for the  
8 reasons Mr. Wiens indicated, we would prefer not to go that  
9 direction, that -- but that is an option.

10 THE CHAIRMAN: Mr. Warden, treading where  
11 angels fear to tread, you've obviously had discussions with  
12 INAC over the last number of years to try and resolve this  
13 issue, have you not?

14 MR. VINCE WARDEN: Yes, we have.

15 THE CHAIRMAN: At what levels have you  
16 attempted to resolve it; is it at the Director General level  
17 here in Manitoba, is it at a level that is slightly higher or  
18 is it at the ultimate level?

19 MR. VINCE WARDEN: We've never taken it  
20 beyond the -- the local Director General of Manitoba level.

21 THE CHAIRMAN: Have you considered it --  
22 taking it to another level?

23 MR. VINCE WARDEN: We have talked about it  
24 but we have not at this -- this stage done that.

25 THE CHAIRMAN: Thank you. Mr. Peters...?

1                   MR. BOB PETERS:    Yes, thank you, Mr.  
2 Chairman.

3  
4 CONTINUED BY MR. BOB PETERS:

5                   MR. BOB PETERS:    Maybe the last option or  
6 area for discussion on that end of it, Mr. Warden, is that  
7 there has been some recent speculation or perhaps  
8 announcements that putting in a micro-generating station in  
9 these diesel communities might be a solution; you're aware of  
10 -- of that, sir?

11                  MR. VINCE WARDEN:    Yes.

12                  MR. BOB PETERS:    Again, the non-engineering  
13 side of me may need some assistance on this but is the thrust  
14 of this to put a generating station close to the communities  
15 and it be a hydro-generating station?

16                  MR. VINCE WARDEN:    That is the concept, yes.

17                  MR. BOB PETERS:    And that carries with it a  
18 fairly significant capital cost?

19                  MR. VINCE WARDEN:    Yes, it does.

20                  MR. BOB PETERS:    Is it planned -- is it  
21 possible for all or each of the four (4) communities or would  
22 it be only a select few of the four (4) communities?

23                  MR. VINCE WARDEN:    My understanding it is --  
24 it is possible for each of the four (4) communities.

25                  MR. BOB PETERS:    And what is the approximate

1 capital cost for that to -- to be in place; do you have any  
2 idea?

3 MR. VINCE WARDEN: Mr. Peters, the study is  
4 being conducted by the Keewatin Tribal Council. Manitoba  
5 Hydro has provided funding for that study to take place. We  
6 have not been presented with a proposal yet so I -- I don't  
7 know what the capital costs are. We're -- we're not  
8 participating directly in that study.

9 MR. BOB PETERS: As you sit before this  
10 Board, is it Manitoba Hydro's intention to invest in  
11 additional capital of that nature until this issue is  
12 resolved with the current diesel deficits and uncollected  
13 amounts?

14 MR. VINCE WARDEN: Would you just clarify  
15 that question please?

16 MR. BOB PETERS: I'm just wondering, as I  
17 understand to embark on that micro-generation would require a  
18 significant capital contribution?

19 MR. VINCE WARDEN: Yes.

20 MR. BOB PETERS: Is that capital contribution  
21 something that Manitoba Hydro is going to commit to the  
22 projects?

23 MR. VINCE WARDEN: The structure -- if these  
24 projects do proceed, this -- the structure of how they will  
25 be funded has not been determined at this point in time.

1 THE CHAIRMAN: Mr. Warden, I -- I gathered  
2 from information that's in the public domain, that the study  
3 that you make reference to, the KTC study is being funded  
4 both by Manitoba, as well as Canada?

5 MR. VINCE WARDEN: Yes.

6 THE CHAIRMAN: Thank you. Mr. Peters...?

7 MR. ROBERT MAYER: Mr. Warden, on that issue,  
8 I'm assuming that you talk about substantial capital cost.  
9 I'm assuming that we are also talking capital cost  
10 substantially less than the grid connection of \$45 million  
11 dollars per community we talked about?

12 MR. VINCE WARDEN: I'm sorry, I really can't  
13 answer that question -- I don't -- I don't have the numbers  
14 on the capital costs for a generating station on -- for those  
15 communities.

16 MR. ROBERT MAYER: Clearly, however, it  
17 wouldn't be considered feasible if you could connect to the  
18 grid cheaper?

19 MR. VINCE WARDEN: Yes, I agree.

20

21 (BRIEF PAUSE)

22

23 MR. VINCE WARDEN: I might also point out,  
24 that even with the -- if -- if the studies do prove to be  
25 feasible and that small hydro can be built on these -- close

1 to these communities, diesel back up would still be required.

2 THE CHAIRMAN: And Mr. Warden, the Board has  
3 discussed, as indeed this Panel has discussed this previously  
4 and other options may include the examination of wind  
5 generation power?

6 MR. VINCE WARDEN: That's another possibility,  
7 yes.

8 THE CHAIRMAN: And given that you've got  
9 diesel standby, that would be the firm source?

10 MR. VINCE WARDEN: Correct.

11 THE CHAIRMAN: How far have you proceeded with  
12 those examinations?

13 MR. VINCE WARDEN: With respect to wind power,  
14 we have a number of test sites set up around the Province and  
15 at this point in time, I -- I don't have information as to  
16 the results of those studies.

17 THE CHAIRMAN: Thank you. Mr. Peters...?

18

19 CONTINUED BY MR. BOB PETERS:

20 MR. BOB PETERS: Yes, just maybe my last  
21 questions for you, Mr. Cox. The total consumption was  
22 approximately -- was it twelve (12) gigahertz -- no sorry,  
23 twelve (12) gigawatt hours of -- I'm thinking of gigajoules  
24 for a minute here, sorry about that.

25 Is it twelve (12) gigawatt hours of

1 electricity consumption per year, for the communities?

2 MR. ROBERT COX: Yes, that's correct.

3 MR. BOB PETERS: All right. Can you indicate  
4 to the Board, through your demand side management and  
5 PowerSmart programs, how much of an annual savings do you  
6 think has been realized in those communities?

7 MR. ROBERT COX: Sorry, I wouldn't have that  
8 available right now.

9 MR. BOB PETERS: Is that something that you do  
10 keep track of, or is that something that's not even tracked  
11 by the Corporation?

12 MR. ROBERT COX: We certainly track any of the  
13 commercial Applications, like the lighting Applications that  
14 were referred to yesterday. We would have that data  
15 available, but when it comes to a residential customer, we  
16 don't track that.

17 MR. BOB PETERS: Could you perhaps investigate  
18 your records and advise the Board, by way of an undertaking,  
19 what the commercial demand side management savings have been,  
20 on an annual basis, for the last couple of years, if you have  
21 tracked?

22 MR. ROBERT COX: Yes, we could.

23

24 --- UNDERTAKING NO. 6: Investigate the records and advise  
25 the Board what the commercial demand side

1 management savings have been, on an annual  
2 basis, for the last couple of years  
3

4 MR. BOB PETERS: And can you also indicate  
5 that some of your programs -- or generally, I understood your  
6 answer to be that all of your PowerSmart and demand side  
7 management programs that are available to grid customers, are  
8 also available to the diesel electric customers?

9 MR. ROBERT COX: With the exception of the --  
10 the incentives that are paid for customers that are heating  
11 with electric heat.

12 MR. BOB PETERS: Fair comment. So, you're not  
13 wanting to encourage electric space heat?

14 MR. ROBERT COX: That's correct.

15 MR. BOB PETERS: Do you keep track of the --  
16 does Manitoba Hydro provides incentives to residential  
17 customers to do various PowerSmart and energy saving  
18 Applications?

19 MR. ROBERT COX: No, we do not, not for  
20 residential customers.

21 MR. BOB PETERS: Do you not have low cost  
22 loans or provide rebates on some products?

23 MR. ROBERT COX: There is some -- some rebates  
24 that are available yes, on some complex fluorescents and  
25 things like that, and there is a low interest loan available,

1 yes.

2 MR. BOB PETERS: Do you know whether or not  
3 any of those incentives that are paid to residential  
4 customers on the grid have been taken advantage of and  
5 utilized by any customers in the diesel communities?

6 MR. ROBERT COX: I don't have that info --  
7 information available. I'd have to check.

8 MR. BOB PETERS: Would you check on that, as  
9 well, and advise the Board if there has been some residential  
10 uptake of the PowerSmart and demand side management?

11 MR. ROBERT COX: Yes, we will.

12

13 --- UNDERTAKING NO. 7: Check whether or not any of those  
14 incentives that are paid to residential  
15 customers on the grid have been taken  
16 advantage of and utilized by any customers in  
17 the diesel communities and advise the Board if  
18 there has been some residential uptake of the  
19 PowerSmart and demand side management.

20

21 MR. BOB PETERS: And when you -- when you're  
22 in these communities, Mr. Cox, you're providing information,  
23 I take it, to both residential and general service customers  
24 on the various PowerSmart initiatives?

25 MR. ROBERT COX: Yes, we do.

1                   MR. BOB PETERS: Do you have any of those --  
2 and some of that's provided in writing I take it, you can  
3 leave behind for consumers to look at?

4                   MR. ROBERT COX: Yes, we have several  
5 pamphlets and brochures that we do leave behind.

6                   MR. BOB PETERS: Can you tell the Board  
7 whether or not those are translated into any of the Native  
8 languages that are utilized in the four (4) communities?

9

10                   (BRIEF PAUSE)

11

12                   MR. ROBERT COX: I understand in the past we  
13 have, but we have not done anything currently.

14                   MR. BOB PETERS: And when you say currently,  
15 for how many years have you not translated?

16                   MR. ROBERT COX: Probably about six (6) or  
17 seven (7) years ago.

18                   MR. BOB PETERS: All right, and when -- when  
19 presentations are made to customers, both residential and  
20 general service, is it done with the aid of translators an --  
21 and interpreters?

22                   MR. ROBERT COX: Yes, most of the time we work  
23 with the Chief and Council and make arrangements through them  
24 to come to the site and make those presentations.

25                   And frequently it -- it is just to the Chief

1 and Council that they're made first, and then the Chief and  
2 Council decide how much further they want us to go with that.

3 MR. BOB PETERS: And does Manitoba Hydro then  
4 take it further if so requested by the Council and the Chief?

5 MR. ROBERT COX: Yes, we do.

6 MR. BOB PETERS: All right. Mr. Wiens, and,  
7 Mr. Warden, last line of questioning to you --

8 MS. KATHI AVERY-KINEW: Excuse me, Mr. Peters,  
9 I'm just wondered --

10 MR. BOB PETERS: Sorry.

11 MS. KATHI AVERY-KINEW: -- most of the  
12 communities have some kind of radio or community television  
13 or community radio, do you ever go on those programs?

14 MR. ROBERT COX: I'm not sure, I can't answer  
15 that, sorry.

16 MR. VINCE WARDEN: We can find out though.  
17 We'll -- we'll get that information for you.

18 MR. ROBERT MAYER: While we're getting that  
19 information, I'd be really interested in knowing when the  
20 last time one (1) of those presentations was made in each of  
21 the four (4) communities. I don't want to get Mr. Wiens  
22 upset about the parking lot comment again, but in light of  
23 what I had heard on that, I'd really like to know when the  
24 last time those were done in Shamattawa, Brochet, Lac Brochet  
25 and Tadoule Lake.

1 MR. VINCE WARDEN: We'll get that information  
2 as well.

3 THE CHAIRMAN: Mr. Peters...?

4 MR. BOB PETERS: Thank you, Mr. Chair.

5

6 CONTINUED BY MR. BOB PETERS:

7 MR. BOB PETERS: I want to turn to a tariff  
8 that has been proposed by Mr. Hildebrand of STANTEC, and it  
9 is filed, as I have it, as the very last page of MKO's  
10 responses to PUB Information Requests. And it comes in the  
11 Interrogatory, PUB/MKO-22, and specifically, it is Part C of  
12 the 22nd Interrogatory to the Intervenor.

13 Let me know when you've located that, Mr.  
14 Warden, and Mr. Wiens?

15

16 (BRIEF PAUSE)

17

18 MR. ROBIN WIENS: We have it.

19 MR. BOB PETERS: And we haven't heard yet, and  
20 we will hear from Mr. Hildebrand, but before we -- before we  
21 get that opportunity I want to get from you your view of the  
22 proposed tariff that is coming forward from STANTEC, through  
23 to its client, MKO.

24 As I understand it, Mr. Wiens, the basic  
25 monthly charge for both the residential and the general

1 service customer would remain the same as that proposed by  
2 Manitoba Hydro, and that's your understanding?

3 MR. ROBIN WIENS: That appears to be the case.

4 MR. BOB PETERS: And in terms of the first one  
5 thousand (1,000) kilowatt hours, that would be the same rate  
6 that you're proposing for the first block of energy as well?

7 MR. ROBIN WIENS: That also appears to be the  
8 case.

9 MR. BOB PETERS: And what appears to be  
10 different is that in the Stantec proposal, or tariff at this  
11 point, there's a cap of a thousand (1,000) kilowatt hours per  
12 month, after which the rate will increase?

13 MR. ROBIN WIENS: Yes.

14 MR. BOB PETERS: For the residential customer?

15 MR. ROBIN WIENS: Yes.

16 MR. BOB PETERS: That thousand dollar (\$1,000)  
17 -- sorry, that thousand (1,000) kilowatt hour cap that you've  
18 told the Board is not inconsistent with the caps that is  
19 found in other jurisdictions and -- and in fact, Manitoba  
20 Hydro is being generous by doubling that to two thousand  
21 (2,000) kilowatt hours per month?

22 MR. ROBIN WIENS: Yes, this would be  
23 comparable to say Hydro Quebec or Northwest Territories, it  
24 would be slightly higher than both of those.

25 MR. BOB PETERS: And then for the one thousand

1 (1,000) to two thousand (2,000) kilowatt range of  
2 consumption, this tariff proposes a twelve (12) cent per  
3 kilowatt hour approximate increase; do you see that?

4 MR. ROBIN WIENS: Yes, we do.

5 MR. BOB PETERS: And do you think that's  
6 reasonable?

7 MR. ROBIN WIENS: Well it certainly would  
8 provide more revenue to Manitoba Hydro. It's not what we've  
9 proposed as everyone knows here. It does have the affect of  
10 sending a price signal to customers that are above a typical  
11 level of consumption which I think we've said is in the order  
12 of one thousand (1,000) kilowatt hours a month.

13 That -- that at least partially addresses the  
14 fact that the cost of generating and distributing power in  
15 these communities is higher. It doesn't go anywhere close to  
16 full cost. It's still down much closer to the grid rate. It  
17 -- it may have advantages. I can't speak for the customer  
18 that would be looking at this but may have advantages.

19 MR. BOB PETERS: All right. You did make a  
20 comment that by going to twelve (12) cents for this block of  
21 energy, that would be a higher revenue than what is being  
22 sought presently by Manitoba Hydro, correct?

23 MR. ROBIN WIENS: Yes, it is.

24 MR. BOB PETERS: All right. When we get to  
25 the next block proposed in the Stantec proposal tariff, the

1 last block of energy above two thousand (2,000) kilowatt  
2 hours would be at twenty-five (25) cents a kilowatt hour.

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

4 MR. BOB PETERS: And that again doesn't come  
5 close to your seventy-nine point one (79.1) cents for the  
6 full cost rate that Manitoba Hydro is proposing, correct?

7 MR. ROBIN WIENS: Not at all, it would far,  
8 far, far more than offset the increase from approximately six  
9 (6) to twelve (12) cents in the previous block in terms of  
10 revenue impact.

11 MR. BOB PETERS: Mr. Wiens can you tell the  
12 Board whether the tariff proposed by -- in the Stantec  
13 tariff, would that recover your variable costs of -- that are  
14 incurred in the communities?

15 MR. ROBIN WIENS: No, it wouldn't.

16 MR. BOB PETERS: So it wouldn't cover the  
17 variable costs and those variable costs are in addition to  
18 your capital costs, correct?

19 MR. ROBIN WIENS: Yes, on top of the variable  
20 costs we have capital costs to recover.

21 MR. BOB PETERS: All right. If the -- in  
22 Manitoba Hydro you told me has a service extension policy and  
23 a copy's going to be filed, correct?

24 MR. ROBIN WIENS: Yes.

25 MR. BOB PETERS: You haven't followed that

1 service extension policy in the diesel communities because  
2 you have sought to recover the capital contributions that  
3 would otherwise be required through the surcharge. Have I  
4 stated that right?

5 MR. ROBIN WIENS: Since 1990.

6 MR. BOB PETERS: Fair, okay. So since 1990  
7 the surcharge is to recover in addition to any -- any un --  
8 deficits in the variable cost, it also was to recover the  
9 full capital contribution that would be required.

10 MR. ROBIN WIENS: Virtually, virtually.  
11 Subject to the way we set the surcharge keeping in mind  
12 revenue cost coverages of residential customers on the grid  
13 in the rural areas, but substantially yes.

14 MR. BOB PETERS: Your qualification Mr. Wiens  
15 is just that you're now seeking a revenue to cost coverage  
16 ratio for residential customers in this Application of  
17 decimal nine (0.9) as opposed to decimal eight-five (0.85).

18 MR. ROBIN WIENS: Yes.

19 MR. BOB PETERS: Alright I have your point.

20 And in terms of the general service tariff that is in the  
21 Stantec draft tariff, again the basic monthly charge is  
22 equivalent to yours and the first block of energy consumed up  
23 to fifteen hundred (1,500) kilowatt hours is the same as the  
24 first block amount proposed from Manitoba Hydro.

25 MR. ROBIN WIENS: Yes.

1 MR. BOB PETERS: And likewise it then  
2 graduates through twelve (12) cents up to twenty-five (25)  
3 cents again, correct?

4 MR. ROBIN WIENS: Yes, except in this case  
5 he's moving into second block at fifteen hundred (1,500)  
6 rather than the thousand (1,000) for the residential. And he  
7 doesn't move into the last block until three thousand (3,000)  
8 rather than two thousand (2,000) which is in his residential  
9 example and of course is what we have proposed in our  
10 Application.

11 MR. BOB PETERS: Alright. Can you indicate  
12 to the Board whether or not the -- the rates proposed would  
13 recover the variable cost to serve this customer class?

14 MR. ROBIN WIENS: No, they would not.

15 MR. BOB PETERS: Does Manitoba Hydro consider  
16 there is some merit to the Stantec tariff if the issue of  
17 capital costs and deficits can be accommodated?

18 MR. ROBIN WIENS: If the issue of capital  
19 costs accumulated deficits can be accommodated, the form that  
20 is proposed here may be useful. I can't agree with the  
21 numbers as they're proposed here because, as I've said, the  
22 twenty-five (25) cents does not even recover the variable  
23 cost.

24 In fact, it does not even recover the fuel  
25 costs, but if you wanted me to restrict my comments to the

1 form of the tariff, yes, it is something we could look at.  
2 Again, assuming the issues of capital costs and -- and  
3 accumulated deficit can be effectively dealt with in some  
4 way.

5 MR. BOB PETERS: All right. Mr. Wiens, in  
6 fairness to the Stantec tariff, it was qualified in the  
7 preamble before the tariff that Mr. Hildebrand did not have  
8 sufficient information to perhaps determine whether all the  
9 variable costs would be -- would be covered and therefore an  
10 assumed number was used by him; that's your understanding?

11 MR. ROBIN WIENS: That's fair enough.

12 MR. BOB PETERS: All right. And so what  
13 you're telling the Board is that if -- if the numbers could  
14 be brought more in line with what would be the actual  
15 variable costs, and there was a way to deal with capital  
16 costs and the past deficits, then this form of tariff may be  
17 workable from Manitoba Hydro's perspective?

18 MR. ROBIN WIENS: Well, Manitoba Hydro's  
19 concern here is to effect reasonable cost recovery in the  
20 diesel zone. If -- if this type of a tariff with an end  
21 block recovering variable costs were accompanied by  
22 provisions, either through direct capital contributions or  
23 ongoing operating grants, to deal with the capital and  
24 accumulated deficit issues, it -- it may be a tariff that we  
25 could work with, yes.

1 THE CHAIRMAN: Mr. Wiens or Mr. Thomas, you  
2 mentioned that this would not even cover the costs of the  
3 diesel, that is the fuel that is needed to generate the  
4 electricity, what is the cost of diesel per kilowatt hour?

5 MR. ROBIN WIENS: I believe we're looking at  
6 twenty-seven (27) cents a kilowatt hour for fuel alone.

7

8 CONTINUED BY MR. BOB PETERS:

9 MR. BOB PETERS: To save me drilling into the  
10 cost of service study, Mr. Thomas, do you have the -- what --  
11 what the total variable costs per kilowatt hour would be?

12 MR. CHIC THOMAS: That's shown in Schedule 2  
13 of the Application -- or in the diesel cost of service in  
14 Attachment 2. Attachment 2, Schedule 2.

15 MR. BOB PETERS: And the amount, sir, because  
16 I don't have it at hand.

17 MR. CHIC THOMAS: The variable cost is forty-  
18 one (41) cents a kilowatt hour.

19 MR. BOB PETERS: And do I understand then,  
20 Mr. Thomas, the only expenditures over and above that that  
21 are incurred would be relative to capital expenditures?

22 MR. CHIC THOMAS: That's correct.

23 MR. BOB PETERS: Mr. Chairman and Board  
24 Members, I'd like to thank Mr. Cox and Mr. Thomas, the  
25 rookies who have come through for the team and also thank Mr.

1 Wiens and Mr. Warden the veterans who have answered my  
2 questions. I appreciate that. Thank you.

3 THE CHAIRMAN: Thank you, Mr. Peters. Given  
4 that it's 10:30, the Board will stand down and give an  
5 opportunity for Mr. Williams to get organized and I'll call  
6 on him at approximately ten to 11:00.

7

8 --- Upon recessing at 10:30 a.m.

9 --- Upon resuming at 10:54 a.m.

10

11 THE CHAIRMAN: Ladies and gentlemen, if I may  
12 call the Hearing back to order. We've had some paper  
13 distributed. There is a revised undertaking that Manitoba  
14 Hydro has supplied.

15 Ms. Ramage, do you wish to speak to it and  
16 have it marked as an exhibit?

17 MS. PATTI RAMAGE: Yes, the -- this is what I  
18 believe will show in the transcript as Undertaking number 4,  
19 which was your request to refile page 15 with the  
20 corrections. And if that could be -- I haven't kept track,  
21 so I'm not sure of the appropriate exhibit number.

22 THE CHAIRMAN: Ms. Ramage, may I suggest  
23 Manitoba Hydro Exhibit number 10.

24 MS. PATTI RAMAGE: Thank you.

25 THE CHAIRMAN: Thank you.

1  
2 --- EXHIBIT NO. MH-10: Response to Undertaking number 4.  
3

4 THE CHAIRMAN: If I have any questions  
5 relative to it, I will chat with you and Mr. Wiens later.

6 Mr. Williams, are you now ready to proceed?

7 MR. BYRON WILLIAMS: In just one (1) second,  
8 Mr. Chairman. There's also been some documents provided  
9 further to a request of Mr. Anderson, and I should note at  
10 the outset that we neglected to copy MKO and other parties,  
11 in terms of the questions we posed, so we do apologize for  
12 that.

13 But you have a package before you, which My --  
14 My Friend, Ms. Ramage, R-A-M-A-G-E, has been so kind as to --  
15 to provide for you. And I will go through this -- the  
16 document because, Mr. Chairman, I think that some are already  
17 marked as exhibits so.

18 THE CHAIRMAN: But, Mr. Williams, maybe just  
19 for the clarity of the record, we had already marked some of  
20 this material as CAC/MSOS-3, and maybe we'll just take this  
21 as the revised CAC/MSOS-3?

22 MR. BYRON WILLIAMS: That would be to my great  
23 relief, Mr. Chairman, thank you.  
24

25 (BRIEF PAUSE)

1 THE CHAIRMAN: Mr. Williams, are you ready  
2 now, sir?

3 MR. BYRON WILLIAMS: Yes. For the Board's  
4 information and for the assistance of most of the members of  
5 the viewing audience, CAC/MSOS has produced the -- the -- I  
6 think it's got a purple cover on it. Mike, can I borrow  
7 yours for a second?

8

9 (BRIEF PAUSE)

10

11 MR. BYRON WILLIAMS: It's a document called  
12 reference materials, CAC/MSOS, and this is excerpts from the  
13 record, with the exception of one (1) document, which comes  
14 from Bonbright, and for your convenience we'll be rotating  
15 through. It's a document like this.

16 Mr. Mayer, we were a couple short of copies,  
17 so perhaps you could -- you could show the cooperative spirit  
18 that we're trying to do in this Proceeding, and -- there are  
19 more copies on the way. And I thank My Friend, Mr. Peters,  
20 for stalling for me this morning, so I could have these --  
21 these prepared.

22 THE CHAIRMAN: And, Mr. Williams, just again  
23 for the clarity of the record, well, a lot of the material's  
24 already on the record, and perhaps we should just mark that  
25 as CAC/MSOS Exhibit Number 4.

1  
2 --- EXHIBIT NO. CAC/MSOS-4: Document called "Reference  
3 Materials, CAC/MSOS"  
4

5 MR. BYRON WILLIAMS: Thank you, Mr. Chairman.  
6 We've also handed out two (2) documents, the first is titled,  
7 Remote Non-Government General -- oh, excuse me, the first is  
8 titled, Remote Non-Government Residential Bills, and the  
9 second is, Remote Non-Government General Service Bills. And  
10 I -- I'd ask the Panel of MPI to bring those to hand, and as  
11 well, to turn to --

12 MR. ROBERT MAYER: Hydro, I trust.

13 MR. BYRON WILLIAMS: I have so many companies  
14 on the go that Hydro will be fine.

15 MS. PATTI RAMAGE: It's Hydro, and Ms. Murphy  
16 is not here.

17 MR. BYRON WILLIAMS: I'd ask the Panel of  
18 Hydro to have those at hand, as well as Tab 1 of the Book of  
19 Reference which should be PUB Manitoba Hydro Interrogatory  
20 No. 4. Do you have that?

