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<p>1 10:00 A.M.                  2 CHAIRMAN:                  3 Q. Thank you, and good morning, everybody, and                  4 welcome to this, the pre-hearing conference                  5 for the Rate Revision application from the                  6 Facility Association. My name is Robert                  7 Noseworthy, I'm Chair and CEO of the Public                  8 Utilities Board. And to my left is Darlene                  9 Whalen, she's the Vice-Chair of the Board.                  10 And both of us, seeing we are the only two                  11 commissions of the Board at the present time,                  12 we'll be the Panel for this particular hearing                  13 throughout its course. I'd also like to                  14 introduce to my left, near left, I guess, Ms.                  15 Cheryl Blundon. Cheryl is the Director of                  16 Corporate Services and the Board secretary.                  17 Sitting next to Cheryl is Dwanda Newman, who's                  18 our Board counsel. And in the back of the                  19 room, Bob Byrne, who's our Director of                  20 Regulatory Services, and Mike McNiven, who is                  21 our IT officer and who will be assisting us                  22 with the electronic support for the hearing                  23 once, indeed, it commences. And also, we                  24 seem, the staff certainly seem to overwhelm                  25 everybody else here this morning. I would</p>	<p>1 also introduce Bruce Moss. Bruce works with                  2 Discoveries Unlimited, who will be handling                  3 the transcription of the pre-hearing                  4 conference and the hearing throughout its                  5 course, as well. The purpose of this pre-                  6 hearing conference this morning is indeed to                  7 assist with the organization and planning for                  8 the public hearing of Facility Associations'                  9 rate revision application and to set the rules                  10 of procedure schedule of dates for the hearing                  11 and other matters with regard to intervenors                  12 and what have you, as well. So without any                  13 further ado, I'll call upon our Board counsel,                  14 Ms. Dwanda Newman, to enter the matter and                  15 confirm the issuance of appropriate public                  16 notices and also any notices of the                  17 interventions, as well. Good morning, Ms.                  18 Newman.                  19 MS. NEWMAN:                  20 Q. Good morning, Mr. Chairman, Vice-Chair. I can                  21 confirm that on March 20th the Board of                  22 Commissioners of Public Utilities of                  23 Newfoundland received an application from                  24 Facility Association seeking, among other                  25 things, to vary the rates charged to private</p>
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<p>1 passenger and selected commercial and                  2 miscellaneous automobile insurance policy                  3 holders insured through Facility. Notice of                  4 this application was duly published in several                  5 newspapers throughout the province beginning                  6 on April 2nd and the newspapers that it was                  7 published in included the Evening Telegram,                  8 the Western Star, the Compass, the Georgian,                  9 the Pilot, the Nor'wester, the Coaster, the                  10 Southern Gazette and the Gulf News. In                  11 response to this application the Board did                  12 receive notice of intent to intervene from                  13 Thomas Johnson, as Consumer Advocate. In the                  14 circumstances, Mr. Chairman, Vice-Chair, I                  15 suggest that the Board waive the requirement                  16 for the filing of an intervenor submission and                  17 proceed to confirm Tom Johnson as intervenor                  18 in this--as Consumer Advocate as intervenor in                  19 this proceeding.                  20 CHAIRMAN:                  21 Q. Are you in agreement -                  22 WHALEN, Q.C.:                  23 Q. We consent to that.                  24 CHAIRMAN:                  25 Q. Good morning, Mr. Whalen.</p>	<p>1 WHALEN, Q.C.:                  2 Q. Norman Whalen representing Facility                  3 Association, Mr. Chair and Vice-Chair. And we                  4 certainly consent to that.                  5 CHAIRMAN:                  6 Q. Thank you, sir.                  7 MS. NEWMAN:                  8 Q. And there were no other intervenor submissions                  9 received by the Board and no letters of                  10 comment received to date.                  11 CHAIRMAN:                  12 Q. Thank you. I'll just ask now--good morning,                  13 Mr. Whalen, good to see you again.                  14 WHALEN, Q.C.:                  15 Q. Good to be back, Mr. Chairman.                  16 CHAIRMAN:                  17 Q. If you'd just care to introduce yourself and                  18 who you represent here?                  19 WHALEN, Q.C.:                  20 Q. My name is Norman Whalen and I represent                  21 Facilities Association in this matter.                  22 CHAIRMAN:                  23 Q. Thank you, Mr. Whalen. Good morning, Mr.                  24 Johnson.                  25 MR. JOHNSON:</p>

