

1 MR. NOSEWORTHY, CHAIRMAN: Good morning
2 everybody. Some familiar faces out there and some not
3 so familiar faces. I'd like to welcome everybody in
4 attendance here this morning for the scheduled
5 beginning of the hearing into Newfoundland Power's
6 2003 capital budget application. To all participants
7 including the Applicant, the registered Intervenor,
8 their counsels, support staff, along with any public
9 organizations or individuals as well as the media, I
10 extend to each of you a welcome and I certainly look
11 forward to a productive and fair hearing.

12 My name is Bob Noseworthy and I'm the Chair
13 and CEO of the Public Utilities Board. I keep having to
14 introduce myself because there may be a few people out
15 there that's new to this process. For purposes of this
16 public hearing I will serve as the Chair of the panel
17 which has been delegated the responsibility to indeed
18 hear the application.

19 My colleagues joining me on the panel here
20 this morning, to my left, Commissioner Darlene Whalen,
21 who is Vice-Chair of the Public Utilities Board. To my
22 right is Commissioner Bill Finn, who is a part-time
23 commissioner with the Board and is a lawyer in private
24 practice in Carbonear. I'd also like to introduce to my
25 left at the table here, Mark Kennedy, who is attempting
26 to grow a beard. Mr. Kennedy, it's quite becoming.
27 Mark is the Board hearing counsel. Mark is a lawyer in
28 private practice in the city. Dwanda Newman is the
29 Board's solicitor and Board Counsel for the hearing.
30 Dwanda is in the middle, and Cheryl Blundon is Board
31 Secretary and is also Director of Corporate Services
32 with the Board. And in the back table on the left, I'd
33 like to introduce as well, Mr. Robert Byrne, who is
34 Director of Regulatory and Advisory Services with the
35 Board, and Doreen Dray, who is the Financial and
36 Economic Analyst with the Board, and indeed is
37 instrumental in these applications.

38 This public hearing by the Public Utilities
39 Board is for the purpose of deciding on Newfoundland
40 Power's application regarding its 2003 capital budget
41 and pursuant to the Public Utilities Act, Newfoundland
42 Power are seeking approval for the purchase,
43 construction, and lease in 2003 of the improvements
44 and additions to its property as set out in the
45 application, and also the fixing and determining of
46 Newfoundland Power's average rate base for 2001, and
47 I'll now ask Board Counsel, Ms. Newman, to formally
48 enter the matter before us this morning, and to confirm
49 issuance of the appropriate public notices respecting

50 this hearing. Ms. Newman?

51 MS. NEWMAN: Thank you, Mr. Chairman. Good
52 morning, everybody. I can confirm that the application
53 from Newfoundland Power was received by this Board
54 on August 2nd, 2002. On October 4th, 2002, a letter was
55 received from Newfoundland Power advising of some
56 small corrections of errors and omissions and revisions.
57 On October 21st, 2002, Newfoundland Power filed a
58 slightly amended application. On October 28th, 2002,
59 Newfoundland Power filed pre-filed testimony and
60 exhibits.

61 Notice of this application has been published
62 in newspapers throughout the province, beginning on
63 October 23rd, 2002, with newspapers including, the
64 Evening Telegram, the Western Star, the Shoreline, the
65 Express, the Compass, the Packet, the Southern Gazette,
66 the Beacon, the Pilot, the Advertiser, the Nor'Wester,
67 the Coaster, the Humber Log, the Georgian, the Gulf
68 News, the Labradorian, the Charter, and the Northern
69 Pen. Notice of this application and hearing is on file
70 with the Board's Secretary and forms part of the record.
71 I can confirm that this hearing is duly constituted
72 pursuant to the provisions of the Public Utilities Act.

73 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
74 Newman. Could you also indicate the Intervenor's
75 submissions that were received prior to the October
76 30th deadline stipulated in the Board's notice of the
77 public hearing, and also, indeed, if there are any
78 requests from persons or organizations before
79 yesterday's deadline to make oral presentations
80 concerning the application, and indeed, if there are any
81 letters of comment on the application which has been
82 filed with the Board to date, please?

83 MS. NEWMAN: Yes, Mr. Chair, we did receive, in fact,
84 two Intervenor submissions; one from the Consumer
85 Advocate, dated and received October 30th, and one
86 from Newfoundland and Labrador Hydro, dated and
87 received on October 30th. We have received to date no
88 requests for oral presentations and neither have we
89 received any letters of comment. There have been some
90 information requests exchanged, and I would note for
91 the record that some new information requests were
92 filed this morning, and I'm assuming all the parties have
93 received those, and the Board has checked the
94 numbering of these items to date, and we would note
95 that there is one mistake in CA-27. According to our
96 records, there is no (e) or (f) in this particular
97 information request, so there is an (a), (b), (c), (d), and

1 it goes right to (g), (h), and (i). Those are all the
2 procedural matters that I have.

3 MR. NOSEWORTHY, CHAIRMAN: Thank you very
4 much. I would ask at this point in time if the Applicant
5 and the Intervenors could introduce themselves and
6 indicate in what capacity they are participating in the
7 hearing, and indeed, where lead counsel would have a
8 co-counsel who would be participating in the hearing,
9 if they could introduce themselves as well and I'll begin
10 with Newfoundland Power, please?

11 MS. BUTLER, Q.C.: Good morning, Mr. Chairman and
12 Commissioners, Gillian Butler and Peter Alteen will
13 represent Newfoundland Power Inc. throughout the
14 entire proceeding.

15 MR. NOSEWORTHY, CHAIRMAN: Thank you, the
16 Consumer Advocate?

17 MR. BROWNE, Q.C.: My name is Dennis Browne, the
18 Consumer Advocate appointed under the Public
19 Utilities Act to represent Newfoundland Power's
20 218,000 customers, the consumers of the province, and
21 with me is Stephen Fitzgerald, who will be co-counsel.

22 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
23 Browne. Newfoundland Hydro please?

24 MS. GREENE, Q.C.: Good morning, Mr. Chair,
25 Commissioners, my name is Maureen Greene, I am
26 counsel for Newfoundland Hydro. It is possible,
27 depending on the length of the hearing that Mr. Young
28 may be here on occasion throughout the hearing as
29 well, as co-counsel.

30 MR. NOSEWORTHY, CHAIRMAN: Thank you very
31 much. Are there any other parties present today who
32 wish to give notice of their intention to intervene in this
33 hearing or make an oral presentation, who haven't
34 already done so? Okay, having heard none, I would
35 reiterate that letters of comment from interested parties,
36 either organizations or individuals may be made to the
37 Board any time up to the close of the hearing, so that
38 still offers the possibility for those who are interested.

39 I would, if you would bear with me for a
40 moment, I'm trusting that possibly everybody, or at
41 least ninety percent of the people know why we're here,
42 and what process we go through. This is a public
43 hearing nonetheless, and there may be people
44 attending these from time to time from the general

45 public who indeed would not be familiar with the role of
46 the Board, or indeed the process that we follow, and I
47 think it's incumbent on myself as Chair to at least briefly
48 outline what we're here, and what we're about, so with
49 the indulgence of counsel for the parties, and indeed
50 everybody here, I'll just take a brief moment to outline
51 that role and the process.

52 The Board derives its authority to conduct this
53 hearing from provincial statutes and legislation,
54 primarily the Public Utilities Act and the Electrical
55 Power Control Act. The Board has an obligation under
56 this legislation to regulate electric utilities operating in
57 the province and this includes Newfoundland Power.

58 The Board, in accordance with its legislative
59 responsibilities has a duty to hear the evidence
60 presented by the Applicant, Newfoundland Power, and
61 other interested parties, and at the end of the process
62 render a decision. In fulfilling its statutory
63 responsibilities, the Board must protect the interests of
64 all parties, including producers, retailers, and
65 consumers of electricity. In doing this it must also be
66 sensitive and strive to balance the interests of each
67 class of consumer, whether they be households,
68 businesses, industries, both small and large users of
69 electricity.

70 Over the next several days the Board will hear
71 a variety of evidence on the issues contained in this
72 application. The evidence will be presented to the
73 Board by witnesses for the Applicant, Newfoundland
74 Power, and the Intervenors, the Consumer Advocate,
75 and Newfoundland and Labrador Hydro. Each party to
76 the hearing will have the opportunity to cross-examine
77 the witnesses and evidence put forward by the other
78 parties.

79 The process involves one of questioning and
80 testing the information and data presented by each of
81 the witnesses, to ensure that the necessary evidence
82 reaches the Board to enable it to deliberate in a fair and
83 equitable fashion on all issues arising from the
84 application. Following these deliberations the Board
85 sets out its decision in an order which is binding on the
86 parties, but can be appealed subject to the provisions
87 of the Public Utilities Act. And that concludes the
88 more general remarks, I guess, I would have concerning
89 the role of the Board and the process.

90 There are, indeed, a number of other specific
91 items relating to the hearing here this morning, and I

1 will be inviting comment from counsel on these items
2 following. In terms of the procedural rules and
3 regulations for this hearing, I'll ask Ms. Newman to
4 address this issue initially.

5 MS. NEWMAN: Yes, while Regulation 39.9.6, pursuant
6 to the Public Utilities Act, sets out the general rules and
7 procedures of the Board, I propose that this proceeding
8 be conducted pursuant to the rules established by this
9 Board in PU-27, 2002/2003, for the Newfoundland Power
10 General Rate Application, to the extent that they may be
11 applicable here. I suggest that the Board and the
12 parties be guided by these rules, and I'll have ...
13 although the parties are very familiar with them, I'll have
14 the Secretary circulate them to allow you to have a
15 copy of them.

16 I would suggest that the Board and the parties
17 be guided by these rules that are set out in Appendix
18 A, items four and five, except that Sections 10 and 11 as
19 they relate to the timing and the motions may not have
20 application here given the timing of this particular
21 matter, so what I would suggest in relation to motions
22 is that it be left to the discretion of the Board to
23 establish its rules as appropriate in each individual
24 case.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you once
26 again, Ms. Newman. I believe these rules of procedures
27 have been circulated and indicated as Appendix A, Item
28 4, arising from the PU-27. The second item, these
29 proceedings are being recorded under the supervision
30 of the Board's Secretary, Ms. Blundon, and they indeed
31 will be transcribed overnight. I am advised by the
32 transcription people that they will strive to have the
33 transcription completed by early evening. I am advised
34 that 8:00 is an outside time, hopefully they'll have it
35 around the dinner hour. I'm sure everybody would like
36 to read that over their dinner hour, no question about
37 that. Anyway, the transcription services will be
38 available on a timely basis. They will be emailed to the
39 parties immediately upon completion, with the paper
40 copy available for the commencement of the hearing the
41 following day, and this way we hope to maintain
42 continuity certainly, and an up to day and current
43 record of the proceedings as they unfold.

44 The electronic filing previously adopted by the
45 Board for the Newfoundland and Labrador Hydro
46 General Rate Application is in place for this proceeding
47 and will also apply throughout Newfoundland Power's
48 upcoming general rate application. Subject to some

49 limitations, copies of all documentation filed with the
50 Board in this proceeding, including the daily
51 transcription will be placed on the Board's website, and
52 will be used in electronic format throughout the course
53 of this hearing itself. The electronic file will not
54 however be the official record. The paper version
55 contained in, I guess, some rather large binders whose
56 control is vested with the Board's Secretary, Ms.
57 Blundon, comprises the official record of the
58 proceedings.

59 Ms. Butler, could I ask you to, at least at this
60 point in time, introduce Mr. Chris Wells, who will be,
61 indeed, supplying all the electronic data and
62 information that we will be using throughout the
63 hearing, and if it's based on, I think it was Mr. O'Reilly
64 with Newfoundland Hydro, he's probably, if not the
65 most important person in the room, one of the most
66 important people in the room, please, if you would?

67 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I
68 certainly will. Mr. Chris Wells, who is apparent to the
69 left of myself in the far corner of the room, will be
70 running the information technology for the benefit of all
71 the participants. Mr. Wells is, of course, the
72 counterpart of Terry O'Reilly who assisted us all so
73 greatly in Hydro's GRP capital budget application in
74 2002, and I'm sure the system will run very well again,
75 Mr. Chairman.

76 MR. NOSEWORTHY, CHAIRMAN: Welcome, Mr.
77 Wells, and thank you from the bottom of my heart.
78 Board hearings, indeed, are not court trials, however
79 evidence is normally given under oath, and procedures
80 governing conduct are somewhat similar to a court.
81 The Board's main goal is to get the facts on the record
82 in a way that is convenient to the parties and the public
83 interest. It is not necessary for lawyers or witnesses to
84 stand while questioning or giving evidence, certainly,
85 however, we would ask that witnesses take the
86 designated seat to the right on the witness stand,
87 unless making a presentation or referring to a display.

88 For the purpose of giving evidence in this case
89 or matter, witnesses may either swear an oath on the
90 Bible or swear an oath in accordance with another
91 religious belief, or give a solemn affirmation to tell the
92 truth, which refers to no religious belief, the choice
93 rests with the witness, and in the case of the witness
94 choosing to declare by way of solemn affirmation, I
95 would ask counsel to indicate the same upon
96 presenting the witness, and in the event of swearing an

1 oath in accordance with another religious belief, I
2 would ask counsel to advise the Board's Secretary of
3 this in advance so that appropriate arrangements can be
4 made if needed.

5 The daily sitting hours for this hearing will
6 begin at 9:00 a.m. through to 1:30, with a half hour break
7 from 11:00 to 11:30 a.m., and today is the exception,
8 since indeed we did start at 9:30. We'll schedule a break
9 at 11:00 to 11:30 at the appropriate time and we'll see
10 where the morning takes us from there. I will now invite
11 comments from the parties on any of those items,
12 specific items that I've outlined, and I'll begin with Ms.
13 Butler please?

14 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I
15 wonder if might first address the opening comments of
16 Ms. Newman in relation to the procedural rule. We had
17 discussed during the counsel meetings on November
18 4th and November 8th that it may be suggested that in
19 general the procedural rule that we had agreed upon for
20 the GRP would apply, and I had made it clear on both
21 those occasions, and I thought it was understood and
22 agreed between all parties that, in fact, while this
23 procedural rule does not contemplate it, clearly it was
24 always contemplated for this proceeding that Mr.
25 Hughes would be giving an opening statement, and
26 that would be in form of direct examination from myself,
27 and in addition, that Mr. Ludlow, when he takes the
28 stand in a day or two, will be guided throughout his
29 direct examination with a Powerpoint presentation.
30 That format is identical to what was followed by
31 Newfoundland Power in its capital budget last year and
32 should come as no surprise to any of the participants in
33 the room today because it has been openly discussed
34 by counsel twice.

35 MR. NOSEWORTHY, CHAIRMAN: Thank you very
36 much. Mr. Browne, Consumer Advocate please?

37 MR. BROWNE, Q.C.: No, we have no, we find no fault
38 with the practice of direct examination, the only thing
39 we took exception to in the past were speeches by
40 witnesses, so we'll keep it to that.

41 MR. NOSEWORTHY, CHAIRMAN: Thank you very
42 much. Ms. Greene, please?

43 MS. GREENE, Q.C.: Thank you, Mr. Chair, the
44 procedural rules as outlined by Ms. Newman are
45 acceptable to Hydro and the proposal by Ms. Butler, as
46 she mentioned, was discussed with counsel and agreed

47 to by counsel previously, so I have no objection to
48 that.

49 MR. NOSEWORTHY, CHAIRMAN: Thank you very
50 much. Ms. Newman, I wonder are there any other ...
51 before we get started ... preliminary matters before us?

52 MS. NEWMAN: No, Mr. Chair, I'm not advised that
53 there are any other matters that need to be addressed at
54 this time.

55 MR. NOSEWORTHY, CHAIRMAN: I will provide the
56 opportunity for counsel before we get into
57 Newfoundland Power presenting their witnesses, for
58 counsel to make any opening statement that they
59 would like to make at this point in time, and I would ask
60 then if they would outline for the purposes of the
61 proceeding, any witnesses that you would intend to
62 call as well, please, so we don't have, we don't have a
63 procedure order per se relating to that in this particular
64 circumstance, so I'd just like for all our benefit, if indeed
65 counsel could outline for us any witnesses that they
66 would intend to call. Newfoundland Power, please?

67 MS. BUTLER, Q.C.: Thank you again, Mr. Noseworthy.
68 Before I actually give the brief opening statement on
69 behalf of Newfoundland Power, there were a couple of
70 procedural filing issues that Mr. Alteen was going to
71 address.