21 MR. ROBIN WIENS: You've got it.

22 MR. BYRON WILLIAMS: Mr. Chairman, just for  
23 the benefit of the Panel, what I propose to do is not -- some  
24 of these numbers have to be proved so I'm going to just go  
25 through kind of the first line or two of the first document

1 hopefully to give Manitoba Hydro some comfort that my math is  
2 accurate. And once we've done that I'll ask them to accept  
3 the math on this subject to check and at that point in time  
4 perhaps we can mark it as exhibits if that's satisfactory.

5 THE CHAIRMAN: That is satisfactory thank you  
6 and I'll call on Ms. Ramage at an appropriate time to get her  
7 concurrence.

8 MR. BYRON WILLIAMS: Thank you.

9

10 CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

11 MR. BYRON WILLIAMS: And I'm not sure who to  
12 direct this to but I would ask you to on -- what I would like  
13 to do is ask I'm -- we'll first refer to under the column the  
14 heading "Monthly Use" where I want to turn to the figure of  
15 five hundred (500) kilowatt hours for Newfoundland and  
16 Labrador.

17 Actually Mr. Chairman, perhaps if we could  
18 wait one second, the rest of the materials of reference are  
19 here.

20 THE CHAIRMAN: Thank you.

21

22 (BRIEF PAUSE)

23

24 CONTINUED BY MR. BYRON WILLIAMS:

25 MR. BYRON WILLIAMS: And I see Mr. Wiens has

1 his calculator at hand. So Mr. Wiens, if I wanted to  
2 calculate the rate for Newfoundland and Labrador, I would  
3 turn to page 1 of 8 of PUB/MH-4, is that right?

4 MR. ROBIN WIENS: Assuming we got it right.

5 MR. BYRON WILLIAMS: And in making that  
6 calculation, the first number I would include would be a  
7 basic charge of sixteen point eight one (16.81), is that  
8 correct? And as we move down that line we see that the  
9 energy charge for the first seven hundred (700) kilometres is  
10 -- kilowatt hours, sorry.

11 And that's not MPI either, is six point nine  
12 five one (6.951) cents, is that correct, Mr. Wiens?

13 MR. ROBIN WIENS: Yes, it is.

14 MR. BYRON WILLIAMS: So the mathematical  
15 calculation I would perform would be in terms of the energy  
16 charge for the first five hundred (500) kilowatt hours would  
17 be five hundred (500) times decimal zero six nine five one  
18 (0.06951) yielding a total of thirty-four point seven five  
19 (34.75), is that correct?

20 MR. ROBIN WIENS: I've gotten past that so I  
21 don't have that number on my calculator but I think it's  
22 correct.

23 MR. BYRON WILLIAMS: And you'll also accept  
24 that the total is fifty one point five seven (51.57) cents,  
25 is that correct?

1 MR. ROBIN WIENS: That is correct.

2 MR. BYRON WILLIAMS: Moving right along and  
3 we're not going to go through all these, Mr. Wiens, but I  
4 just wanted to give you some comfort that my numbers are  
5 accurate. Let's move to the Yukon which appears at page 5 of  
6 8 of PUB/MH-4 and you'll see that the residential totals  
7 appear at the bottom of that page.

8 Do you see that, Mr. Wiens?

9 MR. ROBIN WIENS: I've got it.

10 MR. BYRON WILLIAMS: And again, we start with  
11 the basic charge of eleven point four eight (11.48) and then  
12 we multiply the first five hundred (500) kilowatt hours by  
13 decimal zero eight nine seven (0.0897) and the total for that  
14 would be fifty-six point -- fifty-six dollars and thirty-  
15 three cents (\$56.33), will you accept that, Mr. Wiens?

16 MR. ROBIN WIENS: Right on. That is correct.

17 MR. BYRON WILLIAMS: Ms. Ramage, I'm quite  
18 happy to go through all these calculations, but I wonder if  
19 the Panel for Manitoba Hydro would be prepared to accept  
20 these figures subject to check?

21 MR. ROBIN WIENS: Yes, we'll accept them  
22 subject to check, the first two were right.

23 MR. BYRON WILLIAMS: I've checked a lot more  
24 of them and they all --- they all are if you'll accept that.

25 MR. ROBIN WIENS: Did you have Mr. Harper

1 check them all?

2 MR. BYRON WILLIAMS: He triple checked them.  
3 He found some errors.

4 THE CHAIRMAN: Mr. Williams, having Hydro  
5 concur, may I suggest that we mark them as CAC/MSOS Exhibit  
6 No. 5A and 5B?

7 MR. BYRON WILLIAMS: Thank you, Mr. Chairman.  
8 Number A would be the "Remote Non-Government Residential  
9 Bills", 5A.

10 THE CHAIRMAN: That's correct.

11 MR. BYRON WILLIAMS: And 5B being "Remote  
12 Non-Government General Service Bills".

13 THE CHAIRMAN: Correct.

14

15 --- EXHIBIT NO. CAC/MSOS-5A: Remote Non-Government  
16 Residential Bills.

17

18 --- EXHIBIT NO. CAC/MSOS-5B: Remote Non-Government General  
19 Service Bills.

20

21 CONTINUED BY MR. BYRON WILLIAMS:

22 MR. BYRON WILLIAMS: And, Mr. Wiens, if we  
23 can stay with CAC/MSOS Exhibit 5A for one more second, if we  
24 go around -- if we go along, you'll note at the very end of  
25 the column is the -- a figure for Manitoba Hydro and you'll

1 accept again, subject to check, that that's the figure that  
2 would flow out from the -- the Application that's now before  
3 the Board?

4 MR. ROBIN WIENS: I'll accept that, subject  
5 to check.

6 MR. BYRON WILLIAMS: So, Mr. Wiens, I'd just  
7 like you to follow with me along the monthly use five hundred  
8 (500). I always get columns and lines confused but this  
9 looks like a line for me û

10 MR. ROBIN WIENS: We call it a row.

11 MR. BYRON WILLIAMS: We could call it a row  
12 as well, that will work. You'll agree with me that for --  
13 for the monthly use of five hundred (500) kilowatt hours the  
14 rates charged by Manitoba Hydro under its new proposal are  
15 second lowest, second only to BC Hydro; would that be  
16 correct?

17 MR. ROBIN WIENS: Yes.

18 MR. BYRON WILLIAMS: And, again, moving along  
19 the line of -- the row of monthly use per kilowatt hour of  
20 one thousand (1,000), you'll agree with me again that the --  
21 the lowest rate in this row is Manitoba Hydro's; is that  
22 correct?

23 MR. ROBIN WIENS: Yes.

24 MR. BYRON WILLIAMS: And going through the  
25 row of monthly use kilowatt hours, again you'll agree with me

1 that the lowest rate is charged by Manitoba Hydro as well as  
2 for the -- is that correct?

3 MR. ROBIN WIENS: Yes.

4 MR. BYRON WILLIAMS: And, again, going along  
5 the row of two thousand (2,000) kilowatt hours per month  
6 you'll agree with me that the -- the lowest rate is charged  
7 by Manitoba Hydro for residential bills; is that correct?

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

9 MR. BYRON WILLIAMS: Ms. Ramage, again, I'm  
10 happy to go through the math of the table for remote, non-  
11 government general service bills but if you'll accept those  
12 subject to -- to check we would move things along quite --  
13 quite quickly?

14 MS. PATTI RAMAGE: Yes, we can accept that,  
15 subject to check.

16

17 CONTINUED BY MR. BYRON WILLIAMS:

18 MR. BYRON WILLIAMS: Mr. Wiens, referring now  
19 to the document marked as CAC/MSOS Exhibit 5B, the first row  
20 being monthly use of five hundred (500) kilowatt hours for  
21 remote non-government general service bills, you'll agree  
22 with me that the Manitoba Hydro has the second lowest rate,  
23 being second only to BC Hydro; is that correct?

24 MR. ROBIN WIENS: Yes.

25 MR. BYRON WILLIAMS: And moving along monthly

1 use, the row of one thousand (1,000) kilowatt hours per  
2 month, you'll agree with me that Manitoba Hydro has, again,  
3 the second lowest rate begin, again, second to BC Hydro; is  
4 that correct?

5 MR. ROBIN WIENS: Yes.

6 MR. BYRON WILLIAMS: And, likewise, for  
7 fifteen hundred (1500) and two thousand (2,000), Manitoba  
8 Hydro is second lowest, second to BC Hydro; is that correct?

9 MR. ROBIN WIENS: Yes.

10 MR. BYRON WILLIAMS: And my understanding is  
11 for the -- there is a change in terms of the rate block for  
12 Manitoba Hydro in excess of for remote general service bills  
13 in excess of two thousand (2,000) kilowatt hours per month;  
14 is that correct?

15 MR. ROBIN WIENS: We are proposing a change,  
16 yes.

17 MR. BYRON WILLIAMS: Yes, thank you for that  
18 clarification. And based upon that proposed change, you'll  
19 note that in the row for monthly use of three thousand  
20 (3,000) kilowatt hours that Manitoba Hydro would be the  
21 second highest, second only to Hydro Quebec; is that right?

22 MR. ROBIN WIENS: Yes. Mr. Williams, you are  
23 correct.

24 MR. BYRON WILLIAMS: So, just to summarize,  
25 in terms on -- and I -- I harken back to Mr. Warden's

1 comments of yesterday, in terms of residential customers  
2 using at or less than two thousand (2,000) kilowatt hours per  
3 month, Manitoba Hydro's rates are at the lowest or the second  
4 lowest in terms of this comparison; is that right?

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

6 MR. BYRON WILLIAMS: And, again, in terms of  
7 general service, at or lower than two thousand (2,000)  
8 kilowatt hours, Manitoba Hydro's rates are second lowest  
9 based upon this table; is that right?

10 MR. ROBIN WIENS: That is correct.

11 MR. BYRON WILLIAMS: And the change comes  
12 with the transition -- or for those who are using more than  
13 two thousand (2,000) kilowatt hours; correct?

14 MR. ROBIN WIENS: Yes. I might add here,  
15 Mr. Williams, not that it is hugely significant, but for both  
16 of these comparisons looking at the Yukon and the Northwest  
17 Territories, you've made an assumption in the case of the  
18 Yukon that it is a large diesel community.

19 And you've made an assumption in the case of  
20 the Northwest Territories that it's at the low end. And I  
21 would suggest to you that the communities that we're looking  
22 at in Manitoba, would probably be more comparable to  
23 somewhere in the mid to high end in the Northwest Territories  
24 and probably the small diesel in the Yukon, although that  
25 doesn't make all that much difference.

1 MR. BYRON WILLIAMS: I appreciate that  
2 clarification, Mr. Wiens.

3

4

(BRIEF PAUSE)

5

6

7

8

9

MR. ROBERT MAYER: Can I just clarify, are --  
these bills we're looking at -- are they all diesel  
communities? These comparisons, these bills you've given us,  
do they all relate to diesel communities?

10

11

12

13

MR. BYRON WILLIAMS: I'm starting to give  
evidence now which may -- but, if you'll allow me that  
indulgence, yes, they do Mr. Chair or Mr. Vice Chair.

14

15

16

17

(BRIEF PAUSE)

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THE CHAIRMAN: Your mic, Mr. Wiens?

MR. ROBIN WIENS: I will confirm that later, I  
need to do the cross-checks?

THE CHAIRMAN: But, given that the -- it was  
predicated on the rates that were in PUB/MH-4, that would  
suggest to me that they are diesel.

MR. ROBIN WIENS: Mr. Chairman, I expect that  
they are, but, I would like to do that confirmation.

1 THE CHAIRMAN: Thank you.  
2 Mr. Williams...?  
3

4 CONTINUED BY MR. BYRON WILLIAMS:

5 MR. BYRON WILLIAMS: Yes, and let me express  
6 my appreciation for hydro for moving that along. I was  
7 afraid that that was going to be a very tedious part of the  
8 cross-examination.

9 I wonder if we could now turn to the -- we can  
10 skip right over the second blank tab of the materials of  
11 reference and move to the third, which is --  
12 CAC/MSOS/Manitoba Hydro Interrogatory 6.2. Do you have that?

13 MR. ROBIN WIENS: I do, yes.

14 MR. BYRON WILLIAMS: And Mr. Wiens, I was just  
15 following up a little bit -- Mr. Wiens, just following up a  
16 little bit on your conversation with Mr. Peters, of  
17 yesterday. You spoke of the fact that the general service  
18 class was more heterogenous than -- and hopefully I  
19 pronounced that correctly, than the residential class. Do  
20 you recall that conversation with Mr. Peters?

21 MR. ROBIN WIENS: I do recall that  
22 conversation and you were pretty close on the word.

23 MR. BYRON WILLIAMS: You don't know what that  
24 does for my confidence, sir. The -- and if I could, I'd like  
25 to just explore for a few minutes, why the consumption

1 patterns of residential customers might be more homogenous  
2 than general service.

3                   And I guess a starting point, you'll agree, is  
4 that residential customers themselves, are more homogenous  
5 group than general service?

6                   MR. ROBIN WIENS: That's probably the start,  
7 middle and the end.

8                   MR. BYRON WILLIAMS: Well, we'll follow it  
9 through just a little bit, if we might. In essence for  
10 residential customers, there's the same purpose for each  
11 account, it's a dwelling unit, correct?

12                   MR. ROBIN WIENS: Not entirely, but, it's  
13 certainly far more true of residential customers. There are  
14 certain types of usage that every residential customer has  
15 and there are other types of usage that are not universal but  
16 quite common.

17                   And then there are, at the extreme ends, there  
18 are types of usage that you don't normally get, but it's  
19 relatively few numbers of customers.

20                   MR. BYRON WILLIAMS: So, it's quite common for  
21 residential whereas by contrast if we refer to CAC/MSOS/MH  
22 6.2, we see how heterogenous the general service class is, is  
23 that correct?

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

25                   MR. BYRON WILLIAMS: And there's a -- you'll

1 agree with me, that there's a wide range of different types  
2 of business there, including retail stores, accommodation  
3 facilities, health facilities, food and beverage facilities  
4 and construction industries, is that correct?

5 MR. ROBIN WIENS: There appears to be, yes.

6 MR. BYRON WILLIAMS: And I believe you  
7 actually spoke a bit to this in your second previous answer,  
8 but, in terms of difference -- different usages within the  
9 residential class, one (1) of the factors that might affect  
10 different consumption levels would be the number of  
11 occupants, is that right, in a home?

12 MR. ROBIN WIENS: Yes, I believe, it would be.  
13 I'm treading on thinner ice here, in terms of being able to  
14 help you out with the exact relationship, but, typically yes  
15 the number of occupants would effect it.

16 MR. BYRON WILLIAMS: And again we're speaking  
17 at a fairly high level there, so I'm sure you're able to  
18 provide as much help as I need.

19 Another difference, small as it may be in  
20 terms of consumption patterns, would be the different end  
21 uses for electricity in the home.

22 For example, one (1) home might have a VCR,  
23 one (1) home might not, one (1) home might have a more  
24 powerful refrigerator?

25 MR. ROBIN WIENS: These would have a

1 relatively minor impact on the -- on the overall consumption  
2 differences between the homes, but yes, there would be some  
3 differences.

4 MR. BYRON WILLIAMS: And again, when we  
5 compare the -- the residential to the general service class,  
6 these differences would only be magnified, would you agree  
7 with that?

8 MR. ROBIN WIENS: Well, because a home is a  
9 home and you carry on certain types of activities, and -- and  
10 you know, people have obviously different standards of living  
11 that can affect the size of the home and -- and the -- and  
12 the attributes that they use.

13 But it's typically within a fairly narrow  
14 range, whereas you have different types of businesses, as  
15 you've noticed here, and -- and businesses can be of very  
16 different sizes as well, in terms of -- in terms of their  
17 output and the inputs that they use.

18 MR. BYRON WILLIAMS: So, if one were looking  
19 at our average for consumption for residential, for the  
20 residential class, versus an average for consumption of the  
21 general class, the -- the average of -- for residential would  
22 be much more meaningful, you'd agree with that?

23 MR. ROBIN WIENS: Well, there would be less  
24 dispersion around the average, I don't know if you can say  
25 it's more meaningful, but the average -- the average would be

1 -- there would be less dispersion, a smaller standard  
2 deviation.

3 MR. BYRON WILLIAMS: So, you'd have greater --  
4 greater confidence, for example, if you were setting  
5 thresholds or -- or block, you know, consumption blocks,  
6 you'd have greater confidence in terms of the -- in terms of  
7 the -- the confidence level with residential versus general  
8 service; is that correct?

9 MR. ROBIN WIENS: I think that's generally  
10 fair to say.

11 MR. BYRON WILLIAMS: Thank you for bearing  
12 with me with that tremendously articulate question that I --  
13 that I posed, Mr. Wiens.

14 I -- I want to get into the concept of  
15 discrimination a bit later, but -- but while we're on the  
16 subject of residential customers, I just wonder if you'd  
17 follow through with me, a bit of scenario that My Friend, Mr.  
18 Harper, and I wanted to share with you.

19 And I want to give you the example of two (2)  
20 residential customers living side by side, and they use  
21 exactly the same kilowatt hours per month, are you with me so  
22 far, Mr. Wiens?

23 MR. ROBIN WIENS: Yes.

24 MR. BYRON WILLIAMS: Customer A, he primarily  
25 uses his appliances, the washer, the dryer, the microwave,

1 during business hours, peak hours, there's no math involved,  
2 Mr. Wiens, between 9:00 to 5:00.

3 MR. ROBIN WIENS: Sometimes everything is  
4 math.

5 MR. BYRON WILLIAMS: Excuse me, let me repeat  
6 that. He -- he primarily uses his appliances, washer, dryer,  
7 microwave during business hours, peak hours where demand is  
8 greatest, you're -- you're still with me, Mr. Wiens?

9 MR. ROBIN WIENS: Yes, I am.

10 MR. BYRON WILLIAMS: And his neighbour,  
11 customer B, and we'll call him Byron, he uses his appliances  
12 late at night, because he's a -- you know, a lazy  
13 procrastinator who can never do his housework until late in  
14 the evening.

15 Based upon that assumption, I -- I take it  
16 you'd agree that the costs brought to the system by customer  
17 A, operating at peak hours, are somewhat more than the costs  
18 brought to the system by customer B, operating off peak, all  
19 other things being equal?

20 MR. ROBIN WIENS: As a general rule, yes.

21 MR. BYRON WILLIAMS: I take it you'd also  
22 agree that even though the costs would be slightly different,  
23 it wouldn't be unreasonable in a regulatory sense, to charge  
24 them the same rates?

25 MR. ROBIN WIENS: It depends on how widely you

1 get the variance. Typically in a situation that we're  
2 talking about in a remote community, diesel served, you know,  
3 unless you're very, very close to the edge in terms of using  
4 capacity at peak time, it probably -- it probably would be a  
5 reasonable thing to do.

6 MR. BYRON WILLIAMS: Okay. And in fact, Mr.  
7 Wiens, I was -- and I should have prefaced this before, and  
8 I'm talking about the -- the area of general theory, and  
9 you'll agree with me that for residential customers, while  
10 there may be small variations in the costs they bring to the  
11 system, generally, assuming that the gap is not too large,  
12 it's not unreasonable to charge them the same rates?

13 MR. ROBIN WIENS: Again, that may be a fairly  
14 major assumption about the gap, but, yes, and particularly  
15 given that if you want to have -- if you want to have a more  
16 sophisticated rate structure, you have to incur more costs as  
17 well.

18 So, generally at low levels of consumption,  
19 within the typical residential area, yeah, I accept your  
20 premise.

21 MR. BYRON WILLIAMS: And I accept that caveat,  
22 so extra costs would be costs such as metering or things like  
23 that, would that be right?

24 MR. ROBIN WIENS: Metering, billing.

25 MR. BYRON WILLIAMS: And in this scenario

1 we're talking about neighbours living side by side. So one  
2 would expect the magnitude of the costs would be fairly  
3 small, correct?

4 MR. ROBIN WIENS: In this situation I would  
5 think so, yes.

6

7

(BRIEF PAUSE)

8

9

10 MR. BYRON WILLIAMS: Now, I'm just waiting  
11 for the whispering to end. Now in terms of the, and  
12 specifically speaking now of the residential class in terms  
13 of the diesel area, my understanding is that the upper limit  
14 of the second block is two thousand (2,000) kilowatt hours  
per month is that right?

15 MR. ROBIN WIENS: Yes.

16

17 MR. BYRON WILLIAMS: And Hydro's general  
18 position is that that upper limit should be sufficient for  
19 all -- provide sufficient room for all non-space heating  
Applications, would that be correct?

20

MR. ROBIN WIENS: Residential customer, yes.

21

22 MR. BYRON WILLIAMS: And so one of û- and the  
23 third block starts at two thousand and one (2,001) kilowatt  
24 hours, I guess or two thousand point one (2000.1) and the  
25 charge for that is materially higher than the charge for the  
second block, is that correct, Mr. Wiens?

1 MR. ROBIN WIENS: Yes. Again in the proposed  
2 rates.

3 MR. BYRON WILLIAMS: Yes and we are speaking  
4 the proposed rates and that you for that clarification. And  
5 for the third block greater than two thousand (2,000)  
6 kilowatt hours per month, it's -- in the proposed rates it's  
7 seventy-nine (79) cents or seventy-nine point one cents  
8 (79.1), is that correct?

9 MR. ROBIN WIENS: Yes, it is.

10 MR. BYRON WILLIAMS: And the purpose of that  
11 rate, at least one of the key purposes of that rate is to  
12 deter consumption where more cost effective alternatives  
13 might exist for space heating, is that not correct?

14 MR. ROBIN WIENS: That is correct.

15 MR. BYRON WILLIAMS: Now in your conversation  
16 yesterday with Mr. Peters, you spoke of -- of the fact that  
17 for non-space heating uses, it would be very unusual for a  
18 customer to exceed two thousand (2,000) kilowatt hours per  
19 month, correct?

20 MR. ROBIN WIENS: It can happen, but it would  
21 not be the norm. It would be -- it would be exception.

22 MR. BYRON WILLIAMS: And you made reference  
23 to people living a lifestyle like Mr. Peters, a very lavish  
24 lifestyle, correct?

25 MR. ROBIN WIENS: I recall using the term

1 lavish, I did not use the û- any particular name.

2 MR. BYRON WILLIAMS: Well Mr. Wiens, if you  
3 knew how much money that guy spent on hockey, you'd know it  
4 was a lavish lifestyle. Now, in terms of your expertise in  
5 rate setting and regulatory principles, one of the reasons  
6 you might want to threshold as high as two thousand (2,000)  
7 kilowatt hours is because that provides you û- let me û-  
8 excuse me, let me start again.

9 We have agreed that the two thousand (2,000)  
10 kilowatt hours per month threshold is û- would give a fair  
11 degree of confidence that most consumers would not exceed it  
12 for non-space heating uses, correct?

13 MR. ROBIN WIENS: That is correct. I might  
14 add that we û- we did consider other limits and û- and it was  
15 a matter of feeling comfortable that we û- we were not going  
16 to be affecting too many people.

17 MR. BYRON WILLIAMS: And one of the reasons  
18 you'd want to be pretty comfortable with that -- that limit  
19 is because the step -- the step from step 2 at five point one  
20 six cents (5.16) a kilowatt hour to step 3 at seventy-nine  
21 point one cents (79.1) a kilowatt hour is a pretty steep  
22 step, correct?

23 MR. ROBIN WIENS: No doubt about it.

24 MR. BYRON WILLIAMS: And so if -- in terms of  
25 rate design, if one is implementing such a steep jump, one

1 would want to have a fair û- you know you would have a lot of  
2 confidence that it would be affecting only a few people, is  
3 that correct?

4 MR. ROBIN WIENS: Yes, yes and we certainly  
5 did consider that.

6 MR. BYRON WILLIAMS: And I appreciate that  
7 and -- as do my clients. So, for those consumers who do  
8 exceed two thousand (2,000) kilowatt hours a month in terms  
9 of under this proposed rate being residential consumers,  
10 you'll agree with me that the consequences for those  
11 consumers are likely to be of the rate shock variety?

12 MR. ROBIN WIENS: Yeah, depending on how far  
13 above two thousand (2,000) they go. If they go to two  
14 thousand and one (2,001) and two thousand and two (2,002)  
15 they might not notice it. But if they get in the fifty (50),  
16 hundred (100), two hundred (200) kilowatt hours above that  
17 threshold you may be able to characterize it that way.

18 MR. BYRON WILLIAMS: That being said and  
19 assuming that there might be some characterization as rate  
20 shock, we -- we would still be relatively confident that it's  
21 not affecting those who are using diesel electricity for non-  
22 space heating purposes, correct?

23 MR. ROBIN WIENS: We can't be 100 percent  
24 certain of that but we're reasonably satisfied of that.

25 MR. BYRON WILLIAMS: And in terms of that

1 reasonable -- Now, Mr. Wiens, you -- you mentioned previously  
2 that you had looked at different options and presumably you  
3 had looked at different options in terms of a lower  
4 threshold. And presumably one of the options you looked at  
5 was a thousand (1,000) kilowatt hours per month; is that  
6 correct?

7 MR. ROBIN WIENS: Yes, we did look at a  
8 thousand (1,000) kilowatt hours a month.

9 MR. BYRON WILLIAMS: And you'll agree with me  
10 that given the steep jump from five point one, six (5.16) to  
11 seven point nine, one (7.91), a thousand (1,000) kilowatt  
12 hour per month threshold would be likely to affect many more  
13 people; is that correct?

