

MANITOBA PUBLIC UTILITIES BOARD

Manitoba Hydro

Review of Manitoba Hydro's April, 2010

**Application for New
Electric Rates
in Remote Communities
Served by
Diesel Generation
to be Effective
September 1, 2010**

Evidence Prepared by

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for

Indian and Northern Affairs Canada

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1. Introduction

Please state your name and provide your qualifications.

My name is Frederick William Mills.

I have a Masters Certification in Project Management from York University through the University of Winnipeg.

Before starting my career at the Department of Indian Affairs and Northern Development (INAC), I was a machinist at CNR and rebuilt diesel electrical generators.

In 1977, I joined INAC as the School Maintenance Supervisor at God's Lake Narrows, which had diesel electrical generation at that time.

In 1978, I became the Island Lake District Maintenance Supervisor at Garden Hill, which also had diesel electrical generation. Due to power outages and brown outs, I worked with Manitoba Hydro staff to reduce damage to the heating and ventilating electrical components in the federal schools and teacherages, as well as in the water and sewage treatment plants.

In 1980, I moved to Winnipeg and became the Maintenance Supervisor for the federal schools in the Interlake and Eastside of Lake Winnipeg, where I dealt with issues similar to the ones I had dealt with at Island Lake.

After the federal schools were transferred to First Nations' care and control, I worked in the Manitoba Regional office as a Project Officer. One of the many projects I worked on was the Eastside electrification project where I worked with an INAC electrical engineer.

In 1985, as a Capital Officer, I helped the INAC Manitoba Region's Engineering and Architecture unit develop an O&M funding formula that complied with INAC's authorities and was fair and equitable. This funding formula is used today, with an adjustment resulting from the 2004 diesel mediation process.

Because of the various positions I have held within INAC, I have acquired the skills and knowledge to understand the linkages between INAC programs and to analyze the impacts of changes in one program on other programs. As such, I have represented INAC at various national meetings and have explained INAC programs and funding methodologies to both National and Regional First Nation organizations.

I have also lead or participated in the development of various INAC program funding formulas to provide funding to First Nations, including the Operation and Maintenance (O&M) funding formulas for departmentally funded capital assets on reserve and the Band Base Capital Allocation (or Minor Capital Program) funding formula.

I am currently documenting the roles and responsibilities for various sub-programs of the Education, Social Development and Capital Facilities and Maintenance programs, including their linkages to other INAC programs. I am also supporting the Director of Infrastructure and Housing on the diesel electrical file.

Because of my experience and knowledge, I appeared before the Public Utilities Board (PUB) on September 25, 2002 to explain INAC's O&M funding formula.

A copy of the transcript of my testimony is attached as Appendix A.

I was the INAC lead negotiator on the mediated diesel settlement, which resulted in the Minutes of Settlement being signed in July, 2004.

A copy of my resume is attached as Appendix B.

What is the purpose of your testimony?

I will outline INAC's O&M policy and funding formula for electrical diesel service and the financial repercussions of Manitoba Hydro's proposals in its Rate Application for the Diesel General Service Tariff and the Diesel First Nation Education Tariff.

To do so, I will explain how INAC assists the diesel First Nations with payment of electrical costs, outline INAC's policy and funding formula for the O&M program (which includes the diesel electrical component), and describe how the Manitoba Region has adjusted the funding formula to meet the specific needs of Manitoba First Nations, including the diesel electrical adjustments for the diesel First Nations.

I will also discuss how the O&M funding formula currently provides the four diesel First Nations with an additional \$2,411,222.00 above what they would receive if they were on the grid system, a 77 % increase over grid funding, and that the financial impact of the Rate Application under INAC's funding formula is approximately an additional \$900,000.00, or a 16% increase over current funding. Importantly, I will explain why, if INAC were to help fund this increase, the funding would have to be taken from other INAC national or regional programs or initiatives.

In addition, I will show the steps INAC has taken since the 2004 Minutes of Settlement were signed and raise several concerns with the Rate Application, the Prospective Cost of Service Study and PUB's Order No. 1/10.

Finally, I will comment on Desiderata Engineering Consulting Inc.'s recommendations for rate design.

Why is INAC interested in the Rate Application when it is not a customer?

Though not a customer of Manitoba Hydro in the diesel zone, INAC provides funding assistance to the diesel First Nations, who, together with their members, are the largest consumers of diesel electricity. Among other responsibilities, INAC ensures accountability from funding recipients, through measures such as cost containment, cost allocation, appropriate cost sharing, and alternative approaches. Where INAC funds First Nations for diesel-related capital costs, INAC is interested in how Manitoba Hydro is using the funding provided, and as diesel costs rise and create increased funding pressures on First Nations, the importance of accountability rises as well. INAC is interested in ensuring these considerations are brought to the attention of the PUB in the context of this Rate Application, and in ensuring that the PUB is fully and accurately informed in regard to the INAC matters it is considering.

2. Funding

How does INAC assist the diesel First Nations with payment of electrical costs?

INAC has a Capital Facilities and Maintenance program that transfers funding to First Nations to support them in building and maintaining municipal-type services on reserve. The capital aspect of the program transfers funding to assist with new construction or renovations of community assets. A further aspect to the program transfers funding to assist with ongoing operating and maintenance costs, including electric bills, for the capital facilities. First Nations' electric costs are supported by INAC funding from this O&M program for community facilities (such as schools and teacherages, water and wastewater treatment plants, band offices, fire halls and arenas), but not for individual residences.

INAC also has a Social Development program that provides funding to First Nations to support them in providing income assistance to individual members living on reserve. First Nations' income assistance programs, and the funding provided by INAC, are comparable to the income assistance programs provided by provinces. First Nations may provide housing and pay electric costs directly or provide assistance to individuals for their own houses and electric bills, consistent with INAC's authorities and policies. The funding provided by INAC includes support for electric bills for eligible income assistance recipients.

These programs are available to all First Nations in Canada, including the diesel First Nations in Manitoba.

Please provide details of the O&M program.

INAC's current policy for the O&M program for departmentally funded capital assets on reserves is set out in the *Capital Facilities and Maintenance Directive*, a copy of which is attached as Appendix C.

The Directive states that the purpose of O&M funding is to “**assist** First Nations to assume management and partial financial responsibility for operating and maintaining community infrastructure and services on reserves” (emphasis added). The partial cost that First Nations are responsible for is similar to the costs that would be recovered in user fee rates for similar off reserve services.

As such, First Nations are expected to make up any difference between INAC funding and the total O&M cost through other sources. These sources could include:

- (1) user fees for municipal-type services such as water and sewer, garbage pick-up, and hall and arena rentals;
- (2) tobacco and gas tax rebates provided by the Province of Manitoba to the First Nations on behalf of the on-reserve status population;

- (3) own source revenues where the First Nations are owners or partners in business ventures both on and off reserve; and
- (4) INAC's Indian Moneys Program, which consists of Capital moneys, for example, derived from the sale of surrendered lands and Revenue moneys, for example, derived the sale of renewable resources.

How much O&M funding is provided to each diesel First Nation each year?

INAC is not in a position to provide this information to the PUB, but rather, each individual diesel First Nation could be asked to provide the information or provide its consent to release of the information.

The amount provided to each First Nation is specific to the community facilities on each reserve. Attached as Appendix D is a copy of Part D to a funding arrangement for a diesel First Nation, which indicates that \$2.3 million was provided for the operation and maintenance of community assets, including school facilities.

How does INAC determine how much O&M funding is to be provided to each First Nation?

INAC uses an O&M funding formula, which includes the following four factors from the Directive:

- (1) the size of the asset (for e.g., roads are measured in kilometers, buildings are measured in square meters);
- (2) the base unit O&M costs, including the labour, fuel, energy (including electrical), equipment and material required to operate and maintain facilities in Toronto, which is adjusted annually for inflation;

- (3) the city centre index to adjust for cost variations outside of Toronto;
and
- (4) the remoteness index to account for the proximity of the asset from the nearest service centre where labour, material and services can be obtained.

The factors are multiplied together to arrive at the Gross Funding Requirement (GFR) as follows:

Asset size X Base Unit Cost X City Centre Index X Remoteness Index = GFR.

INAC then multiplies the GFR by a Net Funding Requirement factor (NFR), another factor in the Directive. It is a set percentage varying from 20% to 100%, depending on which one of four categories (based on type and use) the asset fits into. This number determines the INAC funding.

INAC Funding = GFR X NFR

Under the NFR, Category 1 includes assets which benefit the community as a whole and not a particular building. It includes fire halls and trucks, street lights, landfills and roads and bridges within the community. INAC funds these assets at approximately 90% of the funding formula (i.e. NFR = .9). The balance of the First Nation's O&M costs for Category 1 assets is made up from other sources of funding the First Nation has.

Category 2 includes assets which provide a service directly to a specific house or building. It includes water and sewer service and garbage pickup. INAC funds O&M for these assets at approximately 80% of the funding formula (i.e. NFR = .8). INAC also expects the First Nation to collect user fees. INAC differs from municipalities in its funding for water and sewer systems in that municipalities are usually totally funded from user fees. Otherwise, INAC funds in a similar manner to municipalities for the other assets and categories.

Category 3 includes assets or buildings, other than school facilities, that are eligible for funding under INAC's O&M policy. It includes First Nation community buildings such as arenas, First Nation government offices, maintenance garages, administration offices, warehouses, daycares, arenas and community halls. INAC funds O&M for these assets at 20% of the funding formula (i.e. $NFR = .2$). The balance of O&M comes from user fees and other sources of funding the First Nation has.

Category 4 includes educational facilities, such as schools, teacherages and student residences. Diesel electric bills for these assets are classified as First Nation Education accounts. INAC funds O&M for these assets at 100% of the funding formula (i.e. $NFR = 1$).

Are the First Nation Education accounts “fully funded”?

The PUB raised this inquiry to Manitoba Hydro (PUB/MH5), though its meaning is unclear. If the question was whether INAC funds 100% of its O&M formula for those accounts, the answer is yes, as set out in the prior question. If the question was whether INAC funds 100% of the amount Manitoba Hydro charges or bills the First Nation for electric service for those facilities, the answer is no. INAC's funding is determined on the basis of the formula.

Are the diesel First Nations assured of INAC O&M funding every year?

The INAC commitments for funding to First Nations are set out in the funding arrangements entered into between the First Nations and the Minister of Indian Affairs and Northern Development. When funding commitments are made, they reflect INAC policies that are then in effect. The funding arrangements with the diesel First Nations set out fixed budgets for each program area, and have accountability provisions for each one.

The funding arrangements are signed on an annual basis and the funding commitments in them are only effective for one year.

The funding arrangement sets out the minimum program standards that the First Nation is to meet with the funding provided by INAC, and sets out the minimum reporting that is to be provided back to the Minister.

During the term of the funding arrangement, could the INAC funding be stopped or interrupted?

INAC funding is usually deposited directly to the First Nations' bank account. In my experience, the most common interruption in the availability of the INAC funding is where the bank account is attached by a creditor of the First Nation.

The funding arrangement provides for the responses that may be taken where there is default. Where default takes the form of unmet reporting requirements, the monthly funding for that particular program or programs may be held until the outstanding reports are provided.

A response to default is to require the First Nation to enter into a Co-Management Agreement with a Co-Manager. Under the Co-Management Agreement, the Co-Manager would assist the First Nation in fulfilling its obligations under the funding arrangement and remedying the default, among other things. For First Nations in co-management, there are generally no changes made to the funding provided by INAC, or to the means by which it is provided. Currently, each of the four diesel First Nations have entered into a Co-Management Agreement. A copy of the *Terms of Reference - Co-Management* is attached as Appendix E.

A final option, which is generally a last resort, is to appoint a Third Party Manager to administer the INAC funding. Under this option, the Third Party Manager enters into a Third Party Management Framework Agreement with INAC, under which INAC forwards to the Third Party Manager the funding that would otherwise be provided to the First Nation. There would not be any changes to the amounts paid. The Third Party Manager then administers the funding otherwise payable to the First Nation and the First Nation's obligations under the funding arrangement, in whole or in part, including the ongoing O&M expenses. In addition, the Third Party Manager may help to develop the First Nation's capacity for the management of the funding arrangement. A copy of a *Third Party Management Framework Agreement* is attached as Appendix F.

Is there flexibility for INAC to adjust the amount of O&M funding provided to the diesel First Nations?

Yes. The funding arrangement includes adjustment provisions for volume or formula changes during the year. This allows for increases, or decreases, to O&M when, within the year, a new asset becomes available. Like all governments, municipalities and enterprises, First Nations are otherwise expected to manage their budgets within the year, and have the ability to utilize surpluses in program areas in order to respond to particular pressures.

The INAC Manitoba Region receives an annual budget from which to administer its funding arrangements with Manitoba First Nations, and the INAC Manitoba Region is expected to manage its budget within the year. In order to respond to particular pressures, the Region has some ability to reallocate program resources, at a cost to those programs. Near the end of the fiscal year, if some program areas are not fully expended, funding may be available for reallocation to other programs, though this is never assured. Similarly, on a national basis, unexpended funds in some Regions may be allocated to other Regions, though again it is not assured.

Has the INAC Manitoba Region adjusted O&M funding for the diesel First Nations, as it pertains to the General Service Tariffs and First Nation Education Tariffs?

Since 2004, INAC funding policies have provided for the Manitoba Region to adjust the O&M funding provided to the diesel First Nations to take into account increases to the Manitoba Hydro rates for diesel electricity. While the INAC O&M policy is national in scope, the Directive provides that regional offices can accommodate regional differences and the specific needs of First Nations, and develop regional O&M funding processes to reflect the Directive's principles and responsibilities.

How was the adjustment determined?

The Manitoba Region uses a funding formula similar to the one set out in the Directive, with six additional modifications, where applicable. Under the Manitoba formula, the GFR is calculated as follows:

First, the city centre and remoteness indices are multiplied together to create a site index.

Second, the site index is modified, where special transportation problems arise, by multiplying the site index by a special transportation factor. This includes situations where the road access is disrupted during breakup and freeze-up, and where there is no road access to the airport or no airport.

Third, the site index is also modified where the First Nations use diesel electrical service. In these situations, the site index is adjusted with a separate electrical multiplier to reflect the additional cost of the diesel electrical service.

In summary, the Site Index = City Centre Index X Remoteness Index, plus a special Transportation Factor and diesel electrical multiplier, as required:

Fourth, the base unit cost is modified to compensate for volume or usage as required. For example, because the cost of operating and maintaining a water or sewage treatment plant is directly related to the size of the population being served, the base unit cost will be modified to take this into consideration.

Fifth, a modification will be made, where applicable, for a time in service factor, which takes into account the actual time an asset is used during the year. For example, where a school comes on stream in September, the time in service factor cuts the funding in half.

Finally, where First Nations use diesel electrical service, additional funding has been provided for Category 3 assets since 2004.

To summarize, the Manitoba Region's O&M funding formula for a diesel First Nation is calculated as follows:

GFR = Asset Size X Time in Service X Base Unit Cost (including a volume or usage adjustment and additional funding for Category 3 assets) X Site Index (City Centre Index X Remoteness, plus a special Transportation Factor and diesel electrical multiplier, as required)

INAC Funding = GFR X NFR (depending on the category)

Describe in more detail the two adjustments the Manitoba Region has made for diesel First Nations.

First, the Manitoba Region adds separate diesel electrical multipliers to adjust the electrical component of the site index, based on the category the asset falls under. As a result, the funding formula provides additional funding to assist in offsetting the additional electrical costs over what grid communities pay.

To do so, the Manitoba Region uses two different diesel electrical multipliers. One is for the Diesel General Service Tariff and the other is for the Diesel Government/First Nation Education Tariff. Both electrical multipliers are created

by dividing the Diesel Tariffs over 2,000 kWh by the appropriate Grid Tariff to create the multiplying factors (as shown in Appendix J).

For example, the Diesel General Service Tariff multiplier is calculated using the Grid Tariff of \$0.0600 and the Diesel Tariff of \$0.4127. The calculation is $\$0.4127/\$0.06 = 6.87$.

The Diesel Government/First Nation Education Electrical Tariff multiplier is calculated using the Grid Tariff of \$0.0600 and the Diesel Tariff of \$1.38363. The calculation is $\$1.38363/\$0.0600 = 23.05$.

As a result, for the Diesel General Service Tariff, INAC uses a multiplier for First Nations that is 6.87 times greater than the General Service grid tariff. For the Diesel Government/First Nation Education Tariff, INAC uses a multiplier in its funding formula that is 23.05 times greater than the General Service grid tariff.

The other adjustment to the funding formula for the diesel First Nations is intended to treat the Diesel First Nations' Category 3 assets as if they were on the grid system. Effectively, this means these assets would be funded as if they were on the grid system.

The calculation is performed as follows:

1. Calculate the GFR using the Diesel Multiplier with the asset on the diesel system.
2. Separate the diesel electrical budget out of the diesel GFR calculation in #1.
3. Calculate the GFR as if the asset was on the grid system.
4. Separate the electrical budget out of the grid GFR calculation in #3.
5. Calculate the difference between the diesel electrical budget (#2) and the grid electrical budget (#4). INAC funds 100% of the difference.

6. Multiply the grid electrical budget (#4) by 20%, the NFR factor for Category 3 assets. INAC also funds this.

Please provide an example of how the diesel electrical subsidy adjustment is made for a Category 3 asset.

The following calculation for one of the diesel First Nations results in an additional diesel electrical subsidy of \$79,532.00 for an existing arena. This example was taken from pages 5 (for the diesel calculation) and 10 (for the grid calculation) of a First Nation's O&M calculation sheet, copies of which are attached as Appendix G.

1. For an arena in a diesel community, the calculation is:

Asset size X Time in Service X Base Cost X Site Index = GFR

$$2,452 \text{ m}^2 \times 1 \times \$33.40 \times 4.2 = \$343,970.00$$

The NFR is \$343,970.00 (GFR) X 20% = \$68,794.00

2. The O&M funding formula also breaks out the GFR into estimated budgets for various O&M costs, including an electrical budget. For this arena, the diesel electrical budget determined under the formula is \$90,012.00.

3. If the arena was in a grid community, the calculation would be:

Asset size X Time in Service X Base Cost X Site Index = GFR

$$2,452 \text{ m}^2 \times 1 \times \$33.40 \times 3.26 = \$266,990.00 \text{ (This Site Index is lower than the Site Index in #1 because the diesel multiplier factor, which reflects the additional cost of diesel electrical service, is removed).}$$

4. For this arena, the grid electrical budget determined under the formula is \$13,099.00.

The NFR is $\$266,990 \text{ (GFR)} \times 20\% = \$53,398.00$ (This would be INAC's total funding for this asset if it was on the grid).

5. Diesel electrical budget ($\$90,012.00$) - Grid electrical budget ($\$13,099.00$)
= $\$76,913.00$.

6. 20% of the grid electrical budget ($\$13,099.00$) is $\$2,619.00$.

Accordingly, the total additional Diesel subsidy (in addition to the adjustment to the Site Index) is $\$79,532.00$ ($\$76,913.00 + \$2,619.00$).

The Manitoba Region would provide the NFR of $\$68,794.00$, plus the additional Diesel Subsidy of $\$79,532.00$, for a total of $\$148,326.00$. Therefore, a Diesel First Nation would receive $\$94,928.00$ more than if it were a grid First Nation.

How much additional O&M funding was provided to the diesel First Nations, as compared to the grid First Nations, to assist with the current Diesel Tariffs as a result of these adjustments?

Currently, if the four diesel First Nations were on the grid system, they would receive $\$3,116,295$ O&M funding for electrical service. Because they have diesel service, they currently receive $\$5,527,517$, or an additional $\$2,411,222$ for diesel electrical service, a 77% increase over what they would receive on the grid system.

What would be the financial impact on First Nation costs if the PUB approves the Rate Application?

Using the O&M funding formula calculation, the increase in rates would result in a total demand for O&M funding of approximately $\$6,400,000.00$ for all four diesel First Nations. This amount reflects all O&M costs, of which approximately $\$3,300,000.00$, or 52%, is the electrical service budget portion of the formula.

Accordingly, an annual difference of approximately \$900,000.00 over current funding of approximately \$5,500,000.00 would result.

If the diesel electrical rate was increased, would INAC adjust its funding to ensure that the First Nations did not receive less funding for other programs?

INAC is not in a position to provide assurance of increases to O&M funding, nor assurance that other funding would not be decreased. In order to adjust the O&M funding to diesel First Nations, and do so without affecting other program budgets of the First Nations or the INAC Manitoba Region, INAC would need to prioritize the expenditures within the Region, and possibly nationally, to allow for reallocation from other program areas, and such reallocations cannot be assured.

The current approach in the INAC Manitoba Region is to prioritize funding for education and social development programs before the Capital Facilities and Maintenance program.

How do other regions provide the O&M funding to the First Nations?

To the best of my knowledge, four of the eight regions (B.C., Manitoba, Ontario and Quebec), have diesel communities. The regions appear to fund diesel electrical service differently because the Public Utilities in each region provide diesel electrical service differently.

3. Since 2004

What arrangements has INAC made regarding the surcharges and un-depreciated capital costs?

As per the Minutes of Settlement, INAC has funded Manitoba Keewatinowi Okimakanak Inc. ("MKO") to pay, on the First Nations' behalf, the unpaid surcharges and 69% of the un-depreciated capital costs, plus interest, to Manitoba Hydro.