72 MR. ALTEEN: Yes, Mr. Chairman, as Ms. Newman
73 alluded to this morning, this morning we filed additional
74 responses to 16 more requests for information with a
75 couple of revisions. Currently outstanding it's in the
76 order of six or seven questions which will be filed in the
77 normal course over the next couple of days. As Mr.
78 Wells has been introduced, I can inform the Board that
79 full electronic copies of the record as of this morning
80 have been made available to all counsel in this
81 proceeding, and I have asked them to either inform me
82 or Mr. Wells directly about their needs as to revisions,
83 but we would intend to revise the disk or produce an
84 additional disk at some time where the increment of
85 additional evidence warrants, not necessarily on every
86 single sheet of paper. That's all, Mr. Chairman.

87 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
88 Alteen. Ms. Butler, please?

89 MS. BUTLER, Q.C.: Thank you, Mr. Chairman. Good
90 morning again, this is, of course, the hearing of
91 Newfoundland Power's application filed, as Ms.

1 Newman indicated, originally on August 2nd, and
2 amended on October 21st, 2002. The application is
3 presented principally under Section 41 of the Public
4 Utilities Act, seeking approval of Newfoundland
5 Power's 2003 capital budget in the amount of \$55.8
6 million. However, Mr. Chairman, the application also
7 requests that the Board fix and determine the company's
8 rate base for 2001 under Section 78 of the same Act.
9 With the provision of Grant Thornton's report to the
10 Board last Friday, we anticipate that this second issue
11 would consume very little of the Board's time during the
12 hearing.

13 With respect to witnesses, following
14 identically the format from last year's capital budget
15 hearing, there will be five witnesses. First, Mr. Philip
16 Hughes, President and Chief Executive Officer, and Mr.
17 Barry Perry, VP Finance and Chief Financial Officer will
18 testify as a panel. They will be followed by Mr. Earl
19 Ludlow, VP Engineering and Operations, who will give,
20 as I indicated, a Powerpoint presentation in his direct
21 exam, and Mr. Ludlow will be followed by a second
22 panel comprised of Ms. Nora Duke, VP Customer and
23 Corporate Services, and with her, Mr. Peter Collins, the
24 Manager of Information Systems.

25 As we have openly discussed and agreed
26 upon, Mr. Hughes will have a brief opening statement
27 in a few minutes in the form of a direct exam. In fact, the
28 only procedural difference, Mr. Chairman, between last
29 year's capital budget hearing and this is the presence of
30 Intervenor, which has understandably led to a more
31 significant record. That record, in fact, now comprises
32 in excess of 6,000 pages.

33 Newfoundland Power has faced an aggressive
34 schedule in preparing for this hearing but as was
35 indicated in the Board's guidelines, all RFIs that were
36 filed on November 1st were, in fact, responded to by
37 the date indicated on November 8th. Those presented
38 after November 1st, Mr. Chairman, will be responded to
39 certainly over the next few days, and just let me say
40 that Newfoundland Power has responded to each and
41 every RFI without objection on the basis of relevancy
42 or otherwise, in the interest of having this capital
43 budget addressed by the end of 2003, ultimately for the
44 benefit of Newfoundland Power's customers, but we
45 feel it appropriate to say we would not want that lack of
46 objection to be taken as a precedent in any future
47 hearings.

48 This hearing, Mr. Chairman, as you've already
49 indicated, must be focused on the issues that require
50 adjudication under the statute. It is a capital budget
51 hearing, and we do seek the Board's assistance in
52 assuring that the hearing does not stray into other
53 areas that potentially will be the subject of the
54 upcoming general rate application.

55 The hearing is an investigation into what
56 Newfoundland Power proposes to spend in terms of
57 capital in 2003. Section 37.1 of the Public Utilities Act
58 mandates Newfoundland Power to provide service and
59 facilities that are reasonably safe and adequate and just
60 and reasonable. Safe and adequate facilities and just
61 and reasonable services, Mr. Chairman, cannot be
62 provided without capital expenditures.

63 Newfoundland Power also acknowledges the
64 application of Section 3 of the Electrical Power Control
65 Act which states, of course, that all sources and
66 facilities for production, transmission, and distribution
67 of power should be managed and operated in a manner
68 that would result in the most efficient production,
69 transmission, and distribution, with consumers having
70 equitable access to an adequate supply of power, and
71 power delivered at the least possible cost consistent
72 with reliable service.

73 In essence, therefore, as you've indicated, the
74 focus of this hearing is whether Newfoundland Power's
75 proposal for \$55.8 million in capital expenditures in 2003
76 is reasonably required for it to meet its statutory
77 obligations to each of its 220,000 customers, regardless
78 of whether they are residential, commercial, rural or
79 urban, and regardless of whether these customers
80 happen to fall in growth areas of the province, or areas
81 of out migration.

82 Mr. Chairman, because Newfoundland Power's
83 2003 capital budget is driven by reliability, customer
84 service, and the other factors which will be addressed
85 by Mr. Hughes, and because the capital budget process
86 followed by Newfoundland Power is rigorous, at the
87 conclusion of the hearing we anticipate we will be
88 seeking approval of its 2003 capital budget as
89 presented. Specifically, Newfoundland Power rejects
90 the submissions of the Consumer Advocate in its actual
91 intervention and subsequent submission, that this
92 Board should prioritize projects stated in the capital
93 budget over a three year period, and require
94 Newfoundland Power to share a common VHF system

1 with Newfoundland Hydro. Those are our opening
2 comments, thank you.

3 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
4 Butler. Mr. Browne, do you have any opening remarks,
5 please?

6 MR. BROWNE, Q.C.: Thank you, Mr. Chairman. We
7 recognize that this is a capital budget hearing and our
8 questions for the most part will be focused on that
9 particular budget. However, we recognize as well that
10 the capital budget is a large capital budget, as have the
11 capital budgets been in previous years. For the last
12 number of years the capital budgets seem to be out of
13 whack with what had gone on prior to 1997. This has
14 caused us concern and causes consumers concern
15 ultimately because the company is building up its rate
16 base at an alarming rate.

17 That is why we are making this intervention at
18 this particular time. While it would be, in an ideal world,
19 acceptable, I guess, from Newfoundland Power's
20 perspective, just to deal with the capital budget, it's
21 difficult to isolate the capital budget without looking at
22 some aspects of the general rate application. One leads
23 to the other. The capital budget leads to a build-up in
24 rate base. Rate base leads to the return on rate base,
25 and ultimately the return on equity. Everything is
26 interrelated here, and some of our questions, I will tell
27 you at the outset, will pertain to that. However, we do
28 recognize that the general rate application, we will have
29 a full and complete opportunity to address all issues
30 pertaining to rate of return. That is not an area we will
31 dwell upon, but it is an area that we will have to
32 approach out of necessity from time to time.

33 Other than that, in reference to the witnesses
34 that we intend to call, we will not be calling expert
35 witnesses during this particular phase of the hearing.
36 We will be calling witnesses during the general rate
37 application. During this phase of the hearing we may
38 be calling by way of subpoena, a number of witnesses,
39 but we are reserving our rights on that until we hear
40 what the Newfoundland Power witnesses have to say.
41 We should be able to give the Board some idea of that
42 early next week.

43 We retain our right to examine this budget
44 fully and completely. We have asked for numerous
45 information requests, as you've seen, and we find
46 ourselves a little hard pressed, as I guess was
47 Newfoundland Power in answering the request. We

48 got quite a number of requests back on Friday, and
49 when we get these into our office, we send them to a
50 printer, and we just got two volumes back from the
51 printer at 12:00 yesterday, because of the Monday
52 holiday. So, we are not as prepared as we could be at
53 this point, but we are prepared to engage in the cross-
54 examination of Mr. Hughes, at least for a period this
55 morning. I think these are our only comments at this
56 time. I should say, Mr. Fitzgerald will be cross-
57 examining some witnesses as well. The area he will be
58 crossing is the area of the information systems, the
59 testimony of Ms. Duke and her associate.

60 MR. FITZGERALD: That's correct, Mr. Chairman, and
61 also Ms. Butler just mentioned that all the information
62 requests have been answered. In fact, we're stuck on
63 one at this point, and it's our intention, and we have
64 advised counsel this morning that we will be making a
65 motion on Friday to hear an issue regarding disclosure
66 of a particular information request. Thank you.

67 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
68 Browne and Mr. Fitzgerald. Ms. Greene, Newfoundland
69 and Labrador Hydro, do you have any opening
70 comments?

71 MS. GREENE, Q.C.: Thank you, Mr. Chair. Hydro's
72 interest in this particular application hearing is more of
73 a policy/procedural type interest. Hydro is intervening
74 in the hearing with respect to policies to be applied by
75 the Board in approval of capital budgets for electrical
76 utilities and also with respect to the procedure to be
77 followed by electrical utilities in getting approval for a
78 capital budget, so I would describe our interest as more
79 of a policy/procedural type interest with respect to this
80 particular hearing, and we will not be getting into the
81 specifics of any particular capital projects.

82 With respect to witnesses, we will not be
83 calling witnesses. We will, however, be cross-
84 examining the witnesses to be called by Newfoundland
85 Power, and in closing I would say again, that our
86 interest in this proceeding is more of a
87 policy/procedural type interest in view of the fact that
88 we are also a utility subject to regulation by the Board
89 and we believe that this hearing will be of significance
90 with respect to the policies to be applied by the Board
91 in approval of capital budgets and in the procedures to
92 be followed by electrical utilities in the future. Thank
93 you, Mr. Chair.

1 MR. NOSEWORTHY, CHAIRMAN: Thank you. Just
2 a very brief comment as it relates to the interface, I
3 guess, between the capital budget and certainly the
4 general rate application, and it's ... the Board is really
5 going to apply a fair bit of discipline, I think, in relation
6 to trying to keep these as separate as possible.
7 Certainly, I don't think it's in anybody's interest to get
8 into a duplication here, and while it's recognized that
9 there are perhaps grey areas that exist between the two,
10 that indeed I would ask that counsel strive to try and
11 keep ...

12 MR. BROWNE, Q.C.: Excuse me, Mr. Chairman, we
13 can't hear you?

14 MR. NOSEWORTHY, CHAIRMAN: I would ask that
15 counsel try and strive to keep the issues between the
16 capital budget and the general rate application as clear
17 and distinct as possible so that we don't get into any
18 duplication and extended time that might apply to that,
19 so I would indicate that we will be diligent in that
20 regard. That's it for the opening statements. Ms.
21 Newman, do you have any comments to make, or Mr.
22 Kennedy?

23 MS. NEWMAN: No.

24 MR. KENNEDY: No, Mr. Chair.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you very
26 much, I'll call upon Newfoundland Power and Ms.
27 Butler, if you could present your witnesses please?

28 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I'll just
29 make a brief response to points that came from Mr.
30 Browne and Mr. Fitzgerald. First of all, with respect to
31 relevancy, obviously we'll just object as we see
32 appropriate, and in relation to the one RFI which I had
33 indicated was answered, and which Mr. Fitzgerald has
34 pointed out they have an issue with, it's one thing to be
35 answered, and it's another thing to have an issue with
36 it. We recognize that there is a dispute ongoing with
37 respect to 87(e), and we were prepared to argue the
38 responsibility for that on short notice, so we've actually
39 indicated that we're content to have that argued on
40 Friday morning. I wonder if my two witnesses could be
41 sworn please?

42 MR. NOSEWORTHY, CHAIRMAN: Thank you very
43 much. I'd like to welcome Mr. Hughes and Mr. Perry.
44 Mr. Hughes, do you swear on the Bible that you have
45 in your hand that the evidence to be given by you shall
46 be the truth, the whole truth, and nothing but the truth,
47 so help you God?

48 MR. HUGHES: I do.

49 MR. NOSEWORTHY, CHAIRMAN: Thank you very
50 much, you may be seated. Mr. Perry, do you swear on
51 the Bible that you have in your hand that the evidence
52 to be given by you shall be the truth, the whole truth,
53 and nothing but the truth, so help you God?

54 MR. PERRY: I do.

55 MR. NOSEWORTHY, CHAIRMAN: Thank you very
56 much, and welcome once again. Ms. Butler, please?

57 MS. BUTLER, Q.C.: Thank you. Mr. Hughes first. You
58 are President and Chief Executive Officer of
59 Newfoundland Power Inc.?

60 MR. HUGHES: That's correct.

61 MS. BUTLER, Q.C.: And you have filed pre-filed joint
62 testimony with Mr. Barry Perry who is your VP
63 Finance?

64 MR. HUGHES: That's correct.

65 MS. BUTLER, Q.C.: Do you adopt that testimony, Mr.
66 Hughes, as part of your sworn testimony today?

67 MR. HUGHES: I do.

68 MS. BUTLER, Q.C.: And Mr. Perry, you are VP Finance
69 and Chief Financial Officer of Newfoundland Power
70 Inc.?

71 MR. PERRY: I am.

72 MS. BUTLER, Q.C.: And likewise filed the joint pre-
73 filed testimony with Mr. Hughes?

74 MR. PERRY: I have.

75 MS. BUTLER, Q.C.: Do you also adopt this testimony
76 as part of your sworn testimony today?

77 MR. PERRY: Yes, I do.

78 MS. BUTLER, Q.C.: Now since the application was
79 filed on August 2nd, and your pre-filed testimony on
80 October 28th, there has been substantial additions to

1 the record. This brief examination in chief is designed
2 to give the opportunity to address the case as a whole.
3 Mr. Hughes, can I ask you first, could you advise the
4 Board what you have identified as the main drivers
5 behind the 2003 capital budget of \$55.8 million?

6 MR. HUGHES: Certainly, good morning everybody, I
7 am pleased to address what the main drivers are and
8 really to set the scene for the capital budget. The main
9 drivers for this \$55.8 million capital budget are
10 reliability, customer service, productivity, safety,
11 environment, new services, and customer expectations.
12 This is consistent with the previous five capital
13 budgets.

14 As we know, a sound electrical system is
15 becoming increasingly important in today's
16 technologically dependent economy. This is obviously
17 due to the use of electronics and microprocessors that
18 are now prevalent throughout industry, particularly in
19 fish plants ... where it's also in terms of electrical
20 system, microprocessors in home and business
21 computers, and growing global competition. Even
22 short interruptions in service are becoming far less
23 acceptable to customers and there's an increasing high
24 level of expectations from customers.

25 MS. BUTLER, Q.C.: Thank you, are there any other
26 factors that impact Newfoundland Power's 2003 capital
27 budget?

28 MR. HUGHES: Yes, there are. Firstly, as anybody who
29 is familiar with the utility industry knows, it's a very
30 capital intensive industry. To put this into perspective
31 for Newfoundland Power, we have spent approximately
32 \$1 billion to build our electrical system. The \$1 billion
33 is the original cost of the assets that are in service
34 today. It's approximately \$1 billion. When you stop to
35 think of the nature of the system, it is not difficult to
36 understand the level of investment that's required.
37 We're not connected to the North American grid. In
38 other words, we're an isolated, stand-alone electrical
39 system, and as Mr. Ludlow will explain far better than
40 me, there are a lot of decisions that have to be made
41 and items that are affected in the capital budget that
42 come from being a stand-alone system.

43 Weather conditions, for a utility,
44 Newfoundland's weather is about as bad as it can be.
45 Utilities, the weather that's the worst for utilities is
46 where you get rain, freezing rain, or snow in the plus
47 one to about minus six range, because that's where you

48 get the freezing rain, that's where you get the coating
49 on the lines, and that's what, with freezing rain and high
50 winds will bring down lines. It's the worst temperature
51 range, and as we all know, we get a reasonable amount
52 of that. Also salt spray, and over the previous capital
53 budgets, we've talked about the effect of salt on
54 equipment. The age of the system, we have a system
55 that is reasonably old, so those are the factors that
56 really describe the nature of the system.

57 We have continued to invest in rural
58 Newfoundland, despite the significant out migration
59 in these areas, while at the same time meeting the growth
60 requirements of the Avalon Peninsula. The quality and
61 condition of that infrastructure is vital to our ability to
62 provide quality service for our customers at the lowest
63 possible cost.

64 MS. BUTLER, Q.C.: Thank you, Mr. Hughes, what do
65 you see as the significant components of the 2003
66 capital budget as presented?