14 MR. ROBIN WIENS: It would affect -- it would  
15 affect more people. Many, possibly, possibly.

16 MR. BYRON WILLIAMS: And you'll agree with me  
17 as well that, not only would it affect more people, it would  
18 also be likely to affect more who are using diesel  
19 electricity for non-space heating purposes; is that right?

20 MR. ROBIN WIENS: That is certainly possible,  
21 yes.

22 MR. BYRON WILLIAMS: It's probably -- it's --  
23 it's more than possible, it's likely; is that not correct,  
24 Mr. Wiens?

25 MR. ROBIN WIENS: I think you would catch

1 some non-heating usage in there.

2 MR. BYRON WILLIAMS: And just as an example,  
3 and I'd ask you to turn to the -- the fourth tab of the  
4 lovely purple book of reference, you'll agree with me that  
5 the response to CAC/MSOS/MH-5-1 indicates that the average  
6 monthly use of grid customers excluding those with gre --  
7 electric space heat for Zone 3 is one thousand, three hundred  
8 and forty-seven (1,347) kilowatt hours; is that correct?

9 MR. ROBIN WIENS: Yes, that is correct, but I  
10 think there's a number of caveats that have to be placed on  
11 that.

12 MR. BYRON WILLIAMS: You're inviting the  
13 question, go ahead?

14 MR. ROBIN WIENS: First of all, when we  
15 define -- I believe we define this as the electric -- what we  
16 call ele -- "standard electric". Standard only. Now,  
17 "standard only" means that we cannot identify this as an all  
18 electric customer.

19 It doesn't mean there's no supplementary  
20 electric heat in the home. There may, very well, be  
21 supplementary electric heat in the home but we have  
22 identified that electricity is not the primary use of heat or  
23 we think we have.

24 Second, Zone 3 is a rural -- largely rural  
25 population. A lot of -- a lot of smaller farms in Manitoba

1 are classed in the residential class so they will have usage  
2 that is related to more than just the home. There will be  
3 outbuildings, there may be pumps or wells or outdoor lighting  
4 that is also a part of that thirteen hundred and forty-seven  
5 (1347).

6 MR. BYRON WILLIAMS: Thank you for that, Mr.  
7 Wiens. Perhaps you can turn to Tab 5 of the book of  
8 reference.

9 Again, looking at this and the reasonableness  
10 of a one thousand (1,000) kilowatt hour threshold, you'll  
11 agree with me that in the fourth paragraph Manitoba Hydro  
12 indicates that if a resident in the community had a fridge,  
13 freezer, a dishwasher, clothes washer, clothes dryer,  
14 electric range, colour TV, computer, lights, microwave, VCR,  
15 and hot water tank, total monthly consumption would be about  
16 one thousand, forty (1,040) kilowatt hours; is that correct?

17 MR. ROBIN WIENS: Yeah, that's our response.  
18 Yes.

19 MR. BYRON WILLIAMS: And, again, that would  
20 be, at least slightly, over the one thousand (1,000) kilowatt  
21 hour frame of reference; is that right?

22 MR. ROBIN WIENS: Yes, it is, but I think we  
23 made fairly generous or the person that prepared this for us,  
24 made fairly generous assumptions relative to the usage.  
25 There are a lot of homes in Winnipeg that use less than a

1 thousand (1000) kilowatt hours a month.

2 MR. BYRON WILLIAMS: Well, let's look at what  
3 communities use, or homes in these communities use. And I  
4 wonder if you can turn to PUB/Manitoba Hydro XI, which is I  
5 believe, Tab 6, of the -- the Book of References.

6 And I'd like you to turn your attention, Mr.  
7 Wiens, to the projections for 2003/04 and we can see for the  
8 community of Brochet, that the projected number of customers  
9 is a hundred and twenty (120) and the projected kilowatt  
10 hours is one million, seven hundred and ninety nine thousand,  
11 nine (1,799,009); is that correct?

12 MR. ROBIN WIENS: I see that, yes.

13 MR. BYRON WILLIAMS: And if we wanted to  
14 determine the yearly average, in terms of their consumption,  
15 we would divide the 1.79 million figure by one hundred and  
16 twenty (120); is that correct?

17 MR. ROBIN WIENS: That is correct.

18 MR. BYRON WILLIAMS: And then -- and if you'll  
19 accept, subject to check, that the total for that would be  
20 fourteen thousand, nine hundred and ninety one point seven  
21 four (14,991.74)?

22 MR. ROBIN WIENS: I'll accept that having made  
23 the calculation.

24 MR. BYRON WILLIAMS: You're ahead of me then.  
25 And if we divided that figure by twelve (12), we would come

1 up with the monthly average of one thousand two hundred and  
2 forty nine, point three one two (1,249.312); is that correct?

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

4 MR. BYRON WILLIAMS: Perhaps, again given your  
5 -- the -- the good faith you've shown in my math skills, so  
6 far, you can accept subject to check, that the monthly  
7 average projected for Brochet for 2003/2004, would be one  
8 thousand fifty eight, two hundred and seventy-two (1058.272)?

9 MR. ROBIN WIENS: We've just been through  
10 Brochet, are you referring to Lac Brochet?

11 MR. BYRON WILLIAMS: Oh, Lac Brochet, yes.

12 MR. ROBIN WIENS: Repeat the question, please?

13 MR. BYRON WILLIAMS: Well, I think I'll repeat  
14 it changing it from Brochet to Lac Brochet, with your  
15 permission.

16 You'll agree with me that the monthly average  
17 would be one thousand fifty eight, two hundred and seventy  
18 two (1058.272)?

19 MR. ROBIN WIENS: Yes.

20 MR. BYRON WILLIAMS: And for Shamattawa, it  
21 again would exceed a thousand, being one thousand, fifty  
22 point four two (1050.42), correct?

23

24 (BRIEF PAUSE)

25

1 MR. ROBIN WIENS: One thousand fifty (1050).

2 MR. BYRON WILLIAMS: I don't mean to belabour  
3 this point too much farther, Mr. Wiens, but, in your previous  
4 -- in our previous discussion, we talked about the impact on  
5 customers at two thousand (2000) kilowatt hours, versus the  
6 impact of a threshold of a thousand (1000) kilowatt hours.

7 And I wonder if you'd agree with me, that as  
8 we get -- as -- as we move in terms of consumption patterns  
9 away from a thousand kilowatt hours (1000) and towards two  
10 thousand (2000) kilowatt hours per month, we can have greater  
11 confidence that anyone -- that as we -- the closer we move to  
12 the two thousand (2000) kilowatt hours per month level, the  
13 more likely it is that the customers are using diesel  
14 electricity for space heating purposes.

15 Would that be fair?

16 MR. ROBIN WIENS: I think that would be fair,  
17 yes.

18 MR. BYRON WILLIAMS: So, in essence we have a  
19 sliding scale of -- of confidence. The closer one (1) gets  
20 to two thousand (2000) kilowatt hours, the greater confidence  
21 or expectation is, that these customers would be using diesel  
22 electricity for space heating, is that fair?

23 MR. ROBIN WIENS: I think we've just said,  
24 yes.

25 MR. BYRON WILLIAMS: I appreciate that. And

1 I'd like you to take the figure of fifteen hundred (1500)  
2 kilowatt hours per month and let's assume that a regulator  
3 wanted or a -- a person -- an individual -- someone setting  
4 rates or proposing rates, wanted to endorse -- express a  
5 commitment to equivalent to grid -- grid, but, wanted to kind  
6 of temper the potential rate shock, of a steep jump, from  
7 five point one six (5.16) to seventy nine point one (79.1).

8                   Would you consider it reasonable to use a --  
9 an additional block between fifteen hundred (1500) and two  
10 thousand (2000) to set -- set a more moderate pricing signal?  
11 Would that sound reasonable given your expertise in rate  
12 setting?

13                   MR. ROBIN WIENS: It's not unreasonable to  
14 consider.

15                   MR. BYRON WILLIAMS: And an approach like  
16 that, would send pricing signals to consumers that they were  
17 -- that they were coming close to a -- a precipiti -- or a  
18 serious rate impact, correct?

19                   MR. ROBIN WIENS: It may, it may. We may have  
20 some institutional factors at play here, that may mask some  
21 of that, but -- but it may.

22                   MR. BYRON WILLIAMS: Thank you, Mr. Wiens, I  
23 appreciate your answer.

24                   We can turn now if you -- if you would, to Tab  
25 7 of the book of reference, which is an excerpt from the

1 filing and it's titled, Bill Comparisons, Diesel Rate Zone.

2           And I wonder if you can turn to -- now, to the  
3 general service class, and you'll agree with me that the --  
4 the impact on customers, averaging three thousand (3,000)  
5 kilowatt hours per month, of the proposed changes is a  
6 percentage rate increase of 391.8 percent; is that correct?

7           MR. ROBIN WIENS: Yes, yes.

8           MR. BYRON WILLIAMS: And I can again do the  
9 math for you, but if you would accept, subject to check, that  
10 for a customer in this class using twenty-five hundred (2500)  
11 kilowatt hours per month, the -- the percentage rate increase  
12 would be 330 percent, would you accept that, subject to  
13 check, Mr. Wiens?

14           MR. ROBIN WIENS: I think on that I would put  
15 the emphasis on the check there, that sounds a bit high, but  
16 -- but for now we'll accept it.

17           MR. BYRON WILLIAMS: Regardless, if we're  
18 talking figures of whether it's 330 percent or 391.8 percent,  
19 we're talking rate shock, are we not?

20           MR. ROBIN WIENS: This is an extreme increase,  
21 yes.

22           MR. BYRON WILLIAMS: And if I recall your  
23 conversation with Mr. Peters of yesterday, I believe your  
24 testimony was that we can't be as nearly as confident that  
25 consumption by general service customers in excess of two

1 thousand (2,000) kilowatt hours per month is being used for  
2 space heating; would that be correct, Mr. Wiens?

3 MR. ROBIN WIENS: We can't have --

4 MR. BYRON WILLIAMS: As compared to  
5 residential?

6 MR. ROBIN WIENS: -- we can't have the same  
7 degree of confidence, no.

8 MR. BYRON WILLIAMS: And that goes back to the  
9 discussion we had earlier about the -- again, heterogenous  
10 nature of this class?

11 MR. ROBIN WIENS: And the very different uses  
12 that it puts electricity to.

13 MR. BYRON WILLIAMS: And would it be fair to  
14 say that we can't even be sure that consumption in excess of  
15 three thousand (3,000) kilowatt hours per month is -- for  
16 this class is devoted to space heating?

17 MR. ROBIN WIENS: No, we can't. Certainly  
18 there are uses -- there are uses in -- in -- or potential  
19 uses in some of these communities that could go quite a bit  
20 higher than that, without necessarily involving space  
21 heating.

22 MR. BYRON WILLIAMS: Now, I was trying to  
23 check up this figure with Mr. Peters, but neither he nor I  
24 could recall it. But could you advise me again, I apologize  
25 for this, what the impact of reducing the threshold from

1 three thousand (3,000) to two thousand (2,000) kilowatt hours  
2 was, Mr. Wiens?

3 MR. ROBIN WIENS: In what sense --

4 MR. BYRON WILLIAMS: In terms of general  
5 service, the -- the revenue impact for Manitoba Hydro?

6

7

(BRIEF PAUSE)

8

9 MR. ROBIN WIENS: I don't think we ever did  
10 respond to that, what the impact was specifically, in the two  
11 thousand (2,000) to three thousand (3,000) class. We -- we  
12 -- we went through some, a line of discussion, where we took  
13 the proposed overall revenue for the class, nine hundred and  
14 forty-four thousand (944,000), versus what current rates  
15 would yield which is five hundred and twenty-nine thousand  
16 (529,000), and we attributed that to the change in rates.  
17 But that is attributable not only to the change in the block  
18 size, but also to the increase from thirty-five point nine  
19 (35.9) to seventy-nine point one (79.1) cents on all  
20 consumption over three thousand (3,000).

21 So, we would need to -- it's not a difficult  
22 calculation, but I just have to get the numbers together we  
23 would need to be able to -- to do that, in order to tell you  
24 how much of it.

25 I would say it's probably a goodly proportion

1 of that -- of that nine forty-four (944) minus five twenty-  
2 nine (529), the four hundred and fifteen thousand (415,000),  
3 I would say that -- that it would be a significant  
4 proportion, probably half or more.

5 MR. BYRON WILLIAMS: I wonder if for the --  
6 the benefit of my clients, you would undertake to do that,  
7 Mr. Wiens?

8 MR. ROBIN WIENS: Yes, we will.

9  
10 --- UNDERTAKING NO. 8: Advise what the impact of reducing the  
11 threshold from three thousand (3,000) to two  
12 thousand (2,000) kilowatt hours would be.

13  
14 MR. BYRON WILLIAMS: Again, given the -- given  
15 the fact that the previous threshold for GS was at three  
16 thousand (3,000) kilowatt hours a month, and given the  
17 substantial rate impact that you referenced, I wonder if  
18 again you would think that it might be reasonable for someone  
19 in -- in a rate setting context to -- to look at a block  
20 between two thousand (2,000) and three thousand (3,000)  
21 kilowatt hours as another opportunity to send a pricing  
22 signal in terms of reducing consumption.

23 So, using -- again, similar to residential  
24 proposals, some kind of a yellow light or warning light, that  
25 there's a big rate impact ahead?

1                   MR. ROBIN WIENS: Yes, but we could have some  
2 discussion about where that best fit, whether it would be  
3 between two (2) and three thousand (3,000) or somewhere else.  
4 But subject to the same -- subject to the same considerations  
5 as our discussion about the residential, yes, that could be  
6 something we could look at.

7                   MR. BYRON WILLIAMS: Again, for the benefit of  
8 my clients, you -- you indicated that there might be some  
9 discussion about whether the block should be at two thousand  
10 (2,000) to three thousand (3,000). Do you have any  
11 preliminary thoughts on that matter?

12                   MR. ROBIN WIENS: Well, I'm going to bring you  
13 back to the -- to the original intent that we discussed when  
14 we moved from a fifteen (15) amp to a sixty (60) amp  
15 limitation for eligibility for grid rates. The intent at  
16 that time was to -- for both residential and general service  
17 customers to provide sixty (60) amp service entrance, with --  
18 with access to grid rates. If we were above that, then we  
19 were looking at what we call full cost rates.

20                   We translated that back in the 1990's, early  
21 1990's into a three thousand (3,000) kilowatt hour limit for  
22 general service, because of the fact that we -- not that we  
23 were even aware that there were any such circumstances, but  
24 there may have been circumstances where two (2) similar  
25 businesses would have been charged a very different rate from

1 right from the first kilowatt hour.

2           So, we considered different levels, and at  
3 that time we opted for what we thought was a very generous  
4 level of three thousand (3,000) kilowatt hours.

5           We come forward to 2004, we did not -- we did  
6 not at that time make any change to the residential class, we  
7 -- we sixty (60) amps, if you're under sixty (60) amps, and  
8 we expected that most customers would be under sixty (60)  
9 amps. You're under sixty (60) amps, therefore you have  
10 access to your service at grid rates. Above sixty (60) amps,  
11 you're looking at full cost rates.

12           If we come forward now to 2002, when we first  
13 designed this, and we said we were beginning to be concerned  
14 about the possible usage of electricity by residences, for  
15 space heating. So, we thought about a kilowatt hour cap as  
16 well, above which the full cost would apply.

17           And through a process of -- of -- of  
18 essentially looking at what we felt might be reasonable, we  
19 arrived at two thousand (2,000) kilowatt hours. Given that  
20 we were talking, while trying to reflect the same general  
21 service level restriction, at that point we determined that  
22 perhaps it would be more reasonable to move from three  
23 thousand (3,000) to two thousand (2,000) for the general  
24 service.

25           Again, to reflect that original intent of

1 providing up to sixty (60) amps, and beyond sixty (60) amps  
2 would be full cost. So, that's where the number came from.  
3 That's how we came from three thousand (3,000) to two  
4 thousand (2,000).

5           There were other considerations of course,  
6 that we were already looking, when we first did the  
7 calculation, at a surcharge of a dollar thirty (\$1.30), did  
8 we want to go much beyond the dollar thirty (\$1.30), by  
9 continuing to allow the three thousand (3,000) kilowatt hour  
10 limitation, and so we had some concerns about that as well.

11           The question of the transition, we would -- if  
12 we were going to consider this, as we discussed for the  
13 residential, it might not necessarily be a two thousand  
14 (2,000) to three thousand (3,000) block, it might be  
15 something similar to the residential.

16           MR. BYRON WILLIAMS: Okay, thank you for that  
17 answer, Mr. -- Mr. Wiens.

18           These questions are probably going to be  
19 directed to you, but I -- I did note that Mr. Thomas, who is  
20 sitting there looking very sad, and lonely, did discuss the  
21 -- yesterday in his direct testimony, the variable price of  
22 consumption.

23           And -- and I want to move to -- towards the  
24 subject of discrimination in the economic and regulatory  
25 sense, but before I do that, I'd like to just get a sense of

1 the definitions of variable costs, as well as marginal costs.

2 So, if I might, my understanding is the var --  
3 the var -- variable price of con -- consumption equals  
4 essentially the -- the cost that varies with the level of use  
5 or production; would that be fair?

6 MR. CHIC THOMAS: That's fair, yes.

7 MR. BYRON WILLIAMS: And in the context of  
8 diesel, fuel is the most obvious variable cost but it may not  
9 be the only one, is that fair?

10 MR. CHIC THOMAS: That's right.

11 MR. BYRON WILLIAMS: Other costs that might  
12 be considered variable are operating and maintenance costs  
13 because the costs for these items increases with the level of  
14 production, at least to a certain degree; correct?

15 MR. CHIC THOMAS: Yes, that's correct.

16 MR. BYRON WILLIAMS: Now, as I understand it,  
17 pricing at variable cost ensures that the utility recovers  
18 all short-term costs associated with the increase in usage,  
19 would that be fair?

20 MR. ROBIN WIENS: Generally, yes, that would  
21 be fair. I can think of some circumstances where it would  
22 not but that -- that would be where we were brushing up  
23 against the limits of our capacity.

24 MR. BYRON WILLIAMS: And we're going --

25 MR. ROBIN WIENS: Even if we still had some

1 capacity, yes, that would be the short terms costs.

2 MR. BYRON WILLIAMS: And I wanted to move to  
3 that but if usage grows enough it will require investment in  
4 additional capital facilities; correct?

5 MR. ROBIN WIENS: Yes. I think fairly you  
6 could look at any increase in use unless -- unless you've got  
7 so much excess capacity it's beyond any reasonable time  
8 horizon. Any excess -- any increase in use is eventually  
9 going to produce a requirement for new capital.

10 MR. BYRON WILLIAMS: So pricing at variable  
11 costs might recover short-term costs but it doesn't signal  
12 the true cost of incremental use; would that be fair?

13 MR. ROBIN WIENS: It doesn't consider the  
14 long-term marginal costs.

15 MR. BYRON WILLIAMS: What a tremendous segue,  
16 Mr. Wiens. Marginal costs --

17 MR. ROBIN WIENS: I don't think I was alone  
18 in creating that.

19 MR. BYRON WILLIAMS: Marginal costs are the  
20 incremental costs of producing another unit of production;  
21 would that be fair?

22 MR. ROBIN WIENS: Yes.

23 MR. BYRON WILLIAMS: And you reference long  
24 run marginal costs and that would include, not only the  
25 increases that would incur in variable costs in the short-

1 term, but also the longer term capital requirements which we  
2 just spoke of?

3 MR. ROBIN WIENS: Yes.

4 MR. BYRON WILLIAMS: And as an economist,  
5 would you take the position that marginal cost represents a  
6 real or true cost that a company will would incur to service  
7 a new customer or to continue to serve an existing customer;  
8 would that be fair?

9 MR. ROBIN WIENS: That would be fair.

10 MR. BYRON WILLIAMS: Now, Mr. Wiens, I  
11 actually, a rare event for me, took the time to read your  
12 resume, the massive tome that was produced by your counsel.  
13 And it appears to me -- it seems to me that you wear two (2)  
14 hats.

15 You're trained as an economist but you also  
16 have expertise in -- in regulatory principles and regulatory  
17 concepts; would that be fair?

18 MR. ROBIN WIENS: I guess that would be fair,  
19 subject to saying that my training was a number of years ago  
20 and my exposure to the regulatory process, more recent.

21 MR. BYRON WILLIAMS: Well, I don't think I'll  
22 test too strenuously your training as an economist but you'll  
23 agree with me that there's certain cases where an approach  
24 taken by a regulator -- a principled approach taken by a  
25 regulator might differ from first principles of economics;

1 would that be fair?

2 MR. ROBIN WIENS: It probably happens more  
3 than it should.

4 MR. BYRON WILLIAMS: That may be fair but  
5 there's also times when it's legitimate for a regulator who  
6 has -- has to have a consideration for other elements of the  
7 public interest to depart from first principles of economics?

8 MR. ROBIN WIENS: There are other principles  
9 at work in the design of rates, although I would say that the  
10 economic principles are -- probably have primacy.

11 MR. BYRON WILLIAMS: Mr. Todd would, of  
12 course, love to hear that comment. I take it from your  
13 direct examination by Ms. Ramage and your many years of  
14 experience in the public utility field and your recent  
15 experience in the regulatory field that you have more than a  
16 passing familiarity with the text "Principles of Public  
17 Utilities Rates" by Bonbright; would that be fair?

18 MR. ROBIN WIENS: I cannot claim to have read  
19 it from cover to cover but I have -- I have spent many happy  
20 hours in the company of Mr. Bonbright.

21 MR. BYRON WILLIAMS: Well, I'm glad you  
22 enjoyed it so much because if you turn to Tab 8, I just want  
23 to take you back to those pleasant memories for at least a  
24 few minutes if I might.  
25

1 (BRIEF PAUSE)

2  
3 MR. BYRON WILLIAMS: And Mr. Wiens, you'll see  
4 that I provided you with some very brief excerpts from  
5 Bonbright and I hasten to add for the Board's consideration  
6 that these are only excerpts from the text and they're not  
7 even a complete excerpts from the text and they're not even a  
8 complete chapter.

9 But I just wish to explore for a minute, the  
10 concept of discrimination and also undue discrimination with  
11 you. And Mr. Wiens, first of all, I'd ask you to wear your  
12 hat as an economist for a second, and turn to the second last  
13 page of the excerpt, being page 523, in the top lefthand  
14 corner.

15 Do you have that, Mr. Wiens?

16 MR. ROBIN WIENS: I have it.

17 MR. BYRON WILLIAMS: And under the heading,  
18 'conflicting interpretations among economists', which will  
19 come as a tremendous shock to everyone, that there might be  
20 conflicting interpretations among economists.

21 But, the first sentence reads:

22 "Among economists there would probably be  
23 general agreement that the practice of  
24 exacting different charges for different  
25 classes of service rendered at the same

1                   marginal costs, constitutes discrimination.  
2                   And equally general agreement that failure  
3                   to impose higher charges for services  
4                   rendered at markedly higher marginal cost  
5                   is also discriminatory."

6                   Wearing solely your economist hat, Mr. Wiens,  
7 would you agree with that statement?

8                   MR. ROBIN WIENS: Yes.

9                   MR. BYRON WILLIAMS: And you'd also agree with  
10 the principle?

11                   MR. ROBIN WIENS: Yes.

12                   MR. BYRON WILLIAMS: I wonder if you could  
13 turn back a couple of pages -- or just one (1) page actually  
14 to page 520 and I'll refer you to the circled excerpt near  
15 the bottom of the page and I wonder if you would -- I'll read  
16 the definition to you and I wonder if you can indicate  
17 whether you agree with this definition of price  
18 discrimination?

19                   "Economists generally define price  
20 discrimination as occurring when the price  
21 of goods are sold at prices which are  
22 disproportionate to their marginal  
23 production, distribution, delivery,  
24 storage, risk and uncertainty costs."

25                   Do you agree with that statement, Mr. Wiens,

1 as an economist?

2 MR. ROBIN WIENS: Yes.

3 MR. BYRON WILLIAMS: Now, I wonder if you can  
4 turn back one (1) more page to the excerpt from -- of this  
5 Bonbright text, page 174.

6 And I'll refer you to the excerpt -- the  
7 circled portion near the top of the left-hand side. And I'll  
8 read it to you and ask you at this point in time, to put on  
9 your regulatory hat.

10 And ask whether you agree with this concept,  
11 with this statement:

12 "While rate structure regulation is  
13 complex, there is general agreement that  
14 charging different rates when (marginal  
15 costs are identical), is discriminatory.  
16 However charging the same rates for  
17 services which are delivered at different  
18 marginal costs is also discriminatory."

19 Do you agree with that statement, Mr. Wiens,  
20 from a regulatory perspective?

21 MR. ROBIN WIENS: Yes, I do.

22 MR. BYRON WILLIAMS: I'm going to ask you to  
23 skip the next line and go down to the -- to two (2) sentences  
24 below where it reads:

25 "It may be unduly discriminatory depending

1                   on the judgment of the regulator and the  
2                   feasibility and expense of calibrating time  
3                   of use costs, example, metering."

4                   And I guess the point I'm trying to make, Mr.  
5 Wiens, is again there's a difference between discrimination  
6 in the economic sense and what a regulator might consider to  
7 be undue discrimination, would that be fair?

8                   MR. ROBIN WIENS: I'm having a little trouble  
9 matching your question with the preamble you gave to it.  
10 Could you try that again?

11                   MR. BYRON WILLIAMS: I'm having a bit of  
12 trouble matching my preamble with the question. Let me try  
13 this a different way.

14                   This goes back to an earlier question I asked,  
15 Mr. Wiens. From the regulatory perspective, the concept of  
16 undue discrimination involves not only discrimination as an  
17 economist might define it, but it might involve other policy  
18 factors as well would that be fair?