Specifically INAC transferred to MKO the surcharge billings of \$3.2 million in December, 2004. And by April, 2008, INAC transferred to MKO the un-depreciated capital costs of \$23,175,700.92, including the principal of \$19,871,870.00 and interest of \$3,303,830.92. MKO advised INAC that the amounts were paid to Hydro on behalf of the diesel First Nations.

What arrangements has INAC made with Manitoba Hydro and the First Nations regarding future capital expenditures?

Arrangements were made, in the Minutes of Settlement, for future capital expenditures to be cost-shared. The arrangements required that prior to undertaking new major capital expenditures, Manitoba Hydro would consult with the affected First Nation and attempt to reach a mutual understanding of the requirement for the expenditure and to secure the funding required.

These discussions are expected to benefit both the First Nations and INAC. Generally, INAC sees it important for First Nations to be engaged throughout the consultation process so they acquire capital assets that provide benefits, understand the impacts on their community, and understand their operation and maintenance responsibilities. In the case of Manitoba Hydro's capital assets, while First Nations understand they are required to make a capital contribution for the asset, they also need to be engaged to ensure that the asset does not have negative environmental impacts and is the most cost efficient way of providing the service.

Second, these consultations, in advance of expenditure, are necessary for First Nations to be able to access INAC funding for a capital contribution. INAC manages its 5 year infrastructure investment plan on a cyclical basis. Basically, this means that the earlier in the project life that INAC receives the project details, the better the likelihood that it can consider and accept the scope of work and cost of the project within its policy parameters, and have the funding in place prior to work being undertaken. Early discussion between Manitoba Hydro and the First Nations would allow for timely exchange of information in order for First Nations to access INAC funding.

In addition to the requirement for consultation in the Minutes of Settlement, the parties agreed that Hydro could make capital expenditures before consulting if the expenditure resulted because of failure or anticipated failure, or an emergency. In that situation, Hydro would be obliged to provide written notice to MKO and the affected First Nation and the parties would consult subsequently.

To the best of my knowledge, in most, if not all, cases Manitoba Hydro did not initiate or consult on the capital items in its Rate Application, prior to filing the Rate Application.

The parties to the Minutes of Settlement have proposed to define major capital expenditures to include projects where the direct and indirect costs would exceed \$100,000.00 and the project would produce future benefits. Examples of projects that meet these requirements include the Tadoule Lake Generator upgrade at a cost of \$1.5 million and the Shamattawa Powerhouse modification at a cost of \$0.29 Million.

As for the Tadoule Lake diesel generation upgrade, INAC and Manitoba Hydro entered into a funding arrangement under which Manitoba Hydro's estimated costs were identified as \$1,566,000.00 and INAC's share was estimated as \$1,216,782.00, or 78% of the total cost.

Importantly, INAC does not consider major capital expenditures under the Minutes of Settlement to include soil remediation projects for several reasons. In INAC's view, they are not expenses which provide future benefits to the Diesel First Nations, as has been proposed for definition of the shareable major capital costs.

Even though INAC does not consider soil remediation to be a major capital expenditure under the Minutes of Settlement, it is currently cost sharing the \$8.7 million soil Shamattawa remediation project at on a 50/50 basis with Manitoba Hydro on a policy basis.

Does INAC have any concerns about these arrangements?

INAC is concerned about Manitoba Hydro's ability to contain capital costs within their set budgets. For example, in response to INAC/MH I-6, Manitoba Hydro provided different numbers for the Tadoule Lake Diesel Generation upgrade than in the funding arrangement between INAC and Manitoba Hydro, as illustrated in the chart below. The charts show that Manitoba Hydro understated INAC's funding by \$68,874.00 in their response to IR INAC/MH I-6. As well, the chart shows that the overall cost exceeded the funding arrangement cost by \$624,666.00. INAC was not aware of the cost increase until the IR response was received, and was not asked to increase its funding towards this project.

	INAC Share	MH Share	Total Cost
Funding Arrangement	1,216,782	349,218	1,566,000
MH response to INAC/MH i-6	1,147,908	1,042,758	2,190,666
Variance	68,874	(693,540)	(624,666)

Another example of Manitoba Hydro's difficulty in providing reasonably accurate budgets is illustrated by comparing Manitoba Hydro's Diesel Generation Communities' 5 Year Capital Project Forecast, dated 2009-09-11 to its July 7, 2010 letters to the diesel First Nations, copies of which are attached as Appendix

H and I. Specifically, although the 5 year capital forecast estimates the cost of Lac Brochet's Fire Suppression System to be \$4.5 million, eight months later, the letter to the First Nation estimates that the project will cost \$1.4 million, a \$3.1 million difference. This is only one example of the discrepancies between the 5 year capital forecast and the letters.

Where INAC funding would be sought for the diesel First Nations' contributions to major capital costs, these concerns add to the funding pressures on INAC's 5 year Infrastructure Investment Plan, which has a limited budget. As well, problems arise because Manitoba Hydro is only providing cost estimates. It is not including the information needed by the First Nations and INAC for decision-making and policy compliance, such as providing detailed project descriptions, justification for the project, the alternatives considered, the benefits for the community and the impact on the diesel tariffs, if funding is not provided prior to work being started.

4. Rate Application and Prospective Diesel Cost of Service Study

Does INAC have other concerns with Manitoba Hydro's Rate Application and the Prospective Diesel Cost of Service Study for 2009/10?

INAC has several concerns in addition to the ones I mentioned previously.

First, INAC is concerned about the proposal to move the Provincial accounts from the Government/First Nation Education Class to the General Service Class, even though Manitoba Hydro is funding the revenue shortfall. What this proposal means is that grid customers will have to fund the revenue shortfall for Provincial accounts. Any increases to grid customers' tariffs then have negative impacts on the diesel multipliers used to calculate INAC's O&M funding to the diesel First Nations. Attached as Appendix J is a copy of a Diesel Multiplier Calculation table, which shows how increases to grid tariffs affect the diesel multiplier. As well, moving the Provincial accounts allows the Province of Manitoba to augment

government revenues from Manitoba Hydro's profits while Manitoba Hydro is spending or planning to spend billions of dollars on new generating stations and Bi-pole III.

Second, INAC is of the view that the soil remediation expenditures should not be recovered solely from the diesel customers because these customers do not have care or control over the sites that Manitoba Hydro uses. While Manitoba Hydro may consider these costs as a part of the business of diesel generation, INAC believes they are not, these are easily avoidable costs. As a good environmental steward, it would be incumbent on Manitoba Hydro to ensure that proper procedures were in place either to prevent or clean these spills as they happened. Given that the Shamattawa soil remediation project is estimated at \$8.7 million, this is clearly not from just one spill but successive spills over time. To expect indemnity from consumers for remediation costs would be a disincentive to good stewardship. Also, Manitoba Hydro's approach to treatment of soil remediation expenses is not consistent with Canada's "polluter pays" approach.

Third, INAC is concerned about the accuracy of the information that Manitoba Hydro has provided. As an example, the Rate Application and Prospective Diesel Cost of Service Study contain inconsistencies. For example, page 4, line 13, of the Rate Application indicates that there are approximately 740 customers in the diesel communities. But there are 691 customers when the customers listed in each class on page 9 are added together, and 739 customers when the number of customers at the top of each class are added together. While these numbers are small, this discrepancy is troubling when Manitoba Hydro refuses to provide its base information or electronic spreadsheets to the Interveners to this Rate Application so they can ensure that the facts presented are accurate.

Finally, INAC is concerned about Manitoba Hydro's recommendation that the PUB approve its Rate Application subject to the following assurance that the

PUB sought in Order 1/10 at page 15: *All Parties would best immediately demonstrate that First Nations will be adequately funded for essential services, and that First Nations, with the assistance of INAC, are addressing their financial obligations for such essential services.* Attached as Appendix K is a copy of Manitoba Hydro's June 7, 2010 letter, in which it sought this assurance.

In response to INAC/MH I-2, Manitoba Hydro advised that its view was that "adequately funded" meant that funding would be increased sufficiently to allow the diesel First Nations to pay for electricity service without having to reduce funding of their other obligations. However, if the assurance cannot be provided, it is not clear what rate proposal is at issue.

5. Public Utilities Board Order No. 1/10 (January 5, 2010)

Do you have any concerns with PUB's Order No. 1/10?

The Order appears to be based on several misunderstandings regarding INAC. For ease of reference, I have set out INAC's positions chronologically under the headings used in the Order on issues I have not already addressed.

1. Background

The Order appears to confuse First Nations with the broader concept of "communities" when it states that four First Nation "communities" are not connected to the grid. In fact, the communities that receive electricity from locally generated diesel generation would include any neighbouring non-reserve areas for each of the four First Nations.

While the analysis notes that Diesel Zone customers are cross subsidized by grid-connected customers, it overlooks the reality that the costs for grid-

connected customers are also subsidized by other revenues, such as export revenues.

2. Rate Issues and the "Tentative Settlement Agreement"

a. Pre 2004 Accumulated Deficit: \$16.9 M.

While the Order correctly states that Net Exports Revenues were to be used to retire this deficit, it does not mention that Manitoba Hydro agreed to retire this deficit by May 1, 2014.

c. Un-depreciated Capital Costs: \$28.8 million

Again, as in the Background section, the Order confuses First Nations with the broader concept of Diesel Zone communities by stating that the four Diesel Zone communities paid 69% of the un-depreciated capital costs through INAC-source funding. In reality, only the First Nations contributed to these costs.

The Order notes that Manitoba Hydro bore 21% of the un-depreciated capital costs and cites this as an example of the expense being transferred to the grid-connected customers. This may be so, but it overlooks the issue of the corresponding provincial responsibility for the expense. Although the 21% was the province's share, Manitoba Hydro is bearing the cost.

2. Post 2004 Deficits on Operations: \$ 20.0 million

It is interesting to note that, because the province did not pay its 21% share of the un-depreciated Capital costs, Manitoba Hydro has added \$6.8 million to the post 2004 deficit on operations.

4. Post 2004 Capital Cost Deficit: \$7.4 million

The Order says the “responsible parties” have committed to repay the capital expenditures and the time it is taking for making the payments is “inexcusable”. Clarification is required because the “responsible parties” are not identified nor is the nature of the delay. It seems to suggest that INAC did not pay and does not appear to recognize that INAC is not a customer. In fact, INAC forwarded the funding ahead of schedule and paid interest.

5. Rates

b. Government Rate

The Order notes the number of Federal Government accounts and includes First Nations accounts in the total. However, since 2004 and as a result of mediation efforts, First Nations accounts have not been characterized as “federal government” accounts in the rate structure. Although First Nation Education accounts are set at the same rate as the “government” class, they need to be distinguished from accounts that are truly federal government accounts, such as those for the RCMP and Health Canada, where the federal government is the consumer and the account is in its name.

6. Board Findings

b. Financial Overview – 2005 – 2010

The Order notes that there was a reluctance to act in advance of increased INAC funding to assist the First Nations in paying the increased rates. INAC does not recall Hydro requesting such assurance. In fact, since 2004, INAC has advised Hydro to the contrary, that is, that no assurance can be given.

8. MHEB Decisions & Reasons, January 2010

Government Rate only increased

As with Manitoba Hydro's Rate Application, the Order does not accurately represent INAC's funding of First Nations. As mentioned previously, INAC does not fully fund First Nations Education Accounts nor will an increase in diesel rates for "federal government accounts" necessarily mean that INAC will adjust its funding "to ensure that The First Nation Education accounts will be paid in full without First Nations having to reduce other expenditures that are also funded by INAC".

9. Funding by INAC

The PUB expressed a need for a more in-depth understanding of INAC's present and future funding levels to First Nation in the Diesel Zone. After accurately summarizing INAC's position on several funding issues with First Nations, the Order then raises several misconceptions about INAC funding.

To start, the Order accurately summarizes INAC's position that it is neither a user of diesel-generated electricity nor Manitoba Hydro's customer, and that it is "a" and not "the only" funder of First Nations. It also accurately summarizes INAC's position that it is a Federal entity that operates under Federal legislation and that the Board, as a provincial entity, does not have jurisdiction over it.

However, the Order then sets out the PUB's position that it is in the public interest that First Nation Education accounts are "fully funded". I have already addressed this issue.

INAC is also concerned with the PUB's mistaken assumption that INAC funds First Nations Residential accounts. It does not, except to the extent that INAC provides funding for Income Assistance.

Similarly, as I mentioned previously when outlining INAC's concerns with the Rate Application, INAC is concerned about the factual basis for PUB's understanding of INAC's funding when the PUB requests that:

- (1) all parties (including INAC) show that First Nations will be adequately funded for essential services; and
- (2) First Nations, with INAC's assistance, show they are addressing their financial obligations for such essential services.

Does the PUB have jurisdiction to make Orders against INAC?

The PUB does not have jurisdiction to make Orders against INAC. As noted in Order No. 1/10, INAC has advised that the PUB, as a provincial entity, does not have jurisdiction over a federal entity, such as INAC, that operates under Federal legislation.

As such, the PUB does not have jurisdiction to order INAC to "fully fund" First Nation Education accounts, even if the PUB believes it would be in the public interest to do so. Nor does it have jurisdiction to order INAC to ensure that incremental funding will be provided sufficient to cover the proposed increases without detriment to the level of funding provided to the First Nations for all other purposes.

In addition, INAC is neither a user of diesel-generated electricity nor Manitoba Hydro's customer. It is also not the only funder of First Nations. For example, the federal Department of Health provides funding to First Nations to assist the First Nations with their health centres and nursing stations.

6. Desiderata Energy Consulting Inc.

What is INAC's view of the recommendations in the report by Desiderata Energy Consulting Inc.?

INAC considers the six recommendations to be valid.

INAC agrees with recommendation #4 that a comprehensive review of the 2004 forecast of net export revenues and the allocation of Net Export Revenues to the diesel zone rate class should be undertaken and filed with the PUB.

As stated in Desiderata's report, this deficit was to be paid by an allocation of net export revenues over a ten year period, concluding in May 1, 2014. At that time, Manitoba Hydro was to direct the net export revenues to the Diesel class, thereby reducing the revenue requirements by the amount of the net export revenues.

The proposed diesel rate design in recommendation #5, which recommends progressive energy charges to encourage the implementation of energy management programs, is expected to have minimal impact on the First Nations because it will shift some of the recovery of the overall revenue shortfall from the Government/First Nation Education class to the Residential class. Essentially, some of the revenue requirements will be shifted back to where they are created.

Because INAC provides funding to the First Nations for some of the residential electrical cost under the EIA program and some of the First Nation Education electrical cost under INAC's O&M program, the funding would shift from INAC's O&M program to its EIA program. As a result, the actual financial impact is expected to be minimal.

This rate design should encourage residents to become more energy conscious and consume less power. It would also reduce the overall amount of power that will need to be generated and reduce the variable costs.

7. Closing remarks

Do you have any final comments?

In considering the Rate Application and making a decision on diesel electricity rates, I hope the PUB has a full understanding of how, and the extent to which, INAC provides funding assistance to diesel First Nations. INAC is not a blank cheque for diesel-related costs. Through INAC's expert, Desiderata, INAC has provided the PUB with information and alternatives for consideration. As they indicated, "Manitoba Hydro's proposed overall 23% rate increase suggests a dramatic rate design shift is required". While Manitoba Hydro proposes, in this Rate Application, to deal with escalating diesel costs through escalating rates and INAC funding support, we believe escalating costs also suggest the need for a dramatic shift in Manitoba Hydro's communications with its First Nation customers in the diesel zone, accountability, and management of escalating costs.

TAB A

MANITOBA PUBLIC UTILITIES BOARD

IN THE MATTER OF Manitoba Hydro

- I Status Update Re: Acquisition of Centra Gas Manitoba Inc.
- II Status Update Re: Manitoba Hydro Financial Matters
- III Application for a new curtailable rate program
- IV Application for confirmation interim ex-parte orders

Before:

Board Panel:

Gerry Forrest - Board Chairman

Robert Mayer - Board Member

Dr. Avery-Kinew - Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

Volume XX

September 25th, 2002

Pages 4340 to 4607

APPEARANCES

Bob Peters (Np)) Board Counsel

Kathy Kalinowsky

Byron Williams) CAC/MSOS

Tamara McCaffrey) MIPOG

Patrick Bowman)

John Osler)

Jurgen Feldschmid) Canadian Centre for Energy

) Policy Incorporated

Marla Murphy) Manitoba Hydro

Odette Fernandes)

Patricia Ramage)

Markus Buchart) TREE

Michael Anderson) Manitoba Keewatinowi Okimakanak

Elizabeth Fleming (np)) Provincial Council of Women of

) Manitoba Inc.

Carol Geehan) Court Reporter

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MKO-8:	A sample table, prepared by Mr. Frederich Mills, showing how a formula would be applied for a sample administrative building.	4376
MKO-9:	Letter dated January 29th, 2002, to the Board, signed by the Regional Director General, Marilyn Kapitany.	4382
MKO-10:	Tabs 1, 2 and 3 of the O&M Policy Handbook.	4399

1 --- Upon commencing at 9:07 a.m.

2

3 THE CHAIRMAN: Ladies and gentlemen, if I may,
4 I'd like to call the Hearing to order.

5 As part of this process, MKO subpoenaed Mr.
6 Fred Mills, Manager of Program, Planning and Allocation,
7 Funding Services Director of Indian and Northern Affairs
8 Canada, Manitoba Region.

9 This morning, I'll call on Mr. Anderson to make
10 the introductions and proceed in a manner that would normally
11 follow in the cross-examination of a witness

12 Prior to doing so, however, I want to serve
13 notice on parties that the Board will sit this morning until
14 9:45 and then we will stand down for approximately half an
15 hour -- or slightly in excess of half an hour. And that will
16 be our morning break.

17 So I want parties to be aware of it and
18 certainly Mr. Anderson to be aware of it that at 9:45 this
19 morning we will stand down at that time.

20 Also, with us today, just for the record, Mr.
21 Mills has brought along someone to assist him, if he requires
22 any assistance, in the name of Mr. Craig Henderson and Mr.
23 Henderson is Mr. Mill's Counsel and is a member of Federal
24 Justice.

25 With those brief comments for the record, I'll

1 call on Mr. Anderson, representing MKO.

2 Mr. Anderson?

3 MR. MICHAEL ANDERSON: Good morning, Mr. Chair,
4 Members of the Board, Counsel Manitoba Hydro.

5 I'd like to begin by letting Mr. Mills --
6 you've introduced him already. His associate I'd like him to
7 introduce himself, for the record, please.

8 MR. CRAIG HENDERSON: Department of Justice,
9 Winnipeg Regional Office, representing the Department of
10 Indian Affairs.

11 MR. MICHAEL ANDERSON: Thank you Mr. Henderson.

12 MR. CRAIG HENDERSON: Craig Henderson, I'm with
13 the Federal Department of Justice, Winnipeg Regional office.
14 And I'm Counsel for the Department of Indian Affairs,
15 representing Mr. Mills this morning.

16 MR. MICHAEL ANDERSON: Thank you, Mr.
17 Henderson.

18 MR. MICHAEL ANDERSON: Mr. Mills, would you
19 provide a description please --

20 THE CHAIRMAN: Mr. Anderson, do you wish to
21 have Mr. Mills sworn?

22 MR. MICHAEL ANDERSON: Yes, please Mr. Chair,
23 thank you.

24

25 FREDERICK WILLIAM MILLS, Sworn:

1 THE CHAIRMAN: Let the record show that Mr.
2 Frederick William Mills has been sworn.

3 Mr. Anderson, you can proceed.

4 MR. MICHAEL ANDERSON: Thank you, Mr. Chair.

5

6 EXAMINATION-IN-CHIEF BY MR. MICHAEL ANDERSON:

7 MR. MICHAEL ANDERSON: Mr. Mills, would you
8 please describe your current responsibilities with the
9 Department of Indian Affairs, Manitoba region?

10 MR. FREDERICK MILLS: As Manager of program
11 planning and allocation, I'm responsible for allocating
12 resources to First Nations, in various program areas. But,
13 there are five (5) or four (4) main areas, one being a social
14 area which has several areas, one being education, which has
15 several programs, capital area, the operation and maintenance
16 of facilities area and Indian Government Services, such as
17 provision of dollars for First Nations to operate and maintain
18 an administration office and staff and that kind of stuff.

19 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
20 Previous to your current position -- how long have you been in
21 this position with the Department?

22 MR. FREDERICK MILLS: I've been in this
23 position for four (4) years, been with the Department of
24 Indian Affairs for twenty-five (25).

25 MR. MICHAEL ANDERSON: And previously to your

1 current responsibilities, Mr. Mills, what were you -- what
2 were your responsibilities and duties with the Department?

3 MR. FREDERICK WILLIAM MILLS: I have been
4 involved in the operation and maintenance program for about
5 fifteen (15) years and was involved extensively in the capital
6 program for about seven (7) or eight (8) years.

7 MR. MICHAEL ANDERSON: And as part of your
8 responsibilities, both current and previously, that would
9 involve the determination of any contributions the department
10 might make, for example, for -- related to electricity
11 expenses in the four (4) diesel communities?

12 MR. FREDERICK MILLS: In my capacity, I've
13 been involved in the establishment of O&M budgets for First
14 Nations, which include an electrical factor.