67 MR. HUGHES: In terms of the main components, about
68 51 percent or \$28 million will be used for asset
69 replacement and upgrading of our older plant, so just
70 over half, or \$28 million is asset replacement and
71 upgrading. Replacing these assets costs much more
72 than the original equipment. It's costing in the order
73 three and a half times the original cost for a 30 year old
74 asset, so if an asset was \$100 thirty years ago, it's now
75 \$350. There's 51 percent for replacement and
76 upgrading. New capital investment, largely for new
77 growth areas, totals approximately 20 percent or \$11
78 million, and this is really, as you would expect, new
79 customers, new services, or additional load capacity.
80 There's a further ten percent that's technology
81 investment, and that's approximately \$6 million of the
82 budget. This level of investment is needed to support
83 the electrical system and the processes required in the
84 operation of the business. The other way we use
85 technology is it's also necessary to achieve
86 productivity improvements, and operational efficiency
87 that will benefit all customers. The quality of service
88 and customer interactions with Newfoundland Power is
89 enhanced through the use of technology, and I think
90 it's fair to say that we are making progress. Our
91 customer satisfaction has increased from 70 percent in
92 1996 to 90 percent in 2001 and 2002.

93 As I mentioned earlier, Earl Ludlow, who is our
94 VP Engineering and Operations, will follow me. Nora
95 Duke, who is Vice-President, Customer and Corporate

1 Services, and Peter Collins, who is Manager of IS, they
2 will provide a more detailed review of the specific
3 capital budget initiatives.

4 MS. BUTLER, Q.C.: Thank you, now Mr. Browne has
5 already raised in his opening address this morning, Mr.
6 Hughes, the actual size of the 2003 capital budget.
7 Would you comment on the overall size of the
8 proposed 2003 capital budget for the benefit of the
9 Board, please?

10 MR. HUGHES: Certainly. Maybe the way to start is
11 look at it from a historical perspective. Over the last 20
12 years, the average annual capital budget, adjusted for
13 inflation, is approximately \$48 million. If you take the
14 2003 capital budget and you take out the Aliant poles
15 and you adjust for inflation, it's approximately \$50
16 million, so you've got a historical average of \$48 million,
17 you've got a 2003 of \$50 million adjusted for inflation
18 and Aliant, so therefore, the 2003 proposed capital
19 budget is essentially the same as the average for the
20 last 20 years on a like-to-like basis.

21 I think the other aspect to think about the size,
22 and to judge whether it's reasonable or not, and I think
23 it's a very fair question, is that, and I talked before
24 about we're a capital intensive business. You've got a
25 billion dollars in original capital costs. The average life
26 of assets is 30 years, some of the ones we're going to be
27 talking about are older. For example, the Lockston
28 Penstock (*phonetic*) was put in place in 1956. We've
29 also, talking about the size of the business, we've got
30 approximately 220,000 customers, we've got
31 approximately 250,000 poles, \$380 million in sales, and
32 we've got fewer employees than we've ever had. So if
33 you put all that ... capital intensive, the size of the
34 business together, intuitively, a capital budget of \$55.8
35 million is very reasonable.

36 MS. BUTLER, Q.C.: Mr. Hughes, historically, what do
37 you see as the principal differences between this year's
38 capital budget and those that have been presented to
39 the Board for approval in the past?

40 MR. HUGHES: If you will permit me, I'm going to go
41 and take us through the last 20 years. In the late
42 eighties and early nineties, and the reason I'm going to
43 do that is try and put it into perspective, because the
44 different phases and different capital budgets are
45 relevant at different times. In the late eighties and early
46 nineties, our capital budget focus was on construction
47 and building the system to meet the customer growth

48 and demand. As we moved into the period from 1993 to
49 1997, we drastically reduced the level of investment to
50 reflect the economic conditions of the day, in other
51 words, the cod moratorium. With hindsight, we
52 probably went too far in our reduction in capital
53 expenditures, whether in energy supply with penstock
54 surge tanks, or on the electrical system. Why do I
55 believe this? For two reasons. One, what we see now
56 in the system, and two, if you go back to those times,
57 about the comment that was at that time, and we're
58 talking the period of '93 to '97 when there was the
59 reduction. In 1995, civic officials from the community of
60 Branch, and this is down below one, made complaints
61 to the Board regarding the number and length of
62 service outages experienced in the community.

63 In the period from 1995 to 1997 civic officials
64 from the communities of Bay de Verde, Old Perlican,
65 and Grate's Cove ... is is Old Perlican, 01, made
66 complaints to the Board regarding the number and
67 length of service outages experienced in their
68 communities. There is absolutely no doubt that the
69 customers served by those feeders were dissatisfied
70 with the reliability of the service provided. This level of
71 expenditure in the early nineties reduced reliability and
72 the quality of electrical service to our customers. It was
73 decided in 1997 that reliability had to be improved and
74 the capital program had to be adjusted.

75 Mr. D.G. Browne, as opposed to Mr. D.M.
76 Browne, the Board's own engineering expert, clearly
77 indicated in his 1998 report, and this is the Board's
78 expert, that Newfoundland Power should seek to
79 improve its reliability performance, and this is in 1998.
80 Mr. Browne, D.G. Browne, concluded, it is important
81 that the utility maintain and, in fact, seek to improve its
82 performance in this regard.

83 We were obviously not adequately meeting
84 and maintaining the system, or meeting the needs of
85 our customers. Based upon the condition of the overall
86 system, we could see that operating costs were rising,
87 but that wasn't the only problem. There were also
88 safety and environmental concerns, particularly on
89 surge tanks and penstocks.

90 What have we done about this? Over the last
91 four years we have addressed specific electrical system
92 reliability concerns, whether they be equipment on the
93 insulator replacement program, or individual feeders, we
94 have addressed safety issues such as replacing failing
95 surge tanks. We have improved the efficiency and

1 reliability of our generation, whether it be runners,
2 penstocks, gas turbines, and we've also focused capital
3 expenditures on improving customer service,
4 productivity, safety, environment, or replacing obsolete
5 technology.

6 So what's this done to operating costs? Since
7 1997 operating costs per customer has declined from
8 \$292 per customer, to \$245 in 2002. That's a reduction
9 of 16 percent. The customer satisfaction in 1996 was
10 only 70 percent, it's now 90. To view the capital budget
11 on a consistent basis, we should adjust the Aliant
12 expenditures in the years 2001 to 2003 which were \$32
13 million. Customers have and will continue to benefit
14 from that Aliant transaction. With that adjustment in
15 looking at the 2003 capital budget, I view it as similar in
16 nature and direction as the last five capital budgets,
17 and personally, I suspect that this trend will continue
18 for the next couple of years. After that it's hard to
19 foresee, but I expect it will continue in the same
20 direction for the next couple of years.

21 MS. BUTLER, Q.C.: Thank you, Mr. Hughes, can you
22 put the proposed 2003 capital budget in context for the
23 Board, please?

24 MR. HUGHES: Certainly. I think context is important.
25 Our electrical system is comprised of over 10,000
26 kilometers of transmission and distribution lines.
27 We've got 137 substations, 23 hydro plants, and as
28 we've mentioned, at an original cost of nearly \$1 billion,
29 and where is the money being spent? Is it being spent
30 in the right places? I think it is. About 80 percent is
31 being spent on the electrical system and generation.
32 It's being spent where it matters.

33 Technology, is this the right size? We're
34 spending approximately ten percent. That also strikes
35 me as reasonable. We do need decent computer
36 systems to support the business processes. We
37 process approximately two and a half million bills,
38 customer bills every year, and we receive approximately
39 half a million customer calls every year, so technology
40 supports the processes and it also enhances
41 productivity. If we're lucky it does both, but often it
42 will do one or the other.

43 Reliability, another very important issue.
44 Reliability is fairly good, but it's not too good, and it
45 needs to improve. Our SAIDI forecast, and that's
46 duration, so in other words it's in hours and it's for the
47 average customer ... an average customer in 2002, we're

48 forecasting will experience outages in time of five and
49 a half hours. SAIFI, which is frequency or times, how
50 many times you experience outages, the average
51 customer will experience five and a quarter times in
52 outages. It's too much. Why do I say it's too much?
53 Because this is below the Canadian and Atlantic
54 Canada averages.

55 MS. BUTLER, Q.C.: Mr. Hughes, does Newfoundland
56 Power's capital investment as proposed in the 2003
57 capital budget affect Newfoundland Power's operating
58 costs?

59 MR. HUGHES: Yes, it does. Capital obviously has an
60 effect on operating costs. If you've got sound capital
61 investment, it will reduce operating costs, and our aim
62 is to provide the level of service that meets our
63 customers' expectations in the most cost effective
64 manner possible. We try and do this, and we have
65 achieved this, I believe, by controlling our costs
66 through sound capital investment and effective
67 management, and we think we're doing a fairly good job
68 at controlling our costs. The workforce has decreased
69 by approximately 33 percent from 1,004 employees in
70 1992 to 665 in 2002. 2001 operating costs per customer
71 is at its lowest level in ten years, operating costs have
72 been reduced by 22 percent since 1992, so I would
73 contend that from any business comparative or
74 regulatory stand, whatever stand that you want to
75 choose, this is a pretty impressive operating
76 performance.

77 MS. BUTLER, Q.C.: How much specifically has
78 Newfoundland Power spent on capital investment over
79 the past ten years?

80 MR. HUGHES: Over the last ten years we have spent
81 in excess of \$400 million.

82 MS. BUTLER, Q.C.: And in that same period, Mr.
83 Hughes, what has happened to Newfoundland Power's
84 electrical rates?

85 MR. HUGHES: If we look at base Newfoundland Power
86 electrical rates for the same period that we spent the
87 \$400 million, and if we exclude flow-through increases
88 from Hydro, our rates over that ten year period have
89 increased 1.3 percent. Inflation during this time was
90 approximately 17 percent, or 15.7 percent higher.

1 MS. BUTLER, Q.C.: Comparatively, how much has
2 Newfoundland Power spent on capital investment over
3 the past five years?

4 MR. HUGHES: In the last five years we have spent
5 \$250 million on capital investment.

6 MS. BUTLER, Q.C.: And what has happened to
7 Newfoundland Power's electrical rates in that period?

8 MR. HUGHES: If we do the same thing and look at
9 base Newfoundland Power electrical rates, in the last
10 five years our rates have decreased by one percent over
11 those past five years and I believe inflation during this
12 time was about 8 percent.

13 MS. BUTLER, Q.C.: What has ... I'm sorry, what do you
14 achieve from sound capital investment, Mr. Hughes?

15 MR. HUGHES: If you're investing capital in the right
16 places, the following things will happen. You will
17 maximize asset lives. Our recently filed depreciation
18 study shows that asset lives are getting longer. The
19 expected life of distribution plant has increased from 28
20 years to 30 years, so we're getting another two years
21 out of those assets. Also, if we're investing in the right
22 place, you'll be able to respond to demands for new
23 services. It's less disruptive, you can bring them in.
24 We should also improve productivity and you've got to
25 look at the quality of equipment. For example, our pole
26 mounted stainless steel transformers now have a 20
27 year warranty. For those that were here a few years
28 ago, remember Mr. Evans bringing in a transformer, and
29 I think it was about five or six years old, where the salt
30 had corroded it so that it was basically junk.

31 MS. BUTLER, Q.C.: Now, Mr. Hughes, Newfoundland
32 and Labrador Hydro, of course, also recently submitted
33 their 2003 capital budget to the Board for approval. As
34 President of Newfoundland Power Inc., can you tell the
35 Board your view on whether there are duplication of
36 capital expenditures between the two utilities and/or
37 opportunities to cooperate?

38 MR. HUGHES: There's certainly potential for
39 duplication, there's no doubt about that. In terms of the
40 capital program, generally the less potential for
41 duplication is in terms of capital programs. In terms of
42 generation, Hydro's generation is in general terms much
43 larger than Newfoundland Power's. In terms of
44 transmission, in general terms, Hydro has a much
45 higher voltage than Newfoundland Power, and in terms

46 of distribution there is a different geographical service
47 territory. There is a risk of duplication in capital
48 expenditures for buildings, and accounting systems,
49 such as billing, customer service systems, and the call
50 centre. The last part of your question asked me about
51 cooperation. Newfoundland Power and Hydro have
52 always cooperated on a number of levels and the most
53 recent ones are the reliability committee, joint system
54 and loading planning, outage planning, construction
55 activities, system control centres, sharing of services
56 and equipment. Having said all that, the reality is we
57 are two separate companies.

58 MS. BUTLER, Q.C.: Mr. Hughes, I wonder if you could
59 address for the Board now the process which was
60 followed within Newfoundland Power in terms of the
61 preparation of the capital budget?

62 MR. HUGHES: I just need to sneak some water.
63 (inaudible). The question was what's the process that
64 we follow in preparing the capital budget. First of all,
65 it's a very rigorous process. It varies in timing slightly
66 every year, but I'm going to describe a general process
67 and it's pretty similar to what happened this year. The
68 process begins in the spring with a preliminary review
69 of the various inputs such as forecasted customer and
70 sales growth, reliability performance, condition of the
71 plant and equipment, safety, and environment. Next,
72 plant and equipment is reviewed in the field and
73 discussed by the management group, in particular the
74 engineering and operations group, and the various
75 inputs that I previously described are updated. What
76 then happens is a list of capital projects is then
77 proposed, it's reviewed, discussed and challenged by
78 the management group, and then once that list of
79 projects, people are getting fairly comfortable with it,
80 that's when the capital budget is then developed. It's
81 reviewed and modified by senior management. In
82 particular, the capital budget's effect on reliability,
83 customers, financial implications, productivity, etcetera,
84 are considered.

85 It's then submitted to our Board of Directors
86 and ultimately to the Public Utilities Board for approval.
87 The only real difference year to year is you might be
88 three to five weeks in timing one way or the other, but
89 the process tends to go pretty much like that.

90 MS. BUTLER, Q.C.: And finally, Mr. Hughes, I wonder
91 if you could summarize please, Newfoundland Power's
92 2003 capital budget for the Board?

1 MR. HUGHES: So how do we sum up the capital
2 budget? First of all, it's a refurbishment of the electrical
3 system to improve reliability, and that's the central
4 aspect of our capital budget. We have gone through
5 an extremely diligent internal process to produce the
6 capital budget, and for 2003, \$55.8 million is the lowest
7 reasonable budget. We have to invest in areas of
8 customer growth such as the Avalon Peninsula,
9 however, and this is very important, this does not
10 lessen our commitment to rural Newfoundland. We will
11 continue to invest in providing quality service to all our
12 customers. We're proud of our track record in having
13 to have been able to deliver safe reliable electrical
14 service to our customers in the most cost efficient
15 manner possible. Our customers continue to benefit
16 from the lowest rates in Atlantic Canada. How have we
17 been able to do that? We have been able to do this by
18 investing wisely in the electrical system, enhancing our
19 low cost generating plants, and increasing productivity,
20 and I believe we have demonstrated that we're on the
21 right path. But we can do better. We must continue to
22 be diligent, we've got to continue to improve if we are
23 to meet our customers' expectations, and their
24 expectations are increasing. We're far from perfect, but
25 we're working hard to give our customers the kind of
26 service that they deserve.

27 MS. BUTLER, Q.C.: Thank you. Mr. Perry, have you
28 come prepared to address the issues of rate base and
29 Newfoundland Power's financing plan?

30 MR. PERRY: Yes, I have.

31 MS. BUTLER, Q.C.: And have you supervised the
32 preparation of the calculation of rate base which is
33 contained in Newfoundland Power's application at
34 Schedule F?

35 MR. PERRY: Yes, I have.

36 MS. BUTLER, Q.C.: And this calculation, Mr. Perry,
37 can you tell the Board, is it in accordance with previous
38 orders and practices of the Board?

39 MR. PERRY: Yes, it is.

40 MS. BUTLER, Q.C.: Would you review for the Board,
41 and I wonder, Mr. Wells, if we might actually have
42 Schedule F on the screen, feel free to refer to any other
43 exhibits that may be needed, Mr. Perry, but the
44 company's application to fix its average rate base for

45 2001 at \$545,162,000, can you review that for the Board
46 please?

47 MR. PERRY: Yes, I can. Before we refer to the screen,
48 I'd like to do a brief overview of the components of rate
49 base for the Board. Rate base mainly consists of the
50 company's fixed assets. The company is allowed under
51 regulation to earn a return on that rate base. Capital
52 expenditures that are approved by this Board annually
53 increase the rate base and depreciation expense causes
54 the rate base to decrease. The Board also approves the
55 company's depreciation rates. Now if we look at the
56 screen, Schedule F deals with rate base and if we can
57 scroll down, Mr. Wells, to the bottom of the page, you
58 look at the second column, the bottom number, the
59 company's actual average rate base for 2001 amounted
60 to \$545,162,000. I'd like to take the Board through the
61 main components of rate base, Mr. Wells, and if we
62 could scroll back up to the top. Rate base starts with
63 plant investment. In 2001 Newfoundland Power had
64 invested approximately \$971 million into its plant. From
65 this is then deducted accumulated depreciation
66 totalling approximately \$408 million. Other factors such
67 as contributions in aid of construction, deferred income
68 taxes, weather normalization reserve, contributions for
69 country homes, also impact rate base, and if we could
70 scroll down a little further, Mr. Wells, items such as one
71 time adjustments ordered by the Board, for example, the
72 adjustment for the Duffy Place land, as well as cash
73 working capital allowances and materials and supplies,
74 also influence rate base.