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1 Q. Good morning. Tom Johnson, Consumer Advocate.  
 2 I expect formal appointment soon, but I've  
 3 been taking part in the pre-hearing conference  
 4 discussions.  
 5 CHAIRMAN:  
 6 Q. Good to see you, Mr. Johnson. Must be having  
 7 trouble with your hats these days, different  
 8 hats appearing before us on different  
 9 occasions. Welcome to you both.  
 10 MR. JOHNSON:  
 11 Q. Yeah, I remember you were--at the beginning of  
 12 the Hydro hearing you said it would be a break  
 13 to get away from insurance for awhile.  
 14 CHAIRMAN:  
 15 Q. We're back into it again. Welcome. Are there  
 16 any other parties present today who may wish  
 17 to give notice of their intention to intervene  
 18 in this hearing who haven't already done so?  
 19 MR. JOHNSON:  
 20 Q. No, I would just note for the record the  
 21 presence of Mr. Mike Keough, with whom I've  
 22 had some discussions as of late. I expect  
 23 that his group and other groups who have an  
 24 interest in this application will be making  
 25 their representations through me at the

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1 Q. Well, Mr. Chairman, yes, well the application,  
 2 as you've indicated, is for review. And for  
 3 the first time before this Board it contains  
 4 an application for the cost of capital. And  
 5 that is not unique, there have been other  
 6 applications made in this regard, but it is a  
 7 recent change coming about from the direction  
 8 of the Board of Directors to make it more in  
 9 line with the general principles of insurance.  
 10 So in meetings with the Board counsel and with  
 11 the Consumer Representative, we thought it  
 12 might be appropriate to bifurcate the hearing  
 13 and deal with just the issue of whether a cost  
 14 of capital is appropriate in this area and  
 15 depending on the ruling that the Board would  
 16 make in that area, then it would obviously  
 17 impact the remainder of the filing as to how  
 18 that should be dealt with. So perhaps Ms.  
 19 Newman, the Board counsel, could give more  
 20 explanation of that idea. I think it was--we  
 21 may give her credit, I think it might have  
 22 been hers, but it was a brilliant idea,  
 23 whoever came up with it, and I don't take  
 24 parenthood of the concept.  
 25 CHAIRMAN:

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1 appropriate time. So I just would wish to  
 2 acknowledge Mr. Keough's presence this morning  
 3 for the Board.  
 4 CHAIRMAN:  
 5 Q. Welcome, Mr. Keough, and thank you for your  
 6 interest in coming this morning. I don't  
 7 think there are any particular housekeeping  
 8 items. If there's anything we can do by way  
 9 of support throughout the hearing for any of  
 10 the parties, we'll certainly try and do that.  
 11 It's only the matter of bringing it to the  
 12 attention of Ms. Blundon, our Board secretary.  
 13 And I guess with regard to the electronic  
 14 support, we'll have that in place once the  
 15 hearing begins. We'll be looking for the  
 16 information to be filed electronically and  
 17 we'll be dealing with any evidence in that way  
 18 as has become our custom in the past. And we  
 19 will certainly be transcribing the hearing  
 20 during its entire course, as well. I'd call  
 21 upon, now, I think in the order of things I  
 22 have, if Mr. Whalen, if you could just simply  
 23 briefly introduce the application before we  
 24 deal with some other matters, please?  
 25 WHALEN, Q.C.:

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1 Q. Thank you, Mr. Whalen. Ms. Newman, do you  
 2 have any particular comments? I guess there  
 3 are a number of items. In any event, perhaps  
 4 you could just review for purposes of -  
 5 MS. NEWMAN:  
 6 Q. Yes, I can go through some of the procedural  
 7 items that we want to address. And one of  
 8 them is the advance ruling on the cost of  
 9 capital, the other is the schedule of dates  
 10 for that and the remainder of the hearing and  
 11 the third is the rules of procedure. So as  
 12 Mr. Whalen has indicated, this is a full  
 13 application from Facility Association seeking  
 14 increased rates, many issues involved,  
 15 including technical, actuarial issues and an  
 16 application for the inclusion of a cost of  
 17 capital in the rates of Facility Association.  
 18 In this jurisdiction they had not previously  
 19 had this provision; it would be new. Also, it  
 20 would, if it was allowed, require then,  
 21 likely, testimony of cost of capital experts,  
 22 which could be quite detailed and technical  
 23 and take some time. So in the interests of an  
 24 efficient hearing I propose that what the  
 25 Board do in this case is identify that