15 MR. MICHAEL ANDERSON: Thank you, Mr. Mills,
16 and we'll be going through that process in my questions.

17 Firstly, just provide some way of background,
18 Mr. Mills, I'd like your assistance in providing some context
19 in respect of the First Nations that are involved, themselves,
20 the four (4) diesel communities, the Saysie Dene First Nation,
21 the Barrenlands First Nation, the Shamattawa First Nation and
22 the Northlands First Nation.

23 These are, of course, the four (4) communities
24 currently being served by diesel electric services?

25 MR. FREDERICK MILLS: Yes.

1 MR. MICHAEL ANDERSON: And in terms of using
2 Indian and Northern Affairs information from community
3 profiles, would you confirm, of course, subject to check, that
4 the on reserve population of the Saysis Dene First Nation is
5 three hundred and twenty-three (323) persons?

6 MR. FREDERICK MILLS: Yes, subject to my
7 verification.

8 MR. MICHAEL ANDERSON: And the Barrenlands
9 First Nation is four hundred and fifty-eight (458) persons on
10 reserve?

11 MR. FREDERICK MILLS: Yes, subject to my
12 verification.

13 MR. MICHAEL ANDERSON: The Saysis Dene First
14 Nation is nine hundred and sixty-two (962) persons on reserve?

15 MR. FREDERICK MILLS: Yes, subject to my
16 verification.

17 MR. MICHAEL ANDERSON: And the Northlands
18 First Nation, seven hundred and twelve (712) persons on
19 reserve?

20 MR. FREDERICK MILLS: Yes, subject to my
21 verification.

22 MR. MICHAEL ANDERSON: For a total of two
23 thousand four hundred and fifty-five (2,455) on reserve
24 residents?

25 MR. FREDERICK MILLS: Yes, subject to my

1 verification.

2 MR. MICHAEL ANDERSON: And, in terms of
3 persons on reserve, that would -- there would also be,
4 although I don't have the numbers, do you have any idea of the
5 other numbers, in terms of teachers, nurses, individuals who
6 might be providing services, such as in the northern store, et
7 cetera, for these communities?

8 MR. FREDERICK MILLS: No, I do not. We do not
9 capture that data, if they're not Treaty people.

10 MR. MICHAEL ANDERSON: All right, thank you.
11 But in the context of our discussions of the diesel First
12 Nation community, we are dealing with a total on reserve
13 population of two thousand four hundred and fifty-five (2,455)
14 First Nations persons, subject to check?

15 MR. FREDERICK MILLS: Subject to check.

16 MR. MICHAEL ANDERSON: Thank you.

17 MR. ROBERT MAYER: Mr. Anderson? You think
18 for the benefit of some of the people in the room who don't
19 recognise the First Nations, but have been used to talking to
20 the communities, you could identify which First Nation is in
21 which community?

22 MR. MICHAEL ANDERSON: I'd be pleased to do
23 that, thank you. The -- and actually there is a -- a
24 correction that I needed to make. I believe that at -- I
25 repeated Saysis Dene First Nation in my numbers, the second

1 reference was to Shamattawa First Nation, at nine hundred and
2 sixty-two (962) persons. It has the largest on reserve
3 population of those four (4).

4 The Saysis Dene First Nation is located at
5 Tadoule Lake, Manitoba. The Barrenlands First Nation is
6 located at Brochet, Manitoba, the north-east corner of
7 Reindeer Lake. The Shamattawa First Nation is -- the
8 Shamattawa First Nation, is known, also, by its community
9 name, which is in the Hayse River section on the Gods River.
10 And the Northlands First Nation is on Lac Brochet, which is
11 north of Brochet, on a lake that is part of the Cochrane River
12 system. And the Cochrane River drains into the north-east
13 corner of Reindeer Lake, just at Brochet.

14 Is that of assistance?

15 MR. ROBERT MAYER: Thank you.

16 MR. MICHAEL ANDERSON: You're very welcome.
17 I appreciate the clarification because, in my capacity with
18 MKO, I think of the community in both contexts, but certainly
19 in its context as a First Nation, and with its community name,
20 secondly.

21 Now, just to also set some immediate context,
22 as we go through the -- the detail, and, by the way, Mr.
23 Chair, of course, we circulated in that line of direct
24 examination by MKO to all parties some time ago, May 22nd,
25 2002.

1 And I propose to be following the outline of
2 that direct examination. One additional area of exam that I
3 would like to propose is the -- in respect of the agreements
4 that were file by Manitoba Hydro at the end of the day,
5 yesterday. Just some brief comments on that.

6
7 CONTINUED BY MR. MICHAEL ANDERSON:

8 MR. MICHAEL ANDERSON: To set the -- the
9 context very clearly and succinctly, does the Department of
10 Indian and Northern Affairs Canada, provide flow through or
11 matching funding on the basis of electric bills received by
12 each of these communities?

13 MR. FREDERICK WILLIAM MILLS: No, we provide an
14 O&M formula funded budget which takes into account the
15 electrical charges, but, is not an actual dollar for dollar.

16 The First Nations have some flexibility within
17 their own O&M budget to allocate resources to various parts of
18 the O&M budget.

19 MR. MICHAEL ANDERSON: Is the Department of
20 Indian and Northern Affairs Canada a Manitoba Hydro customer
21 in any of these communities?

22 MR. FREDERICK MILLS: No, we're not. We haven't
23 been a customer since the very early 90's.

24 MR. MICHAEL ANDERSON: Does the Department of
25 Indian and Northern Affairs Canada routinely receive copies of

1 the bills that are forwarded to First Nation customers in
2 these four (4) communities.

3 MR. FREDERICH MILLS: No, we do not.

4 MR. MICHAEL ANDERSON: Does the Department of
5 Indian and Northern Affairs, receive any detailed information
6 regarding all of the First Nation paid accounts in any of
7 these communities?

8 MR. FREDERICH MILLS: No, we do not normally
9 receive that information.

10 MR. MICHAEL ANDERSON: And, therefore, the
11 electrical contributions to these communities are not based on
12 bills or billing information, they're based on a formula
13 process that is based on Departmental policy?

14 MR. FREDERICH MILLS: That's right. The
15 formula is -- the formula takes into account, obviously the
16 size of the facility and time and service that the facility
17 has been there, like on a yearly basis and the base unit cost,
18 which is derived from actual billings or actual costs captured
19 by a consulting firm across Canada.

20 And they use those numbers and break it back
21 down to a Toronto base cost and in the case of an
22 administration building, that's around fifty dollars (\$50) a
23 square metre in Toronto, is what it would cost to operate that
24 building.

25 Then we use, what we call geographic site

1 indices to move that cost up to Saysis Dene or any of the
2 other communities in Manitoba, which includes an electrical
3 portion.

4 And then on top of it, because they're diesel
5 generated communities, we add an additional factor into those
6 diesel generated communities, because of the base cost is
7 based on land line electricity. And our current rate now is
8 fifteen point four (15.4) times the average kilowatt hour --
9 cents per hour on land line.

10 MR. MICHAEL ANDERSON: Thank you Mr. Mills.

11 So, if I might summarize the process from what
12 I understand the process to be, the Department uses a series
13 of assumptions for specific types of facilities or assets and
14 that the assumptions that are --

15 MS. PATRICIA RAMAGE: Excuse me, Mr. Chair, I'm
16 just concerned who is giving the evidence here.

17 THE CHAIRMAN: Thank you. Mr. Anderson, you
18 should be posing questions to your witness, we give you a fair
19 bit of latitude in so far as your structural part of your
20 question, but, I think it's important for this record to
21 ensure that we get the witnesses answers and not your
22 position.

23 MR. MICHAEL ANDERSON: Thank you Mr. Chair. To
24 some extent my question again is in effect related to our
25 unfamiliarity with the process, so I'll ask the questions and

1 have Mr. Mills explain it.

2 CONTINUED BY MR. MICHAEL ANDERSON:

3 MR. MICHAEL ANDERSON: Mr. Mills, taking for
4 example, a recreational facility or an arena, can you please
5 explain how Indian Affairs determines any contribution it
6 might make toward the electric cost of that facility?

7 MR. FREDERICK WILLIAM MILLS: Using the same
8 formula that I previously outlined, INAC funds arenas which
9 are classified as a category three (3) within our -- under our
10 policy.

11 We run the formulas to provide a 100 percent
12 -- to see what the formula would generate at 100 percent,
13 but, Indian Affairs actually only funds 20 percent of that
14 cost. So, as an example, if the formula generated a cost for
15 an arena of a hundred thousand dollars (\$100,000), Indian
16 Affairs would provide the First Nation, twenty thousand
17 (20,000) toward that cost of that facility.

18 The First Nation would have to make up the
19 balance through whatever sources -- other sources of funding
20 that they may have.

21 MR. MICHAEL ANDERSON: All right, thank you,
22 Mr. Mills. I'd like to go through the categories in a minute.
23 But also to be clear, when you say 100 percent of the cost,
24 what you mean is one (1) -- do you mean 100 percent of the

1 cost value generated by the formula?

2 MR. FREDERICK MILLS: Yes, it's a formula
3 driven budget.

4 MR. MICHAEL ANDERSON: And not by --

5 MR. FREDERICK MILLS: It's not actual --

6 MR. MICHAEL ANDERSON: -- billing
7 information?

8 MR. FREDERICK MILLS: It's not actual costs.

9 MR. MICHAEL ANDERSON: All right. Thank you.

10 Mr. Wiens described, in my cross-examination on Monday, a
11 series of percentages that were applied by the department in
12 funding various assets. You've mentioned category 3.

13 So that the record is complete, could we start,
14 basically, at the top and explain the various asset categories
15 and the manner in which the department provides electrical
16 contributions, or contributions of any type, toward them,
17 please?

18 MR. FREDERICK MILLS: There are four (4)
19 categories of assets for which the department provides funding
20 for. The first three are what we classify as community
21 facilities and the last one is what we classify as educational
22 facilities.

23 And all the contributions that we provide are
24 based on our formula, they're not based on actual billings
25 received by the First Nation.

1 In category 1, which are assets which benefit
2 the community as a whole, which are like a fire hall, the road
3 system, a landfill site, street lights, you can't say a
4 specific house is benefitting from that asset, but generally,
5 the community benefits from that asset. Those, we fund at --
6 at approximately 90 percent of the formula budget.

7 Category 2 items are items which provide a
8 service directly to a specific resident or building, such as
9 water and sewer and garbage pickup. We generate a formula and
10 -- and on average, we fund approximately 80 percent of that.
11 The balance of that is to be made up out of user fees that
12 they would pay for water, sewer and garbage.

13 Category 3 items, which are classified as
14 community buildings, which include Band arenas, warehouses,
15 Band offices, heated warehouses, truck garages, that kind of
16 stuff, general truck garages, that kind of stuff, that First
17 Nations have, we fund 20 percent of the formula budget.

18 And on the last category, which is educational
19 facilities, the budget is generated by the formula and we
20 provide 100 percent of that, to the First Nations.

21 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
22 And without repeating the point too many times, I hope, but
23 just for it's clear for the record, when you say, 100 percent
24 for educational facilities, once again, you mean, 100 percent
25 of the amount generated by the formula, and not 100 percent of

1 any actual costs for electricity and respective bills?

2 MR. FREDERICK MILLS: That's right. It's 100
3 percent of the formula derived budget.

4 MR. MICHAEL ANDERSON: All right. And I had
5 begun a question that was providing information, and Manitoba
6 Hydro had, quite rightly, had requested that I ask you the
7 questions.

8 When the formula is being operated, what
9 elements comprise the -- the factors that are used to
10 calculate these numbers? These values for electrical costs?
11 How do you arrive at the formula driven electrical
12 contributions?

13 MR. FREDERICK MILLS: As stated previously,
14 the formula is based on, obviously, the size of the facility,
15 in other words, how many square metres, if we're talking
16 buildings, or roads, how many kilometres. The time and
17 service over the last year, base cost and a site index
18 which -- a geographical site index which, as we all know, it
19 costs more to do business in communities that are further away
20 from -- from major service centres.

21 That provides the total formula budget. And
22 then our categories kick in and we provide percentages of that
23 formula budget. Within the base cost, things are included,
24 such as, on the operation side, there is labour, for the
25 operation of the facility, there is electrical, is part of the

1 cost, heat is another part, materials and equipment on the
2 operation side.

3 And then on the maintenance side of things,
4 again, it's labour and materials and equipment are all
5 inclusive, including utility bills and all that sort of stuff,
6 are included.

7 MR. MICHAEL ANDERSON: And setting aside for a
8 moment the -- the geographic site indices, and the specific
9 site index, are these values for labour and so forth, based on
10 a series of assumptions that are uniformly applied in all
11 final calculations across Canada to all First Nations?

12 MR. FREDERICK MILLS: I can't answer that. I
13 know in Manitoba they're uniformly applied, but then the
14 Manitoba Region, I'm not fully aware how other regions in INAC
15 apply the formulas.

16 MR. MICHAEL ANDERSON: The question -- or I
17 should perhaps rephrase, are the -- is there a foundation of
18 assumptions produced by Indian and Northern Affairs Canada at
19 Headquarters Division, that is circulated to Regions for their
20 use for this purpose?

21 MR. FREDERICK MILLS: We use a Band cost
22 reference manual that's developed for the use of Band
23 employees to generate various formulas for O&M, Operating and
24 Maintenance Costs.

25 MR. MICHAEL ANDERSON: And the cost reference

1 manual includes values that are then plugged into the model
2 for various --

3 MR. FREDERICK MILLS: That's right.

4 MR. MICHAEL ANDERSON: -- sub-components?

5 MR. FREDERICK MILLS: Yes.

6 MR. MICHAEL ANDERSON: And in terms of the
7 revisions to these assumptions how is -- how -- is that -- is
8 that done, and how frequently is that done?

9 MR. FREDERICK MILLS: In terms of the
10 assumptions, I don't believe that the assumptions are reviewed
11 on a -- on an annual or an ongoing basis. It's only when we
12 find that there's a substantial variance that we would review
13 that. And we would have to take that forward to -- if
14 Manitoba found something that was -- seemed out of wack with
15 the -- with the assumptions, we would have to take that
16 forward to Headquarters for their review and -- and input into
17 having a National policy change on that assumption.

18 MR. MICHAEL ANDERSON: So in order to change
19 base assumptions for formula operations to calculate O&M
20 contributions in Manitoba, it would have to be approved by
21 Indian and Northern Affairs Canada at the Headquarters level?

22 MR. FREDERICK MILLS: Yes.

23 MR. MICHAEL ANDERSON: And can you describe
24 any changes that have taken place since 1990, and I just pick
25 this date because it's convenient for the question, not

1 necessarily for any other reference, although it does have
2 reference to the addition of enhanced diesel services.

3 But can you devise any changes in the manner in
4 which Headquarters, Indian and Northern Affairs Canada
5 Headquarters provides O&M contribution dollars to Manitoba
6 Regions since 1990?

7 MR. FREDERICK MILLS: In 1990 we --
8 Headquarters provided -- actually Treasury Board provided to
9 Headquarters and subsequent -- subsequent to Manitoba Region.
10 Funding was based on a database, information that we collected
11 from the First Nations, compiled and forwarded it on through
12 and -- and calculate it out to generate a number.

13 In about 1995/96, in that range, Treasury Board
14 changed their methodology of funding most Government
15 departments to one of a block, and it was based on historical
16 data that was given on the previous few years. Treasury Board
17 would -- had -- currently now provides a block of money to
18 Indian Affairs, plus a factor for inflation.

19 And subsequent, Headquarters allocates those
20 resources back to the Manitoba Region, based on the same kind
21 of calculation, based on historical allocations, plus a -- a
22 factor. They have no relationship back to the databases
23 anymore.

24 At one time the databases -- the information
25 provided to Treasury Board for costing included growth rates

1 in the First Nations communities, the cost of doing business
2 in the First Nations communities, and those kind of things
3 were included, and -- and now it's not.

4 And there's an example, our increase for
5 Manitoba Region, this fiscal year was .1988 percent of our --
6 of our block funding.

7 MR. MICHAEL ANDERSON: So thank you, Mr.
8 Mills. Prior to 1995 then if Manitoba Region had determined
9 that there were any areas where there were substantial or
10 notable increases in costs, the Region would make a submission
11 to Headquarters for an additional allocation of dollars to
12 respond to those needs?

13 MR. FREDERICK MILLS: We had the opportunities
14 to make submissions and -- and request additional resources.
15 They weren't always approved by -- by Headquarters, but we had
16 that opportunity.

17 Since 1995/96, the opportunity to do that has
18 dwindled to almost nothing.

19 MR. MICHAEL ANDERSON: And, the terminology
20 that's often used in Manitoba to describe this block funding,
21 is?

22 MR. FREDERICK MILLS: It's called core
23 funding.

24 MR. MICHAEL ANDERSON: And, in Manitoba
25 generally, is it also known as the funding envelope?

1 MR. FREDERICK MILLS: Within Indian Affairs
2 it's known as the funding envelope.

3 MR. MICHAEL ANDERSON: And, do you accept a
4 euphemism, or my -- my terminology for it, in effect, the
5 funding levels that were in effect as of 1995 are,
6 effectively, frozen with the exception of these changes that
7 are based on inflation?

8 MR. FREDERICK MILLS: That's correct.

9 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
10 And this new -- this funding policy, in effect as of '95, of
11 course, would also have affected electrical costs in the
12 diesel communities, with the rates currently in effect?

13 MR. FREDERICK MILLS: Please ask the question
14 again?

15 MR. MICHAEL ANDERSON: Sorry, Mr. Mills. The
16 -- in the event that there were any changes in electrical
17 costs being borne by First Nation comm -- the diesel First
18 National communities, after 1995, there would have been no
19 increase in funds available from headquarters to cover these
20 costs?

21 MR. FREDERICK MILLS: Not specifically for
22 diesel generation.

23 MR. MICHAEL ANDERSON: Thank you.

24
25 (BRIEF PAUSE)

1 MR. ROBERT MAYER: While we're waiting, Mr.
2 Mills, I am assuming, since you mentioned inflation, if the
3 costs of diesel fuel went up, that would be a significant
4 piece of your inflation factor, would it not?

5 MR. FREDERICK MILLS: I'm not sure what
6 Treasury Board uses in terms of determining their inflation
7 factor when they provide resources to us. They gave us a
8 1.988 percent increase, that includes the cost of living.
9 Now, if that includes the cost of gas going up, I would assume
10 that it may be in there but I can't say for certain.

11 CONTINUED BY MR. MICHAEL ANDERSON:

12 MR. MICHAEL ANDERSON: And, Mr. Mills,
13 there's one -- with respect to category 3 assets, there was --
14 I may have missed it, but my recollection was, do Band offices
15 also fall under category 3 facilities?

16 MR. FREDERICK MILLS: Yes, as administration
17 offices.

18 MR. MICHAEL ANDERSON: Yes, okay. Just to be
19 clear. So, prior to April 1st, 2002, what was the electrical
20 cost multiplier applied to category 3 facilities in the four
21 (4) diesel communities?

22 MR. FREDERICK MILLS: It was a factor of 15.4.

23
24
25 MR. MICHAEL ANDERSON: For -- and that was

1 for educational facilities?

2 MR. FREDERICK MILLS: Yes.

3 MR. MICHAEL ANDERSON: Okay. But for
4 category 3 facilities, what was the electrical cost multiplier
5 --

6 MR. FREDERICK MILLS: I believe it was six
7 point three (6.3). The non -- the non government rate.

8 MR. MICHAEL ANDERSON: And that was for the
9 Shamattawa community?

10 MR. FREDERICK MILLS: That was for the
11 Shamattawa community. The other ones were -- it was based at
12 one.

13 MR. MICHAEL ANDERSON: And -- and so that the
14 --

15 MR. FREDERICK MILLS: And --

16 MR. MICHAEL ANDERSON: Sorry. Go ahead, Mr.
17 Mills.

18 MR. FREDERICK MILLS: And that was because we
19 were aware of some significant assets that were built in
20 Shamattawa that had a higher power usage than what the formula
21 originally would have generated for.

22 MR. MICHAEL ANDERSON: In Shamattawa --

23 MR. FREDERICK MILLS: In Shamattawa.

24 MR. MICHAEL ANDERSON: -- it was six point
25 three (6.3) factor? So -- and you'd indicated that, so for

1 the -- Brochet, Lac Brochet and Tadoule Lake, the multiplier
2 used in the formula was a factor of one?

3 MR. FREDERICK MILLS: That's right.

4 MR. MICHAEL ANDERSON: And to be clear, one
5 is equivalent to what rate?

6 MR. FREDERICK MILLS: The land -- the land
7 line rates. And that assumption was that they were small
8 facilities, small buildings. And all they were using --
9 really using the power for was to -- was for light. They were
10 using wood heat in those facilities.

11 MR. MICHAEL ANDERSON: So then, the category
12 3 facilities, in the four diesel communities, were receiving
13 20 percent of the electrical cost, assuming, basically,
14 Winnipeg level rates?

15 MR. FREDERICK MILLS: For Saysis Dene, Brochet
16 and Lac Brochet, yes.

17 MR. MICHAEL ANDERSON: Okay. And if they
18 were being charged -- if any of this category 3 facilities
19 were, in fact, being billed at the government rate, the rate
20 would have been fifteen point (15.) -- the factor -- the
21 correct multiplier would have been fifteen point four (15.4)?