75 The rate base for 2001 increased over 2000
76 principally due to the 2001 capital program including
77 the purchase of \$20 million of Aliant Telecom joint use
78 poles, and the capital program, and the Aliant purchase
79 were approved by this Board. Finally, I would like to
80 point out that the \$545,162,000 is an average of the
81 opening and closing rate base amounts for 2001.

82 MS. BUTLER, Q.C.: Thank you, Mr. Perry. Now, since
83 you've filed your application on August the 2nd, and
84 Schedule F, of course, was attached to it, has
85 Newfoundland Power received the annual financial
86 review by the Public Utilities Board's auditors?

87 MR. PERRY: Yes, that's correct.

88 MS. BUTLER, Q.C.: And what were Grant Thornton's
89 conclusions on Newfoundland Power's calculation of
90 rate base as we see it on Schedule F?

1 MR. PERRY: Well first the Board's auditor has agreed
2 to the methodology used in the calculation of the
3 average rate base to the Public Utilities Act to ensure
4 the company is in accordance with established policy
5 and procedure. The Board's auditor concludes that the
6 ...

7 MR. BROWNE, Q.C.: Excuse me, can the witness state
8 what he's reading from? Is there a report or something
9 that we could, that you could point us to, Ms. Butler?

10 MS. BUTLER, Q.C.: I asked the question relative to the
11 2001 Grant Thornton report which was provided to all
12 of us last Friday, and I think it's at ... if you have a page
13 number you might give that, Mr. Perry?

14 MR. PERRY: I don't have a page number, Ms. Butler,
15 but it is in the front part of the 2001 report. It's
16 probably the first or second item in the report.

17 MS. BUTLER, Q.C.: And is that ...

18 MR. ALTEEN: CA-124 might be a place to look, the
19 response to ...

20 MS. BUTLER, Q.C.: I believe it's actually page four, I'm
21 going by memory. Okay, I'll just give Mr. Browne a
22 moment to follow.

23 MR. ALTEEN: Page four, that's correct, and continued
24 on to page five.

25 MR. BROWNE, Q.C.: Thank you, go ahead, I'm fine.

26 MS. BUTLER, Q.C.: Yes, 2001, sorry, Mr. Perry.

27 MR. PERRY: The Board's auditor concludes that
28 average rate base included in the company's 2001
29 annual report to the Board, which is the same as shown
30 in Schedule F is accurate and in accordance with
31 established practice.

32 MS. BUTLER, Q.C.: Thank you, now in relation to the
33 capital budget itself, and leaving rate base for the
34 moment, I wonder if you might refer now to Section 5 of
35 your pre-filed testimony which is at page 13 of your
36 pre-filed. Yeah, I'm just waiting for Mr. Wells to enlarge
37 that. Thank you very much. Okay, if we start with lines
38 10 and it goes all the way down to the bottom of the
39 page, but you can scroll up a bit then, Mr. Wells, for us,
40 yes, and just keep the heading of Section 5 in our view.
41 Thank you. Now Newfoundland Power proposes, as

42 we have already indicated, to spend approximately
43 \$55.8 million in the 2003 capital budget. Could you
44 explain to the Board how this capital expenditure will
45 effect the company's financing requirement?

46 MR. PERRY: Yes, I can. As stated in my evidence, the
47 funds required to finance the company's capital
48 program will come from internal cash flow and from the
49 issuance of debt. Initially a combination of internally
50 generated cash flow, that is shareholders' equity and
51 short-term debt are utilized. When short-term
52 borrowing requirements approach a level where the
53 company considers a long-term financing to be
54 appropriate, the short-term portion is replaced with
55 long-term debt. Currently the company does not
56 contemplate doing a long-term debt issue until
57 sometime in 2005.

58 MS. BUTLER, Q.C.: Thank you, Mr. Perry. Mr.
59 Chairman, that concludes the direct examination of this
60 panel, thank you very much.

61 MR. NOSEWORTHY, CHAIRMAN: Thank you very
62 much, Ms. Butler, Mr. Hughes, and Mr. Perry. It's ten
63 to 11:00. I think we will start, Mr. Browne, if that's okay
64 with you, on the first cross?

65 MR. BROWNE, Q.C.: When are we breaking?

66 MR. NOSEWORTHY, CHAIRMAN: Pardon?

67 MR. BROWNE, Q.C.: When are we breaking?

68 MR. NOSEWORTHY, CHAIRMAN: We were looking
69 to break at 11:00.

70 MR. BROWNE, Q.C.: Okay, sure, I'll ask some ...

71 MR. NOSEWORTHY, CHAIRMAN: If I may just to
72 clarify starting out, if indeed the questions, I think we
73 discussed it throughout the Hydro hearing, it wouldn't
74 be a tag team approach here, that indeed in the first
75 instance, Mr. Browne, if you have questions for either
76 of the witnesses, that you would indeed pose those
77 questions and then offer the opportunity for Mr.
78 Fitzgerald as a second instalment, if you will, if that's
79 acceptable, thank you.

80 MR. BROWNE, Q.C.: Thank you, Mr. Chairman. Good
81 morning, Mr. Hughes and Mr. Perry.

82 MR. HUGHES: Good morning, Mr. Browne.

- 1 MR. BROWNE, Q.C.: Mr. Perry, welcome to the
2 hearing. Mr. Hughes, I'll just take you to your resume
3 for a moment, and it's found on page two of the 2003
4 capital budget application, page (ii) I should say.
- 5 MR. ALTEEN: So, (ii) to the evidence that I believe Mr.
6 Browne is ...
- 7 MR. BROWNE, Q.C.: Yes, I'm sorry, the pre-filed
8 evidence, the evidence of October 28th. On, and I don't
9 know if you need to refer to it ...
- 10 MR. HUGHES: I wouldn't have thought so. To save
11 me from trying to find it, so why don't you ask me
12 anyway, Mr. Browne.
- 13 MR. BROWNE, Q.C.: Okay, I'll go ahead. Are you a
14 director of any of the associated companies of Fortis,
15 are you a director?
- 16 MR. HUGHES: Yes, I am.
- 17 MR. BROWNE, Q.C.: Okay, now you failed to mention
18 on the resume which ones you're a director of, can you
19 list those for us?
- 20 MR. HUGHES: The ones that I'd be able to list are the
21 ones where there's a fair amount of activity. I am ...
22 Newfoundland Power, Belize Electricity.
- 23 MR. BROWNE, Q.C.: Belize Electricity?
- 24 MR. HUGHES: Yes, Belize Electricity Limited, Belize
25 Electricity Company Limited, which is BECL, as
26 opposed to BEL. I believe I'm a director of Central
27 Newfoundland Energy. I'm Chair of the Exploits River
28 Partnership. There are also, Mr. Browne, and I just can't
29 remember, there are some other companies that are
30 essentially holding companies that I'm also a director
31 of, I believe, but I'm not really certain.
- 32 MR. BROWNE, Q.C.: Are you a director of Maritime
33 Electric at this time?
- 34 MR. HUGHES: Yes, I am. Sorry, I obviously forgot to
35 mention that one.
- 36 MR. BROWNE, Q.C.: And what about Niagara.
- 37 MR. HUGHES: Niagara, I'm not.
- 38 MR. BROWNE, Q.C.: Were you at any time?
- 39 MR. HUGHES: No.
- 40 MR. BROWNE, Q.C.: Now these companies from
41 Belize, are they just a syndicate of companies, a holding
42 company, etcetera?
- 43 MR. HUGHES: No, no, no, they're not.
- 44 MR. BROWNE, Q.C.: You listed three, are they ...
- 45 MR. HUGHES: Sorry?
- 46 MR. BROWNE, Q.C.: You listed three companies, what
47 is your role in the three companies?
- 48 MR. HUGHES: I meant to do two. The main
49 companies, the companies that actually operate as
50 opposed to holding companies, there's two companies
51 in Belize. We call them BEL and BECL. BEL is the
52 company that's similar to Newfoundland Power, it's the
53 electrical utility. It has some generation and it's got the
54 franchise for the whole of Belize. BECL has one asset,
55 and that's the Mollejon hydro plant that we acquired
56 from Duke (*phonetic*). All this stuff is on the public
57 record, and that company has different ownership than
58 BEL. In BEL, Fortis owns ... can I use approximate
59 numbers, orders of magnitude? Fortis owns
60 approximately 70 percent of BEL. Individual
61 shareholders own about 30 percent. This is orders of
62 magnitude. It might be 68 and 32 or something like that.
63 BECL, which is the one with the plant, Fortis owns, I
64 believe it's 95 percent and five percent is owned by the
65 Bolivian government.
- 66 MR. BROWNE, Q.C.: Now Belize Electricity, is that a
67 generating company or a distributing company?
- 68 MR. HUGHES: This is where I described it as similar in
69 nature to Newfoundland Power. It is mainly a
70 transmission distribution company, however, because
71 of the Belize energy supply, it has a reasonable amount
72 of diesel. It's just purchasing a gas turbine, so it has a
73 reasonable amount of generation inside BEL.
- 74 MR. BROWNE, Q.C.: What assistance, if any, have the
75 employees of Newfoundland Power given to Belize
76 Electrical over the years?
- 77 MR. HUGHES: Am I allowed just to answer from
78 general knowledge?
- 79 MR. BROWNE, Q.C.: Just in a general form, sure.

1 MR. HUGHES: We've, if I can go through it by from
2 (inaudible). We've provided safety training, we've
3 provided employee development training, we've
4 provided some engineering support, and Mr. Perry,
5 there's some other things as well, can you remember?
6 Oh, regulatory advice. I think they're the main
7 categories and I suspect ... oh, and Mr. Myers, who is
8 in the room, conducts internal audits for them. In
9 general terms, that's what it is.

10 MR. BROWNE, Q.C.: And of course, at the next stage
11 of the hearing when we're dealing with inter-company
12 transactions, we'll visit it in more detail, but for our
13 purposes here, what assets of Newfoundland Power,
14 that are paid for by the ratepayers of Newfoundland
15 Power, have been used through Belize Electric?

16 MR. HUGHES: I can't think of any assets. The only
17 thing I think has ever occurred was when they had the
18 hurricane and we sent line persons down there. They
19 took some of their own tools with them, but they
20 brought them back, so I don't believe there was any
21 assets on that thing. We did sell them two trucks, and
22 I can't remember when it was, but I assume it's
23 somewhere on the public record. Other than that, I
24 can't think of any assets that have ever been used in
25 Belize. That's not to say there aren't, I just can't think of
26 it. But I think I would know if it was material. I can't
27 think why I wouldn't know.

28 MR. PERRY: Just all of our transactions on Belize
29 Electricity Limited and BECL, as well as other Fortis
30 companies, are disclosed quarterly to the Board in the
31 company's inter-company report filing, and details are
32 listed in that report.

33 MR. BROWNE, Q.C.: In terms of Belize Electric, have
34 employees of Belize Electric come to Newfoundland to
35 be trained using the assets of Newfoundland Power?

36 MR. HUGHES: They certainly come to be trained.
37 Most of the people I can think of are people like
38 customer service, purchasing, engineering, things like
39 that. No line persons as far as I know have ever come.
40 In terms of assets, I would, I can't think, but that's not
41 to say it's never happened, where what I would call the
42 electrical system assets, the transformers, the poles, the
43 substations, that kind of stuff, but certainly I'm sure
44 they must have used computers or something like that.
45 I'm trying to answer your question, Mr. Browne, in its
46 widest sense, I assume that's what you want.

47 MR. BROWNE, Q.C.: Sure, in the widest sense at this
48 point.

49 MR. HUGHES: Yes, so computers, I would say yes.
50 What I would call the electrical system assets, which is
51 obviously the bulk of it, I would tend to think no,
52 because of the kind of people that have come. They
53 tend to be ... if you did it in Newfoundland Power's sort
54 of positions, they tend to be the President, Vice-
55 President, Manager, Director level, so they tend not to
56 really use assets other than computers.

57 MR. BROWNE, Q.C.: And when you say they use
58 computers, are these computers that are paid for by the
59 ratepayers of Newfoundland Power?

60 MR. HUGHES: I'm sure that they've been in
61 somebody's office and somebody has shown them
62 something on the computer so in that sense, I suppose
63 the answer is yes, Mr. Browne.

64 MR. BROWNE, Q.C.: And when we use the word
65 "they", the pronoun "they", and we particularize that
66 by telling how many employees we're talking about that
67 come from Belize to Newfoundland Power for training
68 and using computers at Newfoundland Power, for
69 instance, are we talking about one, or two, or three, or
70 ten, or twenty, can you ballpark it for us over the last
71 year, say?

72 MR. HUGHES: I would say over the last whatever it is,
73 three or four years, it's been 20 individuals, you know,
74 it might be 14, it might be 23, but I'm ... it's somewhere
75 around there.

76 MR. BROWNE, Q.C.: And when they come, is that for
77 training in an office, are they in an office environment,
78 the 14 or 20, or is it for training out in the field with the
79 linesmen or whatever?

80 MR. HUGHES: Well, first of all, they don't come in a
81 group, they tend to come individually.

82 MR. BROWNE, Q.C.: Sure.

83 MR. HUGHES: So most of the training is discussions
84 with individuals, their counterparts, so say like a
85 purchasing manager will discuss issues with the
86 purchasing manager, an engineer will discuss matters
87 with an engineer, so that's how it works. It's mainly
88 discussion.

1 MR. BROWNE, Q.C.: And would there be training by
2 linesmen, to train the linesmen from Belize, for instance,
3 would Newfoundland Power's linesmen be out there
4 training them?

5 MR. HUGHES: We're probably better off to check with
6 Mr. Ludlow, but my understanding is that the training
7 that's been done in Newfoundland, there hasn't been
8 any, but I could be wrong on that, Mr. Browne, and the
9 reason I'm saying that is because although an engineer
10 has to know what's going on in the field, how you do a
11 pole top rescue or how you, you know, change a
12 transformer in a back lot or something like that, isn't
13 that useful for an engineer. It's what your front line
14 people need to know, so that's why I tend to think that.

15 MR. BROWNE, Q.C.: I see the Chairman looking at his
16 watch, and it is 11:00, so will we break or ...

17 MR. NOSEWORTHY, CHAIRMAN: We will, thank
18 you, and we'll break until 11:30, and I would ask, the
19 revised sitting schedule that we have provides for a
20 half hour break, so I would ask that we be diligent in
21 our return so we can commence at 11:30 promptly, thank
22 you.

23 *(break)*

24 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, if I
25 could ask you to continue please, if the witness is
26 ready?

27 MR. BROWNE, Q.C.: Mr. Hughes, in addition to Belize
28 Electricity, does Fortis have another electrical company
29 in a foreign jurisdiction?

30 MR. HUGHES: It's got 20 something percent interest in
31 Caribbean Utilities. It also owns four hydro plants in
32 up-state New York, and that's it, excluding Belize, which
33 we've talked about.

34 MR. BROWNE, Q.C.: In the Caribbean Utilities, have
35 any employees from Caribbean Utilities come to
36 Newfoundland Power?

37 MR. HUGHES: They held a board meeting ... Caribbean
38 Utilities, for those who don't know is, it's the principal
39 company in Grand Cayman Electrical Utility, and it's
40 listed on the Toronto Exchange, it's a public company
41 ... they held a board meeting in Newfoundland two
42 summers ago, something like that. Mr. Thompson, who
43 is CEO, and Richard Hew, who, he's number two, I think

44 he's titled General Manager, they visited and I believe
45 the Corporate Secretary has visited. I think that's it.
46 There may be some others, but it's quite a bit different
47 than Belize. Caribbean Utilities is a very sophisticated
48 utility because that's obviously where all the offshore
49 banking is, so it's different in nature.

50 MR. BROWNE, Q.C.: So no employees from Caribbean
51 Utilities are being trained at Newfoundland Power?

52 MR. HUGHES: I'd say not. I mean they may ask our
53 advice on an issue, but in the training, what most
54 people would understand by the word "training", the
55 answer is no.

56 MR. BROWNE, Q.C.: No one is coming to
57 Newfoundland Power as in the case of Belize Electricity,
58 you mentioned 20 employees have come over time, it's
59 nothing of that magnitude.

60 MR. HUGHES: Nothing at all. As far as I'm aware, it's
61 only been people from their executive or board of
62 directors, and not in a training sense.

63 MR. BROWNE, Q.C.: Now the other Fortis companies,
64 Maritime Electric, has anyone from Maritime Electric
65 come over for training at Newfoundland Power?