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1 particular issue to be heard in advance of all  
 2 the others. This will allow the Board and the  
 3 parties to assess what needs to follow in the  
 4 remainder of the issues, what evidence and  
 5 what process should be followed. So, I think  
 6 that what we've got here is a schedule of  
 7 dates only for that portion of the hearing  
 8 which is--isn't the Facility Association  
 9 entitled to include in its rates a provision  
 10 for cost of capital or what we commonly call  
 11 rate of return. And if they are, then this  
 12 Board and the parties would move to have the  
 13 remaining issues considered, which would  
 14 likely be all the actuarial issues and what  
 15 that level of that return should be. In that  
 16 light, I have circulated a schedule of dates  
 17 which I'd like to -

18 CHAIRMAN:  
 19 Q. Excuse me, Ms. Newman.

20 MS. NEWMAN:  
 21 Q. Yes.

22 CHAIRMAN:  
 23 Q. Mr. Johnson, would you have any comment on  
 24 that particular proposal before we move on?  
 25 MR. JOHNSON:

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1 schedule of dates just to provide some  
 2 comment. I'll go through them, but just by  
 3 way of general comment, I would note that the  
 4 presentation of this issue is likely to be  
 5 made to the Board in June and there'll be some  
 6 process in advance that will go through the  
 7 details. This will be, as was mentioned, the  
 8 first time in this jurisdiction that this  
 9 issue would have been considered in detail by  
 10 the Board so we expect that there'll be some  
 11 advance work to be done by all the parties to  
 12 get ready, so June was thought to be the  
 13 earliest that we could bring this matter  
 14 forward. There is a scheduled or proposed  
 15 counsel meeting for May 3rd. This would allow  
 16 the parties to get together and assess that  
 17 things are moving on track and to sort out  
 18 what experts, if any, need to be brought  
 19 forward. The pre-filed evidence would then be  
 20 filed, pre-filed evidence and experts' reports  
 21 would be filed by Facility Association on May  
 22 16th; and requests for information on that  
 23 particular evidence would be filed May 23rd;  
 24 the answers to those question on May 30th; to  
 25 be followed with a counsel meeting on June

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1 Q. Yeah, Mr. Chairman, I agreed very much with  
 2 that approach. It seemed to be sensible. And  
 3 from what I understand from my friend, Mr.  
 4 Whalen, the cost of capital component in the  
 5 application is the main predominant driver of  
 6 the rate indications flowing out of it. So,  
 7 you know, subject to further confirmation in  
 8 the RFI process, if you took that piece out,  
 9 the rest of it, I expect, would have fallen  
 10 away anyhow. So I certainly agree that it's  
 11 more efficient to deal with it in the fashion  
 12 that Board counsel has suggested and outlined  
 13 to you.

14 CHAIRMAN:  
 15 Q. It's a key component, I guess, a key part of  
 16 the rates application, so it seems to make  
 17 some sense to deal with that and it appears to  
 18 be a primary component of it, as well, upfront  
 19 before we get into that, you know, the other  
 20 aspects of it. It seems to me to be a cleaner  
 21 and more crisp way of doing it, quite likely.  
 22 So we'll consider that. Do you have any  
 23 comments, Ms. Whalen? Okay. Thank you.