19

20

(BRIEF PAUSE)

21

22                   MR. ROBIN WIENS: Yes, I think that would be  
23 fair. Although, I'm not sure that I want to get into a  
24 lengthy discussion about where the two (2) bump up against --  
25 against each other and -- and which one (1) should give way.

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: Well, let's -- let's just  
4 give it a -- a pract -- practical Application in the context  
5 of this Proceeding, and that maybe that will enable the  
6 discussion --

7 MR. ROBIN WIENS: That would be great --

8 MR. BYRON WILLIAMS: -- to move along.

9 MR. ROBIN WIENS: -- that would be great.

10 MR. BYRON WILLIAMS: I want to give you the  
11 example of the -- the rates, the residential rates charged to  
12 diesel customers.

13 And you'll -- you'll agree with me that the  
14 diesel residential rate, at least up to the two thousand  
15 (2,000) kilowatt hour threshold, is equivalent to grid -- the  
16 grid, despite the fact that the marginal costs are materially  
17 different, you'd agree with me?

18 MR. ROBIN WIENS: Absolutely.

19 MR. BYRON WILLIAMS: So, from a pure economic  
20 perspective, that might be discriminatory, fair enough?

21 MR. ROBIN WIENS: Yes.

22 MR. BYRON WILLIAMS: But from a regulatory  
23 perspective, that might not be considered unduly  
24 discriminatory because of other policy objectives, such as  
25 affordability, would that be fair?

1 MR. ROBIN WIENS: Yeah -- yeah, I was going to  
2 say, and I think you have clarified yourself anyway, that we  
3 -- we may be talking more policy here than regulatory, but if  
4 by regulatory you mean bringing together a considered policy,  
5 along with the economics of the -- of the -- of the  
6 relationship, yes, I would agree with you.

7 MR. BYRON WILLIAMS: And I want to take you to  
8 another example, which would be the Federal Government  
9 surcharge, and you'll agree with me that a Federal Government  
10 customer in a diesel community, let's say the RCMP, is being  
11 asked to pay not only their diesel electricity costs, but  
12 also to contribute towards the costs of other cl -- other  
13 consumers in that community; would that be fair?

14 MR. ROBIN WIENS: That is fair.

15 MR. BYRON WILLIAMS: And again from an  
16 economist's eyes, asking the RCMP to cover the cost for other  
17 ratepayers might -- might be considered discriminatory, would  
18 that be right?

19 MR. ROBIN WIENS: Yes.

20 MR. BYRON WILLIAMS: But from a -- a regul --  
21 or from a policy perspective, taking into account other  
22 factors, including the -- the historical context, that rate  
23 might be considered to be just and reasonable; is that  
24 correct?

25 MR. ROBIN WIENS: Yes.

1                   MR. BYRON WILLIAMS: Mr. Chairman, I timed  
2 that fairly well, I thought. I've got -- I'm more than half  
3 -- half done, although I'm moving to another subject, so I  
4 thought this would be an opportune time for a -- a break, if  
5 I might?

6                   THE CHAIRMAN: Certainly, Mr. Williams, we'll  
7 accept that, the Board just wants to advise parties we'll be  
8 starting today at 1:30 and not at 1:15.

9                   So, if this is an appropriate time then, Mr.  
10 Williams, the Board will now stand down and reconvene at  
11 1:30.

12  
13 --- Upon recessing at 11:56 a.m.

14 --- Upon resuming at 1:30 p.m.

15

16                   THE CHAIRMAN: Gentlemen. Ladies and  
17 gentlemen, if I may, it's 1:30, if I could call the Hearing  
18 back to order. Turn it over to you, Mr. Williams.

19                   MR. BYRON WILLIAMS: Yes, Mr. Chair, Members  
20 of the Panel, I would like to note that this morning, I  
21 neglected to introduce Mr. Cruden and Mrs. Cruden, who are  
22 sitting back their loyalty for the entire morning and we've  
23 replaced them with the -- the CAC version of my client.

24                   So, Ms. Desorcy is back there and I welcome  
25 her and wish her a happy New Year.

1 (BRIEF PAUSE)

2  
3 CONTINUED BY MR. BYRON WILLIAMS:

4 MR. BYRON WILLIAMS: Mr. Wiens, yesterday  
5 around four o'clock, I noted the time, you were talking with  
6 Mr. Peters on the subject of discrimination in the context of  
7 rates for residential customers in diesel communities.

8 And I don't want to kind of re-enter that  
9 debate at all, but it seems to me that in -- on that subject  
10 you -- you referenced, I think, what you characterized as an  
11 agreement in the 1960's between the Federal government the  
12 Province and the Hydro, to charge equivalent to grid rates in  
13 rural communities. Did I hear you correctly?

14 MR. ROBIN WIENS: I -- I would have been  
15 remiss if I had characterized it as -- as an agreement,  
16 particularly involving the Province. But typically our --  
17 our contracts at that time did provide, along with all the  
18 other things they provided for, that there would be certain  
19 rates that would be charged to what were called local  
20 consumers.

21 And by local consumers, we meant those who  
22 were subject to the fifteen (15) amp limitation at the time.  
23 And whether it was grid rates or something approximating grid  
24 rates, I'm not able to tell you off the top of my head.

25 But it was -- it was very -- it had a close

1 relationship with rural rates at that time.

2 MR. BYRON WILLIAMS: So -- and sir, probably  
3 the word agreement was too strong, but some kind of -- well,  
4 I guess as I understand, some sort of consensus between at  
5 least Hydro and the Federal government that there should be  
6 something equivalent to rural grid rates; is that correct?

7 MR. ROBIN WIENS: Well, in the case of the  
8 Federal government, I believe some of the contracts actually  
9 made reference to certain rates that were charged local  
10 consumers and -- and whether it specifically referred to grid  
11 rates or just to the rates that were appended to the  
12 agreement, nevertheless, those rates were comparable to grid  
13 rates at that time.

14 MR. BYRON WILLIAMS: Thank you for that. And  
15 -- and again at the risk of gross over-simplification, in  
16 hearing your Panel's, kind of, overview of the historical  
17 record, it seemed to me that a message you were sending or --  
18 was that in certain years, to the extent that the operating  
19 costs for the diesel communities exceeded rev -- revenues,  
20 rather than raise rates above equivalent to rural grid rates,  
21 that shortfall was often assumed by Manitoba Hydro; would  
22 that be fair?

23 MR. ROBIN WIENS: Yes, we're talking into --  
24 the -- the recognition of it anyway. And my exposure to this  
25 is through correspondence that existed in, in some cases,

1 very old files.

2                   But it appeared, beginning about 1978, that it  
3 was being recognized that that gap was growing. And yes, it  
4 was assumed by the ratepayers of Manitoba Hydro.

5                   MR. BYRON WILLIAMS: Yet again, I'm not going  
6 to revisit this too much, but I believe you noticed -- you  
7 noted a shortfall of about a million in 1978, and about 3.2  
8 million in 1982; would that be about right?

9                   MR. ROBIN WIENS: That sounds right.

10                   MR. BYRON WILLIAMS: Now, you mentioned that  
11 you'd been reviewing correspondence and one (1) document  
12 which I found interesting was -- appears in the CAC/MSOS Book  
13 of Reference, I believe, it's Tab 10.

14                   And that would be attachment to  
15 CAC/MSOS/Manitoba Hydro 11-1, which appears to be a memo -- a  
16 memo from a Mr. Cartwright. I take it you've reviewed this  
17 document, Mr. Wiens?

18                   MR. ROBIN WIENS: I haven't reviewed it  
19 recently, but, I'm aware of it and I could probably  
20 familiarize myself with it pretty quickly.

21                   MR. BYRON WILLIAMS: Well, I'll -- I'll help  
22 you -- I'll give you perhaps a moment, if you -- if you would  
23 like.

24                   MR. ROBIN WIENS: No, no, that's fine. Let's  
25 proceed.

1 MR. BYRON WILLIAMS: Now, I take it you  
2 haven't spoken with Mr. Cartwright about this memo, so that  
3 you're -- you know, you're relying upon the document itself?

4 MR. ROBIN WIENS: Yes, that would be fair.

5 MR. BYRON WILLIAMS: Now, as I read this memo,  
6 the gist of it seems to be, starting at paragraph 2, that in  
7 the late 1950's, the Manitoba Power Commission began to  
8 develop a policy in terms of isolated communities, which  
9 included some such as Cranberry, Portage and Norway House,  
10 would that be right?

11 MR. ROBIN WIENS: Yes.

12 MR. BYRON WILLIAMS: And moving down to the  
13 bottom of paragraph number 2, we again get you your fifteen  
14 (15) amp reference, and you -- it's noted here that the  
15 fifteen (15) amp ref -- limit was considered a method of  
16 limiting the amount of subsidization; is that right?

17 MR. ROBIN WIENS: That's right.

18 MR. BYRON WILLIAMS: Now, moving to the -- the  
19 third paragraph, based upon Mr. Cartwright's recollection  
20 anyways, it appears that in the late 60's, the Federal  
21 Government, through I -- Indian Affairs, approached Hydro  
22 about sharing in the social commitment for subsidization of  
23 -- in terms of Indian Reserves in Northern Manitoba; would  
24 that be fair?

25 MR. ROBIN WIENS: Well, that's what it says.

1 MR. BYRON WILLIAMS: And you're in -- you  
2 don't have any information to the contrary?

3 MR. ROBIN WIENS: The only information I would  
4 have that may be to the contrary is actually what is in place  
5 in the various contracts that have been submitted, and are  
6 part of the record of this Proceeding.

7 MR. BYRON WILLIAMS: Just moving down to the -  
8 - the fourth paragraph, it looks from Mr. Cartwright's  
9 interpretation, that in terms of these agreements with Indian  
10 Affairs, Manitoba Hydro was trying to employ the fifteen (15)  
11 amp service to -- to control, at least to a certain degree,  
12 its amount of subsidization to these communities; is that  
13 right?

14 MR. ROBIN WIENS: Yes.

15 MR. BYRON WILLIAMS: And again, if we turn to  
16 the second page, and I'm referring to the second last  
17 paragraph from the bottom, it looks like by 1977, the amount  
18 of subsid -- subsidization, wou -- in terms of Manitoba  
19 Hydro, was about 1.5 million annually; is that correct?

20 MR. ROBIN WIENS: I see that, yes.

21 MR. BYRON WILLIAMS: Mr. Wiens, just moving up  
22 to the fre -- present for -- for a few seconds, am I right in  
23 -- in terms of the current proposal before the Public  
24 Utilities Board, Manitoba Hydro is proposing to assume about  
25 6 percent of the -- of the cost of providing -- grid

1 customers are -- it's proposing that they assume about 6  
2 percent of the cost of providing service to these  
3 communities?

4 MR. ROBIN WIENS: Six (6) percent of the total  
5 cost, that's approximately correct.

6 MR. BYRON WILLIAMS: And would I also be right  
7 in terms of Board Order 62/94, that in the outcome of that  
8 decision for rates in -- in -- in the mid 1990's was that  
9 Hydro was assuming about 21.94 percent of the -- the  
10 shortfall, or of the costs; would that be fair?

11 MR. ROBIN WIENS: I would have to refresh  
12 myself with this document. My -- my guess is that it would  
13 not be 21 percent of the total cost, but rather 21 percent of  
14 the cost of subsidizing the residential or the local  
15 consumers, which was a quantum somewhat less than the total  
16 cost.

17 So -- so, by that the -- the amount with  
18 respect to the total cost would be somewhat less than 21  
19 percent at that time.

20 MR. BYRON WILLIAMS: Fair enough, it would  
21 probably be an amount that was different than 6 percent,  
22 would that be right?

23 MR. ROBIN WIENS: It -- it -- it may have  
24 been, or it may not have been. We'd have to go back actually  
25 and do that calculation. My guess is it would be somewhere

1 midway between six (6) and twenty-one (21).

2 MR. BYRON WILLIAMS: Would you mind performing  
3 that calculation, Mr. Wiens?

4 MR. ROBIN WIENS: We could do that.

5 MR. BYRON WILLIAMS: Thank you, sir. Would it  
6 be fair to say, based on your review of the historical  
7 record, that the -- that there's no magic to the 6 percent  
8 figure, that Hydro's proposing in terms of assuming the costs  
9 of diesel in this Proceeding; would that be fair?

10 MR. ROBIN WIENS: Well, there is a little  
11 magic to it. It -- it -- it was not determined completely  
12 arbitrarily, it was determined on the basis, what is the  
13 percentage of cost of comparable grid customer that is  
14 assumed by the remainder of Manitoba Hydro's rate base, and  
15 90 percent of Zone 3 in the -- in the Cost of Service Study  
16 that was available to us at the time we prepared this  
17 Application, the revenue cost coverage of the Zone 3  
18 residential customers was 90 percent. And of the Zone 3  
19 general service customers, it was 99 percent.

20 And the sur -- the surcharge was calculated on  
21 those assumptions, as it had been back in 1994.

22 MR. BYRON WILLIAMS: Well, would it be fair  
23 to say that the -- the amount of -- of the total costs -- or  
24 the percentage of the total cost of providing service to  
25 diesel service that -- that has been assumed by Manitoba

1 Hydro over time has -- has varied; would that be fair?

2 MR. ROBIN WIENS: It -- yeah, from year to  
3 year it will have varied somewhat, yes.

4 MR. BYRON WILLIAMS: And so as the -- as the  
5 Board moves forward certainly there's some element of  
6 rationality to your proposal but it -- it's, certainly based  
7 on past practice, certainly isn't bound by some sort of 6  
8 percent total; correct?

9 MR. ROBIN WIENS: We would prefer to maintain  
10 the practice of -- of adjusting it to the revenue cost  
11 coverage in the Zone 3. However, that -- however that flows  
12 from -- from that study; that -- that is the basis on which  
13 it had always been calculated and we think it's a reasonable  
14 basis.

15 MR. BYRON WILLIAMS: Okay, I'd like to move  
16 on. There's been a great deal, and perhaps, Mr. Warden,  
17 these may be directed to you although I'll leave it to the  
18 Panel. The last two (2) days, and I certainly don't want to  
19 tread upon ground that My Friend Mr. Peters has -- has  
20 ventured onto but I may have to, to a certain degree.

21 But there's been a fair bit of discussion  
22 about the unpaid billings related to the surcharge assigned  
23 to Northern First Nations; do you recall that, Mr. Warden?

24 MR. VINCE WARDEN: Yes, I do.

25 MR. BYRON WILLIAMS: And my understanding is

1 that the principal in terms of that amount is about -- of the  
2 amount Hydro suggested is owed is about \$2.8 million dollars,  
3 correct?

4 MR. VINCE WARDEN: That's correct.

5 MR. BYRON WILLIAMS: And the -- the -- that -  
6 - that principal is continuing to grow and interest is  
7 accruing, correct?

8 MR. VINCE WARDEN: It's growing at about  
9 eighty thousand dollars (\$80,000) per month, yes; the  
10 principal is, interest is -- would be added on top of that.

11 MR. BYRON WILLIAMS: And the fact that this  
12 is growing is obviously of material concern to the  
13 Corporation?

14 MR. VINCE WARDEN: Yes, that along with the  
15 accumulated deficit, it's a material concern, absolutely.  
16 Yes.

17 MR. BYRON WILLIAMS: And I guess another  
18 matter that would be of material concern to the Corporation  
19 is that in order to collect or attempt to collect on this  
20 short -- this shortfall -- this -- or the unpaid billings,  
21 the Corporation may have to resort to litigation; is that  
22 correct?

23 MR. VINCE WARDEN: That's possible, yes.

24 MR. BYRON WILLIAMS: And, at least based upon  
25 my rather checkered record in litigation, well, we all know

1 that there's a risk to litigation; is that right? There's a  
2 chance the Corporation won't collect?

3 MR. VINCE WARDEN: I'd -- I'd rather not  
4 comment on that. I think our case is very strong.

5 MR. BYRON WILLIAMS: I'm not asking for a  
6 legal opinion but you certainly are aware that anytime one  
7 ventures into litigation there are risks associated with it?

8 MR. VINCE WARDEN: Certainly.

9 MR. BYRON WILLIAMS: Now, I understand, in  
10 your discussion with Mr. Peters, that Hydro was approached by  
11 representatives of MKO in November 2000 about redirecting the  
12 billing for the surcharge to Indian and Northern Affairs; is  
13 that correct?

14 MR. VINCE WARDEN: That's right. Yes.

15 MR. BYRON WILLIAMS: And I take it you can  
16 certainly understand why, from the First Nations'  
17 perspective, that might be a desirable outcome, correct?  
18 They've explained that to you?

19 MR. VINCE WARDEN: Yes, I understand their  
20 perspective. Yes.

21 MR. BYRON WILLIAMS: And they, through your  
22 discussions, both with INAC and with -- with MKO as well as  
23 your participation in the status update hearing, you had an  
24 opportunity to gain some insight into the funding structure  
25 and the relationship between INAC and -- and the four (4)

1 communities; is that correct?

2 MR. VINCE WARDEN: I have some knowledge of  
3 that, yes.

4 MR. BYRON WILLIAMS: And you understand that  
5 the nature -- at least part of the concern from -- on the  
6 part of MKO is that A, on a percentage basis, they feel that  
7 they're not fully funded and, B, that funding is not provided  
8 for actual costs but on a formula basis; you understand that  
9 concern?

10 MR. VINCE WARDEN: I understand the concern.  
11 Whether or not they are fully funded though, I don't have  
12 knowledge of that.

13 MR. BYRON WILLIAMS: If they're right though,  
14 the federal government's not paying  
15 the -- the surcharge was calculated on those assumptions, as  
16 it had been back in 1994.

17 MR. BYRON WILLIAMS: Well, would it be fair  
18 to say that the -- the amount of -- of the total costs -- or  
19 the percentage of the total cost of providing service to  
20 diesel service that -- that has been assumed by Manitoba  
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3 percent total; correct?

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21 communities; is that correct?

22 MR. VINCE WARDEN: I have some knowledge of  
23 that, yes.

24 MR. BYRON WILLIAMS: And you understand that  
25 the nature -- at least part of the concern from -- on the

1 part of MKO is that A, on a percentage basis, they feel that  
2 they're not fully funded and, B, that funding is not provided  
3 for actual costs but on a formula basis; you understand that  
4 concern?

5 MR. VINCE WARDEN: I understand the concern.  
6 Whether or not they are fully funded though, I don't have  
7 knowledge of that.

8 MR. BYRON WILLIAMS: If they're right though,  
9 the federal government's not paying the full cost of the  
10 surcharge, isn't that right?

11 MR. VINCE WARDEN: Again, I don't know that  
12 for sure. If they're right, if that's your question, if  
13 they're right, I guess there's some merit to that, yes.

14 MR. BYRON WILLIAMS: And if they are right, in  
15 essence, the First Nation is being asked to chip into cover  
16 part of the government surcharge, isn't that right?

17 MR. VINCE WARDEN: Recognizing that the  
18 primary source of funding for the First Nation is the Federal  
19 government, then that chipping in would ultimately have to  
20 come from the -- from the Federal government, in my view.

21 MR. BYRON WILLIAMS: Well, let's take it from  
22 -- again you've had an opportunity to hear the perspective of  
23 MKO. You'd agree that if the Federal government is not fully  
24 funding the surcharge, then MKO will have to take money from  
25 other ma -- budget items to cover that surcharge.

1 MR. VINCE WARDEN: Well, those other budget  
2 items presumably are funded from some source. And to my  
3 knowledge, the only source is the Federal government.

4 MR. BYRON WILLIAMS: Well, you heard --

5 MR. ROBERT MAYER: Mr. Williams, MKO has no  
6 responsibility to pay any of these bills.

7 MR. BYRON WILLIAMS: Excuse me, I meant the  
8 First Nations. Thank you for that clarification.

9

10 (BRIEF PAUSE)

11

12 CONTINUED BY MR. BYRON WILLIAMS:

13 MR. BYRON WILLIAMS: Do you recall hearing Mr.  
14 Mills during the status update, suggesting that the First  
15 Nations in question, might have bingo's to raise money for the  
16 shortfall?

17

18 (BRIEF PAUSE)

19

20 MR. VINCE WARDEN: Once again I, you know, I  
21 think those discussions that we had with the Federal  
22 government and whatever Mr. Mills may have said at the status  
23 update hearing were interesting but, really not -- that's not  
24 of concern to Manitoba Hydro, as to where and to the extent  
25 to which their funding the First Nations.

1                   We have bills that must be paid, we think the  
2 responsibility for paying those bills ultimately resides with  
3 the Federal government, and that's what we're trying to  
4 accomplish here.

5                   MR. BYRON WILLIAMS: Well, let me go back in  
6 history a few years to 1987 and the -- the time that the  
7 Manitoba Hydro was advised that INAC was transferring these  
8 accounts to MK -- MKO. You recall the conversation about  
9 this during the course of this Hearing?

10                  MR. MICHAEL ANDERSON: Mr. -- Mr. Williams,  
11 same comment --

12                  MR. BYRON WILLIAMS: Yes --

13                  MR. MICHAEL ANDERSON: -- that it's the MKO  
14 First Nations who are customers of Manitoba Hydro in the  
15 remote service communities. Thank you.

16                  MR. BYRON WILLIAMS: Thank you, Mr. Anderson.

17                  MR. VINCE WARDEN: Yes, I recall those  
18 discussions.

19

20 CONTINUED BY MR. BYRON WILLIAMS:

21                  MR. BYRON WILLIAMS: And isn't it the position  
22 of Manitoba Hydro that it only transferred billings to the  
23 First Nations -- to the MKO First Nations in question, at  
24 that point in time, based upon its assurance that the  
25 Government of Canada would be fully responsible for those

1 surcharges?

2 MR. VINCE WARDEN: Yes.

3 MR. BYRON WILLIAMS: So, to the extent that  
4 the Federal government is not fully funding the communitis --  
5 the communities in question, in terms of their diesel  
6 electricity, that would be inconsistent with the original  
7 objective underlying the transfer of the surcharge?

8 MR. VINCE WARDEN: Well, it would be  
9 inconsiten -- inconsistent with what we were led to believe  
10 at the time we transferred the surcharge over to the First  
11 Nation accounts. But, nevertheless, I maintain that's an  
12 issue between Indian and Northern Affairs and First Nations.

13

14

(BRIEF PAUSE)

15

16 MR. BYRON WILLIAMS: Just moving on to a  
17 slightly different subject, Mr. Warden, you'll agree with me  
18 that if your proposal is accepted and a new surcharge or a  
19 different level of surcharge is imposed, there's still no  
20 guarantee that the First Nations in question will pay the --  
21 will pay the surcharge, is that correct?

22

23

MR. VINCE WARDEN: Yes, I'll agree with you on  
that.

24

25

MR. BYRON WILLIAMS: So, there's no assurance  
that your proposal, if approved, will end the impasse in

1 terms of -- in terms of this process?

2 MR. VINCE WARDEN: That is true.

3

4

5

(BRIEF PAUSE)

6

7

MR. BYRON WILLIAMS: And in the event that

8

it's not successful, in -- in the event that the First

9

Nations continue not to pay the -- this amount, then it may

10

very well be that Manitoba Hydro has to go back to its

11

regulator and seek a different methodology; isn't that right?

12

MR. VINCE WARDEN: No, no, not really, I think

13

what we're attempting to do through these Proceedings is have

14

our rates approved, similar to the methodology that we've

15

followed in past Proceedings.

16

So, we're looking for the rates to be updated,

17

the structure is virtually the same as what we had approved

18

at the last -- the last time we appeared before the Public

19

Utilities Board.

20

So, the quantum is being approved through --

21

through these Proceedings, the collection of those bills, the

22

payment of those bills is another matter that we may have to

23

-- to resort to other means, to enforce payment.

24

MR. BYRON WILLIAMS: And if those other means

25

are ultimately unsuccessful, then you may have to come back

1 to the Public Utilities Board and -- and seek a different  
2 resolution to that problem; is that not correct?

3           And I'd refer you if you're -- if you're  
4 looking for a reference to, I guess it would be Tab 16, of  
5 the -- the materials, which is the -- Hydro's response to  
6 CAC/MSOS/MH-13.4?

7           MR. VINCE WARDEN: I think we -- and we stated  
8 this before as well, that we -- one (1) of the options of --  
9 of enforcing payment or collection or directing that -- that  
10 cumulated deficit towards the parties responsible for paying  
11 those bills would be to return to the Public Utilities Board  
12 and have the surcharge increased. That doesn't preclude us  
13 of course, from taking another course of action.

14           MR. BYRON WILLIAMS: That's fair enough, but  
15 if the Board accepts your proposal, there's no guarantee that  
16 you won't be back here in another year with an increased  
17 deficit and an increased unpaid bill; is that not right?

18           MR. VINCE WARDEN: That's a possibility.

19           MR. BYRON WILLIAMS: Moving to a -- a bit of a  
20 different -- a totally different topic actually.

21           Mr. Wiens, in your direct evidence I think you  
22 left -- you left us a bit of a teaser in terms of -- of your  
23 evidence. You were -- if my und -- if my notes are correct,  
24 you were speaking of the variability of the surcharge, and  
25 you talked about that there were various rating options for

1 reducing the var -- variability of the surcharge, and I  
2 wonder if you could elaborate on those a little bit, sir?

3 MR. ROBIN WIENS: Yes, I can. In the past,  
4 ass -- assuming that -- assuming that we were changing rates,  
5 say as frequently as every year or every second year, what we  
6 would have done would have been to have rolled over any  
7 surplus or deficit, into the surcharge for the following  
8 year.

9 So, you can imagine a situation where we may  
10 have had a surplus in a preceding year, so we rolled that  
11 over into the surcharge, and now we're collecting a smaller  
12 surcharge, which for whatever reason, turns out to have been  
13 inadequate to collect the revenue in the following year. We  
14 could be coming back and then asking for a significant  
15 increase, which would lead to the volatility because we tried  
16 to recover the deficit over one (1) year.