66 MR. HUGHES: I can't think of anybody who has. Mr.
67 Lee (*phonetic*), who is President and CEO of Maritime
68 Electric is on the Newfoundland Power Board of
69 Directors.

70 MR. BROWNE, Q.C.: But generally, Newfoundland
71 Power is not a training centre for Maritime Electric
72 employees.

73 MR. HUGHES: No, that's true, Mr. Browne.

74 MR. BROWNE, Q.C.: And what about Niagara, are
75 there any employees from Niagara come down to
76 Newfoundland Power for training?

77 MR. HUGHES: There was one or two people who
78 wanted to observe one of our hydro plants. I believe it
79 was Seal Cove and both of the two individuals came
80 down and had a look. One of them, I believe, was
81 IBEW, and you know, so he came down on a ... I think
82 it was called training, but it was basically an
83 observation kind of thing.

- 1 MR. BROWNE, Q.C.: Are any of the assets of ... I'm
2 sorry.
- 3 MR. HUGHES: I was going to say, other than those
4 two, I believe the only other people from Canadian
5 Niagara that have come have been executives and that
6 wasn't for training, that just happened to be in St.
7 John's. Thank you, Mr. Browne.
- 8 MR. BROWNE, Q.C.: Are any assets from
9 Newfoundland Power loaned on occasion to Maritime
10 Electric?
- 11 MR. HUGHES: Mr. Ludlow's probably the best one,
12 but on the thermoscanning, I believe we have
13 thermoscanned a couple of other companies, but I can't
14 really give you details. It's more I can give you ... I
15 think it's happened, and I'm answering this on sort of
16 what I believe as opposed to what I can swear to.
- 17 MR. BROWNE, Q.C.: Mr. Ludlow is the better person?
- 18 MR. HUGHES: He's the better one to ask on the
19 thermoscanning, but I believe there has been some of
20 that, but I'm not a detailed ... what thermoscanning does
21 is it, if you're trying to find a fault on the system, it
22 would show up hot, so it's infrared, so that's what it
23 does, and by ... if you thermoscan a line you can find
24 the faults quicker.
- 25 MR. BROWNE, Q.C.: If there is an asset of
26 Newfoundland Power paid for by the ratepayers of
27 Newfoundland Power going to Maritime Electric, how
28 is that accounted for?
- 29 MR. PERRY: What we do is we follow the guidelines
30 set out by the Board in previous orders in inter-
31 company transactions, so, you know, we comply with
32 those orders and we file our reports quarterly detailing
33 all transactions with related companies, both ways,
34 things we receive from related companies and things we
35 give to related companies, and we file them quarterly
36 and follow previous Board orders in that respect.
- 37 MR. BROWNE, Q.C.: Are there any assets of
38 Newfoundland Power paid for by the ratepayers of
39 Newfoundland Power loaned on occasion to Niagara?
40 Mr. Perry, you seem to have the handle on this, do you
41 know that?
- 42 MR. PERRY: I don't believe so.
- 43 MR. HUGHES: I can't think of any. I mean the level it's
44 at, it doesn't really lend itself to assets, and that's what
45 I was trying to explain on the Belize one where it is more
46 training ... it's on discussions as opposed to actually
47 using assets.
- 48 MR. BROWNE, Q.C.: What about Central
49 Newfoundland Energy, that's the energy company that
50 you formed with Abitibi Price, is it, or Abitibi
51 Consolidated?
- 52 MR. HUGHES: I'll explain how it works, because that's
53 not quite right.
- 54 MR. BROWNE, Q.C.: Okay.
- 55 MR. HUGHES: Central Newfoundland Energy is a
56 special purpose company that is a hundred percent
57 Fortis owned that was formed to hold Fortis' investment
58 in the Exploits River Partnership which is the joint
59 venture with Abitibi, so it holds the 51 percent of the
60 partnership.
- 61 MR. BROWNE, Q.C.: Now are any assets of
62 Newfoundland Power used by Central Newfoundland
63 Energy?
- 64 MR. HUGHES: I don't think so.
- 65 MR. BROWNE, Q.C.: No trucks?
- 66 MR. HUGHES: Sorry, let me finish, Mr. Browne.
- 67 MR. BROWNE, Q.C.: No trucks?
- 68 MR. HUGHES: I was just going to ...
- 69 MR. BROWNE, Q.C.: Okay.
- 70 MR. HUGHES: Can I answer the question?
- 71 MR. BROWNE, Q.C.: Sure, sorry.
- 72 MR. HUGHES: Mr. Ludlow is the better one to get into
73 the details of this. There are various ... can I take one
74 minute just to explain what the project is? What there
75 is is that we've got a joint venture with Abitibi. There's
76 two parts to it, there's Bishop's Falls and Grand Falls.
77 At Grand Falls we're actually putting in a completely
78 new unit. In Bishop's, it's refurbishment of the units
79 and so on, so that's what it is. It's also going to be
80 putting in a new substation and there's also a couple of

1 lines that Abitibi need in. The vast majority of the work
2 that's being done is at an engineering level, and Mr.
3 Perry can give you chapter and verse on how it's
4 charged and all that. On the substation and the lines,
5 I know we're involved. I don't know it at the detailed
6 level to know how much line work we're doing and how
7 much line work is contractors, but I'm sure if you ask
8 Mr. Ludlow the question, he can tell you whether or not
9 one of our trucks was or wasn't used and so on.

10 MR. BROWNE, Q.C.: In any case, all this will be
11 reported in the inter-company transaction reports.

12 MR. HUGHES: Absolutely.

13 MR. BROWNE, Q.C.: In terms of this particular
14 application, you're looking for an approval in your rate
15 base, and we have with it a sister application, the 2003
16 general rate application, and in terms of what you're
17 seeking in that application, you're looking for a rate
18 increase there, is that correct?

19 MR. HUGHES: Yes, the ... I might need help from Mr.
20 Perry, but I believe the rate increase is 1.39.

21 MR. PERRY: That's correct.

22 MR. BROWNE, Q.C.: Now that 1.39 that you are
23 seeking, that is in your rate of return, is that correct?

24 MR. HUGHES: Well ...

25 MR. BROWNE, Q.C.: Will go to your rate of return.

26 MR. HUGHES: The 1.39 is the revenue requirement
27 result. For example, it counts rate of return, it would
28 also count increased insurance costs, pension costs, so
29 it's the sum of all the items including return on equity,
30 return on rate base, that arise from all those items
31 building up to the revenue requirement.

32 MR. BROWNE, Q.C.: So the 1.39, it's just not a matter
33 of an increase, because you're seeking an increase in
34 your rate of return, it's not just that.

35 MR. HUGHES: It's a combination of all those items.

36 MR. BROWNE, Q.C.: So it's not just a matter that you
37 are seeking an increase in your rate of return from what
38 is now, I think, the midpoint, 9.25 to what you are
39 seeking, is that where the 1.39 comes in?

40 MS. BUTLER, Q.C.: Mr. Hughes, I wonder before you
41 answer, Mr. Chairman, I'm just seeking some guidance
42 in terms of how this may be focused on the capital
43 budget application. I think we've been pretty patient so
44 far, but this is definitely a GRP question.

45 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, any
46 comment?

47 MR. BROWNE, Q.C.: Well, I think that we need to see
48 the revenue requirement. The witness has answered
49 that he's uncertain as to what the 1.39 is for. Does 1.39,
50 is that to be used for purchases in this capital budget?
51 Is it to be used for, he's mentioned insurance, he's
52 mentioned this, that, and the other thing. I don't think
53 they've been patient at all. I've just asked two
54 questions on it. I have no intention of dwelling upon
55 the subject, but I think where you have two sister
56 applications like that in terms of their revenue
57 requirement, and in terms of what goes into the rate
58 base, I think that it is relevant. It's certainly relevant,
59 whether it's timely or not, that's the only issue.

60 MS. BUTLER, Q.C.: Mr. Chairman, may I just say first
61 of all, my witness never used the term "uncertain" in his
62 answer, so it's unfair for Mr. Browne to categorize the
63 fact that the witness was uncertain, and rate base is a
64 subject of this proceeding to the extent that we have
65 asked the Board to fix and determine 2001. Revenue
66 requirement, to the extent that it may flow from rate
67 base, is the subject of the GRP. They are very distinct.

68 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, would
69 you have any comment at all on this?

70 MS. GREENE, Q.C.: I think as has already been said
71 this morning, the subject matter for this application is
72 the capital budget for 2003. However, there are some
73 issues that are not necessarily black and white, they are
74 grey. I think, for example, a fair question would be to
75 determine what the potential impact would be on the
76 2003 revenue requirement if this capital budget is
77 approved, in very ballpark terms, so unfortunately this
78 is one where there's judgement to be required with
79 respect to whether the questions are relevant or not,
80 and we can't simply say that there are no questions to
81 be asked on the impact on revenue requirement of the
82 approval of the 2003 capital budget.

83 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, are
84 there any final comments that you can address to
85 relevancy of this?

1 MR. BROWNE, Q.C.: No, it's just that I think it's
2 relevant on its face. I think the revenue requirements of
3 Newfoundland Power is what we're addressing here.
4 We're addressing a portion of the revenue requirements
5 right now because they're into their capital budget.
6 They would like to compartmentalize everything. I can
7 tell you that in the past, like in the case of Hydro, there
8 was no such compartmentalization. We dealt with the
9 capital budget and we dealt with the rate of return all at
10 the one time, and I don't think that in an ideal world, I
11 guess, you can compartmentalize, but the fact of the
12 matter is that there's overlap from one into the other.
13 When we come to deal with the general rate application,
14 we'll have our own experts dealing with rate of return,
15 etcetera, but if there's any ambiguity in terms of the
16 revenue requirements that they are seeking and why
17 they are seeking that and if they have any impact on
18 the capital budget, I think that it's absolutely a valid
19 question.

20 MR. NOSEWORTHY, CHAIRMAN: Okay, I'm not
21 going to belabour this any further. I think the focus of
22 the budget itself primarily is indeed the capital budget
23 of \$55 million and the rate base. I do believe the linkage
24 could be demonstrated, but certainly that's all. I'm not
25 prepared to entertain a significant number of questions.
26 I think, Mr. Browne, you indicated that you had a
27 couple of questions along these lines and to the extent
28 that the witnesses can answer, and I understand
29 certainly that they came here prepared to address the
30 capital budget as such, and wouldn't be in a position
31 necessarily to address the items that are contained in
32 the general rate application so we'll certainly give them
33 some leeway, but I ask you to focus your couple of
34 questions please.

35 MR. BROWNE, Q.C.: Thank you, Mr. Chairman, I think
36 I am focused, and I'll continue to be focused. 1.39
37 percent, the 1.39 percent that you are seeking, will any
38 amount of that money be used in terms of this capital
39 budget?

40 MR. HUGHES: As I was explaining to you, Mr.
41 Browne, in the previous questions, the 1.39 is the result
42 after adding up all those numbers, and our counsel was
43 correct, it was uncertainty, I was disagreeing with your
44 premise. You were trying to link the 1.39 and rate of
45 return, and the 1.39 is a result, it's a result of the
46 revenue requirement. That's what it is, and you cannot
47 say because in revenue requirement there are factors A
48 to M, you cannot really say, well how much is K and
49 how much is E. It's the result, and obviously rate base

50 and the return on rate base goes into that calculation,
51 but a rate increase is derived from revenue requirement,
52 and depending what the Board rules on the revenue
53 requirement, the number will drop out the bottom.

54 MR. BROWNE, Q.C.: So the 1.39 percent could
55 contribute, if I take your answer, and you can correct
56 me if I'm wrong, to this capital budget. The 1.39 percent
57 if it's granted, could contribute, the money from that
58 that you achieve, can contribute towards this capital
59 budget, is that your answer?

60 MR. HUGHES: No, I think you've got it, I think you've
61 got them mixed up, Mr. Browne.

62 MR. BROWNE, Q.C.: Well, that's quite possible, as
63 long as you don't.

64 MR. HUGHES: No, I think I have it pretty clear. The
65 capital budget obviously has an effect on rate base.
66 Depending what the rate base is, and depending what
67 return is granted by the Board is one of the factors that
68 goes into making up revenue requirement, so that's how
69 it works.

70 MR. BROWNE, Q.C.: And in that particular budget, the
71 general rate application, there is a reference to an
72 amount of some \$900,000 where you, of excess earnings
73 for 2001, I believe it is, is that correct?

74 MR. HUGHES: I assume I'm allowed to answer these to
75 the best of my ability without pulling out ...

76 MR. BROWNE, Q.C.: Or if Mr. Perry is better off,
77 maybe he knows it better, whichever ...

78 MR. HUGHES: Well, let me give a general answer, and
79 if I'm a little bit off, Mr. Perry will bring me back. The
80 \$900,000, as far as I understand it, was an amount of
81 money that was over the return allowed by the Board,
82 or set out in the orders. This amount, as I understand
83 it, is sitting in abeyance and will be distributed to the
84 customers' benefit, or used for the customers' benefit as
85 the Board determines. How am I doing, Mr. Perry?

86 MR. PERRY: That's correct. I would add one thing,
87 that you used the term "excess earnings". In fact, the
88 \$900,000 number is excess revenue, a little different, but
89 I just want to clarify that.

90 MR. HUGHES: Thank you, Mr. Perry.

- 1 MR. BROWNE, Q.C.: And one of the things that ... are
2 you looking for all of that \$928,000, that's the number,
3 to go towards your revenue requirements, is that your
4 position, as opposed to it being rebated to the
5 consumers?
- 6 MR. HUGHES: What we're saying, Mr. Browne, is that
7 that, whatever that \$900,000 number, is obviously to the
8 benefit of customers. The Board can choose its
9 disposition as they think fit.
- 10 MS. BUTLER, Q.C.: Mr. Chairman, I just might say
11 again that the disposition of the excess revenue
12 account is one of about seven different matters which
13 we have asked you to specifically address in the
14 general rate application. It has no bearing on the
15 capital budget.
- 16 MR. BROWNE, Q.C.: Mr. Chairman, that's contrary to
17 what the witness just told us, but anyway ...
- 18 MS. BUTLER, Q.C.: And how is that contrary to what
19 the witness just ...
- 20 MR. NOSEWORTHY, CHAIRMAN: I think the, excuse
21 me, I think the witness just responded to the question
22 that was being asked. What I heard from the witness
23 was the fact that indeed the capital budget does
24 contribute, along with other things, to the, to the 1.39
25 percent. The excess earnings is really not an item that
26 I'm aware of that I've read in terms of the capital budget,
27 and it's likely an issue that will be addressed more
28 specifically in the general rate application, so I would
29 again, Mr. Browne, try and keep the questions ...
- 30 MR. BROWNE, Q.C.: I'm sorry, Mr. Chairman, I can't
31 hear you.
- 32 MR. NOSEWORTHY, CHAIRMAN: I would like to try
33 and keep the questions, again, recognizing there are
34 linkages and there are grey areas that will certainly give
35 some leeway in relation to the questions, but I would
36 like to keep the issue focused on the capital budget,
37 thank you.
- 38 MR. BROWNE, Q.C.: In terms of the capital budget,
39 and I'll address this question to Mr. Perry ... Mr. Perry,
40 in terms of the capital budget application, you're
41 looking for an approval in your rate base for 2001 of
42 \$545,162,000, is that correct?
- 43 MR. PERRY: No, Mr. Browne, I think it's \$545,162,000.
- 44 MR. BROWNE, Q.C.: Yeah, that's right, 545.
- 45 MR. PERRY: Okay.
- 46 MR. BROWNE, Q.C.: And that's what you're looking
47 for, you're looking for the Board to approve that, is that
48 correct?
- 49 MR. PERRY: That is correct.
- 50 MR. BROWNE, Q.C.: What are the ramifications of the
51 Board approving that?
- 52 MR. PERRY: The ramifications, I don't understand your
53 question, Mr. Browne.
- 54 MR. BROWNE, Q.C.: Okay, your ... I gather that your
55 rate of return on rate base is built into that figure,
56 \$545,162,000, is that correct, Mr. Perry?
- 57 MR. PERRY: No, I think that's a separate calculation,
58 Mr. Browne. The rate of return is prescribed by the
59 Board and, you know, is a calculation based on what
60 the average rate base is.
- 61 MR. BROWNE, Q.C.: Yeah, is it based on that amount
62 there, the \$545,162,000?
- 63 MR. PERRY: That's what it's applied to.
- 64 MR. BROWNE, Q.C.: Sure, and ... okay, so it's done on
65 a rate base percentage, and if the Board were not to
66 approve that \$545,162,000 for 2001, how would that
67 affect your return on rate base for that particular year?
- 68 MR. PERRY: Well, I would add that, just the ... if the
69 Board were not to approve the return on rate base,
70 obviously 2001 is over, first of all ... you know, the
71 Board's auditor has approved the company's approach
72 in calculating both the average rate base and the return
73 on rate base for that year, so I think it would create
74 somewhat of a difficult circumstance for the company
75 if the Board did not approve that number that has been
76 signed off by the Board's auditors for the year and we'd
77 be into some retroactive adjustment, I suppose.
- 78 MR. BROWNE, Q.C.: But isn't there a problem with
79 2001? Doesn't the auditor say that there's a specific
80 problem with your return for 2001, and I point you to
81 page five of the auditor's report, the Grant Thornton
82 report for 2001.