24 MS. NEWMAN:  
 25 Q. I would briefly like to go through the

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1 1st. And then on June 6th there'd be a  
 2 deadline for the remaining expert evidence or  
 3 other evidence that's to be filed in the  
 4 hearing, we would anticipate that the Consumer  
 5 Advocate would make his filing of evidence at  
 6 that time. On June 12th and 13th there is a  
 7 tentative date set for oral testimony. It has  
 8 certainly not been established yet whether  
 9 oral testimony is necessary for this  
 10 particular matter; that would be at the  
 11 discretion of the Board, but we did reserve  
 12 two dates in the event that it was necessary.  
 13 I would expect that we would be able to have  
 14 some consensus or positions of the party  
 15 probably around the time frame of that counsel  
 16 meeting in the beginning of June as to whether  
 17 we will likely think as counsel that this  
 18 matter should go to oral testimony and if so,  
 19 that'll be brought to the Board. Written  
 20 submissions on June 19th and then oral  
 21 submissions, if the Board determines that they  
 22 would be necessary or helpful in the  
 23 circumstances, on June 21st. Thereafter the  
 24 remaining issues of the application would be  
 25 addressed, but not until after a decision on

1 the entitlement issue is given by the Board  
 2 and their schedule and process for the  
 3 remaining issues would be established by the  
 4 Board shortly thereafter. So that's kind of  
 5 the schedule of dates issue. I also have  
 6 circulated to the parties a copy of -  
 7 CHAIRMAN:  
 8 Q. Just deal with one of these at a time, if you  
 9 don't mind, Ms. Newman, please?  
 10 MS. NEWMAN:  
 11 Q. Sure.  
 12 CHAIRMAN:  
 13 Q. Mr. Whalen, would you have any comments on the  
 14 schedule of dates?  
 15 WHALEN, Q.C.:  
 16 Q. No, Mr. Chair. I'm quite sure, I think this  
 17 is an aggressive but a reachable time line  
 18 where I've already had the pleasure of having  
 19 this earlier and consulting with my clients  
 20 and we're working towards meeting it as best  
 21 we can, and we think it can be met.  
 22 CHAIRMAN:  
 23 Q. Mr. Johnson?  
 24 MR. JOHNSON:  
 25 Q. Yeah, I share the same view.

1 CHAIRMAN:  
 2 Q. Okay. Thank you.  
 3 MS. NEWMAN:  
 4 Q. I've also circulated rules of procedure for  
 5 this proceeding, and I propose they be adopted  
 6 by the Board both for this early advance issue  
 7 and for the remaining issues as they're  
 8 determined by the Board in the future.  
 9 CHAIRMAN:  
 10 Q. Again, I guess these have been circulated in  
 11 advance. Would you have any comment, Mr.  
 12 Whalen?  
 13 WHALEN, Q.C.:  
 14 Q. No comments. These are fine, Mr. Chair.  
 15 CHAIRMAN:  
 16 Q. Mr. Johnson?  
 17 MR. JOHNSON:  
 18 Q. Same here, Mr. Chairman.  
 19 CHAIRMAN:  
 20 Q. Okay. Thank you. Any other items?  
 21 MS. NEWMAN:  
 22 Q. That's all the issues, I believe.  
 23 CHAIRMAN:  
 24 Q. Any other items to be raised here this  
 25 morning?

1 WHALEN, Q.C.:  
 2 Q. No, that's fine. Thank you.  
 3 CHAIRMAN:  
 4 Q. Fine? Okay, thank you very much to you both,  
 5 Mr. Whalen, Mr. Johnson. And thank you, Mr.  
 6 Keough, for your attendance and we look  
 7 forward to your participation throughout the  
 8 course of this, I guess, through the Consumer  
 9 Advocate. Thank you, very much. So that  
 10 concludes the matter for today and it's  
 11 adjourned and I guess the Board will be  
 12 issuing an order according to our proposals  
 13 that have been forward to us on the matters  
 14 that have been brought forward this morning.  
 15 Thank you, very much.  
 16 10:20 A.M.  
 17 Adjourned.

1 CERTIFICATE  
 2 I, Doreen Marshall, do hereby certify that the  
 3 foregoing is a true and correct transcript of a  
 4 hearing heard on the 18th day of April, 2007 at the  
 5 offices of the Public Utilities Board, St. John's,  
 6 Newfoundland and Labrador and was transcribed by me  
 7 to the best of my ability by means of a sound  
 8 apparatus.  
 9 Dated at St. John's, NL  
 10 this 30th day of April, 2007  
 11 Doreen Marshall  
 12 Discoveries Unlimited Inc.