22 MR. FREDERICK MILLS: That's right.

23 MR. MICHAEL ANDERSON: Have you done any
24 assessment of the -- the cost -- the potential cost impact to
25 these communities, from the difference between the factor that

1 was actually applied and the rates that may have been charged?

2 MR. FREDERICK MILLS: Yes, we have.

3 MR. MICHAEL ANDERSON: Could you, please,
4 describe the analysis that you've done, on category 3 assets,
5 please?

6 MR. FREDERICK MILLS: What we did, is we took a
7 look at the current factor for electrical in all those four
8 (4) main communities. And run calculations based on what the
9 current factor was and then ran the calculations again, based
10 on if there were 15.4, what the calculations were.

11 And we did that over, I think, a four (4) year
12 period, since 1994/95, we went back for a five (5) year
13 period. This was last year that the analysis was undertaken.

14 And it generated the cost difference of, I
15 believe, somewhere around -- I'm thinking off the top of my
16 head here, between \$1 and \$2 million dollars, I'm not sure of
17 the exact number, at 15.4 versus what they were being funded
18 at, over the four (4) year period, not on an annual basis,
19 but, over a four (4) year period.

20 MR. MICHAEL ANDERSON: And that's assuming that
21 the asset would have been charged the full cost government
22 rate?

23 MR. FREDERICK MILLS: That's correct.

24 MR. MICHAEL ANDERSON: Did you also do an
25 analysis where you examined the total category three (3)

1 assets, is this the analysis you're describing, total category
2 three (3) assets for all four (4) First Nations?

3 MR. FREDERICK MILLS: Yes.

4 MR. MICHAEL ANDERSON: For rates back to April
5 1, 1994?

6 MR. FREDERICK MILLS: Yes.

7 MR. MICHAEL ANDERSON: And the difference that
8 you're describing at slightly over \$1 million dollars though
9 is the variance that would have resulted in the dollars you
10 contributed, is that correct?

11 MR. FREDERICK MILLS: That's right.

12 MR. MICHAEL ANDERSON: At 20 percent?

13 MR. FREDERICK MILLS: That's right.

14 MR. MICHAEL ANDERSON: Would you -- and do you
15 recall, and subject to check, that the total electrical cost
16 for all category three (3) assets at the multiplier one (1)
17 was \$875,779?

18 MR. FREDERICK MILLS: Yes, subject to check.

19 MR. MICHAEL ANDERSON: Those would have been
20 estimated actual costs?

21 MR. FREDERICK MILLS: Those would have been
22 formula driven costs.

23 MR. MICHAEL ANDERSON: All right. And had the
24 -- recognizing that your formula looks to create -- generating
25 100 percent based on your formula, and then you fund a portion

1 of that, do you also, subject to check, recall that the full
2 cost government rate at 100 percent, would have generated
3 \$9.394 million dollars?

4 MR. FREDERICH MILLS: Yes --

5 MR. MICHAEL ANDERSON: Over the same period of
6 time?

7 MR. FREDERICH MILLS: -- yes, subject to check,
8 over a four (4) year period.

9 MR. MICHAEL ANDERSON: So, assuming that the
10 formula is working correctly, and I make no comment as to
11 whether it is or isn't at this stage, the communities would
12 have -- at the full cost government rate may have been facing
13 bills as high as \$9.3 million dollars, for the category three
14 (3) assets?

15 MR. FREDERICH MILLS: Potentially.

16 MR. MICHAEL ANDERSON: And the comparative zone
17 one (1) rate was \$875,000?

18 MR. FREDERICH MILLS: That's correct, subject
19 to verification.

20 MR. MICHAEL ANDERSON: And recognizing, of
21 course, that this is a simulation that was generated missing
22 actual billing data?

23 MR. FREDERICH MILLS: Yes.

24 MR. MICHAEL ANDERSON: And similarly, had all
25 the category three (3) facilities been charged the full cost

1 non-government rate, all of them, they --

2 MR. FREDERICH MILLS: As previously stated,
3 Barrens land (sic), Northlands and Saysis Dene were charged at
4 land mine rates for category three (3) items throughout --

5 THE CHAIRMAN: Is your mic on?

6 MR. FREDERICH MILLS: Yes -- throughout the
7 course of the time frame we're talking about.

8 Shamattawa was funded at the non-government
9 rate which created a factor of six point three (6.3) over the
10 same period of time. That's what they were funded at. The
11 levels they were funded at.

12 MR. MICHAEL ANDERSON: Only Shamattawa?

13 MR. FREDERICH MILLS: Only Shamattawa.

14 MR. MICHAEL ANDERSON: For category three (3)
15 assets?

16 MR. FREDERICH MILLS: For category three (3)
17 assets.

18 MR. MICHAEL ANDERSON: And did you also run the
19 same simulation or a similar simulation for at the full cost
20 non-government rate, with a multiplier of six point three
21 (6.3)?

22 MR. FREDERICH MILLS: Yes, I believe we did.

23 MR. MICHAEL ANDERSON: And, once again, of
24 course the multiplier one (1) value would have been \$875,779
25 in the simulation?

1 MR. FREDERICH MILLS: Yes, subject to check.

2 MR. MICHAEL ANDERSON: And then the total
3 cost would have been at 100 percent formula drive, full cost
4 non-government rate, \$1.425 million?

5 MR. FREDERICH MILLS: Yes, subject to check.

6 MR. MICHAEL ANDERSON: And of that, assuming
7 that they were all charged at that rate, they would have
8 received only 20 percent of that value, in order to cover
9 their actual bills. Is that correct?

10 MR. FREDERICH MILLS: That's right.

11 MR. MICHAEL ANDERSON: Can you advise whether
12 or not the Department of Indian and Northern Affairs Canada
13 had explained the manner in which the Government of Canada
14 provides contribution toward electrical costs to Manitoba
15 Hydro?

16 MR. FREDERICH MILLS: Yes, we provided a brief
17 explanation to them, I believe it was on March 14th, at a
18 meeting in their offices. And I also put on the table that
19 they were more than welcome to -- to give me a call and I
20 would provide a more detailed explanation, if they chose to
21 have one.

22 THE CHAIRMAN: March the 14th, 2002?

23 MR. FREDERICH MILLS: Yes, 2002.

24
25 CONTINUED BY MR. MICHAEL ANDERSON:

1 MR. MICHAEL ANDERSON: Is it your
2 understanding that, and without speaking, of course, for
3 Manitoba Hydro, the same caution Mr. Wiens made, yesterday,
4 about for speaking for MKO, but as a question, is it your
5 understanding that they were aware of the manner in which
6 Manitoba -- Indian and Northern Affairs provides electrical
7 contributions, prior to March 14th, 2002?

8 MR. FREDERICH MILLS: No, I don't know that
9 they were aware of how were funded First Nations. I'm sure
10 they weren't. They seemed somewhat shocked at the discussion
11 that was going around the table, on how we were -- how we
12 funded.

13 THE CHAIRMAN: Mr. Anderson, is this a
14 convenient time, in your --

15 MR. MICHAEL ANDERSON: Excellent, Mr. Chair,
16 thank you.

17 THE CHAIRMAN: Then may I suggest -- may I
18 suggest that the Board will stand down and reconvene at
19 approximately quarter after ten. So I'd ask parties to be
20 back then.

21 MR. MICHAEL ANDERSON: Thank you.

22
23 --- Upon recessing at 9:43 a.m.

24 --- Upon resuming at 10:35 a.m.

25

1 THE CHAIRMAN: Ladies and gentlemen, if I may,
2 I'd like to call the Hearing back to order, and apologize for
3 the slight delay. Mr. Anderson...?

4 MR. MICHAEL ANDERSON: Thank you, Mr. Chair.

5 CONTINUED BY MR. MICHAEL ANDERSON:

6 MR. MICHAEL ANDERSON: To wrap up the earlier
7 discussion that we were having about funding and formulas and
8 amounts, Mr. Mills, I'd like to ask, what were the assumptions
9 that the Department applied in establishing a funding level at
10 20 percent for category 3 assets?

11 MR. FREDERICH MILLS: Category 3 assets at the
12 time the formula was -- or the policy was developed, were few
13 and far between in First Nation communities, and at the time
14 it was felt that the First Nations could raise the money
15 through various other means, such as if you've got a Bingo
16 Hall or a Band Hall or a Community Hall, that you would charge
17 a user fee for that hall, as -- as any other Municipality
18 does. So that would be a course of getting some revenue.

19 And that you may want to run Bingos to raise
20 money to operate the facilities, those kind of things were
21 taken into consideration.

22 MR. MICHAEL ANDERSON: And just to put it
23 together in the record, this policy that we're discussing, was
24 established originally in 1983; is that correct?
25

1 MR. FREDERICH MILLS: It was -- I don't know
2 exactly when it was established, but it was -- it was a --
3 various O&M policies were captured in a document called the
4 Operation and Maintenance Handbook in 1983.

5 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
6 And also just for -- in 1983, you've mentioned already, you've
7 actually stated this. But were there many of these types of
8 facilities in First Nations communities in 1983, that is
9 arenas, Band Offices and so forth?

10 MR. FREDERICH MILLS: No, there wasn't arena -
11 - arenas as we know them today, there was outdoor skating
12 rinks, there were small Band Halls, small Band offices, they
13 had one (1) or two (2) lightbulbs in them, they weren't --
14 they didn't have water and sewer, they didn't have a need for
15 ongoing heating in the winter time. They were heated with
16 wood and those sort of things, so those are the sort of some
17 of the assumptions that were taking place as to why the cost
18 would have been a lot less than -- than what it is today, and
19 at 20 percent, then it would have been fairly easy for a First
20 Nation to raise the amount of money, the 80 percent. But
21 given today's standards, we obviously need to reflect upon our
22 -- on our policy.

23 MR. MICHAEL ANDERSON: And in terms of the
24 opportunities that the four (4) diesel communities may have to
25 raise user fees, was -- do they have a -- I would call, any

1 type of a catchment area from which others may be able to be
2 brought to the community to participate in these events where
3 user fees might be charge?

4 MR. FREDERICH MILLS: Not really, they're four
5 (4) isolated communities, only accessible by air for the major
6 part of the year, and -- and winter road in the winter time,
7 and it's still a long -- long drive to get in there. So, no,
8 they wouldn't have a large catchment area other than the
9 existing communities.

10 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
11 So the theory that would apply in these communities as the
12 remaining 80 percent of costs, including electrical, would
13 have to be raised at the community level in some -- by some
14 means?

15 MR. FREDERICH MILLS: That's correct.

16 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
17 Mr. Chair, if it might assist, Mr. Mills has advised me that
18 he has prepared a sample table showing how this formula would
19 be applied for a sample administrative building, and I've
20 provided a copy to Manitoba Hydro's counsel, and they've
21 indicated that they have no objections to this being entered
22 as an exhibit, if I might?

23 THE CHAIRMAN: Ms. Ramage?

24 MS. PATRICIA RAMAGE: That's correct.

25 THE CHAIRMAN: Please do so.

1 MR. MICHAEL ANDERSON: And I have twenty (20)
2 copies, Mr. Chair.

3 MR. ROBERT MAYER: While those are being
4 handed out. Mr. -- Mr. Mills, I've been -- well I went to
5 Shamattawa once a month for fifteen (15) years in the 70s and
6 the 80s, there was always a Band Office there, and I still
7 haven't seen an arena. Am I missing something here?

8 MR. FREDERICH MILLS: Their arena was
9 constructed in the late 90s.

10 MR. ROBERT MAYER: How is it heated?

11 MR. FREDERICH MILLS: To be honest with you, I
12 don't believe their arena is operating, because of some other
13 problems with it. But it would have been heated with oil
14 heat.

15 MR. ROBERT MAYER: And the issue of -- I'm
16 wondering about some of the other communities. I've been to
17 Broche a number of times, but that being -- because we go
18 directly from the airport to the place where Court facilities
19 are held, I'm not sure which -- what facilities are actually
20 available in there. There's a very nice school, but I'm not
21 sure what else?

22 MR. FREDERICH MILLS: I don't know all the
23 communities assets by detail. There is -- I believe, it's
24 either Northlands or Lac Brochet, have just built a relatively
25 new arena in the last three (3) or four (4) years. A \$3

1 million dollar facility, with artificial ice and all that sort
2 of stuff, so --

3 THE CHAIRMAN: And Mr. Anderson, we'll receive
4 Mr. Mills material as MKO Exhibit 8?

5 MR. MICHAEL ANDERSON: Thank you, Mr. Chair.

6
7 --- EXHIBIT NO. MKO-8: A sample table, prepared by Mr.
8 Frederick Mills, showing how a
9 formula would be applied for a
10 sample administrative building.

11
12 CONTINUED BY MR. MICHAEL ANDERSON:

13 MR. MICHAEL ANDERSON: While we have presented
14 this exhibit, Mr. Mills, could you briefly explain how to read
15 this table that you've kindly prepared for us today?

16 MR. FREDERICH MILLS: Okay, actually this is a
17 lot along a written format of what I explained earlier this
18 morning, in terms of the format that we use to calculate the
19 O&M.

20 Under asset is the name or the type of
21 building, and in this case it's an admin building. And being
22 an administration building or a band office, it's classified
23 as a category three (3), subject to 20 percent funding from
24 XNAC. Units is the size and in this case it's metres squared.
25 Quantity, this facility is 342.8 square metres.

1 Time in service, it's been in service for one
2 year. For that particular year -- the reason for that is that
3 First Nations build facilities and they come on stream partway
4 through the year. So we don't fund them for a whole year if
5 it's only been in service for three (3) months, they would get
6 three (3) months O&M.

7 So that's why there's a factor for time in
8 service, just to clarify that.

9 The base cost is -- comes right out of our cost
10 reference manual. And the site index is -- the site index is
11 generated out of the cost reference manual for this particular
12 community.

13 And then the formula budget is the
14 multiplication of the quantity, time in service, base cost and
15 site index. Give your \$61,496 dollars for this facility.

16 As we only fund 20 percent of this cost, we
17 would provide the First Nation \$12,299 dollars.

18 MR. MICHAEL ANDERSON: Mr. Mills, 50.25 base
19 cost, 50.25 what?

20 MR. FREDERICH MILLS: Oh, dollars per square
21 metre, sorry -- that's a -- yeah, that's our Toronto base
22 cost.

23 And then the breakdown of the \$61,496 is
24 provided and I talked about this, what's included in the O&M
25 budget. On the operations side, there's labour and both local

1 and import, and import meaning that they don't have the
2 experts in the community, they have to bring them in. And on
3 the operation side, this is like janitor services.

4 An the energy side, there's electrical which
5 is, you know, for your lights and that sort of stuff. Heat in
6 this case, in this facility would be for oil heat. We also
7 have a factor for propane and other types of heat, or
8 electrical. Materials and equipment for the operation.

9 On the maintenance side of things, there's
10 local labour, for you know, doing things for which the
11 community may have a carpenter who is able to, you know,
12 repairs windows, those sorts of things.

13 Import labour, this may be to bring somebody in
14 to say, look at the fire alarm, if there's a fire alarm in the
15 community, they wouldn't have that expertise in the community.
16 And again material and equipment.

17 And then down below is the electrical cost on
18 this particular community, it's based on a remote community,
19 okay, a special access community which has land line, that's
20 the -- and that's why the electrical cost is 3,526.

21 Our share of that, in other words 20 percent of
22 that would be, \$750, and the remaining 80 percent the First
23 Nation would have to find from within their own source of
24 funding -- own source of revenues or users fees or whatever
25 they -- however they can generate their resources.

1 If this community -- if this facility was in a
2 community such as Saysis Dene, Northlands or Lac Brochet, the
3 current factor for diesel generation is a factor of 15.4,
4 which increases the electrical cost substantially, by some \$50
5 thousand dollars, almost \$51 thousand dollars.

6 Our share of that that we would fund, would be
7 approximately \$10,800 and the First Nation would have to make
8 up the balance of 43.

9 Currently Hydro has indicated to us that --
10 through a proposed rate, of \$1.99 per kilowatt and that
11 calculates out to a factor of 32.5 times. So that's a
12 significant increase. The electrical costs for this facility
13 are projected to be \$114,000, on an annual basis. We would
14 fund twenty-two thousand (22,000) and the First Nations would
15 have to find one (1) of their own source revenues, some
16 \$91,000.

17 And -- and when you compare that to the total
18 of -- of, if your on land line, the total cost of projected
19 O&M for that facility was \$61,000. So it's -- you know, it's
20 more than 100 percent of what the projected O&M costs are, if
21 you're dealing with the hydro -- at -- at the proposed rate of
22 \$1.99 a kilowatt for non -- I believe that's non-government, I
23 can't remember off the top of my head.

24 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
25 Because of the comments that you've made with regard to this,

1 I -- I'm going to move to a -- a part of my direct that I was
2 going to raise a bit later. But I think it's important that
3 the record have this all contained together.

4 Can you please describe the -- the nature and
5 status of the discussions between Manitoba Hydro and Indian
6 and Northern Affairs Canada in respect to the provision of
7 diesel electrical services in the MKO diesel First Nation
8 communities?

9 MR. FREDERICH MILLS: We've had several
10 meetings, discussing various options of -- on the provision of
11 these services. I would not categorize them as negotiations
12 but more an information exchange.

13 MR. MICHAEL ANDERSON: Thank you. And when
14 you referred to proposed increase, in fact, the information
15 that's contained at MKO Exhibit 8, the proposal only is a --
16 is information -- a suggestion made to the department by
17 Manitoba Hydro. Is that correct?

18 MR. FREDERICH MILLS: I believe so. They
19 provided this information for -- for our review and -- and
20 analysis.

21 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
22 Mr. Chair, if I might, in terms of the position taken by the
23 Department of Indian and Northern Affairs regarding their
24 discussions with Manitoba Hydro, there is a -- a letter to the
25 Board of January 29th of this year, signed by the Regional

1 Director General, Marilyn Kapitany.

2 On this letter, Manitoba Hydro counsel did
3 indicate that they may have some comments prior to it being
4 entered as an exhibit. So, if there are any comments to be
5 made, I'd invite them to do that now.

6 THE CHAIRMAN: Ms. Ramage?

7 MS. PATRICIA RAMAGE: Yes, Mr. Chair.

8 Our concern with this document being entered as
9 an exhibit is that, this letter sets out the Government of
10 Canada or INAC's position, with respect to the diesel rate.
11 And this group is not a party to these proceedings. If they
12 wish their position to be before this Board and on the record
13 at the hearing, I believe they should be a party at the
14 hearings.

15 They -- they had an opportunity to come
16 forward. They've chosen not to, perhaps this is their letter
17 to indicate -- or, they don't say that they won't be there,
18 but they had -- they have the opportunity to be here. I don't
19 seek to be arguing what their position, or wish to argue with
20 them, what their position is.

21 THE CHAIRMAN: Ms. Ramage, I thank you for
22 that. The difficulty I have is that it was a letter that was
23 forwarded to the Board. And I don't recall the letter but I
24 believe I have seen the letter. And it is part of the public
25 record, at the Board.

1 So, unless you have a very strenuous objection,
2 the Board can receive it and weight it accordingly,
3 recognizing that the -- the -- the signature to the letter
4 hasn't appeared before us and neither has intervened in any
5 proceeding, and is like, as you had suggested, maybe intervene
6 in a proceeding when we get an Application forward on diesel
7 rates.

8 MS. PATRICIA RAMAGE: Thank you, Mr. Chair.

9 THE CHAIRMAN: Mr. Anderson, is that
10 acceptable to you?

11 MR. MICHAEL ANDERSON: That it be entered as
12 an exhibit, Mr. Chair?

13 THE CHAIRMAN: Yes.

14 MR. MICHAEL ANDERSON: Yes, certainly. Okay.

15 THE CHAIRMAN: We'll receive it as MKO Exhibit
16 Number 9.

17 --- EXHIBIT NO. MKO-9: Letter dated January 29th, 2002,
18 to the Board, signed by the
19 Regional Director General, Marilyn
20 Kapitany.
21

22 (BRIEF PAUSE)

23 CONTINUED BY MR. MICHAEL ANDERSON:

1 MR. MICHAEL ANDERSON: Mr. Mills, do you have
2 a copy of the letter that we were just referring to, before
3 you?

4 MR. FREDERICK MILLS: Yes, I do.

5 (BRIEF PAUSE)

6 MR. MICHAEL ANDERSON: Could -- could you
7 please describe the -- and to assist, could you also please
8 refer to MKO/MH 1 -- just a moment, Mr. Chair.

9 (BRIEF PAUSE)

10 MR. MICHAEL ANDERSON: Excuse -- it's --
11 sorry, Mr. Mills, it's MKO 2-1(c). I have provided Mr. Mills
12 the copy of our Information Responses. The -- the --

13 MR. FREDERICK MILLS: This?

14 MR. MICHAEL ANDERSON: Yeah. It's the actual
15 response.

16 (BRIEF PAUSE)

17 MR. MICHAEL ANDERSON: I just real -- Mr.
18 Chair, I just realized that Mr. Mills is experiencing
19 circumstances from our photocopier this morning failing to

1 provide a page. So what I'll do is I'll just ask the question
2 more directly and keep us moving along.

3
4 CONTINUED BY MR. MICHAEL ANDERSON:

5 MR. MICHAEL ANDERSON: Now you've generally
6 described the nature of the discussions that have taken place
7 between yourselves and Manitoba Hydro. I would read paragraph
8 2 of the letter from Ms. Kapitany to the Board:

9 "There have been a series of information
10 discussions involving the Government of
11 Canada, initiated by Manitoba Hydro,
12 regarding the costs of providing service to
13 isolated North -- Northern First Nation
14 communities. It would not, however, be
15 appropriate to categorize these discussions
16 as negotiations of diesel rates."