1 MS. BUTLER, Q.C.: I wonder, can I have the reference
2 and I'll get it put on the screen?

3 MR. BROWNE, Q.C.: Page 5, the automatic adjustment
4 formula.

5 MS. BUTLER, Q.C.: Yeah, can you give me the CA
6 number, the CA ...

7 MR. BROWNE, Q.C.: 124.

8 MS. BUTLER, Q.C.: Thank you, page 5. I'm told it's not
9 available electronically yet so we'll have the hard copy.

10 MR. BROWNE, Q.C.: That's not available
11 electronically?

12 MS. BUTLER, Q.C.: Not yet.

13 MR. BROWNE, Q.C.: Okay, that's fine. Now this is
14 CA-124 for members of the Board, I'm a bit rusty
15 starting out here. We'll get all our numbers down after
16 a while.

17 MR. HUGHES: I have in front of me, Mr. Browne, CA
18 ... do you want me to go to the question, or do you
19 want me to go to the report ... what ...

20 MR. BROWNE, Q.C.: Okay, I was asking Mr. Perry,
21 thank you Mr. Hughes. The, in terms of the rate base,
22 page 5 of the 2001 return on rate base, the second
23 paragraph, can you read that out for us please, Mr.
24 Perry?

25 MR. PERRY: Sorry, Mr. Browne, can you repeat your
26 reference?

27 MR. BROWNE, Q.C.: Okay, page 5, 2001 report, the
28 second paragraph.

29 MR. NOSEWORTHY, CHAIRMAN: Excuse me, Mr.
30 Browne.

31 MR. BROWNE, Q.C.: Mr. Perry.

32 MR. NOSEWORTHY, CHAIRMAN: Mr. Hughes, I
33 wish to acknowledge Mr. Hughes, he would like to
34 make a comment.

35 MR. HUGHES: I thought the rules were that we are a
36 panel, and that we can, we, our obligation is to answer
37 questions to the best of our ability. Mr. Perry has some
38 knowledge, I have some knowledge, and that's why
39 we're a panel. If it is a policy question or about the
40 business, I would tend to answer it. If it is a more
41 mechanical or accounting, or more detailed, Mr. Perry
42 will answer it, and if it's even more detailed, then Ms.
43 Duke, Mr. Collins, or Mr. Ludlow will answer it.

44 MR. NOSEWORTHY, CHAIRMAN: I guess there is a
45 fundamental question here, either the preference, I
46 guess, I haven't run into this before, rests with the
47 witnesses in terms of the decision, it's who is best
48 equipped to answer the question, or indeed
49 alternatively who the question is addressed to. Are
50 there any particular comments on that?

51 MR. BROWNE, Q.C.: I certainly have a comment on it.
52 I thought that we raised this during our meeting among
53 counsel and it was discussed in those meetings, and
54 Ms. Newman is shaking her head ... maybe she can tell
55 us what the proposal was.

56 MS. NEWMAN: Well, the understanding I think of the
57 counsel involved is that each counsel when they had a
58 question would pose it to a specific member of the
59 panel, the panel member that they thought would be
60 most appropriate. I think that we didn't have a detailed
61 discussion flowing from that but the natural
62 consequence of that would be that the witness would
63 have to comment whether they were the person, the
64 appropriate person to respond to that question or not,
65 or at least where their limitation and their knowledge
66 began and end on these particular issues, so that
67 initially the counsel is to put a particular question to a
68 particular member of a panel.

69 MS. BUTLER, Q.C.: Specifically, Mr. Chairman, I can
70 tell you that it's very easy, of course, to confuse the
71 counsel meetings that were held on the GRP with the
72 counsel meetings that were held on this, but certainly
73 in the counsel meetings that were held on the GRP,
74 following which we had the procedural order issued,
75 which procedural order we are now guided by today,
76 although we didn't agree that it was going to be cast in
77 stone. Section 12(b) does apply directly to the
78 question, I'm sorry, 12(c), direct evidence may be
79 presented by way of a panel of witnesses, etcetera,
80 when examining a panel counsel shall put each
81 question to a particular witness on the panel. That only
82 addresses half of the question though. McCaulley
83 (*phonetic*), on Administrative Tribunals, which is a
84 textbook I'm sure we're all familiar with, does provide
85 that when you have a panel, notwithstanding that a

1 question is put to a particular witness, boards are
2 looking for the correct facts as quickly as possible, and
3 therefore questions put to the panel may involve an
4 appropriate response by another member of the panel,
5 so I think that although we are obliged to put our
6 questions to one member of a panel, there is nothing to
7 prevent another member of the panel either adding or
8 taking responsibility for the question if the answer
9 cannot be answered by the witness to whom it was put,
10 and I think that is basically a common sense rule which
11 results in the panel, that's yourselves, ultimately having
12 the fullest and most complete answer to a question,
13 which is after all what we are here for.

14 MR. BROWNE, Q.C.: Mr. Chairman, I have to state that
15 once we addressed this during our meetings among
16 counsel, it was our understanding we could put the
17 question to a particular witness, and the other witness
18 was not to interrupt, because otherwise it's a
19 smorgishboard (*phonetic*). I just throw a question out
20 and whoever wants to can answer. I'm trying to get the
21 best evidence as well. If a witness cannot answer the
22 question, he would say I can't answer that and it's best
23 off in this instance, maybe if he can't answer, that Mr.
24 Hughes can answer, but if he can answer I think he's
25 obligated to answer. We can't change the rules that we
26 all agreed upon when we met together. If we start
27 doing that there's no point to these pre-counsel
28 meetings.

29 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, do
30 you have a comment on this?

31 MS. GREENE, Q.C.: Thank you, Mr. Chair, Hydro's
32 experience with panels is limited. We tried it ourselves
33 for the first time in our capital budget hearing and it is
34 to give, and to ensure that the most accurate
35 information is before the Board. In this particular case,
36 yes, we did agree that questions would be put directly
37 to a witness, because that assists also the witnesses
38 when they're there, they're not quite sure who should
39 answer the question, so if a counsel addresses the
40 question to a witness, that's helpful. But also, I do
41 agree that Ms. Butler has explained the law correctly in
42 the sense that once the question has been phrased that
43 way, that it is, it makes imminent sense and it is actually
44 the best practice that the other member on the panel can
45 address the question to add additional information or to
46 clarify, and I think that process is helpful and with our
47 limited experience, in our own hearing and with our
48 observation of the previous Newfoundland Power

49 hearings, I think that is the best practice that would
50 work for this particular panel.

51 MR. NOSEWORTHY, CHAIRMAN: I think that we
52 shouldn't deny either the rules contained in the
53 procedure, or indeed Newfoundland Power's position in
54 terms of add-ons. I think clearly in relation to the rules
55 of procedure, it was contemplated that indeed counsel
56 would address the question to a witness, but it doesn't
57 deny that the remaining witness, or the other witness
58 on the panel certainly can add or clarify any particular
59 comment that might be made or add to the response to
60 the question. Okay, Mr. Browne.

61 MR. BROWNE, Q.C.: Okay, thank you, Mr. Chairman.
62 Mr. Perry, page 5, 2001, CA-124, the second paragraph
63 and the third paragraph, can you read those into the
64 record please?

65 MR. PERRY: Sorry, Mr. Browne, is it the top two
66 paragraphs you're looking at?

67 MR. BROWNE, Q.C.: Yes, the return on rate base,
68 paragraph two beginning with "In PU-30".

69 MR. PERRY: In PU-30, 2000/2001, the Board ordered
70 that a just and reasonable return on rate base to be in
71 the range of 10.10 to 10.46 percent, with 10.28 percent as
72 the midpoint of the range. As noted above, the
73 company's actual return on rate base for 2001 is 10.56
74 percent which was in excess of the upper limit of the
75 approved range. In order to comply with the regulated
76 maximum return on rate base allowed by the Board, the
77 company provided for excess revenue of \$948,000. As
78 a result, net income was reduced by \$557,000 after tax,
79 which reduced the return on rate base to 10.46 percent,
80 the maximum allowed.

81 MR. BROWNE, Q.C.: Okay, now when we take that
82 return on rate base to which you are referred, and the
83 \$545,162,000, which you're seeking approval for, and
84 you turn that into a return on equity, can you go down
85 and read the second paragraph after "automatic
86 adjustment formula"?

87 MR. PERRY: The forecast 2001 information submitted
88 by the company for the purpose of setting the allowed
89 range of return on rate base of 10.10 to 10.46 included
90 a forecast return on equity in the range of 9.99 to 10.72
91 percent, and a cost of equity for the purpose of the
92 automatic adjustment formula of 9.25 percent. Based on
93 the actual results for 2001, the company was able to

1 earn a rate of return on equity of 11.35 percent, while
2 staying within the allowed range of rate of return on the
3 rate base.

4 MR. BROWNE, Q.C.: And the last sentence in that, in
5 the last paragraph, can you read this out?

6 MR. PERRY: Still, the differing results for the two
7 measures of rate of return are unexpected and merit
8 further analysis and review.

9 MR. BROWNE, Q.C.: Now, how could it happen that
10 the rate of return on rate base, the rate base of \$545
11 thousand (*sic*), for which you are seeking approval,
12 could be with, just outside the range, not really within
13 the range, but it's way over the range of what the Board
14 allowed on rate of return on equity? How could that
15 possibly happen?

16 MS. BUTLER, Q.C.: Mr. Chairman, once again, the
17 calculation of the 2001 rate base was the subject of Mr.
18 Browne's question, and you recall that he premised that
19 question on the basis that there was something wrong
20 with that calculation. He did not have the witness read
21 the very paragraph on that page that addresses that
22 calculation, which is bolded, and which states, as a
23 result of completing these procedures, we can advise
24 that no discrepancies were noted.

25 MR. BROWNE, Q.C.: Just one moment, I object to this.
26 If Ms. Butler wants to give evidence, let her get sworn
27 in. She has every opportunity, the witness will come
28 back to her. She has every opportunity to rehabilitate
29 her witness after my cross-examination, but she can't,
30 she can't take the question I'm asking and try to fork an
31 answer over to the witness and then bounce it back at
32 me. That's an incorrect procedure.

33 MS. BUTLER, Q.C.: Mr. Chairman ...

34 MR. BROWNE, Q.C.: She'll have every opportunity to
35 rehabilitate these witnesses after we are through.

36 MS. BUTLER, Q.C.: Mr. Chairman, in fairness the
37 question was, and in fact it was put as a statement,
38 there was something wrong with the 2001 calculation.
39 Now Mr. Browne has conveniently skipped over that
40 very paragraph on that page and asks now about the
41 difference between the calculation of return on rate
42 base and return on equity. That has nothing to do with
43 this capital budget application, Mr. Chairman.

44 MR. BROWNE, Q.C.: Mr. Chairman, it has everything
45 to do with this capital budget application because until
46 this mess is sorted out where the rate of return on rate
47 base and the rate of return on equity have fallen out of
48 line, and it's happened for two consecutive financial
49 reviews, there's little you can do to approve what they
50 are looking for by way of the approval of their rate
51 base, something has occurred that's dramatically wrong
52 here, and we bring experts in to testify on rate of return
53 on equity, and the Board makes a ruling and sets an
54 automatic adjustment formula, only to find out in these
55 reports that they are pretty close on rate base, but
56 they're way out of whack on equity. This has cost the
57 ratepayers millions of dollars. There's some kind of
58 mistake or miscalculation going on here which we have
59 to get to the bottom of and I think these witnesses, it's
60 incumbent upon them to answer it if they are seeking
61 approval for that actual average rate base for 2001 of
62 \$545,162,000. Something has gone awry here seriously.

63 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, do
64 you have any comment?

65 MS. GREENE, Q.C.: Yes, Mr. Chair, and I will speak to
66 the relevancy of the particular questions that have been
67 asked. I had said earlier that there is some relevancy
68 with respect to the 2003 capital budget in terms of the
69 2003 revenue requirement, and I would think it relevant
70 to ask what impact the approval of this budget may
71 have on that revenue requirement, however, the nature
72 of the questions in the last few minutes I believe have
73 gone beyond the scope of the capital budget hearing
74 and are truly into matters with respect to the
75 appropriate return on rate base and the automatic
76 adjustment formula, which are properly issues for the
77 general rate application and are not properly issues for
78 this particular capital budget application.

79 MR. NOSEWORTHY, CHAIRMAN: We seem to be at
80 odds certainly in relation to what is to be incorporated
81 in this capital budget application and the delineation, I
82 suppose, between the capital budget application that's
83 before us and the general rate application. It seems to
84 me to be an issue which is creating a fundamental
85 problem, and is likely to persist in terms of, throughout
86 this, throughout the course of this hearing. I would like
87 counsel actually to address this, Ms. Butler, by way of
88 your particular objection and what sort of remedy that
89 you are seeking. I'd like to hear more information on
90 that, and I'd like to hear, Mr. Browne, it is a fairly ...

1 MR. BROWNE, Q.C.: Mr. Chairman, I'm sorry, I can't
2 hear you.

3 MR. NOSEWORTHY, CHAIRMAN: I'm sorry, sir. It is
4 a fairly complex area when one talks about the return on
5 rate base and how that relates to the rate of return and
6 the issues that are contained in the general rate
7 application. Clearly we will have to make a decision on
8 what's allowable and what's not here, and I'd like to hear
9 more by way of, by way of clarification on this and Ms.
10 Butler, if you could address the specifics of your
11 objection, I'll give Mr. Browne the opportunity to
12 respond and any comment as well that Ms. Greene
13 would like to make, and certainly we'll consider it at that
14 point in time, and Board Counsel, as far as that goes,
15 but I think this is fundamental. We're going to be, I
16 think, clearly at this throughout the course of this
17 hearing unless we try and establish some ground rules
18 up front in terms of what has been, and is likely to
19 continue to be a difficult issue in relation to the
20 relationship between this capital budget application
21 and the general rate application.

22 MS. BUTLER, Q.C.: Mr. Chairman, I can do that now
23 for you now if you wish.

24 MR. NOSEWORTHY, CHAIRMAN: Sure.

25 MS. BUTLER, Q.C.: Okay, I wonder if Mr. Wells might
26 aid me by bringing up to the screen, first of all, the
27 actual front page of the amended application. Thank
28 you. The style of cause, quite evidently, Mr. Chairman,
29 seeks two specific things, approval of the 2003 capital
30 budget, and affixing and determining of the average rate
31 base in the amount of \$545,162,000, as Mr. Browne has
32 indicated. I gave you the statutory references for that
33 in my opening address this morning. Now, Mr. Wells,
34 if you could go to Schedule A. This is what we are here
35 to have the Board address. It is the capital spending in
36 each of the ten, I believe, categories, which are on the
37 screen, and these proposed expenditures are to be made
38 in the year 2003. Moving now to Schedule F, which is
39 the second portion of the relief sought, and Mr. Wells,
40 would you indulge me by putting the entire matter on
41 the screen. You can leave the heading off, just scroll
42 down to see if you can get the whole thing on there.
43 You might have to minimize it again. There you go.
44 When it comes to the second issue which we've asked
45 the Board to address on this application, we're talking
46 about the approval of the rate base in 2001. The
47 average rate base at year end of \$545,162,000, is the
48 number to which return on rate base is applied, and

49 that's where I draw the line, I guess, in the sand, Mr.
50 Chairman. To the extent that plant investment shown
51 at the top of the column would be for 2003, if we can
52 imagine it, involve some capital expenditures, that's the
53 first element of what we're dealing with, and to the
54 extent that average rate base at the end of 2001 has
55 been calculated at \$545 million, addressed by the
56 Board's auditors, once we pass that number and get
57 into the calculation of return on rate base, which
58 becomes one element of many that go into revenue
59 requirement, we are into the territory of the general rate
60 application, so once you've actually left the number of
61 \$545 million and gotten into the calculations of return
62 on rate base or return on equity, we are not into subject
63 matter which is before the Board, and that's what I
64 would say relative to the parameters that we should be
65 guided by relevant to questions that are put to any
66 witnesses in this proceeding. Thank you.