17 One (1) mechanism of smoothing that might be  
18 to say, we will recover it over a rolling three (3) year  
19 period and -- and principally that was the type of a  
20 mechanism I had in mind.

21 MR. BYRON WILLIAMS: Would you -- would you  
22 agree that one (1) of the -- the problems or one (1) of the  
23 ish -- one (1) of the routes of the "current," in quotation  
24 marks, nests this -- this issue was in, relates to the fact  
25 that this matter hasn't been be -- before the -- the

1 regulator in quite some time? Without attributing blame, I'm  
2 just --

3 MR. VINCE WARDEN: I -- I wouldn't attribute  
4 it -- or I wouldn't characterize it as a -- as a mess, Mr.  
5 Williams. I think, this -- as I indicated previously, we  
6 have a structure for diesel rates in these communities and  
7 we're not changing that structure materially.

8 We're asking that -- for that to be re-  
9 approved. The costs -- the costs have increased and we've  
10 gone over the reasons for those increase. So I -- I see this  
11 Application as being relatively straightforward. I don't  
12 think it's a mess at all.

13 MR. BYRON WILLIAMS: We'll just disagree on  
14 that one, Mr. Warden. Does the Corporation anticipate  
15 producing annual cost of service studies for these  
16 communities on a going forward basis?

17 MR. VINCE WARDEN: Yes. We -- we do prepare,  
18 as -- as Mr. Thomas has indicated, prospective cost of  
19 service studies and then we do an actual cost of service  
20 study to determine the variance and roll any such variance  
21 forward.

22 MR. BYRON WILLIAMS: Thank you. A few short  
23 snappers and then, Mr. Chairman, I -- I have a longer series  
24 of questions but I should be able to wrap up by -- by 2:30,  
25 probably.

1                   Mr. Wiens, and -- and I'll speak just with  
2 reference to residential rates, as I understand the -- the  
3 rate structure for residential rates, there is a de --  
4 declining rate structure from the first block to the second  
5 block and then a inverted rate structure from the second  
6 block to the third block; would that be accurate?

7                   MR. ROBIN WIENS:   That's accurate.

8                   MR. BYRON WILLIAMS:   And we could certainly  
9 dispute, you know, how material it is but to the degree that  
10 there's a decline -- a declining block structure and then an  
11 inverted rate structure to follow -- following it, you'd agree  
12 with me that, to a certain degree anyways, that consumers are  
13 receiving a mixed message in terms of their consumption  
14 choices?

15                   MR. ROBIN WIENS:   I -- I -- I'm -- I'm not  
16 sure if they're really receiving a mixed message.  What we've  
17 done here is simply said we are going to apply the grid rate  
18 structure to these communities up to the two thousand (2,000)  
19 kilowatt hours and -- and that is the outcome of that.

20                   If we'd made a determination that we would be  
21 better off to do something else and have a single flat --  
22 flat rate for the first two thousand (2,000), I suppose we  
23 could have done that.

24                   MR. BYRON WILLIAMS:   And I don't -- I don't  
25 wish to enter into a debate on that, but let's assume, for

1 argument's sake, that the regulator wished to impose or  
2 wished to develop, rather than accept the Hydro proposal,  
3 chose to put in place an inverted rate structure and wanted  
4 to do so without a negative revenue impact.

5 Presumably they could do that from by making  
6 the first block at, for example five -- five -- five point  
7 one six (5.16) cents; would that be right?

8 MR. ROBIN WIENS: There's a number of ways  
9 they could do it and that would be one of them. But the gist  
10 -- the rationale for the structure, and it's the same  
11 rationale as on the grid, we do not recover all of our fixed  
12 customer based costs with a customer charge. We recover some  
13 of them through the first hundred and seventy-five (175)  
14 kilowatt hours.

15 That's a different rationale than what you're  
16 talking about when you invert the rate to deal with the  
17 higher marginal cost.

18 MR. BYRON WILLIAMS: I understand that, Mr.  
19 Wiens, and just for example, following along with my example,  
20 if you went from five point seven eight (5.78) for the -- for  
21 the first block to a -- for the first hundred and seventy-  
22 five (175) kilowatts down to five point one six (5.16), for  
23 example, you would -- you would -- there would be a small  
24 revenue loss; is that correct?

25 MR. ROBIN WIENS: Yes. There would be

1 revenue loss.

2 MR. BYRON WILLIAMS: And if I could turn your  
3 attention to I believe it's the second last tab of the Book  
4 of References?

5 MR. ROBIN WIENS: Would that be 17?

6 MR. BYRON WILLIAMS: If you're -- I'm looking  
7 -- I'm work -- working off the alphabet in my references so I  
8 believe it's 17, yes. I'm referring to the July 23rd letter  
9 from Manitoba Hydro to Mr. Barron?

10 MR. ROBIN WIENS: Yes.

11

12 (BRIEF PAUSE)

13

14 THE CHAIRMAN: Your mic --

15 MR. BYRON WILLIAMS: Thank you.

16

17 CONTINUED BY MR. BYRON WILLIAMS:

18 MR. BYRON WILLIAMS: Mr. Wiens, what I'm  
19 trying to calculate was, assuming the first block, instead of  
20 being two thousand (2000) was fifteen hundred (1500) -- in  
21 terms of residential was fifteen hundred (1500) kilowatt  
22 hours, you'll agree, based upon the answer for -- to this  
23 appearing on the second page, that within that first block,  
24 in terms of residential consumption, there would be one  
25 million, fifty one thousand, seven hundred and eighty six

1 (1,051,786), kilowatt hours, is that right?

2 MR. ROBIN WIENS: That's the number that  
3 there, and I'm assuming that first block refers to the  
4 fifteen hundred (1500) that you are making reference to.

5 MR. BYRON WILLIAMS: Actually, Mr. Wiens, I'm  
6 going to scratch this line of questioning, because I just  
7 found that -- my first mathematical error. So -- rather than  
8 proceed with it, it's a small point, I'll move on to another  
9 one (1).

10 And the Board Secretary is not here, Mr.  
11 Chairman, I had an additional exhibit, that --

12 THE CHAIRMAN: We can get someone to fill  
13 in --

14 MR. BYRON WILLIAMS: Okay.

15

16 (BRIEF PAUSE)

17

18 MR. BYRON WILLIAMS: Mr. Chairman, for the  
19 information of the Panel, I presented to Manitoba Hydro last  
20 evening a series of diesel rate scenarios.

21 In the package you have, we included, on  
22 behalf of our clients, five (5) different scenarios. I --  
23 just for the Board's information, I will not be presenting  
24 scenarios 3 or 4 to Manitoba Hydro.

25 So, what I propose to do and I understand that

1 it's subject to counsel's agreement that Manitoba Hydro is  
2 prepared to accept the calculations in these scenarios,  
3 subject to check, is that right?

4 THE CHAIRMAN: Mr. Bedford, have you had a  
5 chance to look at this material?

6 MR. DOUG BEDFORD: We have Mr. Chairman.

7 THE CHAIRMAN: And do you have any objection  
8 in the Board receiving it, subject to the caveat that was put  
9 on by Mr. Williams?

10 MR. DOUG BEDFORD: No, we can accept that they  
11 can go in as an exhibit, subject to the same caveat that was  
12 made with respect to earlier calculations.

13 THE CHAIRMAN: Thank you.

14 MR. BYRON WILLIAMS: And Mr. Chairman, just so  
15 I'm clear, I'm not asking for scenarios 3 or 4 to make part  
16 of the record.

17

18 (BRIEF PAUSE)

19

20 THE CHAIRMAN: Mr. Williams, just so that I'm  
21 correct, we will receive this as CAC/MSOS Exhibit 6, subject  
22 to the caveat that Manitoba Hydro can examine the calculation  
23 and determine whether or not they accurately reflect the  
24 record that we have before us, and it is with respect to  
25 diesel rate scenario 1, 2 and 5.

1 --- EXHIBIT NO. CAC/MSOS 6: Diesel Rate Scenarios

2

3 MR. BYRON WILLIAMS: Thank you Mr. Chairman.

4

5 CONTINUED BY MR. BYRON WILLIAMS:

6 MR. BYRON WILLIAMS: And Mr. Wiens, with your  
7 assistance, I'd like to start under diesel rate scenario 1,  
8 under usage and you'll agree with me that the scenario  
9 presented in terms of residential customers, differs in the  
10 block structure presented? Is that correct?

11 Being the first block is fifteen hundred  
12 (1500) kilowatt hours, the second block is an additional five  
13 hundred (500) up to two thousand (2000) kilowatt hours. And  
14 the third block is the remainder. You'll agree with that,  
15 sir?

16 MR. ROBIN WIENS: Yes.

17 MR. BYRON WILLIAMS: And in terms with usage  
18 which is other than residential, you'll again agree with me  
19 that the block size again differs from that presented in the  
20 Hydro proposal, in that the first block is up to two thousand  
21 (2000) kilowatt hours, the second block is up to three  
22 thousand (3000) kilowatt hours and the third block is the  
23 remainder. Is that right?

24 MR. ROBIN WIENS: We will agree that it  
25 differs from what Manitoba Hydro has presented.

1 (BRIEF PAUSE)

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MR. BYRON WILLIAMS: And in terms of the referring to residential, the -- the first block being up to fifteen hundred (1500) kilowatt hours, you'll see under the -- that first block, there's a consumption total of \$5,508,189; is that correct, sir?

MR. ROBIN WIENS: Yes, it is.

MR. BYRON WILLIAMS: And that flows from pre-ask number 1 of July 23rd, you'll agree with that?

MR. ROBIN WIENS: Yes, we'll accept that.

MR. BYRON WILLIAMS: So, essentially the -- the top part of this exhibit presents a different rate structure, as you've already agreed, from the -- or of different block structure, from that of Manitoba Hydro's correct?

MR. ROBIN WIENS: Yes.

MR. BYRON WILLIAMS: Moving down to the second part of this scenario, which relates to rates --

MR. ROBIN WIENS: Mr. Williams, before we go there, I -- I would just like to make a comment, and I'll preface it by saying that it -- I don't think it has a material impact on your calculations, but my advisors have gone through this and they've pointed out that the distinction you have made between -- I will call them the

1 rows FN, currently in Government and Federal, that the split  
2 that we come up with is different than that, is different  
3 than what you have here.

4 MR. BYRON WILLIAMS: Are you referring to the  
5 number of bills --

6 MR. ROBIN WIENS: The number of bills, yes.

7 MR. BYRON WILLIAMS: Okay. Yes, and that is a  
8 -- the number of bills is different, but would you agree that  
9 the actual consumption flows from the calculation presented  
10 in, I believe it's the last tab of your book of reference,  
11 presented to CAC/MSOS by Manitoba Hydro.

12 MR. ROBIN WIENS: Yes, yes, we would agree  
13 with that, I -- I don't want to make a big deal of it, I just  
14 wanted to point that out to you.

15 MR. BYRON WILLIAMS: So --

16 MR. ROBIN WIENS: That's the one (1) thing we  
17 have checked and found.

18 MR. BYRON WILLIAMS: So, in terms of the  
19 number of bills, which you would agree, is -- is not likely  
20 to be material, there's a difference in the calculation. But  
21 in terms of the consumption hours, there is not a difference  
22 in terms of the figures used; is that correct?

23 MR. ROBIN WIENS: That's correct.

24 MR. BYRON WILLIAMS: Thank you for that  
25 clarification.

1                   Now, moving down to the second part of the  
2 scenario, and you'll agree with me again that what are  
3 presented, and we'll start with the residential line, is a  
4 basic charge, which is the same as that proposed in the  
5 Manitoba Hydro proposal; is that correct?

6                   MR. ROBIN WIENS: Yes, and we will agree that  
7 the first block is the same as our first hundred seventy-five  
8 (175) kilowatt hours.

9                   MR. BYRON WILLIAMS: Yes, and just the -- the  
10 -- the first block under the CAC/MSOS scenario, is zero (0)  
11 -- zero-five-seven-eight (0578) for the first fifteen hundred  
12 (1500) kilowatt --

13                  MR. ROBIN WIENS: Yes.

14                  MR. BYRON WILLIAMS: -- hours, with the second  
15 block being twelve cents (\$.12) for the -- up to two thousand  
16 (2,000) kilowatt hours, and the third block being point  
17 seven-nine (.79) or seven (7) -- seventy-nine (79) cents for  
18 the -- for the remainder; is that correct?

19                  MR. ROBIN WIENS: Yes.

20                  MR. BYRON WILLIAMS: And that replicates the  
21 -- or it's one (1) attempt to replicate the discussion we had  
22 earlier this morning, in terms of a -- a more gradual  
23 transition to the full cost rate; is that correct?

24                  MR. ROBIN WIENS: Yes, and I've been waiting  
25 for this since then.

1 MR. BYRON WILLIAMS: I'm sorry to keep you  
2 waiting.

3 Now, you'll agree with me, and again, the --  
4 with regard to the -- the GS -- the general service, the  
5 First Nations, Federal and Provincial, the basic charge is  
6 the same, but the -- the rate structure for both general  
7 service and for First Nations is different than that found in  
8 the Hydro proposal; correct?

9 MR. ROBIN WIENS: Yes, that's correct. What I  
10 believe you're doing here for general service and First  
11 Nation, is taking the first thousand and ninety (1,090)  
12 kilowatt hours from our grid general service rate, and  
13 extending that same rate to the fifteen hundred (1500) or to  
14 the two thousand (2,000) that -- that you have here.

15 MR. BYRON WILLIAMS: And so in terms of First  
16 Nations, that would be a -- a material difference from the  
17 Manitoba Hydro proposal?

18 MR. ROBIN WIENS: Oh, it would be a very  
19 material difference, as our proposal treats these as -- all  
20 as Government accounts, from the first kilowatt hour.

21 MR. BYRON WILLIAMS: If you'll turn to the --  
22 the second -- the second page of this scenario, and you'll  
23 see -- or you'll confirm that basically what has been done is  
24 the -- the rates for the various consumption levels have been  
25 plugged into the -- or, excuse me, the rates for the various

1 blocks have been plugged into the various consumption levels  
2 to yield the total revenue figures for residential, general  
3 service, First Nation, Federal and Provincial; is that  
4 correct?

5 MR. ROBIN WIENS: Yes.

6 MR. BYRON WILLIAMS: And, again, the -- going  
7 back to the -- the difference in terms of calculations, the  
8 -- the one small difference between the number that Manitoba  
9 Hydro would come up with in terms of calculations versus that  
10 of the -- of CAC/MSOS, as presented in this scenario, would  
11 be the -- the first row -- no, column -- the first column in  
12 terms of "Federal" where our figure of seven thousand, six  
13 hundred and thirty-five (7,635) would differ from -- probably  
14 from the figure der -- calculated by Manitoba Hydro, correct?

15 MR. ROBIN WIENS: That's correct.

16 MR. BYRON WILLIAMS: And, again, the Provinc  
17 -- or the First Nation figure of ten thousand, seven hundred  
18 and twenty-eight (10,728) would differ as well, correct?

19 MR. ROBIN WIENS: Yes.

20 MR. BYRON WILLIAMS: But in the big scheme of  
21 things of \$4 million dollars inter -- of revenue, it's not  
22 material, correct?

23 MR. ROBIN WIENS: This is a good basis for  
24 the discussion.

25 MR. BYRON WILLIAMS: So you'll agree with me

1 as well that based upon these calculations, subject to check,  
2 the total revenue from cust -- from customers under this scen  
3 -- scenario is 4 million doll -- dollars -- four million,  
4 twelve thousand and seventy dollars(\$4,012,070), correct?

5 MR. ROBIN WIENS: We will agree.

6 MR. BYRON WILLIAMS: And moving down to the  
7 subsidy requirements, you'll see that -- or you'll agree with  
8 me, subject to check, that if we took the total diesel costs  
9 coming of 9,536,878 and subtracted from that the customer  
10 revenue of, I stated previously, of \$4,012,070 the shortfall  
11 to the system from this scenario would be five (5) --  
12 approximately \$5.5 million; correct?

13 MR. ROBIN WIENS: Yes.

14 MR. BYRON WILLIAMS: Now, in terms of how  
15 this scenario, again, materially differs from the Hydro --  
16 Hydro scenario, another factor here is that the government's  
17 subsidy has been calculated as a basis of 39 percent of costs  
18 based on the generations percentage of total capital; would  
19 that be right sir?

20

21

(BRIEF PAUSE)

22

23 MR. ROBIN WIENS: I am advised that the  
24 percentage of total capital is 43.9 percent but I'm willing  
25 to proceed on this basis to discuss the concept.

1                   MR. BYRON WILLIAMS:    Okay.  So let's -- let's  
2 just proceed on this basis.  Whether it's thirty-nine (39) or  
3 forty-three (43) it still will illustrate the purpose of the  
4 scenario.

5                   So assuming it's 39 percent, you'll agree with  
6 me that the government subsidy based upon that -- that  
7 assumption of 39 percent would be three points --  
8 approximately \$3.7 million, correct?

9                   MR. ROBIN WIENS:    If you follow through the  
10 calculations that -- that -- that's -- that is correct.

11                  MR. BYRON WILLIAMS:   And the system subsidy  
12 which would flow from that would be about \$1.8 million  
13 dollars or roughly three (3) times the subsidy proposed by  
14 Manitoba Hydro, correct?

15                  MR. ROBIN WIENS:    We agree with the  
16 calculation.  We don't necessarily agree with the number.

17                  MR. BYRON WILLIAMS:   If one were to  
18 calculate, again going down to the rate impact, if that could  
19 be determined by dividing the system subsidy of approximately  
20 1.8 million by the projected revenue of eight hundred and  
21 eighty thousand (880,000); is that correct?  Yielding a .21  
22 percent?

23                  MR. ROBIN WIENS:    It -- it -- it looks right.

24                  MR. BYRON WILLIAMS:   Just for purposes of  
25 clarification, the rate impact is designed to get a sense of

1 the impact of the system subsidy upon the total -- total  
2 revenue base of the Corporation; is that right sir?

3 MR. ROBIN WIENS: That's what you're trying  
4 to demonstrate, yes.

5 MR. BYRON WILLIAMS: And the surcharge,  
6 you'll agree with me as well that we've -- that at the bottom  
7 of this scenario are two (2) surcharge scenarios, one being  
8 the surcharge applied to all federal and provincial  
9 government accounts, excluding First Nation accounts which  
10 Hydro would classify as First -- as government accounts; is  
11 that correct?

12 MR. ROBIN WIENS: We've had so much back and  
13 forth on this, Mr. Williams, can I ask you to repeat that?

14 MR. BYRON WILLIAMS: Yes, thank you, Mr.  
15 Wiens, I apologize for the imprecision.

16 What the first surcharge purports to show, is  
17 a calculation or is the spreading of this government subsidy  
18 and how it would be collected by means of surcharge, solely  
19 on federal and provincial accounts, excluding First Nation  
20 accounts that are now classified as government, correct?

21 MR. ROBIN WIENS: We'll accept that subject to  
22 check, yes.

23 MR. BYRON WILLIAMS: What surcharge two (2)  
24 attempts to do is demonstrate the impact of the surcharge if  
25 it was applied solely to Federal government accounts,

1 excluding First Nation accounts, which Hydro classifies as  
2 government accounts, correct?

3 MR. ROBIN WIENS: Again, subject to check.

4

5 (BRIEF PAUSE)

6

7 MR. BYRON WILLIAMS: So, based upon this  
8 proposal, the impact to the grid would be \$1.8 million,  
9 correct?

10 MR. ROBIN WIENS: Yes.

11 MR. BYRON WILLIAMS: There would be no  
12 surcharge applied to First Nation accounts, which Hydro  
13 currently classifies as government accounts, correct?

14 MR. ROBIN WIENS: This is what you're showing.

15 MR. BYRON WILLIAMS: And the surcharge level,  
16 if applied to all Federal and Provincial government accounts  
17 would be three dollars and nine cents (\$3.09), correct?

18 MR. ROBIN WIENS: Again, we have not  
19 cross-checked that calculation, but, we will accept it as an  
20 order of magnitude yes.

21 MR. BYRON WILLIAMS: Mr. Wiens, I'll give you  
22 an opportunity to comment on the scenarios, in just a couple  
23 of minutes. But, I wonder if we could just quickly turn to  
24 diesel rate scenario 2.

25

1 (BRIEF PAUSE)

2  
3 MR. BYRON WILLIAMS: And I hope you'll agree,  
4 subject to check, that the figures in the usage section of  
5 page 1 of this scenario, are the same as in the usage section  
6 of scenario 1?

7 MR. ROBIN WIENS: Yes.

8 MR. BYRON WILLIAMS: So, the difference being  
9 in the rate section, where CAC/MSOS has presented a lower  
10 cust -- a scenario that seeks a slightly lower revenue from  
11 the customer base, is that correct?

12 MR. ROBIN WIENS: Mr. Williams, I think you  
13 mean to say, a slightly lower revenue from the first block.

14 MR. BYRON WILLIAMS: Mr. Wiens -- and let's  
15 just take it through, and I apologize for imprecision.

16 In terms of the residential, there would be a  
17 slightly lower rate in terms of the first block and there  
18 would also be a slightly lower rate, in terms of the second  
19 block. Do you agree with that?

20 MR. ROBIN WIENS: Yes, yes.

21 MR. BYRON WILLIAMS: And that scenario is  
22 repeated in terms of the general service block -- or general  
23 service class, as well as First Nations which, under the  
24 Hydro proposal, are currently in government, correct?

25 MR. ROBIN WIENS: Yes.

1                   MR. BYRON WILLIAMS: And the sole point I wish  
2 -- CAC/MSOS wishes to make from this scenario, is turning the  
3 second page, given the lower rates, the customers revenue is  
4 also slightly smaller, is that correct, Mr. Wiens?

5                   MR. ROBIN WIENS: Yes.

6                   MR. BYRON WILLIAMS: And when that lower  
7 customer revenue is applied to the subsidy requirement,  
8 appearing at the bottom of the second page of the scenario,  
9 the government subsidy remains the same, but the system  
10 subsidy grows slightly, is that correct?

11                   MR. ROBIN WIENS: Yes.

12                   MR. BYRON WILLIAMS: Although, when that  
13 slightly greater system subsidy is applied in terms of trying  
14 to derive a general rate impact, it is basically about the  
15 same being .21 percent, correct?

16                   MR. ROBIN WIENS: That appears to be.

17                   MR. MICHAEL ANDERSON: Mr. Chair, I might like  
18 to request that Mr. Williams, when he refers to 'the subsidy'  
19 as he's going -- the scenario as he's proceeding through  
20 these tables back and forth, if I could please ask you to  
21 identify which scenario, so that the transcript can also  
22 assist.

23                   We did not have the benefit of reviewing these  
24 tables last evening, so it would help us in following him  
25 along for the first time, if he would identify the scenario

1 as he speaks about them each time, thank you.

2 THE CHAIRMAN: Thank you. I'm sure Mr.  
3 Williams notes those comments.

4 MR. BYRON WILLIAMS: And I do appreciate them,  
5 Mr. Chairman.

6

7 CONTINUED BY MR. BYRON WILLIAMS:

8 MR. BYRON WILLIAMS: And, Mr. Wiens, if I can  
9 very briefly ask you just to turn to the last scenario,  
10 scenario 5.

11 MR. MICHAEL ANDERSON: Thank you, Mr.  
12 Williams.

13

14 (BRIEF PAUSE)

15

16 CONTINUED BY MR. BYRON WILLIAMS:

17 MR. BYRON WILLIAMS: And I'd ask you to  
18 confirm, subject to check, that what this scenario merely  
19 does is -- is seek to basically split the difference between  
20 the first rate of -- the first scenario 1, which is five  
21 point (5.) -- five point seven eight (5.78), and scenario 2.

22 I'm speaking in terms of residential rates of  
23 being five point one six (5.16), and basically just presents  
24 another mathematical calculation being zero (0) -- the -- the  
25 rate for the first block being -- zero five two eight (0528),

1 is that correct, Mr. Wiens?

2 MR. ROBIN WIENS: Let me -- let me try to  
3 figure out where you're going here, Mr. Williams. Are you  
4 telling me that what you've done is you've blended -- you've  
5 blended Manitoba Hydro's current first and second blocks over  
6 fifteen hundred (1500) kilowatt hours and arrived at a -- and  
7 arrived at a rate that would produce the same revenue over  
8 the fifteen hundred (1500) kilowatt hours, as if we had  
9 actually used the two (2) -- two (2) original blocks?

10 MR. BYRON WILLIAMS: Yes, and I thank you for  
11 -- for that, we're -- we're attempting to spread the first  
12 block energy charges across the -- the two (2) blocks.

13 Mr. Wiens, I -- I thank you for the  
14 assistance, and with some trepidation, would invite you to --  
15 to comment on the -- the scenarios presented?

16 MR. ROBERT MAYER: Before that happens, could  
17 somebody clarify for me, each of these scenarios, do they  
18 include the basic monthly charge, as has been set out in page  
19 15?

20

21 CONTINUED BY MR. BYRON WILLIAMS:

22 MR. BYRON WILLIAMS: Mr. Wiens, if you could  
23 confirm that the -- under the rate section, the first column  
24 represents the basic monthly charge; is that correct?

25 MR. ROBIN WIENS: Yes, it does.

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(BRIEF PAUSE)

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Proceed, Mr. Wiens.

MR. ROBIN WIENS: Thank you, Mr. Williams. I have a number of comments actually, and I'm -- I'm going to try to focus on scenario 1, because frankly, the others are pretty basic variance on scenario 1.

I understand you're -- you're looking to find some sort of intermediate price signal for the second block, that is -- is not the grid rate, but is something in excess of the grid rate, but is not as high as the full cost rate. I -- I don't understand the basis for the twelve (12) cents, you know, I think -- we don't have to have a lot of discussion on it, but -- but I don't see what is particularly magic about twelve (12) cents or eight (08) cents in the other scenario.