17 Mr. Mills, could you, in addition to the
18 discussion that you had of the recent proposal, could you
19 provide an overall summary of the discussions that have taken
20 place since October 2000, with respect to the provision of
21 diesel service to these four (4) communities.

22 MS. PATRICIA RAMAGE: Excuse me, Mr. -- once
23 again I'm not sure of the relevance of this, given the status
24 update that we've provided regarding diesel. And perhaps
25 reiterating our objection in terms of, we are coming forward

1 with a diesel application that will deal with what is
2 ultimately -- what Manitoba Hydro arrives at as an
3 application, the status of -- of discussions, I'm not sure how
4 it's germane to what we're here today to discuss.

5 THE CHAIRMAN: Thank you, Ms. Ramage. Mr.
6 Anderson, do you have any response?

7 MR. MICHAEL ANDERSON: I do, Mr. Chair, thank
8 you.

9
10 CONTINUED BY MR. MICHAEL ANDERSON:

11 MR. MICHAEL ANDERSON: Mr. Mills, if you could
12 refer to the binder as tab 1, where I have MKO/MH 1-1, by
13 example.

14 And I've also taken the liberty -- yes? And
15 I've taken the liberty, if you turn the page, of attaching
16 also the reply to the PUB, 1- -- PUB/MH 1-54.

17 In this Interrogatory we requested a copy of
18 the Diesel Cost of Service Study, to which Manitoba Hydro
19 replied to a similar request made by the Board:

20 "However, as Manitoba Hydro is still engaged
21 in discussions, which could alter the
22 substance of the study, it would be
23 preferred to file an updated study when
24 those conclusions are known."

25 In other words, we did not receive a copy of

1 the Diesel Cost of Service Study, as we understand it, because
2 of the discussions between Manitoba Hydro and Indian and
3 Northern Affairs Canada.

4 Ms. Kapitany's letter indicates that they are
5 not negotiations. One of the purposes of having Mr. Mills
6 appear was to make it clear to the Board, I would hope, what
7 the actual status of the relationship between Hydro and the
8 Department is, as regarding the future provision -- existing
9 services and the future provision of services, in that there
10 has been numerous statements at tab J-3 of the initial filing,
11 in responses to our questions and so forth, to these
12 discussions.

13 THE CHAIRMAN: And Mr. Anderson, recognizing
14 your comments, I will allow the question, but, I would ask you
15 to tread on that area very carefully.

16 MR. MICHAEL ANDERSON: Thank you, Mr. Chair.

17
18 CONTINUED BY MR. MICHAEL ANDERSON:

19 MR. FREDERICH MILLS: And the question
20 being, what's the nature of the discussions that were taking
21 place? The discussions -- the nature of the discussions
22 taking place have been Manitoba Hydro has done some analysis
23 and has determined that, in fact, the 1994 rate structure --
24 tariff, does not meet the -- does not cover their costs at
25 today's rate -- at today's cost, I should say.

1 And the nature has been on how can INAC assist
2 them in reducing their -- their tariff rate or their cost per
3 kilowatt. Or how can we assist them in implementing a revised
4 rate.

5 And they've made several presentations to us on
6 different -- different rate structures and how they came up
7 with their costs and all that sort of stuff. But, in essence,
8 that's -- that's the basic essence of the discussion, I think.

9 THE CHAIRMAN: Mr. Mills, did they give you any
10 indication when the cost of service study would be prepared
11 and you would be able to get a copy of it?

12 MR. FREDERICH MILLS: I don't recall an exact
13 date. I do know that we just received a rate structure from
14 them this month and that was what the -- on Exhibit MKO-6, the
15 proposed rate factor of 32.5 was based on, was that proposed
16 rate structure that they did provide us

17 I don't believe that I received a full cost
18 study on it.

19 THE CHAIRMAN: So, just so I'm clear, you got a
20 proposal from Manitoba Hydro, but, that proposal in your view
21 was a page item, or was it a fifty (50) page item?

22 MR. FREDERICH MILLS: No, it was like a three
23 (3) page letter.

24 THE CHAIRMAN: Thank you.
25 Mr. Anderson?

1 CONTINUED BY MR. MICHAEL ANDERSON:

2 MR. MICHAEL ANDERSON: Thank you Mr. Chair.

3 And in terms of the -- the process that's being
4 undertaken between yourselves and Manitoba Hydro, what have
5 you advised Manitoba Hydro in respect of their -- I'll revise
6 this.

7 Is it the expectation, as you understand
8 Manitoba Hydro, that Canada will continue to participate
9 financially in the provision of diesel service in these four
10 (4) communities? That is the Department of Indian and
11 Northern Affairs Canada?

12 MR. FREDERICH MILLS: Not directly. We -- we --
13 - it's our position, as outlined in Ms. Kapitany's letter, is
14 that the First Nations are the customers and we fund the First
15 Nations. We don't -- we are not going to be funding Hydro
16 directly.

17 And if I remember correctly, the 1994 Public
18 Utilities Board Hearing says that all capital costs should be
19 subsumed into the rate structure. So it all those costs were
20 subsumed into the rate structure and the First Nation's hydro
21 bills went up accordingly, then we would have to reconsider
22 somewhat, our formulas to provide some level of compensation,
23 given the context of the amounts we fund in different
24 categories.

25 MR. MICHAEL ANDERSON: Thank you Mr. Mills.

1 And just to clarify perhaps, you've answered
2 this already, that is, it is your understanding that you're at
3 present negotiating with Manitoba Hydro the future of the
4 diesel services in terms of the involvement of the Government
5 of Canada?

6 MR. FREDERICH MILLS: We are not negotiating.
7 We are having discussions. As I said before, First Nations
8 are the customers, they're -- they're the ones that Hydro
9 needs to be dealing directly with.

10 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
11 Some matters, just in terms of how, again, operations take
12 place within the community. This follows along the formula
13 funding.

14 Would you confirm that federal contributions
15 for O&M costs are extended at the discretion of the First
16 Nations government -- First Nations, subject to audit?

17 MR. FREDERICH MILLS: Yes, we provide O&M
18 funding to First Nations, based on a formula. And it's not
19 based on actual costs. And they have the liberty to move
20 those funds with -- within the O&M budget, to -- to suit their
21 requirements as they see.

22 And example would be, they may need more labour
23 in one year. We don't tell them they have to spend more money
24 on labour. We give them, the sample formula, in this case, we
25 give them \$12,000 to -- to operate this facility. They've got

1 to come up with the other 80 percent. We're not prepared to
2 tell them how to spend the twelve (12), provided them spend it
3 with -- within that facility.

4 MR. MICHAEL ANDERSON: So using the examples
5 that we've described, again, of the category 3 facilities and
6 the 20 percent contribution of the department, the remaining
7 80 percent of costs, the First Nation is able to reallocate
8 from other dollars that they may receive from the department
9 and any other source they may have?

10 MR. FREDERICH MILLS: They are at liberty to
11 find that funding with any of their source revenues, and with
12 other sources from within INAC, it would depend on the program
13 area that they're being -- that they're looking at recouping
14 some of those resources from.

15 Some of our program areas are funded on what's
16 called a direct contribution. In other words, a dollar for
17 dollar, spend a dollar, you get a dollar back. Some areas are
18 funded on a -- on a grant basis, on which we expect the First
19 Nation, an example of that would be Band support funding,
20 which is monies for a Band to run their government, pay their
21 honorariums, hire a Band Manager.

22 They may direct some of those resources towards
23 the operation and maintenance of the facility because it's a
24 grant.

25 MR. MICHAEL ANDERSON: All right. So, if the

1 First Nation does not receive in its contributions, sufficient
2 resour -- revenues to pay the hydro bills, as presented, on a
3 line item basis, it must reallocate from other budget items,
4 to do so?

5 MR. FREDERICH MILLS: They would have to find
6 the resources to pay those bills from whatever means they're
7 able to come up with the resources.

8 MR. MICHAEL ANDERSON: All right, thank you.

9 MR. FREDERICH MILLS: Whether -- whether
10 they'd be INAC funding or own source revenues.

11 MR. MICHAEL ANDERSON: And just to be clear,
12 in terms of the specific re-allocations or budget decisions
13 that may be made by the First Nation, Indian and Northern
14 Affairs Canada does not oversee or approve those decisions?

15 MR. FREDERICH MILLS: No, not on the context
16 of the operation and maintenance budgets.

17 MR. MICHAEL ANDERSON: All right, thank you.
18 In terms of the diesel facilities that are in these
19 communities, would you confirm that Manitoba Hydro is the
20 owner of the diesel generating facilities, the distribution
21 system, any sub-station and storage facilities that may be
22 required, on First Nation lands?

23 MR. FREDERICH MILLS: Canada provides Manitoba
24 Hydro permits under Section 22.8, I believe, for access --
25 28.2? Okay. For access to the reserve to construct, operate

1 and maintain generating stations and hydro electric
2 distribution systems.

3 MR. MICHAEL ANDERSON: And the Government of
4 Canada does not own any of these facilities that are present
5 engaged in the provision of electrical services in the diesel
6 communities?

7 MR. FREDERICH MILLS: No.

8 MR. MICHAEL ANDERSON: And you've already
9 discussed that, access to the reserve is provided by a permit
10 issued pursuant to Section 28.2 of the Indian Act, is that
11 correct?

12 MR. FREDERICH MILLS: Yes, that's correct.

13 MR. MICHAEL ANDERSON: In general terms, does
14 this -- do these permits provide Manitoba Hydro with access to
15 all areas of the reserve necessary for the conduct of their
16 business?

17 MR. FREDERICH MILLS: Yes, general speaking.

18 MR. MICHAEL ANDERSON: So, they are not
19 restricted, in general terms, under these agreements, from
20 servicing and maintaining their facilities, due to any
21 requirements of the Indian Act?

22 MR. FREDERICH MILLS: No, the -- the 28.2
23 permits give them the access to the community, as a whole.
24 And this would be subject to verification of the individual
25 permits, but I believe it's for the majority of the

1 communities, if not all of the ones in question, that they
2 have access to the community as a whole to put in their
3 distribution lines wherever they need to put them to service
4 whatever homes or facilities the First Nations was asked to be
5 serviced. Plus the operation and maintenance of their -- and
6 construction of their diesel generation sites and fuel storage
7 sites and all that stuff.

8 MR. MICHAEL ANDERSON: Are you aware at
9 present whether or not there are any options that exist in --
10 for the provision of electrical services in these communities
11 by any person other than Manitoba Hydro?

12 MR. FREDERICH MILLS: It's my understanding
13 Manitoba Hydro has a monopoly in the provision of hydro
14 electrical services within the bounds of the Province of
15 Manitoba.

16 MR. MICHAEL ANDERSON: Thank you. In terms of
17 any capital additions that may be required to facilities
18 within the diesel communities, can you confirm that at the
19 present time the Department of Indian and Northern Affairs
20 Canada is not -- does not make capital contributions toward
21 expansion?

22 MR. FREDERICH MILLS: At the present time we
23 do not make contributions to diesel generation expansions.

24 MR. MICHAEL ANDERSON: And did the Department
25 of Indian and Northern Affairs make any direct contributions

1 subsequent to the 1990 policy decision of the Manitoba Hydro
2 Board of Directors to enhance the diesel communities to 16
3 amps?

4 MR. FREDERICH MILLS: Prior to that year
5 Manitoba Hydro and Indian Affairs cost shared the provision of
6 electrical services in communities.

7 MR. MICHAEL ANDERSON: But specifically in
8 respect of the program which resulted in the -- what we call
9 the enhanced diesel program, the increase of 15 amps to 16
10 amps, did the Department of Indian and Northern Affairs Canada
11 made any capital contributions toward that program?

12 MR. FREDERICH MILLS: No, not directly.

13 MR. MICHAEL ANDERSON: It's outlined of course
14 in our exhibits MKO-6 and 7. Do you have that?

15 MR. FREDERICH MILLS: Yeah. No, we didn't
16 participate directly with Manitoba Hydro in improving those
17 services from 15 amp to 16 amp. However, we -- we did make
18 some adjustments to our diesel rate zone as a result of the
19 '94 tariffs, that were published that were approved by the
20 Public Utilities Board, which I believe at that time included
21 some of the enhanced communities. Or the enhancement of some
22 of the communities, and we made adjustments based on that, as
23 a result of this enhanced cost as, obviously, the cost of
24 provision of diesel in those communities increased.

25 MR. MICHAEL ANDERSON: And by adjustments, Mr.

1 Mills, you mean precisely what?

2 MR. FREDERICH MILLS: By adjusting our -- our
3 hydro factor, our electrical factor in our -- in our sample
4 formula, where it currently stands at 15.4 for Government
5 rate.

6 MR. MICHAEL ANDERSON: All right, thank you,
7 Mr. Mills.

8 In respect of the initiative that's described
9 in MKO Exhibit 6 and MKO Exhibit 7, that being the expansion
10 of the services available in diesel communities to provide for
11 16 amp service? Did the -- to your knowledge, did the
12 Department of Indian and Northern Affairs Canada specifically
13 approve this initiative prior to the announcements indicated
14 in the letter to Ms. Jolson?

15 MR. FREDERICH MILLS: No, I wasn't involved in
16 the discussions at the time, however, I have researched our
17 files and I'm unable to determine whether or not Canada
18 verbally was in agreement to it or not. All I know is that
19 the files indicate that at a meeting of the North/Central
20 Hydro Project, Manitoba Hydro announced to the Committee on
21 the North/Central Hydro Project that enhanced diesel was going
22 ahead, and then the -- the press release was provided the same
23 day or shortly thereafter.

24 We didn't -- as far as I know, we didn't
25 explicitly state that we approve in writing, the increase from

1 15 amp to 16 amp.

2 MR. MICHAEL ANDERSON: Then as far as you
3 understand, Mr. Mills, the increase in diesel rates that
4 occurred after 1990 within the diesel service zone, in
5 particular the Government surcharge and the -- the tail rate
6 applied to the non-government customers, was largely related
7 to the cost of expanding the services to 16 amps; is that
8 correct?

9 MR. FREDERICH MILLS: I would think so, I
10 don't know what all made up the -- the tariffs, Manitoba Hydro
11 would be in a better position to answer that question. They
12 do the cost -- the diesel cost studies.

13 So as to what's all entailed, I would assume
14 that they would have put additional generators in and the
15 additional capital costs of those would have been subsumed
16 into those rate structures.

17 MR. MICHAEL ANDERSON: And since the rates went
18 into effect April 1st, 1994, has the Department of Indian and
19 Northern Affairs Canada made any capital contributions to
20 facilities in any of the diesel communities?

21 MR. FREDERICH MILLS: Yes and no. Yes, we did
22 in Shamattawa, when we went into put a water plant in, but, it
23 was determined more particularly through MKO's efforts that we
24 didn't need to make a capital contribution.

25 And so Hydro returned those funds back to the

1 First -- or KTC (phonetic) in this case, who was managing the
2 project. But, we originally had provided funding because
3 Hydro had told us that they needed the resources to increase
4 the diesel capacity and the communities to operate the water
5 treatment plant.

6 And, I believe, it was some \$135 thousand
7 dollars that we provided the First Nation. And then through
8 the efforts of MKO they were able to get those resources back
9 because I, subsequently, found out that Public Utilities Board
10 rate structure is supposed to have subsumed all the capital
11 costs and that there should have been no additional charges
12 for provision of power to this water plant, other than what
13 would have been provided through the -- through the tariff.

14 MR. MICHAEL ANDERSON: So, in the end, Mr.
15 Mills, since April 1st, 1994, when the current rates went into
16 effect, as revised in November 1st, 2001, the Department of
17 Indian and Northern Affairs Canada has not made any capital
18 contributions towards the diesel communities?

19 MR. FREDERICH MILLS: That's correct.

20 MR. MICHAEL ANDERSON: Thank you Mr. Mills.
21 I have really just, if I might, Mr. Chair to
22 submit three (3) documents that Mr. Mills has kindly brought
23 with us.

24 I've submitted these also to Hydro's Counsel,
25 they've not indicated any objection to having them entered as

1 exhibits. These are the documents that he's referred to, but,
2 hasn't necessarily named.

3 The first is the operation and maintenance
4 guideline for physical facilities on Indian Reserves. The
5 second is the capital management policy, that we've discussed
6 where policies were subsumed in 1983, if that's correct.

7 And then the April 19th version of that policy
8 is updated, which is the current policy. And if that's
9 acceptable, each of these three (3) documents I would suggest
10 might be given an exhibit number.

11 And I have copies that will go some distance,
12 but, we would undertake to make multiples for everyone, if
13 that's acceptable.

14 MR. ROBERT MAYER: Is this the O&M handbook
15 that was referred to?

16 MR. MICHAEL ANDERSON: Yes.

17 THE CHAIRMAN: Ms. Ramage, do you have any
18 objection?

19 MS. PATRICIA RAMAGE: I have no objection, I'm
20 just wondering if it's necessary to give it three (3)
21 exhibits, it looks like one book, that's what I thought I was
22 agreeing to.

23 MR. MICHAEL ANDERSON: Well, there's three (3)
24 documents in the book -- yeah --

25 THE CHAIRMAN: We'll receive it as Manitoba

1 Hydro -- MKO Exhibit 10.

2
3 --- EXHIBIT MKO-10: Tabs 1, 2 and 3 of the O&M Policy
4 Handbook.

6 MR. MICHAEL ANDERSON: And as it's referred to
7 further, for example, in argument refer to it as tabs 1, 2 and
8 3, if that's acceptable?

9 THE CHAIRMAN: Exactly.

10 MR. MICHAEL ANDERSON: All right.

11
12 (BRIEF PAUSE)

14 THE CHAIRMAN: We will receive it as MKO
15 Exhibit 10, with three (3) tabs in it and in argument if you
16 wish parties may reference tabs separately as (a), (b) and
17 (c).

18 Anything further Mr. Anderson?

19 MR. MICHAEL ANDERSON: Those are the matters
20 that I had wanted to have Mr. Mills provide clarification on,
21 Mr. Chair. That's my direct examination of this witness.

22 Thank you very much.

23 THE CHAIRMAN: Thank you, sir.

24 Mr. Feldschmid, do you have any questions for
25 Mr. Mills?

MR. JURGEN FELDSCHEID: No, Mr. Chair.

Thank you.

THE CHAIRMAN: Mr. Buhr is not present.

Mr. Hayden is not present.

Mr. Williams do you have any questions for Mr. Mills?

MR. BYRON WILLIAMS: No, thank you.

THE CHAIRMAN: Ms. McCaffrey, representing the Manitoba Industrial Power Users Group, do you have any questions?

MS. TAMARA McCAFFREY: No, we do not.

THE CHAIRMAN: Thank you.

Ms. Melnychuk is not present.

Ms. Fleming is not present.

Mr. Buehart, do you have any questions?

MR. MARKUS BUEHART: Yes, Mr. Chairman, I have a few.

THE CHAIRMAN: Please proceed.

CROSS-EXAMINATION BY MR. MARKUS BUEHART:

MR. MARKUS BUEHART: My question for the witness is, just to make -- be perfectly clear, the diesel communities are funded according to a formula that's fairly rigid and it's not affected by usage, is that -- is that correct?

MR. FREDERICK MILLS: That's correct.

MR. MARKUS BUEHART: So therefore, if there's a change in usage, it doesn't affect the Federal Government, the change falls entirely onto the First Nation community?

MR. FREDERICK MILLS: Yes. If the power usage in the community increases to -- or, the power of a particular facility increases, we still only provide what the formula generates. The First Nations have to -- to pick up the additional cost or go through a PowerSmart Program to try and reduce the amount of power they're using.

MR. MARKUS BUEHART: Okay, that's right. So, if usage increases, that falls entirely on the First Nation. And can you confirm that DSM efforts, if they're successful in reducing costs, the cost would benefit the First Nations community, entirely?

MR. FREDERICK MILLS: Yes, we would not reduce the DSM funding for a community if they put a Power Smart Program in and -- and saved 50 percent on their power rates.

MR. MARKUS BUEHART: Thank you. Those are my questions.

THE CHAIRMAN: Thank you very much, Mr.

Buehart. Ms. Ramage, are you ready to pose your questions?

MS. PATRICIA RAMAGE: Yes, I am, Mr. Chairman.

But by way of comment, I would reiterate -- or I would just like to bring to your attention what I believe was already

noted on the record, that there has been no discovery process, so you may not get my usual quality of cross-examination, here.

THE CHAIRMAN: Ms. Ramage, you, and others in the room, are in the same predicament and we appreciate that.

CROSS-EXAMINATION BY MS. PATRICIA RAMAGE:

MS. PATRICIA RAMAGE: Mr. Mills, you provided a series of calculations and comparisons based on formula funding, today. And just to make sure we're referring to the right ones, we were talking about numbers in the area of -- it was -- it was dealing with the 100 percent versus 20 percent funding, and -- and where you calculated if the Band was based all on a factor one (1), I think.

MR. FREDERICK MILLS: Is this the --

MS. PATRICIA RAMAGE: Do you know which -- well, that's -- this is where I'm getting to --

MR. FREDERICK MILLS: -- a sample of it.