67 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, do
68 you have any comment?

69 MR. BROWNE, Q.C.: I can't let this opportunity go by.
70 The application of Newfoundland Power, and if we can
71 put it up on the screen please, Mr. Wells, is it? Yes,
72 thank you. And we can go to item 10(b).
73 Newfoundland Power requests that the Board make an
74 order, 10(b), the letter (i), fixing and determining
75 Newfoundland Power's average rate base for 2001 in the
76 amount of \$545,162,000. That is the relevant number,
77 that's the relevant number for everything here, because
78 the rate of return on rate base is dependent on that
79 number and the translation of that into equity is
80 dependent on that number as well. We had the auditor
81 for the Board stating that the two measures of rate of
82 return are unexpected and merit further analysis and
83 review. Prior to having that further analysis and review,
84 Newfoundland Power is coming forward to seek
85 approval of this number. Something has gone awry
86 here. We have never seen this before where the rate
87 base is actually outstripped ... the rate of return on rate
88 base is actually outstripped by the rate of return on
89 equity by several basage points. It's right up to 11
90 percent, and we saw it in two successive years.
91 Interestingly enough, and I find this passingly strange,
92 as to why the study wasn't done in 2000 when the
93 auditor said it merited further analysis and review, why
94 we have to wait and see it again, and further analysis
95 and review in 2001, and in the meantime, Newfoundland
96 Power is laughing all the way to the bank because they
97 got a rate of return on their equity that exceeds what the
98 Board set, and it all comes down to this number. Has

1 too much gone into this, this \$545,162,000? Now, it's an
2 easy thing to do, Mr. Chairman, all we have to do is
3 delete this from their application and say we'll put that
4 over for the general rate application, we'll put over that
5 approval for the general rate application. That's all they
6 have to say, and then it could be dealt with at that time,
7 and presumably the Board or someone is going to order
8 that the further analysis be done pronto because once
9 this hits the public that Newfoundland Power is out
10 there getting 11, nearly 12 percent in one case, when
11 their rate of return is 9.25, there's going to be a lot of
12 explaining for a lot of people to do.

13 MS. BUTLER, Q.C.: Mr. Chairman, before my learned
14 friends get the opportunity to respond, I can't let that
15 pass. The comment by Mr. Browne that Newfoundland
16 Power will be laughing all the way to the bank, I think
17 that's most unacceptable. We are dealing about, or
18 dealing with an issue of relevancy of the questions,
19 there is no need for that kind of a rhetorical comment in
20 this hearing.

21 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene?

22 MS. GREENE, Q.C.: Thank you, Mr. Chair, this is one
23 of the issues that Newfoundland Hydro does have an
24 interest in because the procedure to be applied by the
25 Board for approval of the capital budget application in
26 the year there's also a general rate application will be
27 one of the issues for us for next year. We have just
28 finished our own capital budget hearing, so this is one
29 of the issues and why we are here today to express our
30 view on the process because it may impact us for the
31 future. With respect to the particular issue before the
32 panel right now, I come back to my earlier comments,
33 the issue before the panel is the approval of the 2003
34 capital budget for Newfoundland Power. The issues
35 that Mr. Browne has gotten into with respect to the rate
36 of return on rate base, and the automatic adjustment
37 formula, in my view are beyond the scope of a capital
38 budget application. They certainly are issues if Mr.
39 Browne wishes to pursue them in the general rate
40 application and I believe that that is the appropriate
41 forum for them. The issue of the rate base and how that
42 is calculated and what goes into the rate base may be
43 subject for questioning if Mr. Browne wishes to pursue
44 them, and they may be relevant, but the issue of the
45 appropriate return or the automatic adjustment formula,
46 or the return on equity, surely are issues for expert
47 witnesses that will be addressed in a general rate
48 application and will unnecessarily delay this hearing
49 and the time of all the people involved in the hearing if

50 we are to get involved in them at this time as well, so in
51 summary, we agree with the position of Newfoundland
52 Power with respect to this particular issue and we
53 believe that counsel for Newfoundland Power has
54 properly articulated what the correct position should
55 be.

56 MR. BROWNE, Q.C.: With all due respect, Mr.
57 Chairman, Ms. Greene is not taking our point. All we
58 are stating at this time is that there's a problem with that
59 \$545,162,000 figure, a potential problem with it, and I'm
60 asking ... they're looking for approval and all I'm saying
61 is how can you get approval when the auditors are
62 saying there might be a problem there. That's all we're
63 stating. We're not delving into it any further than that.

64 MR. NOSEWORTHY, CHAIRMAN: I understand that,
65 Mr. Browne. Ms. Greene is entitled to her opinion.
66 Board Counsel, are there any comments?

67 MS. NEWMAN: No comments.

68 MR. NOSEWORTHY, CHAIRMAN: Okay, are there
69 any final comments, Mr. Browne?

70 MR. BROWNE, Q.C.: No, you know, it's relevant by
71 their own standard, paragraph 8 states the number and
72 you see what the auditors have written and it all comes
73 from that.

74 MS. BUTLER, Q.C.: I'm sorry, Mr. Chairman, I wonder
75 could I just get clarification of one small point?

76 MR. NOSEWORTHY, CHAIRMAN: Sure.

77 MS. BUTLER, Q.C.: Is Mr. Browne actually suggesting
78 that there is a problem with the calculation of the
79 \$545,162,000?

80 MR. BROWNE, Q.C.: We don't know what the problem
81 is because the auditor says it merits further analysis
82 and review. He cites what the problem is, it comes on
83 the rate of return, it comes from these numbers because
84 he uses these numbers, and he's saying there's
85 something amiss here, that's all we're stating. I don't
86 think, given that circumstance, until the Board gets that
87 report, that they can approve that number.

88 MR. NOSEWORTHY, CHAIRMAN: But isn't that a,
89 isn't that an issue for the general rate application in
90 your opinion?

1 MR. BROWNE, Q.C.: As long as you don't approve the
2 number prior to the general rate application. That's the
3 answer to that, Mr. Chairman.

4 MS. BUTLER, Q.C.: Mr. Chairman, if I might, the
5 document that Mr. Browne fairly put to the witness in
6 terms of the CA-124 deals with numerous different
7 items. One is the calculation of the figure of the
8 \$545,162,000. The second is the rate of return on that
9 figure and the third is the automatic adjustment formula.
10 The calculation of the \$545,162,000 is show at that
11 document, I'm sorry, in that document at page 4, and
12 the auditor's conclusions are on page 4. They say we
13 do not note any discrepancy in the calculation of the
14 average rate base. There is nothing raised in the
15 auditor's report relative to a question on the calculation
16 of the \$545 million. Mr. Browne's point is in relation to
17 issues raised on page 5 which get into rates of return
18 on that \$545 million and the automatic adjustment
19 formula, both of which are the subject of the GRP.

20 MR. NOSEWORTHY, CHAIRMAN: Final comment,
21 Mr. Browne.

22 MR. BROWNE, Q.C.: Well, we've stated our case, Mr.
23 Chairman. All we're asking is that in the final analysis,
24 if they're not willing to delete that or put it over until we
25 get an auditor's report as to what's transpired here, then
26 we will ask the Board at the relevant time to put that in
27 abeyance until the general rate hearing, but I think it's
28 incumbent upon me, part of my due diligence to raise
29 that issue. What was I going to do, just sweep that
30 under the rug and allow the \$545,162,000 to be
31 approved and then Newfoundland Power would say
32 too late now, you should have raised that during the
33 capital budget hearing. It's part of my due diligence. I
34 mean something has gone seriously awry here. We've
35 worked at getting these formulas in place, the Board did
36 the automatic adjustment formula, it appeared to be
37 working okay from our initial view of it, and all of a
38 sudden we find that they're way outside it.

39 MR. NOSEWORTHY, CHAIRMAN: Commissioner
40 Whalen has a question.

41 COMMISSIONER WHALEN: Just in terms of, I guess,
42 getting on with this. Ms. Butler is it absolutely critical
43 that this panel in this proceeding address that issue of
44 fixing and determining that rate base or can that be held
45 over to the GRA?

46 MS. BUTLER, Q.C.: I think to give a full and complete
47 answer, Ms. Whalen, I should consult with my client
48 directly, but my instincts would tell me that it was put
49 into this application because obviously the company
50 had already made a decision that it was critical to have
51 it addressed.

52 MR. HUGHES: If I'm allowed to comment.

53 MR. NOSEWORTHY, CHAIRMAN: Yes, sure.

54 MR. HUGHES: Just to short circuit that, I can confirm
55 that it is critical and that we view that it should be
56 approved.

57 MR. NOSEWORTHY, CHAIRMAN: Thank you. This
58 is a complicated issue and I guess fundamental to the
59 proceeding itself, so I would like to sequester with the
60 panel for a period of time and I will, we will return
61 hopefully shortly. Thank you.

62 *(break)*

63 MR. NOSEWORTHY, CHAIRMAN: Thank you. I
64 guess the panel has considered this matter and simply
65 put, there's seems to be three issues. One is the
66 calculation of the rate base, the \$545 million. The
67 second is the rate of return, and the third is the
68 automatic adjustment formula, and I guess for purposes
69 of this particular hearing, we would view that the
70 calculation of the \$545 million in terms of the calculation
71 of average rate base is certainly an issue which is
72 before us in relation to the application from
73 Newfoundland Power, and anything that's contained in
74 that calculation would be certainly the subject of
75 questioning and evidence before us. With regard to
76 the rate of return and the automatic adjustment formula,
77 both those items suffer, I think, from a couple of things.
78 One is the fact that where do you stop and where do
79 you start with that. Certainly, I think the Board in terms
80 of the general rate application would like to consider
81 these matters with the full evidence before us, with the
82 expert witnesses that will lead those arguments, and
83 certainly we feel that for the purposes of this particular
84 capital budget application, that indeed questions
85 surrounding those would be most appropriately left to
86 the general rate application, and I would ask the parties
87 to adhere to that with all due diligence. So with that I
88 will ask Mr. Browne to continue his questions, please?

1 MR. BROWNE, Q.C.: Mr. Hughes, the companies that
2 you mentioned today, Maritime Electric, are they on a
3 rate base system?

4 MR. HUGHES: No, they're not.

5 MR. BROWNE, Q.C.: What kind of system are they
6 on?

7 MR. HUGHES: They are on a, the closest way of
8 describing it is price cap. The way regulation ... first of
9 all, Maritime Electric, MECL, is the utility in Prince
10 Edward Island, for those that aren't aware. The way it
11 works is that they have a couple of things. They have
12 price cap compared to NB Power, which is plus ten.
13 They also have a formula based on energy supply and
14 energy costs. It's slightly similar to our RSA, but it's
15 got some bells and whistles that I wasn't going to get
16 into unless you particularly wanted me to, and also
17 there is a formula that's ... that is part of a formula, and
18 also there is a formula that ties into rate of return on
19 equity and I believe the rate of return equity formula is
20 based around 12 percent, and those factors go together.
21 There is not the cost of service regulation that we have
22 here. It's bottom and top lines, and so all the, if you
23 like, the middle, the revenue requirement, the
24 depreciation, the interest, all those things in the middle,
25 don't really get included. So it's ... I don't know whether
26 that made it clear, Mr. Browne, or muddier.

27 MR. BROWNE, Q.C.: Yes, what about Belize? Let's
28 move to Belize, are they in a price cap system or a rate
29 base system?

30 MR. HUGHES: At the moment they are in a price cap
31 system. It's sort of part of a transition. When they sold
32 the company to a strategic investor, and Fortis was the
33 successful one, there was a report written by some
34 experts whose name escapes me, their regulator experts,
35 and they were talking about going onto a more
36 traditional form of regulation. Whether they actually do
37 it or not remains to be seen. They have been under this
38 system which is essentially price capped since 1999,
39 and it's expected to continue for three years. I suspect
40 it will continue much that way but there is this report
41 out there.

42 MR. BROWNE, Q.C.: What about Niagara?

43 MR. HUGHES: Niagara, Niagara is a little bit more
44 complicated and as Ontario is, and my comments are
45 pre the last three or four days because it's changed

46 radically, but what happened in Ontario was that all
47 vertically integrated utilities, if you can imagine Power
48 and Hydro together as one company, then it would be
49 split and all the distribution would be one company, all
50 the transmission and the generation is separate. The
51 generation is separate. The generation, depending on
52 what, who you are, you either sell into the pool or you
53 don't. This is pre the last few days because selling into
54 the pool has changed in the last few days. Somebody
55 like Ontario Power generation, I believe, has got a fixed
56 price. The transmission and the distribution is loosely
57 on cost of service regulation but this sort of
58 benchmarks and it's agreed by the Ontario Board and so
59 on ... I'm trying to get the answer down to two or three
60 minutes as opposed to two hours.

61 MR. BROWNE, Q.C.: And are they affected by the four
62 ... is it 4.3 cents price per kilowatt, Niagara?

63 MR. HUGHES: That 4.3 cents I believe, Mr. Browne, is
64 the O ... I was going to say OPG, Ontario Power
65 Generation price because they have 85 percent of the
66 market. They've been instructed to get down to 35
67 percent, and if you've got 85 percent of the market,
68 obviously you totally dominate it and you can sort of
69 price that so their theory, and I'm going back prior to
70 the three days, was that if there was a set price for that,
71 then the deregulated market worked on the other
72 percents, the 15 percent or whatever it is. It's not quite
73 15 percent now, it's some different number, but I don't
74 know because the 85 percent counted the Missisagi
75 (*phonetic*) plants which they sold to Brasscan
76 (*phonetic*), so it's less than 85 now.

77 MR. BROWNE, Q.C.: So of all the Fortis companies,
78 the only one into a true rate base system is this one
79 here, Newfoundland Power.

80 MR. HUGHES: I don't ... there are many companies who
81 have cost of service and rate base is normally part of it.
82 I am only aware of one company in North America, but
83 that's not to say that there aren't, who is regulated on
84 return on rate base. Most people are regulated on
85 return on equity.

86 MR. BROWNE, Q.C.: And why would that be, can you
87 give us your opinion on that?

88 MR. HUGHES: Well, my memory of it is that ... and I'm
89 going to stray a bit into legislation and if I get off track
90 you can pull me back.

1 MR. BROWNE, Q.C.: Well, we know the legislation.

2 MR. HUGHES: No, but what I was going to ... my
3 understanding of the matter is that in the
4 Newfoundland legislation, it talks about return on rate
5 base, and I believe, Mr. Browne, I'm right in that you
6 took a case to the Court of Appeal, because the Public
7 Utilities Board was doing similar to all the other
8 jurisdictions in setting a return on equity and I believe
9 you argued that it should be a return on rate base, and
10 so from that point onward, whenever that court was
11 heard, it then changed from return on equity to return
12 on rate base. Now return on rate base is a combination
13 of return on equity and all those other items, and it's
14 only at one theoretical moment, it's never in reality,
15 where the components ever stay what they were set for.

16 MR. BROWNE, Q.C.: Yes, I should tell you, the Board
17 made the reference to the Court of Appeal, I couldn't
18 take it on my own.

19 MR. HUGHES: I was giving you undue credit.

20 MR. BROWNE, Q.C.: Yes, and in terms of ... if you're
21 not into a rate base system like these ... in a rate base
22 system it encourages the building up of assets, is that
23 a fair comment?

24 MR. HUGHES: No, it's not necessarily true, because
25 what you have is that, just to bring it ... rate base is
26 basically all the assets, so whether you have rate base
27 or whether you have return on equity, you have items
28 funding it, so you have what's called invested capital
29 which is the other items. Rate base or assets, and it
30 doesn't matter which way you really do it, they are one
31 of the components that goes into revenue requirement
32 so that revenue requirement really, in simple terms, is
33 the statement of earnings or statement of income, so
34 you start at the bottom ... now the bottom number in a
35 return on equity is done equity times the rate equals
36 that number. In a return on rate base, what you've got
37 to do is add more numbers together to get to the same,
38 so you take the return on rate base has to equal, and if
39 I get on track, Mr. Perry, you can help me ... net profit,
40 preferred dividends and interest, and those, roughly
41 those financing components, whenever you finance
42 your assets equal the rate base times the return, so
43 those two come into sync.