One could just as much comment on perhaps collecting fuel costs, which is twenty-seven (27) cents, or even total variable costs. But I'll leave that as a comment on -- on the -- on the rate that you've chosen to fit into that structure.

It's -- it's -- a bigger concern is -- is -- is where this is heading, in terms of who you want to see

1 responsible for the costs in this scenario. On the basis of  
2 the rates that I'm looking at for residential and general  
3 service customers, it appears that you are asking the -- what  
4 we have, or what I have, I guess, in this proceeding,  
5 referring to past terminology, something I referred to as  
6 local consumers, those who are under the sixty (60) amp  
7 limit, that you are asking them to pay a larger share of the  
8 cost in absolute dollars terms, probably not a whole lot  
9 larger, but nevertheless, larger than what Manitoba Hydro has  
10 proposed.

11           You are asking the grid customers of Manitoba  
12 Hydro to triple the amount of costs that they would absorb,  
13 relative to Manitoba Hydro's proposal. And the benefit of  
14 this change, it would appear to me, is while it flows through  
15 in -- in your scenario to the First Nation accounts, it  
16 really is flowing a benefit back to the -- it's asking  
17 Manitoba Hydro's ratepayers to pick up an extra 1.2 million  
18 that Indian and Northern Affairs Canada will now, no longer  
19 be responsible for.

20           And I think Manitoba Hydro would have some  
21 concerns about that. And even if we were to find a basis,  
22 somewhere, and I don't have that basis at hand right now, but  
23 if we were to find a basis somewhere to say, hey, it's  
24 reasonable for the grid customers to provide that level of  
25 subsidy, I think we would want to look at dealing with a very

1 serious arrears situation before we would be looking to flow  
2 benefits through to the Government of Canada with our -- with  
3 our rate structure.

4                   The other, I think, somewhat critical matter  
5 here is that removing the surcharge entirely from the First  
6 Nation accounts, you are proposing, nevertheless, to -- to  
7 find a way to get the Government of Canada or the Province of  
8 Manitoba to pay at least some of these costs.

9                   And I think if you're looking at surcharges in  
10 excess of three (3) or even four dollars (\$4), believe me, it  
11 was with some trepidation that we brought the surcharge that  
12 we are proposing.

13                   When you get -- when you're asking somebody  
14 who doesn't have a statutory or -- or even a organizational  
15 responsibility for these subsidies to pick up a surcharge in  
16 the range of three dollars (\$3) a kilowatt hour, I think  
17 you're inviting Frontier School Division and the RCMP and  
18 National Health and Welfare to consider what the Frontier  
19 School Division did allude to yesterday which is getting into  
20 the generation business to serve their own load because it  
21 would probably be less expensive.

22                   So, we might have a problem with that. We  
23 might have a problem, jurisdictionally, in the situation  
24 where we -- your surcharge number 1 where you're asking the  
25 provincial government to accept a significant portion of the

1 cost that is related to subsidizing service to -- to  
2 communities for which the Government of Canada has  
3 constitutional responsibility.

4 I could probably, if I spent some more time,  
5 come up with some more comments, Mr. Williams, but those are  
6 the main ones.

7 MR. BYRON WILLIAMS: Thank you, Mr. Wiens,  
8 and I just have a few follow up questions flowing from your  
9 comments.

10 THE CHAIRMAN: Before you go there, Mr.  
11 Williams, maybe just to make sure that the Board is following  
12 this thing in a logical manner, if we take Scenario Number 1,  
13 Mr. Wiens, the residential customers under this particular  
14 rate scenario are being asked to make up some additional --  
15 some additional sixty-two thousand dollars (\$62,000)?

16 MR. ROBIN WIENS: I'll accept that. I  
17 haven't got the immediate comparison but I'll accept that.

18 THE CHAIRMAN: And the general service  
19 customers are being able to forego a contribution of  
20 approximately a hundred and twenty-four thousand dollars  
21 (\$124,000)?

22 MR. ROBIN WIENS: Yes.

23 THE CHAIRMAN: And the system as a whole, is  
24 being asked to contribute an additional 1.2 million to the  
25 six hundred thousand (600,000) that's in the Application?

1 MR. ROBIN WIENS: That's correct.

2 THE CHAIRMAN: And, thirdly, the First  
3 Nations one, which I don't have, the comparison of numbers so  
4 I can't go down and examine that in any detail, but the  
5 surcharge that is being proposed, that is Surcharge 1 at  
6 three dollars and nine cents (\$3.09) is in comparison to a  
7 dollar twenty-two (\$1.22) in your Application?

8 MR. ROBIN WIENS: That's correct.

9 THE CHAIRMAN: And the Surcharge 2 at four  
10 dollars and eighty-seven cents (\$4.87) is compared to the two  
11 dollars and one (\$2.01) in your Application?

12 MR. ROBIN WIENS: No, it again compares to  
13 the one, twenty-two (1.22), Mr. Chairman. The two dollars  
14 and one (\$2.01) is the full cost plus the surcharge.

15 THE CHAIRMAN: Thank you for that  
16 clarification. I certainly appreciate it and those are all  
17 in the variation of using the block. Now, if I was trying to  
18 get the numbers for comparative purposes for the First  
19 Nations community, how would I get that comparative number?

20 MR. ROBIN WIENS: I don't believe that  
21 anything comparable is on the record. We would have to  
22 undertake to -- we would have to undertake to do that  
23 calculation for you and present it.

24 THE CHAIRMAN: Thank you and would you please  
25 do that?

1 MR. ROBIN WIENS: Yes, we will.

2

3 --- UNDERTAKING NO. 9: Provide numbers for comparative  
4 purposes for the First Nations community

5

6 THE CHAIRMAN: Mr. Williams, since you don't  
7 have someone I can ask those questions to, I thought I would  
8 pose them in this way. Now, you can proceed.

9

10 CONTINUED BY MR. BYRON WILLIAMS:

11 MR. BYRON WILLIAMS: Mr. Wiens, just a few  
12 follow-up questions.

13 You mentioned at least under the first  
14 scenario what you considered to be a negative rate impact for  
15 residential customers; is that right?

16 MR. ROBIN WIENS: Yes, the -- the amount that  
17 the -- the Chairman has just asked about.

18 MR. BYRON WILLIAMS: If you turn to scenario  
19 number 2, would you agree with me, that for residential  
20 customers using less than fifteen hundred (1500) kilowatt  
21 hours, they would actually be paying slightly less than they  
22 would under the Manitoba Hydro proposal, given that their --  
23 their rate is 5.16 for the entire block?

24 MR. ROBIN WIENS: Yes, yes.

25

1 (BRIEF PAUSE)

2  
3 MR. BYRON WILLIAMS: And Mr. Wiens, I may have  
4 not followed the Chair's quest -- Mr. Chairman's questions to  
5 you. You'll confirm though under this proposal, there is no  
6 surcharge being imposed on First Nations as government; is  
7 that correct?

8 MR. ROBIN WIENS: Yes, this proposal  
9 essentially transfers that burden to the ratepayers in  
10 Manitoba Hydro and to the other federal and provincial  
11 agencies.

12 MR. BYRON WILLIAMS: And you'll -- you'll  
13 agree with me that one (1) of the advantages of this proposal  
14 is that it helps to stop the bleeding, in terms of the  
15 ongoing debate between Hydro, INAC, and MKO, in terms of  
16 their responsibility for the current amount of the surcharge  
17 that is being billed, but not collected, is that right?

18 MR. ROBIN WIENS: Well, yes it does, but it's  
19 not -- definitely not our preferred way of stopping that  
20 debate.

21 MR. BYRON WILLIAMS: It's not your preferred  
22 way of stopping that debate, but it's certainly one (1) of  
23 the options that Hydro has indicated, and we referred to  
24 CAC/MSOS 13-4 before.

25 Hydro has indicated that in the event it's

1 unsuccessful in collecting this surcharge from First Nations  
2 or from -- from INAC, that it might have to do -- in other  
3 words, to increase the surcharge; is that not correct?

4 MR. ROBIN WIENS: Yeah, but you're throwing us  
5 a hypothetical and -- and -- and you're constraining our --  
6 our choice from what we have today. And obviously, yes, we  
7 would have to look at other options. And -- and there may be  
8 other options besides that. But this would be one (1) of  
9 them, yes.

10 MR. BYRON WILLIAMS: And Mr. Wiens, you'll  
11 also confirm that at least in its interrogatory responses in  
12 this proceeding, Manitoba Hydro has said that it's up to the  
13 Federal government -- let me put this another way.

14 Manitoba Hydro has indicated that it's  
15 indifferent in terms of which branch of the Federal  
16 government pays. It considers it an obligation of the  
17 Government of Canada, does it not?

18 MR. ROBIN WIENS: Assuming that Manitoba Hydro  
19 was to receive payment in respect of these surcharges, yeah,  
20 you -- you -- you might say that --that -- that we would be  
21 indifferent. I think there's other problems with it though,  
22 that -- that might ramify through -- through the federal  
23 agencies and could come back to Manitoba Hydro to cause us  
24 some problems.

25 MR. BYRON WILLIAMS: And just finally, under

1 the different scenarios presented, of course, there's -- it's  
2 open to -- for example, just for argument sake, to impose a  
3 surcharge purely on the Federal government and not on the  
4 Provincial?

5 MR. ROBIN WIENS: In theory, but again with  
6 the same -- with the same types of caveats as I've mentioned  
7 already. The magnitude of the surcharge could, in itself,  
8 cause a lot of problems.

9 MR. BYRON WILLIAMS: Okay. Mr. Wiens, thank  
10 you for your assistance with that. And Mr. Chairman, I have  
11 a few Undertakings, but subject to that, no further  
12 questions.

13 THE CHAIRMAN: Thank you, Mr. Williams. We  
14 have some Undertakings as well, and obviously, we'll come  
15 back to those if necessary.

16 Mr. Mayer...?

17 MR. ROBERT MAYER: I -- I -- I have a question  
18 of Mr. Williams. I notice that CAC/MSOS, at least on my  
19 schedule, is not calling any witnesses, so I don't know who  
20 to ask this question of, and I suspect I might hear some of  
21 it in an argument, but you have tendered three (3) scenarios  
22 to the Board, which I'm assuming is now CAC/MSOS evidence.  
23 Are you urging one (1) or -- one (1) of those scenarios in  
24 place of Hydro's proposal?

25 MR. BYRON WILLIAMS: Again, certainly once I

1 get instructions from my clients on that, Mr. Mayer, I'll be  
2 in a better position to respond.

3 In my opening comments I indicated two (2)  
4 things, one (1) that this -- this matter is a bit of a mess,  
5 and secondly, that from my client's perspective, a resolution  
6 to this matter is going to probably involve a collection of  
7 ideas from -- from different parties.

8 My clients that have put this forward at this  
9 point in time for the -- for the sake of provoking debate and  
10 for testing -- testing the -- the response of MH-2, will --  
11 I'll certainly be happy to share my client's position once  
12 I've confirmed it in -- with them, sir, which -- you know,  
13 which may -- may take about two (2) weeks to get  
14 instructions. So, we may -- may want to postpone the final -  
15 - final argument.

16 MR. MICHAEL ANDERSON: Mr. -- Mr. Chair, with  
17 resp -- with resp -- with respect to Mr. Williams' material,  
18 we all in our opening comments made statements about trying  
19 to resolve this matter fully and finally, in examining all  
20 possible options for doing it, and I'm grateful that the  
21 effort has been made to have another look in a different way  
22 of approaching the rate structure.

23 I also appreciate and thank Manitoba Hydro for  
24 serving as a body of experts to run these scenarios by, and  
25 ask questions about how they mean and to explain it to us,

1 and in terms of what they mean from a rate setting  
2 perspective, in contract to Manitoba Hydro's Application.

3           The -- the one (1) concern that we have, it's  
4 touched on to a brief extent by Mr. Mayer, and that is that  
5 the -- the rationale for assigning the surcharge amount to  
6 the remaining Federal agencies, Federal accounts in the  
7 communities, i.e. Health Canada, Environment Canada and the  
8 RCMP, involves some comments about rate design, rate setting,  
9 bond rise rules, all of the things that Mr. Williams began  
10 with.

11           Hydro -- Manitoba Hydro has kindly responded  
12 to their opinion on why would this be appropriate or not  
13 appropriate to charge the RCMP and others, but I'm left in a  
14 situation of being unable to ask Mr. Williams or his clients,  
15 why they would believe such a thing would be reasonable.

16           And given that my opening comments talked  
17 quite a bit about discriminatory practices and the assignment  
18 of costs, we're somewhat left adrift in being able to pursue  
19 that matter, in order to test these scenarios that have been  
20 presented.

21           So, I said I was grateful for the scenarios  
22 being presented, and I meant that. But I just leave that  
23 with the Board to consider that we're really unable to test  
24 some of the thinking and assumptions, and in fact rationale,  
25 that have gone into making these scenarios. But I take them

1 as they are with the provisos that Mr. Williams provided, but  
2 just leave that, that there are questions that I'd like to  
3 ask that I'm unable to.

4 THE CHAIRMAN: Under -- understood, Mr.  
5 Anderson. However, from my vantage point, Mr. Williams has  
6 used his CAC/MSOS Exhibit number 6, more for illustrative  
7 purposes at this point, and that's certainly what I've taken,  
8 as to give this Board an opportunity to think about, there  
9 may be other approaches.

10 But until we hear his argument as to what his  
11 clients think is a reasonable approach, we will be none the  
12 wiser I guess, at -- at this particular point in time.

13 I'm always reminded, and I want to be very  
14 careful how far I go, but rate making is very much in my mind  
15 at least, part science and a lot of art.

16 And at the end of the day the Board will have  
17 to have a great deal of wisdom after hearing all the  
18 submissions, and all the arguments, to determine what part  
19 they want to be science and what part they want to be art.  
20 Hopefully that's helpful to you.

21 MR. MICHAEL ANDERSON: It is, Mr. Chair, and  
22 certainly we see it as some art, there's things to consider  
23 and at -- at which point it becomes a position or -- or  
24 merges into rate making and science, we'll await Mr.  
25 Williams' comments. Thank you, Mr. Chair.

1                   THE CHAIRMAN:    And thank you.  Now, just for  
2 the benefit of those parties in the room, I have read  
3 Bonbright-- all of Bonbright and I have to say that not all  
4 cases that come before this Board follow completely within  
5 the pure definitions of Bonbright.  There are unique  
6 circumstances in each individual case that each Board has to  
7 consider.

8                   Consider the facts and consider the other  
9 issues that I've just enlightened you on and, at the end of  
10 the day, we have to put our oar in the sand and determine  
11 what the decision is going to be.

12                   MR. MICHAEL ANDERSON:   Particularly in a case  
13 when we're dealing with remote customers is the entire body  
14 of evidence indicates, Mr. Chair.  Thank you.

15                   THE CHAIRMAN:    Thank you.  Mr. Anderson, are  
16 you ready to proceed with your cross or would it be your  
17 desire to stand down and reconvene in about twenty (20)  
18 minutes and then continue?

19                   MR. MICHAEL ANDERSON:   I would be pleased to  
20 have a break at this point but also Mr. Smith had indicated  
21 that he'd like to proceed.

22                   THE CHAIRMAN:    Mr. Smith would like to go  
23 before you?

24                   MR. WILLIAM ANDERSON:   Yes, Mr. Chair, thank  
25 you.

1                   THE CHAIRMAN:    Then we'll give Mr. Smith an  
2 opportunity to commence his cross at approximately five after  
3 3:00.  And I'd ask you to all be back in the room so we can  
4 proceed exactly at that time.

5  
6 --- Upon recessing at 2:43 p.m.  
7 --- Upon resuming at 3:08 p.m.

8  
9                   THE CHAIRMAN:  Ladies and gentlemen, if I may  
10 I'd like to call the Hearing back to order.  Ms. Ramage, you  
11 were kind enough to circulate some material, do you wish to  
12 speak to that material?

13                   MS. PATTI RAMAGE:  Yes, Mr. Chair, two (2)  
14 undertakings are answered in these documents.  The first is  
15 the cost of heat using fuel oil versus electricity, which I'm  
16 just looking through my notes to see --

17                   THE CHAIRMAN:  I believe that was Mr. Peters'  
18 question.

19                   MS. PATTI RAMAGE:  Mr. Peters, okay.  If we  
20 could have that marked as an exhibit?

21                   THE CHAIRMAN:  May I suggest that we mark that  
22 as -- as an exhibit, Manitoba Hydro Exhibit number 11.

23  
24 --- EXHIBIT NO. MH-11:  Cost of heat using fuel oil versus  
25                   electricity, response to undertaking of Mr.

1 Peters.

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MS. PATTI RAMAGE: And the second document, which I propose be marked Exhibit 12, is the prospective Diesel Cost of Service Study to March 31st, 2004, calculation of the customer class revenue, including the Government surcharge and basic surcharge.

THE CHAIRMAN: And is this in response to the discussion I had with Mr. Wiens, or is this in response to an undertaking of Mr. Williams?

(BRIEF PAUSE)

MS. PATTI RAMAGE: We're going to have to find the reference in the transcript.

THE CHAIRMAN: Thank you, but we'll receive it in the meantime, and you can clarify that for me later, and we'll receive it as Manitoba Hydro Exhibit number 12.

--- EXHIBIT NO. MH-12: The prospective Diesel Cost of Service Study to March 31st, 2004, calculation of the customer class revenue, including the Government surcharge and basic surcharge.

1 THE CHAIRMAN: When Mr. Wiens has had an  
2 opportunity to find out where the reference is he can get  
3 back to us and clarify that, if that's agreeable.

4 Is the Panel now ready for Mr. Smith?

5 MS. PATTI RAMAGE: Yes, we are.

6 THE CHAIRMAN: Thank you, then, Mr. Smith,  
7 representing INAC.

8 MR. RANDAL SMITH: Thank you, Mr. Chair.

9 If in the interest of starting near the  
10 beginning we could all refer to attachments 3 to 5, of the  
11 Application, being the Shamattawa 1972 agreement, the 1977  
12 amending agreement, and the 1981 Tadoule Lake agreement, I'll  
13 have some questions concerning those agreements.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRMAN: Proceed, Mr. Smith.

18 MR. RANDAL SMITH: Thank you, Mr. Chair.

19

20 CROSS-EXAMINATION BY MR. RANDAL SMITH

21 MR. RANDAL SMITH: I believe Mr. Wiens was  
22 referring to the attachments to the Application, so I'd ask  
23 Mr. Wiens if there was any particular reason that the Brochet  
24 agreement was not included as an attachment. Is it because  
25 it's virtually identical to the Tadoule Lake agreement?

1                   MR. ROBIN WIENS:  Actually, Mr. Smith, there  
2 were some similarities but, no, it was not identical.  We  
3 filed these in the Application as examples.  Manitoba Hydro  
4 was subsequently, during the discovery phase, requested by  
5 the Public Utilities Board to file the other contracts and  
6 did so.

7                   MR. RANDAL SMITH:  Thank you.  Is there, in  
8 fact a Brochet agreement?

9                   MR. ROBIN WIENS:  Yes, sir, I believe there  
10 is and we're going to try to locate it.

11                  MR. RANDAL SMITH:  Thank you.

12

13                                   (BRIEF PAUSE)

14

15                  MR. RANDAL SMITH:  Yes, if -- if we could  
16 refer to what we've called Volume 2, appendices which was a  
17 large volume that we furnished as appendices to our responses  
18 to the Information Requests, these materials are submitted as  
19 Appendix 1 which refers to Brochet.  Appendix 2 -- sorry,  
20 Appendix 1 covers the following, we have a tab for Brochet,  
21 for Lac Brochet, for Shamattawa, for Tadoule Lake and then  
22 for those documents which refer to more than one (1) of those  
23 communities or refer to them collectively.

24                  We could also refer you to the response to the  
25 Public Utilities Board Information Request Number 3 which was

1 "Please file the diesel service agreements  
2 for Brochet and Lac Brochet."

3 MR. RANDAL SMITH: What year is the Brochet  
4 agreement?

5

6

(BRIEF PAUSE)

7

8 MR. ROBIN WIENS: Sorry, we have the original  
9 agreement 21st July, 1965.

10 MR. RANDAL SMITH: Who's that agreement with,  
11 Mr. Wiens? Between who?

12 MR. ROBIN WIENS: "Her Majesty the Queen in  
13 the Right of Canada represented herein by  
14 the Minister of Transport."

15 MR. RANDAL SMITH: "Transport". Thank you.

16

17

(BRIEF PAUSE)

18

19 MR. ROBIN WIENS: Yes, we would also refer to  
20 a Memorandum of Agreement with the Department of Indian  
21 Affairs that is also part of that appendix and which is dated  
22 5th November of 1970. And basically provides the -- the --  
23 the rates to be charged to that customer in respect of  
24 service provided to one or more sites that were in that  
25 community.

1                   MR. RANDAL SMITH:    Mr. Wiens, it would be  
2 fair to say that none of these agreements that we're dealing  
3 with, the Shamattawa 1972 Agreement or the Tadoule Lake  
4 Agreement or the Lac Brochet Agreement or the Brochet  
5 Agreement that you just referred to, none of those agreements  
6 refer to any form of surcharge as that term is being used  
7 here today; is that correct?

8                   MR. ROBIN WIENS:    Yeah, that's correct.

9                   MR. RANDAL SMITH:    In fact, the modern day  
10 form of surcharge that we're discussing came into effect in  
11 1984; is that correct?

12                  MR. ROBIN WIENS:    That's correct.

13                  MR. RANDAL SMITH:    So that would be some  
14 twelve (12) years after the Shamattawa Agreement, for  
15 instance; is that correct?

16                  MR. ROBIN WIENS:    Close enough, yes.

17                  MR. RANDAL SMITH:    And the Brochet agreement  
18 that you just referred to is 1965?

19                  MR. ROBIN WIENS:    The one (1) with Department  
20 of Indian Affairs, is 1970.

21                  MR. RANDAL SMITH:    70 -- thank you. So we  
22 have no mention of surcharges in any of these agreements and  
23 it's also fair to say, that there's no mention of Public  
24 Utilities Board Hearings to determine rates at that time, as  
25 well, is that correct?

1 MR. ROBIN WIENS: That is correct.

2 MR. RANDAL SMITH: These agreements all  
3 preceded the modern day system for determining rates and the  
4 reasonableness of rates, by several years, is that correct?

5

6

(BRIEF PAUSE)

7

8 MR. ROBIN WIENS: To respond to your question,  
9 the Public Utilities Board had only a very limited type of  
10 jurisdiction over rates, until 1989.

11

12 MR. RANDAL SMITH: So 1989 being seventeen  
13 (17) years after the Shamattawa agreement sorry -- yeah,  
14 seventeen (17) years after the Shamattawa agreement and some  
15 eight (8) nine (9) years, after the Tadoule Lake and Lac  
16 Brochet agreements and some nineteen (19) years after the  
17 Brochet agreement that you've referred to.

18

19 MR. ROBIN WIENS: Yeah, you know, I don't have  
20 all the dates, but, I -- the Crown corporation Accountability  
21 and Consequence Amendments Act, that gave the Public  
22 Utilities Board its current jurisdiction over electric rates  
23 was in 1989.

24

25 And all of these agreements, to the best of my  
recollecion, proceeded that.

26

MR. RANDAL SMITH: Okay. So they have no  
mention of surcharges, no mention of Public Utilities Board

1 Hearing for determining rate, and in fact, the First Nations  
2 were not parties to any of these agreements, is that correct?

3 MR. ROBIN WIENS: Yes, that is correct.

4 MR. RANDAL SMITH: We certainly wouldn't try  
5 and do that today, would we, not to include the First  
6 Nations, as parties to such agreements, would that be fair?

7

8 (BRIEF PAUSE)

9

10 MR. VINCE WARDEN: More modern day agreements,  
11 Mr. Smith, have in fact been with the Government of Canada,  
12 and Manitoba Hydro, that don't necessarily have First Nations  
13 as signatories to those agreements.

14 MR. RANDAL SMITH: Are we talking, Mr. Warden,  
15 of agreements where the First Nations are customers of  
16 Manitoba Hydro, for the usage of Manitoba Hydro?

17 MR. VINCE WARDEN: We are.

18 MR. RANDAL SMITH: Would it be fair to say  
19 though, that these agreements, being as they were without  
20 mention of surcharges and Public Utilities Board Hearings et  
21 cetera, they did deal with a different arrangement for a  
22 different day, than what we're dealing with today? I think  
23 that would be fair, is that correct?

24 MR. ROBIN WIENS: It was a different way of  
25 achieving the objective, of having the customer take

1 responsibility for the costs that were incurred to provide  
2 service. I will agree to that extent.

3 MR. RANDAL SMITH: Would it be fair to say  
4 that these contracts have been overtaken by events -- various  
5 events that have happened over the years. And let's have a  
6 look at the Shamattawa agreement, for instance.

7

8

(BRIEF PAUSE)

9

10 MR. RANDAL SMITH: Paragraphs twelve (12) and  
11 thirteen (13) of the Shamattawa agreement. Paragraph twelve  
12 (12) states and I quote:

13

14

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16

17

18

19

"Consumers shall be supplied with three (3)  
wire, one hundred and twenty (120)/ two  
hundred and forty (240) volt service and  
service capacity is to be limited by the  
installation of service boxes equipped with  
fifteen (15) ampere circuit breakers of the  
common type."

20

21

22

23

That was the nature of this particular  
agreement, I'm not sure who is answering this question, but,  
it was a fifteen (15) amp agreement, is that fair?

24

25

MR. ROBIN WIENS: Yes.