MS. PATRICIA RAMAGE: That's a sample. Do you have -- it appeared that there was a document that might have given us the whole picture. I'm wondering if there was a -- a study done --

MR. FREDERICK MILLS: I did. There was an analysis done, based on category 3 items, generally speaking, as a group of items, and only on the electrical part. And

that was what Michael Anderson had referred to.

MS. PATRICIA RAMAGE: And do you have a copy of that analysis?

MR. FREDERICK MILLS: I do not have a copy of that analysis with me, no.

MS. PATRICIA RAMAGE: Could you undertake to provide us with a copy of that analysis?

MR. FREDERICK MILLS: Yes.

--- UNDERTAKING NO. 13: To provide a copy of the analysis prepared by Frederick Mills, based on category 3 items, electrical only.

CONTINUED BY MS. PATTI RAMAGE:

MS. PATTI RAMAGE: And would the analysis contain, in it, the assumptions that you have brought to the table when you're conducting that analysis?

MR. FREDERICK MILLS: No, assumptions aren't included on the analysis.

MS. PATTI RAMAGE: Would you be able to provide us with those assumptions, also?

MR. FREDERICK MILLS: I suppose.

MS. PATTI RAMAGE: So, do I have the undertaking, just to get that word on the transcript?

1 THE CHAIRMAN: Mr. Mills?

2 MR. FREDERICK MILLS: Yes.

3
4 --- UNDERTAKING NO. 14: To provide the list of
5 assumptions, not contained in the
6 report.

7
8 THE CHAIRMAN: Ms. Ramage?

9
10 CONTINUED BY MS. PATRICIA RAMAGE:

11 MS. PATRICIA RAMAGE: Mr. Mills, you've
12 referred to block funding or core funding. Do you believe
13 that the overall block funding, provided to the First Nations,
14 is adequate for these communities?

15 MR. FREDERICH MILLS: I'm unable to comment on
16 that because I'm no -- I'm not fully aware of all the needs of
17 the First Nations in all the areas that we provide resourcing
18 in.

19 I do know that we do get a block of funding.
20 And I'll use an example, say it's \$100 million, and we talked
21 about education, social, capital, O&M and Indian government
22 support. That money is divided among those programs as to
23 whether it's enough to meet the needs within that total
24 envelope.

25 I'm not at liberty to answer that, I don't know

1 because I don't deal directly with the First Nations. We
2 allocate the resources we get.

3 MS. PATRICIA RAMAGE: Is the electrical
4 portion of that funding significant -- sufficient to -- to
5 meet the First Nations needs?

6 MR. FREDERICH MILLS: We haven't undertaken an
7 analysis of our formula versus actual billings.

8 MS. PATRICIA RAMAGE: Do you have any reason
9 to believe Manitoba Hydro has sought to recover more than its
10 costs in the diesel communities?

11 MR. FREDERICH MILLS: Not to my knowledge.

12 MS. PATRICIA RAMAGE: Now, during your
13 discussion with Mr. Anderson, you indicated that Canada has
14 not been a customer since the 1990's. On what do you base
15 that statement?

16 MR. FREDERICH MILLS: In that we have not been
17 a direct customer, we don't get billings in our name. We
18 don't -- we don't own or operate facilities in First Nation
19 communities anymore, First Nations operate them.

20 An example would be, prior to 1990, schools
21 were owned and operated by the Government of Canada on behalf
22 of First Nations. During what we would call the devolution
23 process, we turned those services over to First Nations,
24 including the facilities, including the operation and
25 maintenance and the hydro bills are now in the First Nations'

1 name, they're not in Canada's name.

2 MS. PATRICIA RAMAGE: Was Manitoba Hydro
3 consulted when those -- when those facilities -- when the
4 devolution took place of those facilities?

5 MR. FREDERICH MILLS: No.

6 MS. PATRICIA RAMAGE: And on whose
7 instructions did -- you -- you indicated that the education
8 authority, the bills were previously forwarded to INAC, on
9 whose instructions was the billing changed?

10 MR. FREDERICH MILLS: I'm not sure if I
11 understand the question. You're asking me to determine who
12 told somebody to do something?

13 MS. PATRICIA RAMAGE: Well Manitoba Hydro
14 would -- typically would have a bill in a customer's name and
15 that bill would stay in that customer's name until someone
16 told them to change it?

17 MR. FREDERICH MILLS: I -- I don't know who
18 told Manitoba Hydro to change the billing. I wasn't party to
19 those -- if there was discussions, I wasn't a party to them.

20
21 (BRIEF PAUSE)

22
23 MS. PATRICIA RAMAGE: During your testimony
24 you indicated that in Lac Broche, a new arena was built for \$3
25 million in the 1990s. When that was built, would the same

1 formula of funding have taken place, the 20 percent/80
2 percent/100 percent, in terms of a Federal contribution to
3 that building?

4 MR. FREDERICH MILLS: In terms of contribution
5 for operation and maintenance, yes, the twenty (20) -- we
6 would only -- we would have taken the size of the facility and
7 the formula and provided 20 percent of the formula.

8 MS. PATRICIA RAMAGE: And the capital portion?

9 MR. FREDERICH MILLS: The capital portion I
10 believe we only put in two hundred thousand dollars
11 (\$200,000), which is our authority -- maximum authority for
12 what we consider multi-purpose buildings.

13 MS. PATRICIA RAMAGE: And would the subsequent
14 electric bills coming out of the creation of this building
15 have been calculated into your funding formulas?

16 MR. FREDERICH MILLS: No, they would have been
17 calcul -- the electrical would have been calculated in as with
18 all our other formulas. The same formula applies to arenas,
19 applies to Band offices, applies to warehouses, applies to
20 schools.

21 The -- the only variance is the amount of
22 funding that -- that INAC provides to First Nations. And in
23 the case of arenas or -- or what we deem to be community
24 buildings, it's 20 percent of the cost, of the formula cost,
25 formula generated cost.

(BRIEF PAUSE)

MS. PATRICIA RAMAGE: So the First Nations would have come up with the balance of that money?

MR. FREDERICH MILLS: The First Nations would be responsible for finding the -- the balance of the resources to pay the bills.

MS. PATRICIA RAMAGE: Now you've also discussed the -- what we refer to as the -- the transition from the 15 amp to the 16 amp to enhance service.

You indicated you had reviewed the records. Did you find anything in those records indicating INAC or Indian Affairs had objected to the enhancement?

MR. FREDERICH MILLS: No.

(BRIEF PAUSE)

MS. PATRICIA RAMAGE: That's all our questions, Mr. Mills.

MR. FREDERICH MILLS: Thank you.

MS. PATRICIA RAMAGE: Thank you.

THE CHAIRMAN: Thank you very much, Ms. Ramage. Ms. Kalinowsky...?

MS. KATHY KALINOWSKY: It's a very rare

occasion when a lawyer estimates approximately a half an hour of cross-examination and then gives five (5) minutes or ten (10) minutes of cross-examination.

MS. PATRICIA RAMAGE: I told you I didn't want to disappoint the Board by going over.

MS. KATHY KALINOWSKY: Yes, Mr. Chairman, I'm ready to proceed and just kind of wrap up a number of questions and investigate some different scenarios.

CROSS-EXAMINATION BY MS. KATHY KALINOWSKY:

MS. KATHY KALINOWSKY: But as a possible scenario, Mr. Mills, if the Public Utilities Board, as part of its rate setting, were to eliminate the surcharge in its entirety and set all the rates for the diesel zone as identical to those in the rest of Manitoba, would that be the best case scenario for INAC?

MR. FREDERICH MILLS: That would be the best case scenario for First Nations. As they are the ones that have to pay the majority of those bills. It would reduce our expenditures in the O&M area, which would allow us the benefit of taking those resources and moving them into one of our other program areas, such as capital, for the provisions of more houses or whatever.

But, we have -- like I said before, we have a block of money that we have to work within and we slice that

up and how we slice it, determines how much money we have for certain programming areas.

So, if we can have savings for lack of a better word, in one programming area, we are able to put those monies into another program area, again the funding going to the First Nations for their use and benefit.

MS. KATHY KALINOWSKY: Well, could you explain to me then, how the sample formula would change then if the Public Utilities Board were to eliminate the surcharge and perhaps you can have reference to your MKO Exhibit 8?

MR. FREDERICH MILLS: On Exhibit 8, if you were to go down to the area near the bottom where it talks about electric cost, INAC's share, First Nations share, the sample formula above is generated on a land line, and that's I guess for the rest of the Province.

Their -- their electric costs would be \$3,526 dollars. We would fund \$705 dollars of that. On diesel right now, their cost is \$54,294, we provide them \$10,000.

So there would be substantial decrease for which First Nations would have to pay:

MS. KATHY KALINOWSKY: So, by consuming the same amount of electricity, then the First Nations bill would be \$2600, where as currently it's \$43,000, in your example -- \$40,000 --

MR. FREDERICH MILLS: No, in the example, the

total electric cost is what the First Nation has to pay.

Okay. It's \$3,526, it's they're on land line, that's what we approximate the hydro bill to be for that facility.

On diesel we're approximating it to be \$54,000. Of the 54,000, we contribute 10,800 to the First Nations for that bill. The First Nation has to come up with \$43,000. And the same thing with the land line, the \$3,526, we contribute to the First Nations based on the formula of \$705 and the First Nations have to come up with \$2,820.

MS. KATHY KALINOWSKY: And, of course, as you mentioned earlier on these aren't indeed actual costs, these are indeed formula driven?

MR. FREDERICH MILLS: That's right.

MS. KATHY KALINOWSKY: In your view, what actions should the Public Utilities Board take to address the potential mis-match between the costs and the funding?

MR. FREDERICH MILLS: I don't really have a comment on that. We're not -- we're not a customer of Manitoba Hydro directly in these communities. We do fund First Nations and whatever benefits can be derived from decisions of this Board to assist those First Nations would be greatly appreciated by all.

THE CHAIRMAN: I would expect that would be the case, Mr. Mills, but, I guess it goes back to the question if,

1 there isn't sufficient funding to support the infrastructures
2 that are in those communities, whose responsibility is it?

3 Is it the general consumers of Manitoba Hydro
4 or is it the Federal Government or is it the Provincial
5 Government or who is it?

6 MR. FREDERICK MILLS: I'm not able to comment
7 on that because I think that comes down to some legal matters
8 of which I'm not privy to, nor am I a lawyer.

9 THE CHAIRMAN: And I didn't want to put it in
10 the legal context, but, I mean it goes back to the root of the
11 problem, if there isn't sufficient resources in the
12 communities to handle their infrastructure costs, at the
13 present time DIAND (phonetic) is the one that is providing
14 most of the resources to those communities, is that not
15 correct?

16 MR. FREDERICK MILLS: We provide resourcing to
17 the community. We don't provide all the resourcing to the
18 communities.

19 THE CHAIRMAN: Understood.

20 MR. FREDERICK MILLS: The Province provides
21 funding, Health Canada provides funding, Solicitor General
22 provides money, HRDC provides money and various government
23 departments within the Province provide resources, to assist.

24 So, I don't know what the breakdown would be,
25 whether we're the majority, or whether we're half or whether

1 we're 50 or 70 percent. But we do provide resources to the
2 First Nations.

3 THE CHAIRMAN: Thank you Mr. Mills.
4 Ms. Kalinowsky?

5 CONTINUED BY MS. KATHY KALINOWSKY:

6 MS. KATHY KALINOWSKY: Mr. Mills, just moving
7 along here, as you mention there's different types of core
8 funding. And at a very high level would you agree with me
9 that somewhat similar funding, albeit different formulas, may
10 exist elsewhere in the Federal Government?

11 MR. FREDERICK MILLS: At a high level, meaning
12 like, from Treasury Board out to other government departments,
13 yes. That's how the government departments are funded, now,
14 as well as -- the same as us, through a -- through a core plus
15 a -- an inflation factor or an increase.

16 MS. KATHY KALINOWSKY: And so similar funding
17 formulas have increases that are, indeed, such as the one that
18 INAC experiences, which is the -- I think it was 1.9 percent.
19 Those other government departments might also experience
20 revenue crunches?

21 MR. FREDERICK MILLS: Yes.

22 MS. KATHY KALINOWSKY: And those other
23 government departments could be health authorities, they could
24 be municipal governments, local town councils?

1 MR. FREDERICK MILLS: That's right.

2 MS. KATHY KALINOWSKY: And, in fact, if they
3 have federal funding that provides for their energy costs,
4 whether it's electricity or natural gas, and natural gas has
5 spiked in the past. They could also be subject to a bit of a
6 revenue crunch?

7 MR. FREDERICK MILLS: I would assume so, I
8 don't know how other government departments formulas work.
9 But, if it's similar to ours, then, yes, they would be.

10 MS. KATHY KALINOWSKY: Thank you for that. I
11 just want to keep that at a very high level. But have you had
12 an opportunity to review the re-direct examination of Mr.
13 Robin Wiens that was provided yesterday?

14 MR. FREDERICK MILLS: No, I have not seen it.

15 (BRIEF PAUSE)

16 MS. KATHY KALINOWSKY: And you mentioned that
17 the formula has increased for inflation and it was about 1.98
18 percent, which is probably derived from the CPI Index?

19 MR. FREDERICK MILLS: To be honest with you,
20 I'm not sure where the 1.988 percent comes from. All I know,
21 that's -- that's what it is.

22 MS. KATHY KALINOWSKY: And over time, to the
23 best of your knowledge, the cost of providing diesel service

1 has greatly -- or has greatly increased, substantially over
2 1.9 percent per annum?

3 MR. FREDERICK MILLS: I don't know that for a
4 fact but I assume so. It's increased substantially over --
5 over the tariff that's currently in -- in place. Hydro has
6 provided us some cost analysis in -- indicating that, but
7 they're not recovering all their costs.

8 So, I would -- I don't know what caused those
9 increases, whether it's additional capital expenditures or the
10 cost of fuel or what it is.

11 MR. MICHAEL ANDERSON: Mr. Chair if it might
12 assist Ms. Kalinowsky, did you mean in absolute terms, in
13 terms of the rate? Or did you mean in terms of the bill
14 that's being faced, or both?

15 MS. KATHY KALINOWSKY: In terms of the actual
16 rate.

17 MR. MICHAEL ANDERSON: Thank you.

18 MS. KATHY KALINOWSKY: Mr. Anderson, perhaps
19 you could provide to your witness a letter from INAC to Mr.
20 Brennan, who's the President of Manitoba Hydro. It's found at
21 MKO/MH 1-77

22 MR. MICHAEL ANDERSON: It's in your binder,
23 Mr. Mills, but here, you can take my copy.

24 MR. FREDERICK MILLS: Is that of January 30th,
25 2001?

MS. KATHY KALINOWSKY: Yes, that is.

(BRIEF PAUSE)

CONTINUED BY MS. KATHY KALINOWSKY:

MS. KATHY KALINOWSKY: And just to make sure that the Board Members are privy to this, and I don't know if all of them have that in front of them, at this moment, but I believe Ms. Ramage was also referring it to you -- referring this to you, in her cross-examination.

But, could you actually just read in those two (2) paragraphs into the record, sir?

MR. FREDERICK MILLS: Okay. This is a letter dated January 30th, 2001 to the President of Manitoba Hydro, from the Regional Director General, Lauren Cochrane, at the time.

"I acknowledge receipt of your letter of November 30th, 2000, and received letter from your customer service section of January 17th enclosing accounts. You indicated in your letter that the Grand Chief, Francis Flatt of MKO advised that the First Nations have taken the position that they no longer pay government surcharge related to the provision of diesel

electrical services to the communities of Brochet, Lac Brochet, Tadoule Lake and Shamattawa. As a result of this position taken by First Nations, you indicated that Manitoba Hydro has no option but to bill the Government of Canada directly. I am returning the bills to you, as it is the position of the Government of Canada, that Manitoba has no right to bill it directly for services provided to First Nations. The First Nations, not the government, are the users and purchasers of power and as such, are the customers of Manitoba Hydro. Canada does not provide -- Canada does provide assistance to First Nations to pay for Band expenses, but does not by so doing, accept liability to pay those expenses.

In circumstances, the Government of Canada will -- in this circumstance, the Government of Canada will not accept responsibility for direct payment of any bills for services provided to First Nations. All accounts should be sent to your customers, the First Nations."

MS. KATHY KALINOWSKY: And is this still the

position taken by INAC?

MR. FREDERICH MILLS: Yes, it is.

MS. KATHY KALINOWSKY: And in fact at approximately a year ago, at the time of the Application, as Manitoba Hydro has filed, the revenue shortfall relating to this was \$700,000, would you agree with that, subject to check?

MR. FREDERICH MILLS: Subject to check, yes.

MS. KATHY KALINOWSKY: And if this has not been resolved it's likely been increased substantially since that period of time?

MR. FREDERICH MILLS: It probably has increased. I don't know how substantially.

MS. KATHY KALINOWSKY: And this contractual dispute still remains ongoing?

MR. FREDERICH MILLS: I don't --

MR. MICHAEL ANDERSON: I'll object to that question, I don't think it's a contractual dispute, and we don't accept that categorization.

CONTINUED BY MS. KATHY KALINOWSKY:

MS. KATHY KALINOWSKY: Sorry, I'll just rephrase the question then. This dispute still remains ongoing, and I apologize for that, Mr. Anderson.

MR. FREDERICH MILLS: I don't know if it's a

dispute, I would -- this discussion's still taking place, we're exchanging information back and forth.

(BRIEF PAUSE)

MS. KATHY KALINOWSKY: And do you want to share with the Board any of the exchanges that have occurred back and forth in regards to this?

MR. FREDERICH MILLS: I have summarized our discussions, and was not cross-examined by Manitoba Hydro on it, so I assume that my summary was correct.

MS. KATHY KALINOWSKY: In the early to mid 1990s an agreement was reached between Canada, Manitoba and Manitoba Hydro to provide funding to connect seven (7) diesel sites on the east side of Lake Winnipeg to the Manitoba Hydro main grid. Do you recall that, sir?

MR. FREDERICH MILLS: Yes. That's the North/Central Hydro Project.

MS. KATHY KALINOWSKY: Yes, exactly. And the funding terms were, subject to check, that Canada would contribute 75 percent, Manitoba would contribute 15 percent and Manitoba Hydro would contribute 10 percent?

MR. FREDERICH MILLS: I believe so, that that's correct, subject to verification.

MS. KATHY KALINOWSKY: If INAC undertook such

1 a program to connect those particular sites on the east side
2 of Lake Winnipeg, does INAC have any plans for Canada to
3 contribute to the remaining four (4) communities?

4 MR. FREDERICH MILLS: We have no plans to
5 contribute to Hydro distribution at this time.

6 MS. KATHY KALINOWSKY: Then can I ask you if -
7 - if it's at all possible, for you to answer, why would INAC
8 contribute to those seven (7) communities, but not the other
9 four (4)?

10 MR. FREDERICH MILLS: I haven't decided -- we
11 haven't decided whether or not we would contribute to the
12 other four (4). I said we're not in the position to answer
13 that, we haven't -- we haven't decided to contribute anything
14 at this time.

15 As to why Canada contributed money to the
16 North/Central Hydro Project? I'm unable to answer that
17 question, as I wasn't party to the discussions.

18 (BRIEF PAUSE)

19 MS. KATHY KALINOWSKY: I don't know if you can
20 answer the next couple of questions I have, Mr. Mills. But
21 recognizing that in other jurisdictions, other Canadian
22 provinces and different territories, they also have some
23 remote First Nation sites that would also likely have diesel

1 generation?

2 MR. FREDERICH MILLS: Yes.

3 MS. KATHY KALINOWSKY: And can you briefly
4 explain to the Board, to the best of your knowledge, what the
5 experience is elsewhere, to recover such costs?

6 MR. FREDERICH MILLS: I'm act -- honestly not
7 aware of exactly how they do it, but I assume they recover a
8 lot of those costs through -- through their tariffs.

9 MS. KATHY KALINOWSKY: And are you aware
10 whether there -- Government surcharges exist elsewhere other
11 than Manitoba?

12 MR. FREDERICH MILLS: No, I'm not aware.

13 (BRIEF PAUSE)

14 MS. KATHY KALINOWSKY: Mr. Chairman, I'd like
15 to thank very much, Mr. Mills, for coming in and changing his
16 travel arrangements and obliging the Board with his presence
17 and answering the questions. Thank you very much, that
18 concludes my cross-examination, sir.

19 THE CHAIRMAN: Thank you, Ms. Kalinowsky. Dr.
20 Kinew?

21 DR. KATHI AVERY-KINEW: Mr. Mills, I was just
22 wondering on what basis -- I understand you're having
23 information and discussions with Manitoba Hydro and Indian

1 Affairs, are First Nations present?

2 MR. FREDERICH MILLS: First Nations have been
3 present, but not at all the discussions. In fact, I believe,
4 I can't remember the last date we had a meeting, but, they
5 were involved.

6 But, we have sent them several letters back to
7 Manitoba Hydro that they need to involve their customers in
8 these discussions.

9 DR. KATHI AVERY-KINEW: On what basis are you
10 participating in the discussions then if the First Nations are
11 the customers?