44 MR. PERRY: That's correct.

45 MR. BROWNE, Q.C.: But is it true that the greater the
46 rate base, the more return that you will get.

47 MR. HUGHES: No, that's not true. What it is is the
48 greater the rate base, the greater the potential earnings
49 would be in this theoretical world where everything
50 stays the same because it's one of those things, it's
51 mathematically correct, and if the rate base is higher,
52 that one component in revenue requirement is higher.
53 However, it depends on what the rates are and so on.
54 All it is is a potential, and for example, in 1992, I believe
55 I'm right in saying that the earnings were about \$27.8
56 million which is roughly what the forecast is for this
57 year, but the reason I bring that up is in this ten year
58 period, \$400 million has been spent on capital
59 expenditures, and that's why although the return on the
60 rate base is one of the items. You can't say well, if rate
61 base is X plus Y, then these things happen, it's just one
62 of the components.

63 MR. BROWNE, Q.C.: But if your rate base stays the
64 same and there's no growth in the rate base, there's no
65 potential, the potential isn't there for extra earnings,
66 isn't that true?

67 MR. HUGHES: No, it's not true because that's what I'm
68 saying is that ... let's take two scenarios, one scenario
69 where there's no rate case, and one where there is, and
70 I'll keep going with your theoretical example. In a time
71 where there's no rate case, the earnings depend on ...
72 sorry, there's no rate case and we've somehow fixed the
73 rate base at whatever we're doing. Earnings depend on
74 all the normal things. It depends on sales, it depends
75 on operating costs and so on. There has been no
76 increase in rates, and presumably in your example,
77 you're keeping return on rate base the same, I assume
78 you are, so what happens in the non-rate case years is
79 that the results are whatever the actions are, so sales
80 have gone up and that sales increase, because
81 everything else has stayed the same or whatever, could
82 translate into greater earnings, or it could be that there
83 have been storms or various other things, and so it
84 hasn't, so in a non-rate case year, all those normal
85 actual items translate into the earnings. In a rate case
86 year, which is next year, you know, where you've got a
87 test year, what happens there is all the components of
88 revenue requirement are at play, so trying to sort of
89 summarize your question is that you're talking about
90 one item, and even that one is hard to isolate because
91 if our 2003 capital budget was less, one of the things I
92 know for sure is the operating costs are going up. I
93 also know that reliability is going to be impacted, and

1 I'm not counting safety or environment, so it's just not,
2 it's just not as ... to use your word, Mr. Browne, as
3 compartmentalized as you're trying to portray.

4 MR. BROWNE, Q.C.: So that is completely wrong, is
5 that what I'm saying, that if your rate base increases
6 your rate of return doesn't necessarily increase, but it
7 could increase, is that the correct part, it could?

8 MR. HUGHES: No, you've got two components, you've
9 got rate base and you've got rate of return. The amount
10 of rate base doesn't affect the percentage return. The
11 return on rate base is set by the Commission
12 (*phonetic*). What happens is, and let's say in an
13 example, we fix the return on rate base, just to make the
14 example simple. If you change, if you increase the rate
15 base, it's a higher potential earnings, but whether they
16 are realized or not will depend on the company's
17 operating performance and what the numbers are set in
18 the revenue requirements in the rate case, so that's how
19 it works.

20 MR. BROWNE, Q.C.: Just before I conclude today,
21 because I'll need some time to read what's come in over
22 the last day or two, just on a few notes. You're
23 President of the company, can you tell me this, how
24 many computers do you have?

25 MR. HUGHES: One.

26 MR. BROWNE, Q.C.: You have one, you have a PC in
27 your office?

28 MR. HUGHES: It's a laptop, I know this is terrible, I
29 think it's a Compaq, but I'm not sure what the make is.

30 MR. BROWNE, Q.C.: So you have a laptop.

31 MR. HUGHES: What I've got in my office, I have a
32 laptop. I've also got a docking station, because I find
33 it easier to read normally on a screen as opposed to a
34 laptop screen, so that's what I've got in my office.

35 MR. BROWNE, Q.C.: And do you have a palm pilot?

36 MR. HUGHES: I do.

37 MR. BROWNE, Q.C.: Do you have a computer at home
38 that is owned by the company?

39 MR. HUGHES: No, I don't, my computer at home is
40 owned by myself and my wife.

41 MR. BROWNE, Q.C.: In terms of the car, the car that
42 you drive, is that a company car?

43 MR. HUGHES: It is.

44 MR. BROWNE, Q.C.: Is that leased?

45 MR. HUGHES: No, it's purchased, I believe, Mr. Perry?
46 Yes.

47 MR. BROWNE, Q.C.: It's purchased?

48 MR. HUGHES: Uh hum.

49 MR. BROWNE, Q.C.: And how long do you use it
50 before it is replaced?

51 MR. HUGHES: The rules of thumb are about three
52 years.

53 MR. BROWNE, Q.C.: Every three years?

54 MR. HUGHES: Uh hum.

55 MR. BROWNE, Q.C.: And would that depend on the
56 mileage and the use?

57 MR. HUGHES: It depends on mileage, use, various
58 things like that.

59 MR. BROWNE, Q.C.: What is the average mileage
60 when it is replaced, can you tell us that?

61 MR. HUGHES: What? Of all vehicles or mine?

62 MR. BROWNE, Q.C.: No, your vehicle.

63 MR. HUGHES: Can I ...

64 MR. BROWNE, Q.C.: We have some information on all
65 vehicles, I'm just wondering how that matches what
66 executive vehicles ...

67 MR. HUGHES: Can I do ballpark, Mr. Browne?

68 MR. BROWNE, Q.C.: Pardon?

69 MR. HUGHES: Can I do ballpark, I just don't know the
70 odometer ... I think my mileage in a year is about
71 between 10,000 and 15,000 kilometers, I believe, it's that
72 range of magnitude.

1 MR. BROWNE, Q.C.: So in three years, that would be
2 about 45,000, 45,000 clicks and it would be traded in.

3 MR. HUGHES: Somewhere in that, 30,000 to 45,000.

4 MR. BROWNE, Q.C.: And how about you, Mr. Perry,
5 how many computers do you have personally that are
6 owned by the company?

7 MR. PERRY: I have one.

8 MR. BROWNE, Q.C.: You have one, is that a laptop?

9 MR. PERRY: It is the same as Mr. Hughes has.

10 MR. BROWNE, Q.C.: Do you have a palm pilot?

11 MR. PERRY: I do.

12 MR. BROWNE, Q.C.: Do you have a computer at home
13 that's owned by the company?

14 MR. PERRY: I do not.

15 MR. BROWNE, Q.C.: Do you have a PC in your office
16 for your own use?

17 MR. PERRY: I have what I indicated which is a laptop
18 with a docking station and a monitor.

19 MR. BROWNE, Q.C.: In terms of your vehicle, is your
20 vehicle owned by the company?

21 MR. PERRY: It is.

22 MR. HUGHES: There's a clarification on this ... I mean
23 I don't know how deep we want to get into that. Mr.
24 Perry wished to purchase a vehicle that was more
25 expensive, so Mr. Perry paid part and the company paid
26 part, so I just want to make that clarification.

27 MR. PERRY: It's a pick-up truck actually.

28 MR. HUGHES: And it was authorized by myself that if
29 he paid for ...

30 MR. BROWNE, Q.C.: I know a law firm in town that
31 does that.

32 MR. HUGHES: If he paid the personal thing that was
33 fine.

34 MR. BROWNE, Q.C.: And what are the rules for the
35 executive in terms of ownership of laptops or, or
36 personal computers or palm pilots, and the like. Is there
37 a direction given by you as to how many a particular
38 executive can own?

39 MR. HUGHES: I don't think I've ever issued a directive.
40 I'm not aware of any executive who has more than one,
41 almost all have a computer at home, almost all of them
42 use their home computer at times to access the
43 company systems and phoning in, dialling in, but I'm
44 not aware of any person that has it. My feeling is is
45 that it's sort of common sense. It's, you know,
46 something is needed that's going to make the person
47 more efficient, then, you know, and it's worthwhile, then
48 it makes sense. The actual specs of the computers, Mr.
49 Collins and his team prescribe what it is and that's why
50 I was a bit shakey whether I've got a Compaq or what it
51 is.

52 MR. BROWNE, Q.C.: So you give no direction as such
53 as to how many any particular executive can own?

54 MR. HUGHES: No, I don't, but I mean if I found out
55 that Joe or Jane had what I thought was not reasonable,
56 then I would make inquiries and if necessary do it. I'm
57 just not aware of anybody who has more than one
58 company, you know, executive that has more than one
59 company computer. The only people that I'm aware
60 that have more than one computer are the control centre
61 operators, because when you go into their thing, they
62 have, they have it like a (inaudible) station, so it's like
63 those that you've seen on the control rooms, you've
64 got a control room with almost like a horseshoe desk
65 and they've got two which they both use, but they're
66 not personal, they're controlling the system, but they're
67 the only people that I'm aware of that have more than
68 one.

69 MR. BROWNE, Q.C.: Okay, I'll leave that anyway, Mr.
70 Fitzgerald is going to get into computers with Ms. Duke
71 and Mr. Collins, is it, later on in the hearing, so I'll leave
72 that for now, but I was wondering what the policy was
73 in terms of the, in terms of the executive. In terms of the
74 policy that is in place for personal use of vehicles by
75 employees, can you tell us briefly what that policy is?
76 I think there is a CA I asked on that, and the number
77 escapes me right now, and maybe you can tell us
78 basically what the policy is on personal use of vehicles
79 by employees?

1 MR. ALTEEN: Perhaps we should put the CA up on
2 the screen might be a good idea.

3 MR. BROWNE, Q.C.: You don't know roughly what it
4 is, do you, Mr. Hughes?

5 MR. HUGHES: I can speak in general terms but I mean
6 if you want to ask me a detailed question on the policy,
7 it's easier if it's on the screen. If you want a general
8 answer, I'm happy to give a general answer.

9 MR. ALTEEN: CA-45(g) please, Mr. Wells? It's the
10 attachment.

11 MR. BROWNE, Q.C.: Okay, when we look at CA-45(g),
12 attachment A, can you just read the first paragraph into
13 the record for us, Mr. Hughes, please?

14 MR. HUGHES: Do you mean one, or in consideration.

15 MR. BROWNE, Q.C.: Number one, please.

16 MR. HUGHES: Any employee utilizing a company
17 vehicle must ensure that they exercise diligent and
18 discretion in all situations. This is particularly true after
19 normal working hours. Employees are expected to
20 consistently act in a responsible manner in the use of
21 company vehicles. In making the "right", in inverted
22 commas, judgement on the use of company vehicles,
23 employees must act with customer expectations and
24 public perception in mind. This being said, employees
25 must never compromise the need for safety under any
26 circumstance.

27 MR. BROWNE, Q.C.: Okay, why should the ratepayers
28 of this province be paying your employees to use a
29 company vehicle after working hours?

30 MR. HUGHES: Because the main ...

31 MR. BROWNE, Q.C.: Why should they be paying for
32 that vehicle?

33 MR. HUGHES: Mr. Ludlow can get into the detail of
34 this. The main people who have these company
35 vehicles are operations and engineering people. We
36 are a 24/7, 365 company, and as happened say with the
37 lightening storm in Grand Falls. That lightening storm
38 came in, whatever it was, in the evening, early evening.
39 We need to assemble people as fast as we can. We
40 also need them, not particularly, they may go to the
41 building, they may go right out to where the substation
42 is, they may go to the lines. They need to be in
43 vehicles where, you know, they can go off road if they
44 need to ... they need to be in whatever is the most
45 suitable vehicle, so it's a matter of response, you want
46 to be able to respond quickly and so that is the purpose
47 of it, Mr. Browne.

48 MR. BROWNE, Q.C.: Yes, but obviously you've seen
49 around town snow ploughs operated by the City of St.
50 John's parked by people's homes ready to service the
51 roads at the call, but you rarely see a snow plough
52 driver taking the vehicle to a restaurant downtown to
53 park.

54 MS. BUTLER, Q.C.: Is that a question, Mr. Chairman.

55 MR. BROWNE, Q.C.: Well, I'm getting to the question.
56 But you often see or observe a car with the Fortis
57 insignia, Newfoundland Power, around town at various
58 venues in what would be considered off hours. Is that
59 in accordance with that policy, they are allowed to use
60 those vehicles for personal use?

61 MR. HUGHES: I think there's a big difference in that I
62 would say that the snow plough example, and I don't
63 want to get into what the City does or doesn't do,
64 because I really don't know anything about it, but the
65 vehicles we're talking here aren't line trucks. Line trucks
66 are parked where they should be, so that's analagous to
67 your snow ploughs. What we're talking about on these
68 vehicles is getting our key people, our general
69 (inaudible) persons, our superintendants, people like
70 that, we need them there quickly because you need to
71 stabilize the system, you're going to need to do safety,
72 you need to do environment, and you also need to get
73 them quickly and they are, they need to be able to
74 respond. You cannot have people who are locked in
75 their homes, 24/7, they need to have a life as well. I
76 view it, Mr. Browne, as very reasonable. I think the
77 response times are good, and I think it shows in our
78 reliability.

79 MR. BROWNE, Q.C.: But isn't a vehicle just as
80 available to them if it's parked in their driveway as
81 opposed to parked in front of Woolco?

82 MR. HUGHES: You're assuming, Mr. Browne, that the
83 person is in their house. If a storm comes in, and you're
84 probably talking ... you need to think about it right
85 across our service territory, not just in downtown St.
86 John's. We need people to respond quickly and we
87 have, you have some people on call, and where you

1 have outage situations, they come in, they get called in
2 and they have radios in the trucks and you respond
3 faster. I think it is a very different situation. If you had
4 them in the driveways as you suggest, our response
5 time would be far less, I believe there would be more
6 accidents in terms of stabilizing the system, and you'd
7 lose a lot of time.

8 MR. BROWNE, Q.C.: But you haven't tried that, have
9 you? You can't ... because that's not your policy.

10 MR. HUGHES: To be honest, Mr. Browne, I think it's
11 irresponsible what you're suggesting.

12 MR. BROWNE, Q.C.: So if the City of St. John's has
13 their snow ploughs parked in front of an employee's
14 house, that is irresponsible, as opposed to letting him
15 use it for his personal use?

16 MR. HUGHES: Mr. Browne, you're talking about
17 different things. If you've got ... the commodity we sell
18 is lethal. We need to stabilize that situation. We need
19 to be able to respond quickly. If a road gets ploughed,
20 20 minutes later or an hour later or an hour and a half
21 later, it hasn't got the same effect as restoring power,
22 and it hasn't got it from a safety point of view, and it
23 hasn't got it from the environmental point of view. We,
24 because vehicles are always such an emotive thing,
25 we've gone through this. We think from a safety,
26 environment, restoration (inaudible), this makes sense.
27 It's a good compromise. Is it perfect? No, it's not, but
28 I think this gives customers the best chance of, the best
29 reasonable service, and I think from a safety point of
30 view, it's paramount. We need those guys there.

31 MR. BROWNE, Q.C.: Do you clock how many
32 kilometers are used by an employee driving a company
33 care personally versus how much he's using for
34 business reasons ... he/she?

35 MR. PERRY: I would say for example, that there's two
36 types of vehicles. You have vehicles, for example, you
37 could say for Philip and I, which are, at least for myself
38 is mostly personal use, in terms of that's a benefit I
39 have. I would say for General 4 persons, and engineers,
40 we don't track the actual personal kilometers because,
41 again, the majority of use of that vehicle is for business
42 purposes, so we don't track specifically the kilometers
43 in that case. That's my recollection of that.

44 MR. HUGHES: I'm not sure that's quite right. Can we
45 just find out what the real situation is, Mr. Browne,

46 because I thought we did an assessment on the
47 personal, but I could be wrong.

48 MR. BROWNE, Q.C.: Okay, and Mr. Ludlow is the
49 expert on vehicles and vehicle usage?

50 MR. HUGHES: Mr. Ludlow knows far more than I do
51 about vehicles.

52 MR. BROWNE, Q.C.: Okay, well we look forward to
53 hearing from him in reference to the vehicle, personal
54 use vehicle policy. By the way, when did that policy
55 come in, do you have any idea?

56 MR. HUGHES: I believe, Mr. Browne, that the one on
57 the screen is relatively recent. We can find out, if you
58 want the exact date, we can find it out, but my
59 recollection is that there's been, for a long time, a
60 vehicle policy, but I think this is an updated one, and I
61 can't tell you the exact date, but Mr. Ludlow's in the
62 room, I'm sure he can rattle them off when he's on the
63 stand.

64 MR. BROWNE, Q.C.: It's 20 after, so thank you for
65 today and I will continue tomorrow, is that okay, Mr.
66 Chair.

67 MR. NOSEWORTHY, CHAIRMAN: Thank you very
68 much, Mr. Browne, Mr. Hughes, Mr. Perry, we'll adjourn
69 for today and we'll reconvene at 9:00 tomorrow
70 morning.

71 *(hearing adjourned to November 14, 2002)*