MR. RANDAL SMITH: And paragraph thirteen  
(13), and I quote:

1 "Service to consumers is to be available  
2 for lighting, small appliances, washing  
3 machines, refrigerators, motors up to one  
4 (1) horsepower in rating and inducted  
5 equipment up to eight hundred (800) watts  
6 in capacity. But, the use of electric  
7 ranges, clothes dryers, water heaters and  
8 space heating appliances and equipment  
9 shall not be permitted."

10 The current situation is that all of those  
11 things are permitted except the space heating appliances,  
12 would that be fair?

13 MR. ROBIN WIENS: That is correct.

14 MR. RANDAL SMITH: So, what was at that time,  
15 in 1972, a fifteen (15) amp agreement, we're now dealing with  
16 sixty (60) amp service, that's six-zero (60) amp service in  
17 Shamattawa; is that correct?

18 MR. ROBIN WIENS: That is correct.

19 MR. RANDAL SMITH: Then can you point to  
20 anything in this agreement, Mr. Wiens, that anticipated or  
21 allowed for the increase to sixty (60) amps, or was that  
22 something that had to be discussed with Canada at the time  
23 that the sixty (60) amp service was introduced?

24 MR. ROBIN WIENS: That it is -- it is not  
25 included in this particular contract, the issue of

1 discussions with Canada at that time, I was not a party to  
2 those discussions, but I am advised that there were  
3 significant numbers of discussions that took place between  
4 Manitoba Hydro and Canada, prior to and during the  
5 introduction of the sixty (60) amp limitation.

6 MR. RANDAL SMITH: And I think we heard there  
7 were approximately fifteen (15) meetings leading up to that  
8 particular change; was that the evidence of Mr. Cox, I  
9 believe?

10

11

(BRIEF PAUSE)

12

13

14

MR. ROBIN WIENS: That is what I'm advised,  
yes.

15

16

17

18

MR. RANDAL SMITH: And have you been advised  
whether there was any discussion at any of those fifteen (15)  
meetings about the 1972 Shamattawa agreement or any of the  
other three (3) agreements for that matter?

19

20

21

22

23

24

25

MR. VINCE WARDEN: It appears we don't have  
anybody at present, on the Panel, that can speak to that.

MR. RANDAL SMITH: So there's nothing to the  
knowledge of any of the four (4) members of the Manitoba  
Hydro Panel that would indicate that there was any discussion  
of any of those four (4) agreements at that time?

MR. VINCE WARDEN: No, our understanding is

1 that discussions -- it was Manitoba Hydro and the Government  
2 of Canada acted somewhat as a partnership going forward in --  
3 in providing service to these communities, so it was -- there  
4 were ongoing communications between the Government of Canada  
5 and Manitoba Hydro, and so the agreements, I don't think it  
6 -- from what we can gather the agreements were not formal,  
7 and you know, that's probably the difficulty that we're  
8 experiencing now. Some of this that was agreed to verbally  
9 at the time was not documented as it perhaps should have  
10 been.

11 MR. RANDAL SMITH: But it would be fair to say  
12 that those fifteen (15) amp agreements that had been  
13 discussed, 1972, 1970, 1980 and 1981 were replaced in some  
14 form or fashion by Manitoba Hydro with sixty (60), six zero  
15 (60) amp agreements?

16 MR. VINCE WARDEN: Well, I think what we're  
17 maintaining is that the fundamental basis of those agreements  
18 is still in place, and that is the obligation of Canada to  
19 provide service to those communities.

20 MR. RANDAL SMITH: And is it --

21 MR. VINCE WARDEN: And that's -- that's what  
22 we're relying on.

23 MR. RANDAL SMITH: And is it only those  
24 original agreements that you're relying on to take that  
25 position?

1                   MR. VINCE WARDEN: Those agreements, plus the  
2 ongoing communication that we've had with -- with the  
3 Government of Canada over the intervening years.

4                   MR. RANDAL SMITH: That you've discussed at  
5 the Hearing --s

6                   MR. VINCE WARDEN: Yes.

7                   MR. RANDAL SMITH: -- yesterday? And just for  
8 completeness, if we can call the 1972 Shamattawa agreement a  
9 fifteen (15) amp agreement, that would be a fair label for  
10 the Tadoule Lake and Lac Brochet and Brochet agreements at  
11 that time as well; is that correct?

12                  MR. VINCE WARDEN: The agreements, if we refer  
13 to looking at the Shamattawa agreement, if we look at Section  
14 5 of that agreement it does refer to Hydro providing  
15 additional capacity as required, and there's some conditions  
16 attached to that, but I think the -- the reference there  
17 anticipates that there would be upgrades occurring in those  
18 communities as required.

19                  MR. RANDAL SMITH: You would agree with me,  
20 would you not? And I've noticed that we've had the input of  
21 counsel now to point you to paragraph 5, and that's fine.  
22 But would you agree that the intent of the original  
23 agreements was that there would be fifteen (15) amp service  
24 offered to these customers at that time? Just so that we're  
25 complete with the four (4) agreements, and not just talking

1 about the Shamattawa Agreement.

2 MR. VINCE WARDEN: Yeah, I think we have on  
3 the record that it was fifteen (15) amp services being  
4 provided at that time, yes.

5 MR. RANDAL SMITH: Yes. So we know then that  
6 those original four (4) agreements didn't talk about  
7 surcharges, didn't talk about PUB Hearings and, in fact, were  
8 fifteen (15) amp agreements which were subsequently replaced  
9 by Manitoba Hydro with sixty (60) six-zero (60) amp  
10 agreements in, I believe it was, 1990?

11 MR. ROBIN WIENS: Beginning of 1990.

12 MR. RANDAL SMITH: So the beginning of 1990  
13 still being some, here we go with my math again, eighteen  
14 (18) years after the Shamattawa Agreement and twenty (20)  
15 years after the Brochet Agreement, nine (9) and ten (10)  
16 years after the Tadoule Lake and Lac Brochet Agreements;  
17 would that be a fair calculation?

18 MR. VINCE WARDEN: We'll accept that, yes.

19 MR. RANDAL SMITH: Now, prior to the sixty  
20 (60) amp service being instituted by Manitoba Hydro in 1990  
21 for these customers, I understand from the evidence we've  
22 heard that there was a transfer of these First Nation  
23 accounts, formerly paid by the government, in 1987; is that  
24 correct?

25 MR. VINCE WARDEN: It commended in 1987, yes.

1 MR. RANDAL SMITH: And, for the record, we  
2 have filed our Exhibit 2 -- the INAC Exhibit No. 2 and on  
3 page 3 of that exhibit --

4 MS. PATTI RAMAGE: Mr. Smith, are you  
5 referring to the memo dated February 27th, 1987?

6 MR. RANDAL SMITH: That's correct. Actually,  
7 page 3.

8 MS. PATTI RAMAGE: Mr. Smith, I'm wondering  
9 if you have additional copies of Exhibit 3, we seem to have  
10 one (1) for the entire Panel.

11 MR. RANDAL SMITH: I offered them yesterday  
12 but I don't have them back today.

13

14 (BRIEF PAUSE)

15

16 CONTINUED BY MR. RANDAL SMITH:

17 MR. RANDAL SMITH: So would it be fair to say  
18 that this was another aspect of an event that intervened,  
19 that kind of overtook these original contracts, in so far as  
20 the original contracts did not foresee or -- or make a  
21 provision for the First Nations themselves taking over the  
22 payment of these accounts; would that be fair?

23 MR. VINCE WARDEN: Yes.

24 MR. RANDAL SMITH: And on page 3, this is a  
25 Manitoba Hydro memo; is that correct?

1 MR. VINCE WARDEN: It is.

2 MR. RANDAL SMITH: And I believe, in answer  
3 to a question yesterday, there was no knowledge on the part  
4 of the Manitoba Hydro Panelists as to whether the First  
5 Nations themselves were wanting to have the accounts in their  
6 own names and make the payments as part of their move towards  
7 self-government; was that your evidence yesterday?

8 MR. ROBERT COX: Yes. We did not have any  
9 direct conversations with the First Nations. Any of the  
10 conversations were with the Indian Affairs.

11 MR. RANDAL SMITH: And would it be fair to  
12 say that in those conversations with Indian Affairs that it  
13 was represented to you by the officials at Indian Affairs  
14 that the First Nations were desiring to move toward self-  
15 government and this is why there was to be a change in the  
16 accounts?

17 MR. ROBERT COX: Yes, that was expressed by  
18 them.

19 MR. RANDAL SMITH: And that, in fact, is  
20 reflected in the second line of that memo, is that correct?

21 MR. ROBERT COX: That is correct, yes.

22 MR. RANDAL SMITH: In keeping and I'm quoting  
23 here:

24 "In keeping with the Indian Band's goal of  
25 self-government beginning 87/04/01 all

1 Indian Affairs energy accounts will be  
2 transferred to the Band's responsibility."  
3 And that was your understanding of what was  
4 happening, Mr. Cox?

5 MR. ROBERT COX: Yes, that's correct.

6 MR. RANDAL SMITH: And it says:

7 "Payment of the bills will be made by the  
8 Indian Bands who will receive the funding  
9 from Indian Affairs."

10 And that again is your understanding of what  
11 was happening at that time?

12 MR. ROBERT COX: Yes, that's correct.

13 MR. RANDAL SMITH: So, this was obviously  
14 something new, it wasn't -- it wasn't part of the original  
15 agreements that we've been discussing?

16 MR. ROBERT COX: Yes, it was new.

17 MR. RANDAL SMITH: Then midway through the  
18 second paragraph of that page 3, where it begins:

19 "Once the energy accounts are transferred."  
20 Do you see that, Mr. Cox?

21 MR. ROBERT COX: Yes, I have that.

22 MR. RANDAL SMITH: "Once the energy accounts  
23 are transferred to the Indian Bands  
24 responsibility the surcharge will no longer  
25 apply."

1                   That was Hydro's view at the time, was it?

2                   MR. ROBERT COX: That was under our current  
3 policy at the time, yes.

4                   MR. RANDAL SMITH: Okay. That's no longer  
5 your policy?

6                   MR. ROBERT COX: No, that is no longer the  
7 policy.

8                   MR. RANDAL SMITH: But, that's what it was at  
9 the time that these accounts were transferred?

10                   MR. ROBERT COX: At the date of the memo, that  
11 was -- yes -- that was the policy at the time.

12                   MR. RANDAL SMITH: And is it correct, that at  
13 the time of the transfer that the only accounts that were, in  
14 effect, transferred were the schools and the teacherages?  
15 These were the only such accounts that were affected?

16                   MR. ROBERT COX: I don't have that  
17 information. What I can say to that is all of the accounts  
18 that were being billed to Indian Northern Affairs Canada,  
19 were transferred.

20

21

(BRIEF PAUSE)

22

23                   MR. RANDAL SMITH: Now, if we can -- once  
24 again look at the intent of the parties as reflected in the  
25 terms of the agreements, and the 1972 Shamattawa agreement,

1 paragraph fifteen (15) of that agreement.

2

3

(BRIEF PAUSE)

4

5 MR. RANDAL SMITH: We're all on the same page,  
6 paragraph fifteen (15), the term of that 1972 agreement was  
7 to be initially for a ten (10) year term, is that correct?  
8 With the possibility of annual renewals, is that correct?

9 MR. ROBIN WIENS: It was not -- it was for ten  
10 (10), an initial term of ten (10) years. I don't read with  
11 possibility of annual renewals, I read that it would renew  
12 automatically unless either party by notice in writing given  
13 to the other party, at least six (6) month prior, stated so  
14 in such notice.

15 MR. RANDAL SMITH: Okay, so that's your  
16 interpretation of it and we'll have to argue that at some  
17 point, but, what it originally was intended for was a ten  
18 (10) year term and then there was this year to year  
19 provisions that we may have a difference of opinion, as to  
20 what it means?

21 MR. ROBIN WIENS: I think it's pretty clear,  
22 but, if you say so.

23 MR. RANDAL SMITH: There's always an argument.

24 MR. VINCE WARDEN: Mr. Smith, I might just  
25 want to clarify, the page number three (3) of the Exhibit,

1 that you're referring to previously, in which you pointed out  
2 that the surcharge would no longer apply.

3           The purpose of this memo was to get the  
4 guidance of the Rates Committee, if you look at the last  
5 paragraph of that same -- same memo. The Rates Committee  
6 came back with a further internal memo, which said they  
7 didn't accept that.

8           So the surcharge -- even though this referred  
9 to the surcharge no longer applying, the follow up memo with  
10 the advice from the Rates Committee at Manitoba Hydro, this  
11 memo, that you referred to on page three (3), dated February  
12 the 27th, the follow up it was dated April the 8th, that same  
13 year, indicated that, and I'll just quote from this memo --

14           MR. RANDAL SMITH: Well, excuse me, but, we  
15 have the Exhibit before us and is this another Exhibit that  
16 you're referring to?

17           MR. VINCE WARDEN: It was part of the  
18 attachment to MKO/MH-20.

19           MR. RANDAL SMITH: Thank you.

20           MR. VINCE WARDEN: Is that sufficient?

21           MR. RANDAL SMITH: Yes. Thank you.

22           MR. VINCE WARDEN: Okay.

23           MR. RANDAL SMITH: Thank you very much for  
24 that.

25

1 (BRIEF PAUSE)

2

3 MR. RANDAL SMITH: The Tadoule Lake and Lac  
4 Brochet agreements have a paragraph 20, 20.0, dealing with  
5 the term of the agreement. And these agreements, unlike the  
6 Shamattawa agreement, were for a period of five (5) years  
7 from the commencement date, and thereafter continuing in  
8 force for month to month as opposed from year to year.

9 Is that correct, Mr. Wiens?

10 MR. ROBIN WIENS: Yes, it is.

11

12 (BRIEF PAUSE)

13

14 MR. RANDAL SMITH: The 1977 amending  
15 agreement, your attachment number 4, I believe, that you  
16 referred to yesterday. That only pertains to one (1) of the  
17 four (4) diesel communities that we're talking about here  
18 with this Application; is that correct, only to Shamattawa?

19 MR. ROBIN WIENS: Yes, that's -- that -- that  
20 appears to be the case that it applies to -- to a number of  
21 communities, all but Shamattawa, of which had been connected  
22 to the main grid.

23 MR. RANDAL SMITH: The only Shamattawa then  
24 was -- only Shamattawa of the four (4) communities that we're  
25 talking about here were subject to that 1977 amending

1 agreement, but we also have before the Board, PUB/MH, Exhibit  
2 8-24, being a letter of May 2nd, 1983, whereby Manitoba Hydro  
3 purports to terminate the Shamattawa agreement of 1972; is  
4 that correct?

5

6

(BRIEF PAUSE)

7

8 THE CHAIRMAN: Mr. Smith, the Board's  
9 following you. Can you help me find that document?

10 MR. RANDAL SMITH: I have more copies of it  
11 here, if you'd like? Mr. Peters advised me that it's marked  
12 as the PUB/MH Exhibit 8-24, it's part of that exhibit, it's  
13 -- it's one (1) of the documents that form part of that  
14 exhibit.

15 MR. BOB PETERS: I believe, yes, Mr. Smith and  
16 I have had this discussion, and we did try to find it, Mr.  
17 Chair. PUB/MH-IR-24, and it is an attachment as Mr. Smith  
18 has indicated, to part C of that Interrogatory. And it's the  
19 same letter, and Mr. Smith will speak to that, it's dated May  
20 the 2nd, 1983 from Manitoba Hydro to the Minister of Indian  
21 and Northern Affairs in Ottawa, if the Board is with me on  
22 that?

23

THE CHAIRMAN: I have it now, thank you.

24

MR. RANDAL SMITH: Thank you, Mr. Chair.

25

1 CONTINUED BY MR. RANDAL SMITH:

2 MR. RANDAL SMITH: Now, in the second  
3 paragraph of that letter it states:

4 "In accordance with the provision, please  
5 be advised that Manitoba Hydro will  
6 terminate the agreement on November 1st,  
7 1983."

8 And that's notice from a Mr. Burbank, Business  
9 Manager for Manitoba Hydro; is that correct?

10 MR. ROBERT COX: Yes, that is correct.

11 MR. RANDAL SMITH: And that letter was copied  
12 to a J. Funnel, General Counsel, is that at Manitoba Hydro at  
13 that time?

14 MR. ROBERT COX: Yes, that's correct.

15 MR. RANDAL SMITH: And that termination was in  
16 fact acknowledged by the Government of Canada; is that  
17 correct?

18 MR. ROBERT COX: No, we have no record of that  
19 -- acceptance of that.

20 MR. RANDAL SMITH: Well, I gave to your  
21 counsel this morning, a copy of a letter dated May 11th,  
22 1983, which states:

23 "On behalf of the Honourable John C.  
24 Munroe, I wish to acknowledge receipt of  
25 your letter dated May 2nd, 1983, concerning



1 lots.

2

3 CONTINUED BY MR. RANDAL SMITH:

4 MR. RANDAL SMITH: If we could then fast  
5 forward, perhaps, to November of 2000. And looking at page  
6 10 of our Exhibit 2 û

7 THE CHAIRMAN: Mr. Smith, is this the letter  
8 from Mr. Brennan to Grand Chief Flett?

9 MR. RANDAL SMITH: Yes, Mr. Chair. Thank  
10 you.

11 THE CHAIRMAN: Thank you.

12

13 CONTINUED BY MR. RANDAL SMITH:

14 MR. RANDAL SMITH: Could you tell us who was  
15 involved with this particular meeting between Grand Chief  
16 Francis Flett and Mr. Brennan that's referred to in the -- in  
17 the first line of the letter?

18

19 (BRIEF PAUSE)

20

21 MR. VINCE WARDEN: The -- to the best of my -  
22 - recollection, Mr. Smith, it was Mr. Brennan, Mr. Wiens,  
23 myself. I -- I believe that was all that was at this initial  
24 meeting.

25 MR. RANDAL SMITH: And would it be fair to

1 characterize what Grand Chief Flett said as being a request  
2 that the First Nations no longer be billed the surcharge;  
3 would that be a fair characterization?

4 MR. VINCE WARDEN: Yes.

5 MR. RANDAL SMITH: They weren't demanding  
6 that it no longer be billed; would that be fair?

7 MR. VINCE WARDEN: Well, they requested that  
8 it no longer be billed.

9 MR. RANDAL SMITH: Fair enough. And did  
10 Grand Chief Flett say that if they were to continue to get  
11 bills that they would not be paid?

12

13 (BRIEF PAUSE)

14

15 MR. VINCE WARDEN: I do not recall him saying  
16 that specifically, no.

17 MR. RANDAL SMITH: And I understand that the  
18 bills had, up until that time, been paid, including the  
19 surcharge, by the First Nations; is that correct?

20 MR. VINCE WARDEN: It is. There may have  
21 been some normal arrears associated with that but, for the  
22 most part, I would agree with that, yes.

23 MR. RANDAL SMITH: And there was no request  
24 expressed by Grand Chief Flett that the surcharge be billed  
25 from that time forward to INAC; is that correct?

1 MR. VINCE WARDEN: Well, the request was that  
2 the surcharge be deleted from the bills that were being  
3 provided to the First Nations; that was the specific request.

4 MR. RANDAL SMITH: There was no mention of  
5 any kind that the bills then be directed to Canada?

6 MR. VINCE WARDEN: There was an inference, if  
7 not a direct request, there was an inference that the bills,  
8 if -- if not paid by the First Nations would -- would have to  
9 be paid by the Government of Canada.

10 MR. RANDAL SMITH: And it would be fair to  
11 characterize that inference as being on the part of Manitoba  
12 Hydro?

13 MR. VINCE WARDEN: Well, it was mutually  
14 agreed at the meeting that -- that was where the bills would  
15 be re-directed. Perhaps agreed, is -- is too strong a word,  
16 it was -- it was understood that that's where the bills would  
17 be re-directed.

18 MR. RANDAL SMITH: But, you're not saying that  
19 that understanding came from any mention by Chief -- Grand  
20 Chief Flett of Canada, now paying those surcharges?

21 MR. VINCE WARDEN: Well, his position was that  
22 he didn't believe that First Nations were responsible for --  
23 for paying that surcharge on the basis that they didn't come  
24 within the definition of government. And that those bills  
25 should be re-directed elsewhere.

1 THE CHAIRMAN: Mr. Smith, I would direct you  
2 to the letter that went from Mr. Brennan to Mr. Cochrane,  
3 which seems to answer that question, certainly from Mr.  
4 Brennan's point of view.

5

6

(BRIEF PAUSE)

7

8 MR. RANDAL SMITH: Yes, and I was -- thanks  
9 for that, Mr. Chair, but, I was referring first of all, to  
10 the letter that went from Mr. Brennan to the person who was,  
11 in fact, at the meeting, being Grand Chief Flett, unlike Mr.  
12 Cochrane, who wasn't there and didn't -- wouldn't know what  
13 was said.

14

THE CHAIRMAN: I understand that.

15

MR. RANDAL SMITH: Thanks for that.

16

17

(BRIEF PAUSE)

18

19 CONTINUED BY MR. RANDAL SMITH:

20

MR. RANDAL SMITH: Would it be fair to say  
21 that Manitoba Hydro accepted Grand Chief Flett's position  
22 that the First Nations are not responsible for the surcharge?

23

24

MR. VINCE WARDEN: We -- Manitoba Hydro were  
24 consistent in our view that the Government -- Government of  
25 Canada was ultimately responsible for -- for funding those --

1 those accounts including the surcharge. So, when the First  
2 Nations inform us that they were not responsible for the  
3 surcharge, our recourse was then back to the Government of  
4 Canada.

5 MR. RANDAL SMITH: But, in fact, the  
6 Government of Canada was funding the surcharges for the First  
7 Nations; is that not correct?

8 MR. VINCE WARDEN: Well, we didn't know that.

9 MR. RANDAL SMITH: You're saying you had no  
10 knowledge that some of the funding that the First Nation  
11 receives is for the surcharges that were -- that they were  
12 being -- that they were paying?

13 MR. VINCE WARDEN: Well, Manitoba Hydro was  
14 never officially informed that the -- that they were getting  
15 dollar for dollar funding for -- for the surcharge. There  
16 were subsequent meetings at which Mr. Mills attended, that he  
17 described the funding framework to the First Nations, but, at  
18 this time we had no knowledge that the First Nations were  
19 being fully funded for that surcharge amount.

20 MR. RANDAL SMITH: Isn't it fair to say that  
21 Manitoba Hydro knew that there were funds provided to the  
22 First Nations to pay surcharges, sometimes there was less  
23 funding for certain facilities than other times, before  
24 November of 2000, you knew that?

25 MR. VINCE WARDEN: Absolutely. In fact,

1 that's -- we've got on the record, that at the time, we'd  
2 started transferring these -- these accounts, it was with the  
3 understanding that they would be funded by the Government of  
4 Canada. The extent of funding though, was -- what we were  
5 just discussing, I believe.

6 MR. RANDAL SMITH: Yes. It wasn't your place,  
7 nor do you want to get involved in how the Government of  
8 Canada funds the First Nations, is that fair?

9 MR. VINCE WARDEN: Exactly.

10

11

(BRIEF PAUSE)

12

13 MR. RANDAL SMITH: And, in fact, for thirteen  
14 and a half (13 1/2) years, up until November of 2000, the  
15 First Nations had been paying to Manitoba Hydro these  
16 accounts, these surcharged accounts, is that correct?

17 MR. VINCE WARDEN: Yes, we'll accept that.

18 MR. RANDAL SMITH: So after thirteen and a  
19 half (13 1/2) years of Manitoba Hydro accepting the First  
20 Nations payments for the surcharges, based on a simple  
21 request at a meeting in November of 2000, Manitoba Hydro and  
22 the three (3) people in that room I guess, decided that they  
23 would no longer bill the First Nations for these surcharges,  
24 but instead would bill Canada or INAC; is that a fair  
25 representation?

1                   MR. VINCE WARDEN: Well, I don't know whether  
2 we would -- we -- we certainly didn't re -- regard it as a  
3 simple request, it came from Grand Chief Flett, who certainly  
4 had authority to speak on behalf of those First Nations.

5                   MR. RANDAL SMITH: Well, based on his request,  
6 you ended thirteen and a half (13 1/2) years of receiving  
7 payments for the surcharges from the First Nations, and  
8 agreed to direct those bills from then on, to Canada; is that  
9 correct?

10                  MR. VINCE WARDEN: That's what this  
11 correspondence indicates, yes.

12                  MR. RANDAL SMITH: And that was done with no  
13 consultation with Canada whatsoever, with INAC; is that  
14 correct?

15                  MR. VINCE WARDEN: Well, the -- the letter to  
16 -- to INAC is dated the same day as the letter to Grand Chief  
17 Flett, so consultation, there was certainly -- the Government  
18 of Canada was informed of the meeting with -- with Chief  
19 Flett, and the decision was made at that meeting.

20                  MR. RANDAL SMITH: So, the answer to my  
21 question, there was no prior consultation with INAC; is that  
22 fair?

23                  MR. VINCE WARDEN: There was no direct  
24 consultation that preceded that correspondence I just  
25 referred to. However, I recall that at the time that the

1 accounts were transferred to the First Nations, it was on the  
2 same basis, there -- there was -- you know, at the request of  
3 the Government of Canada, so this was simply transferring it  
4 back to the Government of Canada.

5 MR. RANDAL SMITH: Well, isn't the big  
6 difference that in 1987, Mr. Warden, there was a consensus  
7 reached among the three (3) parties, as we've seen from page  
8 3 of our exhibit, there was a move by the First Nations  
9 towards self government, as expressed to you by INAC, which  
10 resulted in a change of policy, not only on behalf of the  
11 Government of Canada, but also on behalf of Manitoba Hydro,  
12 as we heard in evidence yesterday; isn't that fair?

13 MR. VINCE WARDEN: Well, we relied on the  
14 representation of the Government of Canada that was  
15 happening, just as we were relying on the representation of -  
16 - of Grand Chief Francis Flett.