12 MR. FREDERICH MILLS: So that we're aware of
13 what's happening in the First Nation communities.

14 DR. KATHI AVERY-KINEW: So, you're educating
15 Manitoba Hydro?

16 MR. FREDERICH MILLS: And provide an education
17 to Manitoba Hydro on how we fund First Nation communities --

18 DR. KATHI AVERY-KINEW: Thank you --

19 MR. FREDERICH MILLS: -- so that their aware of
20 the implications of the tariffs.

21 DR. KATHI AVERY-KINEW: And you're not
22 representing First Nations?

23 MR. FREDERICH MILLS: No.

24 DR. KATHI AVERY-KINEW: Purely educational.

25 MR. FREDERICH MILLS: No, it's more of an

1 educational process.

2 DR. KATHI AVERY-KINEW: Thank you.

3 THE CHAIRMAN: Mr. Mayer?

4 MR. ROBERT MAYER: Sir, I wasn't here for the
5 1994 Hearings so if I've missed something, I'm sure somebody
6 is going to tell me.

7 But, I'm looking at two (2) agreements that
8 became exhibits in this cause, one agreement dated April 1st,
9 1977 another one dated 1972. One opens with they're
10 agreements between Manitoba Hydro Electric Board and Her
11 Majesty the Queen in Right of Canada.

12 I recognize I'm not likely to get an
13 opportunity to cross-examine Her Majesty when she arrives here
14 next month, so you're the closest I've got.

15 These agreements start off with, whereas Her
16 Majesty has requested Manitoba Hydro to undertake the
17 generation and distribution of electric power and energy at
18 Shamattawa.

19 And the other one says, whereas Manitoba Hydro
20 and Her Majesty -- no sorry -- whereas Her Majesty has
21 requested Manitoba Hydro to undertake the generation and
22 distribution of electrical power and energy at the community
23 of Tadoule Lake et cetera.

24 It would appear to me, at least from the two
25 (2) agreements that I have, that somebody representing Her

1 Majesty in Right of Canada, asked Manitoba Hydro to become
2 involved with a community, that I take it from reading the
3 agreements, they would not ordinarily been involved in. Am I
4 correct in that?

5 MR. FREDERICH MILLS: I don't know that they
6 would not have been ordinarily involved with them. I do know
7 and I can tell by the agreements, as you can, that obviously
8 they were requested to enter the reserve to provide power.

9 MR. ROBERT MAYER: And then --

10 MR. FREDERICH MILLS: -- on what basis that was
11 given I don't know.

12 MR. ROBERT MAYER: And the power and the entry
13 into the community was, if you've looked at the agreements
14 very obviously, on certain terms and conditions.

15 MR. FREDERICH MILLS: At the time, yes.

16 MR. ROBERT MAYER: And those agreements lasted
17 for various periods of time and thereafter from year to year
18 unless and until cancelled by somebody, is that correct?

19 MR. FREDERICH MILLS: They lasted for a period
20 of time and I believe they lasted on a year to year basis 'til
21 the tariffs were approved by the Public Utilities Board in
22 1994, the rate structure of those agreements, not necessarily
23 the capital costs.

24 There was lots of discussion, I believe, going
25 on between Manitoba Hydro and Indian Affairs at the time, in

1 terms of upgrading diesels and whether or not -- who should be
2 paying for those costs.

3 And I believe that was part of the reason that
4 Hydro came to the Utilities Board to subsume all those costs
5 into those rate structures. But you'd have to confirm that
6 with Manitoba Hydro.

7 MR. ROBERT MAYER: My concern is, sir, that
8 each of these agreements -- the two (2) agreements, the one
9 relating to Shamattawa and the one relating to Tadoula Lake,
10 in any event, which are the only ones I have, both have a term
11 and they say they will continue thereafter from year to year,
12 until terminated upon, I believe it's six (6) months notice.

13 When were those agreements terminated, sir?

14 MR. FREDERICH MILLS: I don't know. I would
15 have to research and find out.

16 MR. ROBERT MAYER: Do you know if they were
17 terminated, sir?

18 MR. FREDERICH MILLS: I can't answer that. I'd
19 have to research.

20 MR. ROBERT MAYER: In any event, am I correct
21 in assuming, that at some point in time, without involvement
22 of Manitoba Hydro and I understand why, because they wouldn't
23 have been parties, the assets in these diesel communities,
24 devolved -- the financing devolved to the First Nations and
25 INAC then takes the position that we don't have a

1 responsibility anymore to Manitoba Hydro, despite the fact we
2 invited them in and had them set up the facilities and become
3 involved in the community.

4 Is that the position I'm hearing?

5 MR. FREDERICH MILLS: Yeah, that's more of a
6 fact than a position. Manitoba Hydro and I can only assume
7 why Manitoba Hydro was invited in 1972 and again in 1981, was
8 the fact that, at the time, Manitoba Hydro and I believe still
9 is and somebody can correct me if I'm wrong, there's lot of
10 lawyers in this room, so I'm sure they know the law better
11 than I do -- that Manitoba Hydro has a monopoly for the
12 provision of -- of hydro services in the Province of Manitoba.

13 So they were invited in to, at the request of
14 Her Majesty, to provide power.

15 MR. ROBERT MAYER: I'm not --

16 MR. FREDERICH MILLS: -- to these communities.

17 MR. ROBERT MAYER: I'm not going to --

18 MR. FREDERICH MILLS: And we assisted them in
19 getting them to come into these communities by providing some
20 capital contributions.

21 MR. ROBERT MAYER: That's not what the
22 agreement says, sir. It says, you invited them in, you asked
23 them in.

1 MR. FREDERICH MILLS: It says, we requested
2 Manitoba Hydro --

3 MR. ROBERT MAYER: Yes.

4 MR. FREDERICH MILLS: Right.

5 MR. ROBERT MAYER: Now --

6 MR. FREDERICH MILLS: And we requested them,
7 based on the fact that they have a monopoly for providing the
8 power services to all citizens of Manitoba, regardless of
9 where they live, within the Province of Manitoba.

10 MR. ROBERT MAYER: And regardless of the fact
11 of whether or not they have any authority to enter upon the
12 lands?

13 MR. FREDERICH MILLS: They can seek that
14 authority and that's why we requested them to come in, so that
15 they would have that authority to enter the lands for -- to
16 provide the resource -- the power.

17 MR. ROBERT MAYER: Can I get an
18 undertaking -- I guess I -- I should be asking Mr. Henderson
19 rather than Mr. Anderson, for this, in light of Mr. Henderson
20 is your counsel, for the dates as to when each of those
21 agreements were terminated?

22 MR. CRAIG HENDERSON: I'll undertake to see if
23 we can provide that information to the Board, Mr. Mayer.

24 It may be a legal question, I don't know
25 whether Hydro has any information with respect to this, as to

1 whether or not they, in fact, have been terminated and under
2 what conditions.

3 MR. ROBERT MAYER: Unfortunately, Mr.
4 Henderson, I have missed my opportunity to deal with Rydro on
5 this very issue. And you're what's left.

6 MR. CRAIG HENDERSON: What I -- what I'm --
7 what I'm suggesting to the Board, and I'm not suggesting that
8 Ms. Ramage has an answer for -- for the Board, here. It may
9 be a question of law as to whether or not they -- when they
10 were terminated and that would be something that you're asking
11 for Canada to provide a legal opinion as to when and under
12 what circumstances these agreements were terminated. That
13 will be something that we'll have to take under advisement,
14 whether or not we're prepared to --

15 MR. ROBERT MAYER: Please, sir, I -- I just
16 noticed that the two (2) agreements I referred to, had
17 provisions -- specific provisions, for termination.

18 MR. CRAIG HENDERSON: That's correct.

19 MR. ROBERT MAYER: Otherwise they went on from
20 time to time.

21 MR. CRAIG HENDERSON: That's correct.

22 MR. ROBERT MAYER: Unless somebody legislated
23 them out of existence. Unless that was us, I don't know who
24 might -- I'm not sure we have the power to do that.

25 MR. CRAIG HENDERSON: Again, Mr. Mayer, it may

1 be -- it may -- it may call for a legal interpretation. It
2 may not be that -- that there exists a letter which says, we
3 hereby terminate these agreements. I don't know that such a
4 letter exists.

5 MR. ROBERT MAYER: That's what I really want
6 to find out.

7 MR. CRAIG HENDERSON: That's right. And I'll
8 undertake to see if such a letter exists and will advise the
9 Board accordingly.

10 As to whether or not we're prepared to give you
11 a -- a legal interpretation as to what our position is with
12 respect to when these agreements terminated, that's something
13 that we'll have to consider.

14 MR. ROBERT MAYER: Thank you, sir.

15 --- UNDERTAKING NO 15: Provide information regarding
16 dates of termination of the
17 agreements.
18

19 THE CHAIRMAN: Thank you. Mr. Henderson, just
20 so you're clear, as I understand the Vice-Chair's question to
21 you, he wanted a date and time that these agreements were
22 terminated. He wasn't expecting a legal opinion from you.
23 Thank you.

1 Mr. Anderson, do you have -- Ms. Ramage?

2 MS. PATRICIA RAMAGE: I just had one (1)
3 comment before we close with this witness, and that was with
4 respect to Mr. Mills comment that if he was crossed -- if he
5 wasn't crossed on a particular subject, it must mean we agree.

6
7 And I would just like to clarify that that's
8 not necessarily the case.

9 THE CHAIRMAN: Thank you. Understood.

10 Mr. Anderson, do you have any re-direct for
11 your witness?

12 MR. MICHAEL ANDERSON: I do, Mr. Chair, just
13 a couple of matters.

14 RE-DIRECT-EXAMINATION BY MR. MICHAEL ANDERSON:

15 MR. MICHAEL ANDERSON: First, is a -- just
16 follows the discussion that we had had about the
17 correspondence between Indian Northern Affairs Canada and the
18 Board, in respect of representing Canada.

19 Manitoba Hydro had, in its cross-examination,
20 had indicated that -- the question was that Canada has not
21 been a customer since the 1990's.

22 I just wanted to clarify that in your comments,
23 you exclusively were talking about the Department of Indian
24 and Northern Affairs Canada and made no comment with respect

1 to Health Canada, the RCMP, or others, is that correct?

2 MR. FREDERICH MILLS: That's correct. I was
3 talking specifically of Indian and Northern Affairs Canada.

4 (BRIEF PAUSE)

5 MR. MICHAEL ANDERSON: The other question was
6 with respect to north-central. In the end, who made the
7 decision to approve federal funding for the north-central
8 transmission project?

9 MR. FREDERICH MILLS: That was the Government
10 of Canada made that decision.

11 MR. MICHAEL ANDERSON: And specifically?

12 MR. FREDERICH MILLS: The Treasury Board of
13 Canada.

14 MR. MICHAEL ANDERSON: All right. The
15 decision not being made, obviously, -- the decision not being
16 made by officials of Indian and Northern Affairs Canada,
17 Manitoba Region?

18 MR. FREDERICH MILLS: That's correct.

19 MR. MICHAEL ANDERSON: To the best of your
20 knowledge, when Manitoba Hydro appr -- was approached to
21 provide diesel services, could the Northern Canada Power
22 Commission have provided services in the Province of Manitoba?

23 MR. FREDERICH MILLS: As stated in previous

1 testimony, I believe that they would not have been able to do
2 so, because Manitoba Hydro has -- or had or still has the
3 monopoly to provide hydro electrical services to the residents
4 of Manitoba.

5 MR. MICHAEL ANDERSON: And at that time was
6 the Department of Indian and Northern Affairs Canada,
7 operating any utility services on an ongoing and regular
8 basis, as a division or operating unit, to the best of your
9 knowledge?

10 MS. PATRICIA RAMAGE: Well, Mr. Chairman, this
11 isn't, I don't believe, arising out of questions that were
12 raised on cross. We're treading into new territory.

13 THE CHAIRMAN: I was just going to wait until
14 he finished the question, but I raised the same observation,
15 Mr. Anderson. What your redirect should be is with respect to
16 questions that are posed and maybe they were as a result of
17 cross-examination, some further follow up that you felt was
18 necessary to put on the record.

19 MR. MICHAEL ANDERSON: Specifically, Mr.
20 Chair, was the Vice-Chair's comments with respect to the
21 request.

22 THE CHAIRMAN: That's --

23 MR. MICHAEL ANDERSON: And Mr. -- and Mr.
24 Mills raised the issue of the basis for the request may not
25 -- might be with respect to the Department's understanding of

1 who can provide services in the communities.

2 THE CHAIRMAN: Then proceed.

3 MR. MICHAEL ANDERSON: Thank you, Mr. Chair.

5 CONTINUED BY MR. MICHAEL ANDERSON:

6 MR. MICHAEL ANDERSON: And given that this
7 seems to be a central issue in the discussions, could you
8 and/or Mr. Henderson, undertake to determine on what basis the
9 request was originally made in 1972?

10 MR. FREDERICH MILLS: I don't know that we'd
11 be able to determine that from our files, I mean all we can do
12 is say that we'll -- we'll go through and research and make
13 inquiries onto it, but I don't know that there'd be a record
14 of -- of the -- of the nature of the request.

15 MR. MICHAEL ANDERSON: Can you make your best
16 efforts to determine?

17 MR. FREDERICH MILLS: We will make our best
18 efforts to determine if we have such a document.

19 MR. MICHAEL ANDERSON: Thank you, Mr. Mills.
20 Those are all my questions.

22 --- UNDERTAKING NO. 16: To determine on what basis the
23 request for the Department of
24 Indian and Northern Affairs to
25 provide service was originally

1 made in 1972.

2 THE CHAIRMAN: Thank you very much, Mr.
3 Anderson. Mr. Mills, thank you for your presence here today
4 and enlightening the Board with respect to the operations of
5 DIAND. I want to thank you for altering your personal travel
6 arrangements to accommodate the Board, we appreciate that,
7 thank you very much, sir.

8 MR. FREDERICH MILLS: You're very welcome, it
9 was my pleasure to be here today, thank you.

12 (WITNESS STANDS DOWN)

13 THE CHAIRMAN: Thank you. Ladies and
14 gentlemen, it is slightly before 12:00. Dr. Nicolaou, are you
15 ready with your presentation to the Board?

16 MR. COSTAS NICOLAOU: Yes.

17 THE CHAIRMAN: Would you like to come and sit
18 in front of us and enlighten us to your views, sir?

21 (BRIEF PAUSE)

23 MR. COSTAS NICOLAOU: Thank you.

25 (BRIEF PAUSE)

1 THE CHAIRMAN: Dr. Nicolaou, when you're
2 ready, sir.

3 MR. COSTAS NICOLAOU: I'm ready, Mr. Chairman,
4 thank you.

5 Mr. Chairman, Members of the Board, ladies and
6 gentlemen, I first wish to thank the Board for giving me the
7 opportunity for this short presentation on behalf of the
8 Canadian Centre of Energy Policy.

9 My main purpose in this presentation is to
10 ensure that the number of important facts regarding the small
11 business sector in Manitoba are put before the Board, as it
12 deliberates on matters before it.

13 We are convinced, Mr. Chairman, that the small
14 business sector, which as you know, broadly overlaps with a
15 customer category general service small in Manitoba Hydro's
16 customer classification, needs to be given serious attention
17 by the Board, if only for reasons of equitable treatment, as
18 the sector has been represented before the Board for the first
19 time in these Hearings.

20 It will not be difficult to show that the
21 relative position of the general service small and Manitoba
22 Hydro's charge case for electricity use is not envied by
23 anyone and is need of modification so as to relieve the sector
24 from the long term burden.

25 I begin with a very brief description of the

TAB B

RESUME

Name:	Fred W. Mills	Home Phone:	(204) 268-2341
		Business:	(204) 983-8790
Address:	Box 156	Email:	fred.mills@inac.gc.ca
	Garson, Manitoba		
	R0E 0R0		

EXPERIENCE

Indian and Northern Affairs Canada Manitoba Regional Office

December 2010 to present

Special Project Officer

Responsible for documenting the Roles and Responsibilities within the Education, Social Development and Capital Facilities and Maintenance Programs. Devolving corporate knowledge to regional employees. Main support to the Director, Infrastructure and Housing on the Diesel Electrical file. Provides Strategic advice to Senior Management on various program and human resource areas.

Achievements

Completed documenting the Roles and Responsibilities in the Social Development - Child and Family Services programs.

July, 2006 to December 2010

Associate, Director Funding Services Operation

Manages the Education and Social Development suite of programs and provides advisory, program expertise and issues-related support, to regional senior management, departmental headquarters and regional field staff, as well as, First Nations and their organizations, and contractors involved in program development/delivery. Manages Funding Services Vote 10 Budgets, including budget projections, variances, tracking of these budgets within Funding Services. Manages the Regional Database collection, compiling, forecasting and HQ data submissions. Manages a staff of 12 direct reports and 29 staff through three supervisors.

Achievements

Updated the Vote 10 budget tracking system within Funding Services.
Developed budget calculations spreadsheet for the Education Counselling and Guidance program.

Lead partnerships in both the Education and Child and Family Service programs with the Province and PTO's to work together to improve results.

June, 2004 to July 2006

Director, People and Trust Responsibilities

Responsible for a staff of nineteen (19) through two (2) unit Managers.
Directs the Minister's legal and fiduciary obligations under the *Indian Act* concerning Indian estates, Revenues, Band Elections, Indian Registration and Annuities.

Respond to new initiatives with respect to self-government and the assumption of responsibility for related program services by First Nations for the Manitoba Region.

Directs the Allegations and Complaints function for the Manitoba Region.

Achievements

Successful implementation of this directorate, while maintaining services to clients of Indian and Northern Affairs Canada by developing and motivating employees of the new directorate into a cohesive team.

Successful negotiation of a win-win out of court settlement with Manitoba Hydro and Manitoba Keewatinowi Okimakanan which was significant to other departments as well.

July, 1992 to June, 2004

Manager, Program Planning and Allocation

Responsible for the Capital Management Program, Indian Government Program, Social Development, as well as Regional data bases
Manage the budget allocation process for the above programs.

Coordinated a work unit of 26 through three unit supervisors.

Achievements

Developed a win-win situation between Indian Northern Affairs Canada and Assembly of Manitoba Chiefs regarding use by First Nations to use the Tenant Profile Form.

Implementation of process that allowed the region to gain control over escalating Social Program Budget.

In partnership with Assembly of Manitoba Chiefs, co-leader in the development of a Regional Social Program Manual.

Developed and implemented processes to assist in the management of some \$500.0 million program budget.

August, 1985 to July, 1992

Capital Planning Officer

Responsible for the planning and prioritization of major capital projects. Negotiated multi-million dollar contribution agreements with First Nations and cost sharing agreements with provincial departments and municipal governments, for the provision of many essential services. Forecasted financial requirements for the capital program and managed consultants and contractors undertaking a variety of work for the capital program.

Achievements

Designed and developed a computerized system to track the Five Year Capital Plan that is still presently in use.

Lead the development of the current Capital Allocation Process which resulted in Manitoba Region being the first region in the country to implement such a system. All other regions developed their model based on this system.

Developed a process for the management of annual capital budget which eliminated the lapsing of the capital budget and is now used by several regions across the country.

Project Officer

Responsible for the management of approximately ten (10) capital projects ranging in value from \$100,000 to \$2,000,000 per project per year.

Process included the organization and preparation of tender documents Management of Capital Assets Inventory System (CAIS)

Achievements

Successfully completed approximately 50 capital projects which were developed in partnership with First Nations, taking into consideration their operation and maintenance budget.

July, 1980 to August, 1985

Maintenance Supervisor

First Nation Communities' schools, teacherages, water and sewer systems and other related infrastructure

Provided technical advice to First Nations and other departmental programs on the construction and maintenance of capital facilities, and the supervised a staff of seventeen maintenance craftsmen at various locations.

Achievements

Prepared the nine Southeast Resource Development Council First Nations and the seven Inter-lake Reserves Tribal Council First Nations for the effective transfer of the federal Operation and Maintenance program to their responsibility.

**September, 1977 to
December, 1980**

**Department of Indian and Northern Affairs
Island Lake District**

Maintenance Supervisor

Responsible for the preventative maintenance program for seven First Nation Communities' schools, teacherages, water and sewer systems and other related infrastructure

Providing technical advice to First Nations and other departmental programs on the construction and maintenance of capital facilities

Supervised of a staff of ten maintenance craftsmen at various locations.

Achievements

Prepared the four Island Lake Tribal Council First Nations and three of K Tribal Council First Nations for the effective transfer of the federal Operation and Maintenance program to their responsibility.

EDUCATION**York University/University of Winnipeg:**

Masters Certification in Project Management

Public Service Commission of Canada

Management Orientation Program for Middle Managers

Orientation for Supervisors

Occupational Health and Safety

The New Role of Public Service Managers

Indian and Northern Affairs Canada

Human Resource Management

Staffing for Managers

Staff Relations for Managers/Supervisors

Team Effectiveness Workshop

People Management Course

Anti-Harassment, Respectful Workplace

Additional Experience:

1989 to 2001

Village of Garson

Brokenhead River Planning District

Councillor

Chairperson of the Planning Board

Volunteer Work:

Garson Quarry Community Centre

Scouts Canada

2001 to Present

1985 to 1992

Volunteer Cook

Beaver leader

Cub Leader

Scout Trooper

Project Opikihawin

1989 to 1997

Board Member

Stevenson Island Volunteer Fire
Department

1978 to 1980

Fire Chief

TAB C

Indian Programs Manual**Volume 1****Capital Facilities and Maintenance****Operation and Maintenance****1.0 Purpose**

1.1 The purpose of this directive is to state the policy of the Department of Indian Affairs and Northern Development (DIAND) on Operation and Maintenance (O&M) of departmentally funded capital assets on reserves.