17 MR. RANDAL SMITH: But the difference that I'm  
18 alluding to, Mr. Warden, is that there was a consensus, there  
19 was agreement between Manitoba Hydro and Canada in 1987, to  
20 put that change into affect, but there was no similar  
21 agreement in November of 2000 between Manitoba Hydro and  
22 Canada, that the bills would then start going to Canada;  
23 isn't that fair?

24 MR. VINCE WARDEN: I -- I'm just pointing out  
25 to you that there was a -- an agreement between two (2)

1 parties in 1987, there was an agreement between two (2)  
2 parties in -- in 2000.

3 MR. RANDAL SMITH: All right, so you think  
4 that the important party to make the -- such agreements with  
5 is the First Nations; would that be fair?

6 MR. VINCE WARDEN: No less important than the  
7 Government of Canada.

8 MR. RANDAL SMITH: Well, you've indicated that  
9 it was sufficient in November of 2000 that your agreement was  
10 only with the First Nations, and Canada didn't need to be  
11 included in the agreement, they were going to be billed from  
12 then on, but, no, they didn't need to be included; is that  
13 fair?

14 MR. VINCE WARDEN: As were the First Nations  
15 to be billed back in 1987.

16 MR. RANDAL SMITH: I don't think that's fair,  
17 Mr. Warden, as we've seen from the evidence, they were  
18 expressing, as INAC told you, the wish to move toward self  
19 government, Canada was recognizing that, and Manitoba Hydro  
20 -- Hydro, in effect, as your evidence was, wanted to  
21 accommodate that move towards self government; isn't that --

22 MR. VINCE WARDEN: You're exactly right, we  
23 were trying to accomonate -- accommodate the agreements  
24 between First Nations and Government of Canada, obviously  
25 that agreement broke down in the year 2000.

1 MR. RANDAL SMITH: So, as a result of your  
2 actions in November of 2000, you're now indicating that you  
3 may be launching legal action against Canada for something to  
4 the tune of \$3 million; is that fair?

5 MR. VINCE WARDEN: Yes, the -- the accumulated  
6 surcharge that remains unpaid, as we've indicated, is \$2.83  
7 million dollars, plus interest thereon.

8 MR. RANDAL SMITH: Do you now wish you would  
9 have left well enough alone?

10 MR. VINCE WARDEN: With respect to billing the  
11 Government of Canada directly back in 1987?

12 MR. RANDAL SMITH: No, with respect to what  
13 you did on November of 2000, Mr. Warden. We all know what  
14 you did November of 2000, you wish you wouldn't have done it?

15 MS. KATHI AVERY-KINEW: Excuse me, Mr. Smith,  
16 do you have any evidence that the First Nations knew in 1987  
17 that there was a financial agreement for self-government? I  
18 don't see anything in that letter that says First Nations  
19 were involved.

20 MR. RANDAL SMITH: I have no evidence that  
21 I'm offering to give at this time, nor am I able to. But  
22 what we do know is that in 1987 the contracting parties from  
23 the original agreements were Manitoba Hydro and Canada.

24 MS. KATHI AVERY-KINEW: In 2000 they were the  
25 contracting parties too.

1 MR. RANDAL SMITH: Well, according to one  
2 interpretation those agreements may have survived that long  
3 but we certainly take issue with those agreements as still  
4 being in effect at that time.

5 But I think it's fair to say that there was  
6 nothing to indicate, in any way, that the First Nations were  
7 in any way upset with taking on the role of self-government  
8 vis-a-vis these bills in 1987. There was no -- there's no  
9 evidence that they objected to it. We know it happened.  
10 There's nothing to say they were unhappy with it.

11 But we certainly can't say the same thing  
12 about Canada's reaction to what was done, by Manitoba Hydro,  
13 without consulting them and without their agreement, November  
14 of 2000. We have ample, oodles of evidence that Canada û

15 THE CHAIRMAN: Mr. Smith, I don't want to get  
16 into hearing arguments with respect to the case before us. I  
17 would rather you do your cross-examination with respect to  
18 this Panel and then you can submit your argument.

19 MR. RANDAL SMITH: Thank you.

20

21 CONTINUED BY MR. RANDAL SMITH:

22 MR. RANDAL SMITH: Would that be a fair  
23 characterization, Mr. Warden, of Canada's reaction to your  
24 decision in November of 2000 that Canada has expressed -- or  
25 INAC specifically has expressed their refusal to accept that

1 decision -- or refusal to pay the surcharge and they --  
2 they've given you their reasons why; would that be fair?

3 MR. VINCE WARDEN: The fact that they have  
4 refused to pay and they have given us reasons why they've  
5 refused to pay?

6 MR. RANDAL SMITH: Yes.

7 MR. VINCE WARDEN: Yes.

8 MR. RANDAL SMITH: They've made it abundantly  
9 clear that they -- they take exception to the decision that  
10 was made without consultation with them by you on Novem -- in  
11 November of 2000; isn't that correct?

12 MR. VINCE WARDEN: I don't recall any  
13 reference to them being offended by not being consulted, that  
14 could very well be. But I -- I'm -- I don't think that was  
15 part of the correspondence.

16 MR. RANDAL SMITH: The correspondence is  
17 before the Board and it can speak for itself so I'll leave it  
18 at that.

19 MR. VINCE WARDEN: Fine, thank you.

20 MR. RANDAL SMITH: There is one (1) letter  
21 though that I would like to look at in a little more detail  
22 and that was Mr. Brennan's letter of 2001/04/03. And it's  
23 page 20 of our Exhibit 2.

24 THE CHAIRMAN: I have it, Mr. Smith.

25 MR. RANDAL SMITH: Thank you, Mr. Chair.

1 CONTINUED BY MR. RANDAL SMITH:

2 MR. RANDAL SMITH: In the second last  
3 paragraph of that letter and the last two (2) lines of that  
4 paragraph Mr. Brennan states

5 "Manitoba Hydro is re-examining the  
6 position taken in my letter of November  
7 30th, 2000 and will be communicating with  
8 you on this matter shortly."

9 Now, do you have any knowledge as to whether  
10 -- well, first of all, the letter being referred to of  
11 November 30th, 2000, is that the one that we've been  
12 discussing, the one that went to Grand Chief Flett advising  
13 that they would no longer be billed for the surcharge?

14 MR. VINCE WARDEN: Yes.

15 MR. RANDAL SMITH: And do you know whether  
16 there was a re-examination by Manitoba Hydro of that decision  
17 to no longer bill the First Nations for the surcharge?

18 MR. VINCE WARDEN: Corporate -- our corporate  
19 position on this is still the same, that is it's the ultimate  
20 responsibility of the government of Canada and until that's  
21 resolved the bills will continue to be directed towards the  
22 government of Canada.

23 MR. RANDAL SMITH: And was there a further  
24 communication as was promised here to Grand Chief Flett?

25 MR. VINCE WARDEN: Mr. Brennan may have had a

1 verbal discussion with mis -- with Grand Chief Flett, but I  
2 wasn't a party to that.

3 MR. RANDAL SMITH: You -- you don't know if  
4 that happened?

5 MR. VINCE WARDEN: I don't. No.

6 MR. RANDAL SMITH: Okay. So, if I can just  
7 retrace that history, in 1987 then with at least the express  
8 agreement of Canada and Manitoba Hydro, the surcharge  
9 billings went from -- went to the First Nations, from 1987  
10 until November 2000, some thirteen and a half years; is that  
11 correct?

12 MR. VINCE WARDEN: Yes, the billings started  
13 for -- for the entire billing, including the surcharge,  
14 starting in 1987 were directed to the First Nations.

15 MR. RANDAL SMITH: And then in November of  
16 2000, part of the billings, went to the First Nations, but,  
17 the surcharge portion went to a third party, being INAC, is  
18 that correct?

19

20 (BRIEF PAUSE)

21

22 MR. RANDAL SMITH: Just wondering who is  
23 giving the evidence here, Ms. Ramage?

24

25 (BRIEF PAUSE)

1 MR. VINCE WARDEN: Well, I was just being  
2 advised that we shouldn't refer to the Government of Canada  
3 as a third party. But, nevertheless, the surcharge portion  
4 of the bill was re-directed to the Government of Canada,  
5 you're correct.

6 MR. RANDAL SMITH: So, is it fair then to say  
7 that part of the bill for the usage by the First Nation  
8 customer, went to the First Nation and part of it being the  
9 surcharge, went to INAC?

10 MR. VINCE WARDEN: The surcharge portion of  
11 the bill was directed to INAC, yes.

12 MR. RANDAL SMITH: Is there a tariff that the  
13 PUB has issued or approved of that allows that kind of  
14 splitting of a bill?

15 MR. VINCE WARDEN: Tariff issued by the Public  
16 Utilities Board does not specify where that bill should be  
17 directed, so I don't think there's anything in the order,  
18 subject to check, but, I don't think there's anything in the  
19 order that would prevent us from doing that.

20

21

(BRIEF PAUSE)

22

23 MR. RANDAL SMITH: As far as the actual  
24 accounts that are being billed to INAC, they -- they -- there  
25 -- there are four (4) numbered accounts, five nine nine three

1 four two zero zero one (599342001), five nine nine three four  
2 five zero zero one (599345001), five nine nine three four six  
3 zero zero one (599346001) and five nine nine three four seven  
4 zero zero one (599347001).

5 Mr. Cox, could you advise us as to when those  
6 accounts would have been created and how they would have been  
7 created, mechanically or ...

8

9

(BRIEF PAUSE)

10

11

MR. ROBERT COX: Yes, those were set up as  
12 non-metered accounts for the -- to -- to allow us to bill the  
13 surcharge. And they were set up because there is already --  
14 already a metered account for the account that was billed to  
15 the First Nation.

16

MR. RANDAL SMITH: So, you can -- doesn't  
17 normally someone have to apply for an account before you'll  
18 issue one (1)?

19

MR. ROBERT COX: We -- we actually have a lot  
20 of non-metered billing accounts, which we establish just to -  
21 - to bill something that doesn't have a -- a meter attached  
22 to it.

23

MR. RANDAL SMITH: So, these would have been  
24 created what -- in November of 2000 or shortly after; is that  
25 fair?

1                   MR. ROBERT COX: Yes, I believe the -- the  
2 letter from Mr. Brennan states November 24th, 2000, would be  
3 the day we would start billing the surcharge to the  
4 Government of Canada.

5                   MR. RANDAL SMITH: Now, assuming that the  
6 First Nations received and continued to receive funding from  
7 INAC for payment of these surcharges, what you're expecting  
8 by sending INAC these accounts is for it to pay at least a  
9 portion of the surcharge twice; is that fair?

10                  MR. VINCE WARDEN: It's really not a matter  
11 for Manitoba Hydro to determine, it's between the Government  
12 of Canada and -- and the First Nations.

13                  MR. RANDAL SMITH: But you're not disputing  
14 that the Government -- INAC provided funding to the First  
15 Nations and continues to do so for payment of at least part  
16 of these surcharges?

17                  MS. PATTI RAMAGE: Mr. Chair, we're being  
18 asked questions that we can't respond to.

19                  THE CHAIRMAN: Mr. Smith, can you phrase your  
20 questions to this Panel dealing with the filing the  
21 Application that is before us, together with the evidence, so  
22 that we can be assisted in understanding the -- the various  
23 issues of concern to INAC?

24                  MR. RANDAL SMITH: Yes, thank you, Mr. Chair.

25                  MR. ROBERT MAYER: All right, Mr. Smith, I

1 think we should clarify for you.

2           We heard evidence, I think from Mr. Mills, at  
3 a different Hearing, about funding formulas that were set up  
4 somewhere -- something based on something out of Toronto,  
5 that -- that -- that rings a -- a real bell with me, that  
6 this formula that was set up and for financing the energy  
7 costs to a community in Brochet, Lac Brochet, Shamattawa, and  
8 Tadoule Lake, was based on some kind of funding formula that  
9 they dreamed up in Toronto.

10           That evidence I thought came from INAC at the  
11 previous Hearing, and I heard that evidence, and I know you  
12 weren't here, sir, but I'm assuming you have -- at least have  
13 access to those transcripts?

14           MR. RANDAL SMITH: Yes, thank you, Mr. Mayer.  
15 The point simply was that for the portion that is funded by  
16 INAC, that if they fund it once and then have to -- or Hydro  
17 then seeks to bill INAC for it subsequently, then in effect  
18 they're being asked to pay it twice, that portion at least.

19           But that -- I made the point and I'm prepared  
20 to move on, thank you, Mr. Mayer.

21           MR. ROBERT MAYER: Well, I would say that --  
22 that that is an argument I think we could listen to for the  
23 first bill. I don't know how long Indian Affairs or INAC  
24 would be dumb enough to pay twice. If they subsequently  
25 billed, I'm assuming that they would have sorted that out

1 with their First Nation client. But I -- I take it we're not  
2 going to hear any evidence on that, because you guys aren't  
3 on the list to be calling --

4 MR. RANDAL SMITH: That's right.

5 MR. ROBERT MAYER: -- any evidence either.

6 MR. RANDAL SMITH: That's correct, thank you.

7

8 CONTINUED BY MR. RANDAL SMITH:

9 MR. RANDAL SMITH: Are you familiar with  
10 Manitoba Hydro Act Regulation 186/90, being Electric Power  
11 Terms and Conditions of Supply Regulation?

12

13 (BRIEF PAUSE)

14

15 MR. VINCE WARDEN: Yes, we're -- we're  
16 familiar with this.

17 MR. RANDAL SMITH: Can I direct you then to  
18 paragraph 15(i), entitled, Payment for Power?

19 THE CHAIRMAN: Mr. Smith, just to make sure I  
20 understand, is it regul -- Revised Regulation H-190-R1?

21 MR. RANDAL SMITH: Yes.

22 THE CHAIRMAN: And you're referring to clause  
23 15?

24 MR. RANDAL SMITH: 15(i)

25 THE CHAIRMAN: Thank you.

1 MR. RANDAL SMITH: Thank you.

2

3 CONTINUED BY MR. RANDAL SMITH:

4 MR. RANDAL SMITH: And to quote that for you:

5 "The user shall pay Manitoba Hydro for  
6 power supplied at the rates and for a  
7 period of time not less than the minimum  
8 term, as established by Manitoba Hydro,  
9 from time to time for the class or classes  
10 of service, supplied to the user."

11 Now, would it be fair to say that this  
12 basically states that the user pays for Manitoba Hydro's  
13 services?

14 MS. PATTI RAMAGE: I'm unclear if Mr. Smith is  
15 asking the Manitoba Hydro witnesses for an interpretation of  
16 legislation, is that what --

17 MR. RANDAL SMITH: Well, is this -- is this in  
18 keeping with your policies and practices that it's only the  
19 user who pays for power in Manitoba?

20 MS. PATTI RAMAGE: Then I think that -- that  
21 we're looking for a legal interpretation here.

22 MR. RANDAL SMITH: No, we're looking for what  
23 you do. What do you do? Do you bill only the user, as this  
24 seems to stipulate? Is that your policy and practice?

25 THE CHAIRMAN: Isn't that a foregone

1 conclusion, but maybe, Mr. Warden, you could help.

2 MR. VINCE WARDEN: Sorry, Mr. Smith, would  
3 you please restate your question?

4

5 CONTINUED BY MR. RANDAL SMITH:

6 MR. RANDAL SMITH: Is it your practice and  
7 policy at Manitoba Hydro to bill only the user of power for  
8 the cost of that usage?

9 MR. VINCE WARDEN: Under normal  
10 circumstances, yes.

11 MR. RANDAL SMITH: So where in this  
12 regulation does it give you any ability to bill a non-user,  
13 such as INAC, for any of the charges for the power used?

14 MS. PATTI RAMAGE: I think this is a matter  
15 dealt with in argument not to the -- questions to the  
16 witness.

17 THE CHAIRMAN: Mr. Smith, is there any way  
18 that you can pose your question that gets it out of the legal  
19 realm and the argumentative round?

20 MR. RANDAL SMITH: I'll try, Mr. Chair.

21 MR. ROBERT MAYER: Mr. Smith, I think we have  
22 your point. I'm not suggesting we agree with it, but I  
23 certainly understand the point you're making with the -- with  
24 your question and the regulation is before us.

25 MR. RANDAL SMITH: That's fair. Thank you,

1 Mr. Vice Chair.

2

3 CONTINUED BY MR. RANDY SMITH:

4 MR. RANDAL SMITH: You would agree, would you  
5 not, that the user of the diesel power that we've been  
6 discussing here for the last two (2) days are the First  
7 Nation customers; is that correct?

8 MR. VINCE WARDEN: The user of the energy is  
9 the First Nation customers yes.

10 MR. RANDAL SMITH: As opposed to power, okay.  
11 And INAC is not a user of the power in any of these First  
12 Nations; is that correct?

13 MR. VINCE WARDEN: I'm sorry?

14 MR. RANDAL SMITH: INAC is not a user of the  
15 energy in any of these First Nations; is that right?

16 MR. VINCE WARDEN: I believe, to the best of  
17 my knowledge, that is correct. There are agencies of  
18 government but I don't believe INAC has any offices in those  
19 communities.

20 MR. RANDAL SMITH: You're referring to the  
21 RCMP, and --

22 MR. VINCE WARDEN: Yes. Yes, I am.

23 MR. RANDAL SMITH: Turning to page 28 of

24 Exhibit 2 --

25 MR. BOB PETERS: Excuse the interruption, Mr.

1 Smith, across the room here, for those of us who have been  
2 lazy and not numbered our pages, could you just give us the  
3 reference?

4 THE CHAIRMAN: It is a draft diesel service  
5 in Manitoba Indian and Northern Affairs Canada/Manitoba Hydro  
6 executive conference room number 3, 820 Taylor, March 14th,  
7 2002 at 2:30 and it's the minutes of that meeting; is that  
8 correct, Mr. Smith?

9 MR. RANDAL SMITH: That's correct --

10 MR. BOB PETERS: Thank you.

11 MR. RANDAL SMITH: -- Mr. Chair.

12 MR. BOB PETERS: Thank you both.

13

14

(BRIEF PAUSE)

15

16 CONTINUED BY MR. RANDAL SMITH:

17 MR. RANDAL SMITH: Do we have that, Mr.

18 Warden and Mr. Wiens?

19 MR. VINCE WARDEN: Yes, we have that.

20 MR. RANDAL SMITH: In paragraph 2 of those  
21 minutes, I just refer you to the first paragraph and ask if  
22 you can confirm that these were -- these reflect the comments  
23 of the -- of the Regional Director General, Marilyn Kapitany  
24 at that meeting and I'll quote:

25 "Marilyn Kapitany began by noting that INAC

1 is not a customer of Manitoba Hydro in the  
2 diesel communities and, therefore, can't  
3 pay the bills of First Nations. She noted  
4 that INAC does not have the statutory  
5 authority to pay these bills on behalf of  
6 First Nations."

7 Were those the comments you recall Ms.  
8 Kapitany making at that time?

9 MR. VINCE WARDEN: Yes, I think the minutes  
10 accurately capture what Ms. Kapitany said.

11 MR. RANDAL SMITH: And was it your  
12 understanding from those comments that INAC is not able to  
13 pay these bills for surcharges even if it wanted to; would  
14 that be a fair characterization of her comments?

15 MR. VINCE WARDEN: No, we didn't come to that  
16 conclusion, that we were just reflecting what her statements  
17 were, but, we did not conclude that ourselves.

18 MR. RANDAL SMITH: So, when it says in that  
19 last line of that first paragraph:

20 "INAC does not have the statutory authority  
21 to pay these bills on behalf of First  
22 Nations."

23 You didn't take that to mean that INAC  
24 couldn't pay those bills, even if it wanted to?

25 MR. VINCE WARDEN: We did not accept that as a

1 legal position.

2 MR. RANDAL SMITH: I see. Okay.

3

4 (BRIEF PAUSE)

5

6 MR. ROBERT MAYER: I don't suppose you ever  
7 thought of just cutting INAC's power off in Winnipeg, eh?

8 MR. RANDAL SMITH: Does that come under  
9 section 17 of the regulations?

10

11 (BRIEF PAUSE)

12

13 CONTINUED BY MR. RANDAL SMITH:

14 MR. RANDAL SMITH: Then turning to page 30 of  
15 Exhibit 2.

16

17 (BRIEF PAUSE)

18

19 MR. RANDAL SMITH: In the first paragraph, Ms.  
20 Kapitany writes to Mr. Brennan, at Manitoba Hydro and  
21 suggests in the -- starting in the second line:

22

23 "Rates charged to the First Nations  
24 serviced by diesel generation is a matter  
25 for the First Nations. It is suggested  
that Grand Chief Flett of MKO, be

1                   approached with respect to the rate  
2                   structure proposed in your letter."  
3                   Can you advise the Board whether that, in  
4 fact, was accepted? Did you, in fact, follow that suggestion  
5 from Ms. Kapitany?

6                   MR. VINCE WARDEN: No, but, it was  
7 acknowledged in a letter from Mr. Brennan dated October the  
8 10th, which is the following page in your exhibit.

9                   MR. RANDAL SMITH: Yeah, my question relates  
10 specifically to her suggestion that Manitoba Hydro meet with  
11 Grand Chief Flett to discuss the rate structure being  
12 proposed.

13                   MR. VINCE WARDEN: That was not done.

14                   MR. RANDAL SMITH: There was no consultation  
15 with the First Nations then, in that respect?

16                   MR. VINCE WARDEN: As a result of this letter,  
17 no.

18                   MR. RANDAL SMITH: Was there any consultation  
19 as a result of this letter, or otherwise?

20                   MR. VINCE WARDEN: Well, I did refer you to  
21 the --

22                   THE CHAIRMAN: Your mic please.

23                   MR. VINCE WARDEN: -- I'm sorry -- well, I did  
24 refer you to the follow up letter, in which it was suggested  
25 that I believe, that we were at an impasse, but we would be

1 prepared to meet further to discuss a solution.

2                   And that was the response to Ms. Kapitany's  
3 letter.

4

5 CONTINUED BY MR. RANDAL SMITH:

6                   MR. RANDAL SMITH: Thank you.

7

8                   (BRIEF PAUSE)

9

10                   MR. RANDAL SMITH: On page 7, not of my  
11 Exhibit 2, but, of your rebuttal evidence, I'm moving away  
12 from Exhibit 2 and this should be my final line of  
13 questioning.

14

15                   (BRIEF PAUSE)

16

17                   MR. ROBIN WIENS: I have that.

18                   MR. RANDAL SMITH: On page 7, line 16 and 17,

19 I quote:

20

21

"Manitoba Hydro prefers direct payment by  
Canada of this obligation."

22

Do you see that?

23

MR. ROBIN WIENS: Yes, I do.

24

25 preference, is that fair?

1 MR. ROBIN WIENS: Yes.

2 MR. RANDAL SMITH: And isn't it similar to  
3 saying that you'd prefer my employer, the source of my  
4 funding, to pay you directly from my Hydro bills?

5 MR. ROBIN WIENS: No, it's not.

6 MR. RANDAL SMITH: Okay.

7

8 (BRIEF PAUSE)

9

10 MR. RANDAL SMITH: Now, you have referred  
11 throughout to what you perceive and what you believe to be  
12 Canada's responsibility to First Nations and you've heard and  
13 in various proceedings before the Board, you realize that  
14 INAC does provide funding to the First Nations for their  
15 operations and -- and programs, you're aware of that; is that  
16 fair?

17 MR. VINCE WARDEN: Yes, we're aware that  
18 they've provided funding at some level.

19 MR. RANDAL SMITH: And do I understand your  
20 position correctly then, that even though you're aware that  
21 the Government of Canada provides that funding to the First  
22 Nations, we take it that it's your position that for some  
23 reason that's simply not enough, Canada's not doing enough  
24 for the First Nations, is -- is that what you're saying, or  
25 how do I understand your position that Canada is somehow not

1 living up to its responsibilities?

2 MR. VINCE WARDEN: I don't think we ever  
3 stated that Canada wasn't living up to its responsibilities.  
4 How the -- how Canada chooses to fund those First Nations  
5 though, is really not a -- an issue for Manitoba -- Manitoba  
6 Hydro to comment on. All we want is to have our bills paid,  
7 and if Canada has a fundamental responsibility to provide  
8 basic services, including electricity, then on -- in  
9 consideration of the fact that we have contracts dating back  
10 to the 60's and a relationship with the Government of Canada  
11 over those intervening years, it seems reasonable that they  
12 should be ultimately responsible for paying those costs, and  
13 that's our position.

14 MR. RANDAL SMITH: Well, you say all you want  
15 is for those bills to be paid, but those bills for the  
16 surcharges were in fact being paid by the First Nations until  
17 November of 2000, and we've heard your evidence to that  
18 affect, isn't that correct?

19 MR. VINCE WARDEN: Yes.

20 MR. RANDAL SMITH: Those are my questions,  
21 thank you, Mr. Chair.

22 THE CHAIRMAN: Thank you very much, Mr. Smith.  
23 Ladies and gentlemen, it's twenty-five (25) after 4:00.  
24 Rather than invite Mr. Anderson to come forth for five (5)  
25 minutes, I think it's unfair to Mr. Anderson. I would

1 suggest that the Board will stand down and reconvene at 9:00  
2 a.m. tomorrow morning.

3                   As I understand it from the information  
4 provided to me, Chief Bussidor will be here at 9:00 a.m.  
5 tomorrow morning, together with Regional Chief Francis Flett,  
6 who will also be here at 9:00 a.m. tomorrow morning to make a  
7 presentation to the Board.

8                   At the conclusions of those presentations,  
9 then I will go back to Mr. Anderson and give him an  
10 opportunity to present his questions to this Panel.

11                   Ladies and gentlemen, with that, we'll stand  
12 down.

13  
14 --- Upon adjourning at 4:25 p.m.

15  
16 Certified Correct

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19  
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24  
25

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Carol Geehan  
Court Reporter