1.2 This document supersedes DRM 10-7/17 Capital Asset Inventory System dated February, 1990; DRM 10-7/18 Maintenance Management dated March, 1988; and Operational and Funding Handbook for Community Infrastructure and Education Facilities, Operations and Maintenance Program, dated December, 1983.

2.0 Scope

2.1 This directive is applicable to DIAND staff involved in the departmental O&M funding of capital assets in First Nation communities.

3.0 Authorities and References

3.1 Treasury Board Specific Authority considered through the 1990-91 Fall Multi-Year Operational Plan Review - Long Term Capital Plan and attached Memorandum of Understanding and Annexes.

3.2 Departmental Directives 10-1, Volume 1, Part 1, Chapter 6, EDP Systems and Operations, DD 6.4 Band Information Management.

4.0 Issuing Authority

4.1 This directive is issued under the authority of the Assistant Deputy Minister, Socio-Economic Policy and Programming and Program Re-design.

5.0 Definitions

5.1 Accountability Regime: A system of processes and requirements, the application of which provides DIAND with assurance that First Nations are spending

departmental funds in an effective and efficient manner to achieve the agreed to objectives of the funding arrangement.

5.2 Acquired Asset: An acquired asset is an existing asset, the ownership of which is transferred from another party to a First Nation, as a result of negotiations or an understanding between a First Nation and the other party. An asset constructed ahead of schedule by using an alternative funding mechanism is not considered to be an "acquired asset".

5.3 Asset Condition Reporting System (ACRS): A system module of the Capital Asset Management System (CAMS). The information contained in the ACRS includes an assessment of the general condition and O&M effort of on-reserve funded assets. The ACRS also provides information and cost estimates for repair and reconstruction needs and an estimate of the remaining life of the asset. Procedures and policy aspects of the ACRS are given in Appendix A. Additional definitions and system operational direction are provided in the ACRS Manual.

5.4 Capital Assets: Departmentally funded community infrastructure, physical durable facilities such as buildings, roads, bridges, and municipal systems.

5.5 Capital Asset Inventory System (CAIS): A system module of CAMS. The information contained in the CAIS is designed to accept, aggregate and report base level information of on-reserve capital assets as well as to provide a summary of this information to Headquarters, regions, districts, First Nation and tribal council technical units. The information in the CAIS is also used for calculating the annual O&M gross and net funding requirements for the capital assets. Procedures and policy aspects of the CAIS are contained in Appendix B.

5.6 Compliance: First Nations are considered in compliance if the terms and conditions of their funding arrangement with respect to facilities operation and maintenance have been met. No corrective action is required if a First Nation is in compliance (See Appendix D for details).

5.7 Funding Factor: A ratio or percentage, varying from 20 to 100 percent, applied to the Gross Funding Requirement (GFR) for calculating the Net Funding Requirement (NFR) (See Appendix C for details).

5.8 Gross Funding Requirement (GFR): The average annual cost required to operate and maintain a capital asset to generally accepted standards. Note: See also 5.11 Net Funding Requirement (NFR).

5.9 Maintenance: The work performed on an asset such as a road, bridge, building, related grounds or piece of equipment to preserve it in as near to its original or renovated condition as is practical. The types of maintenance which can be performed may include the following:

- (a) routine - ongoing maintenance activities, such as cleaning floors, grading roads, and mowing lawns, required due to continuing use of the facilities;
- (b) preventive maintenance (PM) - periodic adjustment, lubrication, and inspection of equipment to ensure a continued safe working condition; and
- (c) maintenance project - an approved defined project intended to maintain or restore the functional integrity and established levels of service of an asset. It includes major repairs and component replacement and/or reconstruction.

5.10 Municipal Type Agreement: An agreement between DIAND or the First Nation and another federal department; provincial, municipal, city or town government; private contractor; individual; or other official organization. These agreements are for municipal type services such as fire suppression, water supply, solid or liquid waste disposal.

5.11 Net Funding Requirement (NFR): The amount of money, subject to availability, varying between 20 and 100 percent of the GFR, that DIAND provides to First Nations as a subsidy for the O&M of a capital asset. The NFR is based on the concept that First Nations are responsible for a partial cost of the O&M funding of the capital asset. These amounts are established in the context of user fee rates being paid for similar services off reserve. Note: See also 5.8 Gross Funding Requirement (GFR).

5.12 Non-compliance: First Nations are not in compliance if the terms and conditions of their funding arrangement with respect to facilities operation and maintenance have not been met. Corrective action is required if a First Nation is not in compliance.

5.13 Operation: The performance of work or services and the provision of materials and energy to ensure the day-to-day proper functioning of an asset (e.g., the work activities and associated chemicals and fuel to run a water treatment plant).

6.0 Policy

6.1 O&M services are managed by First Nations.

6.2 Subject to the approval and availability of funds, DIAND will provide First Nations with funding assistance for the O&M of eligible capital assets on reserves that is, those classes of capital assets and levels of funding listed in Appendix C, Section 8. Terms and conditions regarding this funding assistance will be described in funding arrangements between DIAND and First Nations.

6.3 The preservation of the functional integrity of funded capital assets is a priority. DIAND requires that capital assets receiving O&M funding be:

- maintained to preserve them in as near to their original or renovated condition as is practical; and
- operated to ensure their proper day-to-day functioning, with due regard to health and safety of the community and the environment.

6.4 Funding arrangements with First Nations shall reflect the Policy Statements made in this Section and require that all O&M requirements be addressed. This will include:

- using a maintenance management plan and keeping it current;
- using O&M funds for the purposes described in the funding arrangements; and
- addressing unsatisfactory asset conditions identified in the ACRS.

6.5 An accountability regime will be implemented to ensure compliance with the specific terms and conditions contained in funding arrangements for the O&M of capital assets.

6.6 DIAND will maintain an inventory of all funded capital assets. This inventory will be maintained as part of the CAIS which is described in Appendix B.

6.7 DIAND will maintain a record of the condition of funded capital assets. This record will be maintained as part of the ACRS which is described in Appendix A.

6.8 O&M Compliance reviews as described in Appendix D shall apply to:

- (a) First Nations funded by Comprehensive Funding Arrangements (CFA);
- (b) Alternate Funding Arrangement (AFA) First Nations whose facilities O&M budgets are being administered outside of the AFA arrangement;
- (c) AFA First Nations with a "fixed volume" and is moving to renewal or Financial Transfer Arrangement (FTA); or
- (d) First Nations prior to entry into a FTA and upon renewal.

7.0 Responsibilities

7.1 DIAND:

- (a) establishes and provides the level of funding for the O&M of capital assets which is based on criteria contained in Appendix C;

- (b) based on an assessment of risk, negotiates, approves and administers funding arrangements with First Nations and other organizations to provide for the O&M of funded capital assets;
- (c) ensures approved funding arrangements contain the necessary terms and conditions to ensure the appropriate O&M of funded capital assets and the adherence to applicable guidelines, codes, standards, and regulatory requirements;
- (d) ensures that recipients comply with the terms and conditions of funding arrangements, including the O&M Compliance Requirements (See Appendix D);
- (e) builds the capacity of recipients who do not comply with O&M funding arrangements or lack the knowledge and or expertise to carry out O&M as described in this directive, (See Appendix D2);
- (f) maintains the CAIS and the ACRS and updates data on an annual basis in accordance with Appendices A and B;
- (g) provides recipients with advice and assistance regarding the criteria used to establish funding levels; and
- (h) provides input and information for reports and returns which are required by Central Agencies.

7.2 RPS for INAC

Subject to the terms specified in the Memorandum of Understanding (April 1, 1987) between DIAND and Public Works and Government Services Canada and subsequent regional and headquarters annual specific services agreements, RPS for INAC will provide knowledgeable client support services on O&M to DIAND.

8.0 Enquiries

8.1 Matters related to the interpretation of this document are to be referred to the Director, Community Development, DIAND Headquarters.

8.2 Matters specifically related to the data collection and processing systems (e.g. CAIS, ACRS) referred to in this document are to be referred to the Director, Corporate Information Management, DIAND Headquarters.

8.3 Requests for additional copies of this policy shall be addressed to the Director, Corporate Information Management, DIAND Headquarters.

9.0 Appendices

- A - Asset Condition Reporting System (ACRS)
- B - Capital Asset Inventory System (CAIS)
- C - O&M Funding
- D - O&M Compliance Requirements

Appendix A

Asset Condition Reporting System (ACRS)

1.0 Purpose

1.1 The ACRS is used by DIAND to record and assess the general condition and O&M effort of on-reserve funded capital assets. The ACRS may also be used to verify the degree to which the O&M of such capital assets is in compliance with terms and conditions of funding arrangements. Note: The types of assets included in the system are contained in Appendix C, Section 8, Eligible Assets and Funding Factors.

2.0 General

2.1 As a minimum, each non-residential on reserve capital asset which receives DIAND O&M funding shall receive an ACRS inspection by professionals once every five (5) years. In order to achieve a uniform cyclical inspection, regions will ensure that approximately 20 percent of such capital assets are inspected annually.

2.2 Once every five years a professional will assess the adequacy of the maintenance management system used to maintain and operate funded assets, and the level of effort expended in the operation and maintenance of these assets. This assessment will be in addition to the examination of individual capital assets referred to in Section 2.1 above. This assessment is to be carried out as part of the ACRS inspection.

2.3 During each fiscal year, each capital asset not receiving a five year cyclical inspection (i.e. the 80 percent of the non-residential on reserve capital assets not included in the professional inspection referred to in Section 2.1 above) shall be inspected by the funding recipient. The purpose of this inspection is to enable the community to annually provide to the region information which will be used to update the ACRS database. Note: The inspector can be any person familiar with capital asset O&M and need not be a technical expert.

2.4 Each year, the maintenance management system used to maintain and operate funded assets will be assessed to ensure it is functioning and achieving its objectives. Note: The assessment can be carried out by any person familiar with capital asset O&M and need not be a technical expert.

2.5 Instructions on the operation and functioning of the ACRS are outlined in the ACRS Manual.

2.6 Accuracy and security of information contained in the ACRS is important. The following measures shall be taken to ensure that such requirements are met:

- (a) Arrange for data quality control based on a physical knowledge of the capital assets and a process for minimizing transcription errors;
- (b) Properly file and store the original data input forms to serve as a backup audit trail to the electronic system in the ACRS; and
- (c) Headquarters and regions shall make provision for security of information by providing a system of off-site electronic back up for all ACRS files.

3.0 Procedures

3.1 DIAND Headquarters will:

- (a) Develop, document, review and update national policies pertaining to the ACRS;
- (b) Update and maintain the national ACRS records;
- (c) Provide procedural and technical advice on the ACRS to regional staff;
- (d) Publish annually, national status reports on asset conditions and maintenance needs; and
- (e) Train departmental personnel on system usage as required.

3.2 Regions will:

- (a) Ensure that the ACRS inspections on 20 percent of the DIAND O&M funded capital assets (See Section 2.1 of this Appendix) will include the preparation of:
 - a revised general condition rating;
 - a written list of routine and preventive maintenance deficiencies if any;
 - a list of maintenance projects as required;
 - a list of deficiencies in the maintenance management system;
 - updated cost information on all O&M requirements;
 - an assessment rating of the O&M effort on-reserve; and
 - carry out the data quality procedures as outlined in the latest edition of the ACRS Manual.

- (b) Ensure the necessary terms and conditions are included in all funding arrangements to maintain the ACRS data current by providing annual updates on the maintenance management systems and the 80 percent of the assets not included in the professional ACRS inspection (See ACRS Manual). The updates will include adding or deleting specific items as appropriate;
- (c) Ensure the necessary terms and conditions are included in all funding arrangements requiring that routine, preventive maintenance and maintenance projects and operations deficiencies identified in the ACRS inspections or updates are addressed as appropriate;
- (d) Liaise with First Nations on the functioning and implementation of the ACRS, and ensure they are provided with current copies of the ACRS reports; and
- (e) Forward updated data to Headquarters by the deadline set in the annual Funding Arrangement Program Reporting Guide.

Appendix B

Capital Asset Inventory System (CAIS)

1.0 Purpose

1.1 The CAIS is used by DIAND to manage base level information of all on-reserve DIAND O&M funded capital assets.

1.2 The information in the CAIS is also used for updating and calculating the annual O&M GFR and NFR for funded capital assets.

2.0 General

2.1 All capital assets for which the Department provides operation and maintenance funding to First Nations must be included in the CAIS. See Appendix C, Section 8 for a complete list.

2.2 The following assets are excluded from the CAIS inventory:

- (a) Assets which are under the control and maintenance of DIAND or other government or private organizations;
- (b) Moveable equipment identified in the Fleet Management Information System (FMIS), operated by Public Works and Government Services Canada;
- (c) Minor equipment, such as furniture and office items, radio equipment, computers, and administrative items (file cabinets, chairs, etc.); and
- (d) Land is not included in the inventory. However, a cross-reference to Public Works and Government Services Canada's Directory of Federal Real Property (DFRP) will be recorded for all immovable assets.

2.3 Capital assets not funded by DIAND may also be recorded in the CAIS, if desired, by First Nations, Tribal Councils or DIAND.

2.4 Assets which are closed or no longer in use will be funded only on a special case basis and with the prior approval of DIAND.

2.5 All new capital assets must have a certificate of substantial completion in order to be entered into the CAIS and be eligible for O&M funding. Capital projects in progress are not to be included in the CAIS.

3.0 Procedures

3.1 General

All data and related information contained in the CAIS must be reviewed and updated on an annual basis.

3.2 DIAND Headquarters will:

- (a) Assist in the preparation, review, and clarification of asset definitions on a yearly basis. Anomalies noted will be investigated and actioned as appropriate;
- (b) Operate and update the CAIS computer database, review the technical and electronic quality of data files submitted by regions, and analyze and consolidate the CAIS data for departmental publications;
- (c) Scrutinize and confirm each entry in national audit reports;
- (d) Take appropriate action to resolve database errors or problems regional staff may be having;
- (e) Input validated data to the national database and verify that all new input data are entered and stored properly;
- (f) Consult and coordinate with the regions regarding the update and distribution of the regional CAIS database;
- (g) Manage and co-ordinate system development and revisions, train system users, provide advice and assistance as required;
- (h) Calculate annual O&M GFR and NFR for all funded assets in the CAIS;
- (i) Compile and provide national data as required; and
- (j) Arrange to provide secure off-site backup storage for electronic copies of the CAIS data.

3.3 Regions will:

- (a) Review the regional CAIS database annually and, where necessary, adjust regional O&M funding levels based on local conditions;

- (b) Ensure the CAIS is operated and maintained in accordance with existing policy. This will include the requirement to validate the technical and electronic quality of input changes, print reports, prepare and submit reports, and respond to relevant requests for CAIS information;
- (c) Review, verify, and approve changes to the regional CAIS database;
- (d) Ensure the necessary terms and conditions are included in all funding arrangements to verify and change if necessary information which is being provided to DIAND by others;
- (e) Ensure the necessary terms and conditions are included in all funding arrangements where First Nations are required to update CAIS data (i.e. corrections, deletions, additions) with accurate and current information on existing, deleted, or newly completed assets;
- (f) Ensure sign-off reports are scrutinized by qualified personnel, approved and forwarded to Headquarters for subsequent input to the national CAIS database;
- (g) Provide First Nations and/or tribal councils with appropriate printed copies of the CAIS information when requested. (Refer to the Departmental Directive 10-1, Volume 1, Part 1, Chapter 6, EDP Systems and Operations, DD 6.4 Band Information Management for the roles and responsibilities for the sharing of information and informatics services, software, and/or data with Aboriginal organizations); and
- (h) Submit an annual update of all CAIS files on diskette to Headquarters by the deadline set in the annual Funding Arrangement Program Reporting Guide.

3.4 Arrangements will be made in regions to provide secure off-site backup storage for electronic copies of the CAIS data.

3.5 All modified data will have substantiating information which is filed with the request for update in order to establish an audit trail.

Appendix C

O&M Funding

1.0 Purpose

1.1 DIAND provides O&M funding as a subsidy to assist First Nations to assume management and partial financial responsibility for operating and maintaining community infrastructure and services on reserves.

2.0 General

2.1 O&M funding for regions is determined by Headquarters only at a global level. Within the global regional funding level and in accordance with the current departmental management regime, regions have the flexibility to accommodate regional differences and specific First Nation needs.

2.2 Regions are responsible for developing and documenting regional O&M funding processes to reflect the principles and responsibilities in this directive;

3.0 Procedures

3.1 Headquarters shall:

- (a) Review and update national policy and procedures relating to O&M funding; and
- (b) Review O&M costs annually to support calculation of the GFR and NFR.

3.2 Regions shall:

- (a) Carry out and maintain current a comprehensive risk assessment of each First Nation receiving O&M funding to assess their capacity to manage, maintain and operate all funded capital assets.
- (b) Ensure the requirement to maintain and operate all funded capital assets is contained in all DIAND capital asset funding arrangements. As a minimum this will include:
 - the establishment of O&M activities for each capital asset (i.e. provision for life cycle management including routine, preventive maintenance and maintenance projects to keep the asset as near to its original or renovated operating condition as practical);
 - an annual O&M inspection of all assets (i.e. See Appendix A, Paragraph 3.2); and

- the assignment of all maintenance activities to a responsible person.

(c) Have in place an accountability regime to ensure recipients comply with the terms and conditions contained in all funding arrangements for the O&M of funded capital assets. As a minimum the accountability regime will require that recipients are:

- maintaining and operating all funded capital assets; and
- carrying out the ACRS and the CAIS updates.

(d) Have in place procedures to reduce risk and to encourage good O&M practices.

4.0 Capital Projects

4.1 Additions to and new replacement of community facilities and services result in future O&M funding requirements. Therefore, plans for capital projects must be reviewed from the point of view of their O&M requirements to ensure that community facilities and services do not exceed DIAND's level of service standards unless the First Nation can demonstrate that long term funding is available from other sources, and the First Nation is willing to commit to the additional capital and O&M costs.

5.0 Allocation Methodology

5.1 With the exception of education facilities, the O&M funding contributions are a subsidy toward the total expected O&M cost. First Nations are expected to make up any difference in funding through user fees or other sources.

5.2 O&M base unit costs have been developed based on standard O&M cost definitions such as labor, fuel, electricity, equipment, and material.

5.3 The O&M funding formula takes into account the following factors: the asset quantity in the CAIS, the base unit O&M cost in Toronto, city centre index to adjust for cost variation outside of Toronto, and the remoteness index to account for the proximity of the asset from the nearest service centre where labour, material and services can be obtained. Further, O&M funding is also available to subsidize the cost of Municipal Type Agreements (MTAs), and other specific O&M arrangements.

6.0 Municipal Type Agreements

6.1 Municipal type agreements may be used for the provision of O&M services.

6.2 Municipal type agreements are to be negotiated based on DIAND established levels of service standards;

6.3 Municipal type agreements may be considered subject to least cost comparisons with other forms of O&M service delivery. This can be determined on the basis of a life cycle cost analysis.

6.4 For the purposes of calculation and the subsequent allocation of O&M funding, Municipal Type Agreements may include provision of services for:

- Water Supply;
- Water Supply and Distribution;
- Waste Water Disposal;
- Waste Water Collection and Disposal;
- Garbage Collection;
- Garbage Collection and Disposal;
- Garbage Disposal;
- Roads Maintenance;
- Bridge Maintenance;
- Railway Crossing Maintenance; and
- Fire Protection Services.

7.0 First Nation Acquired Asset

7.1 For capital assets which normally would be funded by DIAND but were acquired without departmental capital funds the following conditions must be met to obtain O&M funding consideration:

- a) prior approval of DIAND is obtained;
- b) it is an asset subclass listed under the current DIAND O&M funding table as shown in Section 7 of this Appendix;
- c) it meets DIAND established levels of service standard (where levels of service standard do not exist for a particular asset type, regions should evaluate the potential O&M requirements to ensure they are consistent with program priorities and that they are affordable); and
- d) it is identified in the CAIS distinct from regular assets.

8.0 Eligible Assets and Funding Factors

8.1 The Net Funding Requirement (NFR) is the amount of money, varying between 20 and 100 percent of the average cost required to operate and maintain a capital asset to generally accepted standards, that DIAND provides to First Nations for the O&M funding assistance of a capital asset. The NFR is based on the concept that First Nations are responsible for a partial cost of the O&M funding of the capital asset. These amounts are established in the context of user fee rates being paid for similar services off reserve.

8.2 Assets eligible for DIAND O&M funding assistance and their funding factors are shown in Table 1.

Table 1. Eligible Assets for O&M Funding and NFR Factors

Asset Category	NFR Factor	Asset Class	Asset Code	Asset Subclass
Buildings	0.2	Administrative	A1A	Office
		Operative	A2A	Trade Shop/Workshop (Municipal)
			A2B	Garage (Municipal)
			A2C	Warehouse (Band or School)
	1.0	Institutional	A3A	Schools
	0.2		A3B	Daycare Centres
	0.9		A3H	Fire Stations
	1.0	Residential	A4I	Student Residence
			A4L	Teacherage
	0.8	Utility	A5A	Water Supply/Treatment
			A5B	Waste Treatment/Disposal
			A5C	Electrical Power Generation
			A5D	Solid Waste Disposal
			A5E	Central Heating Plant
	0.2	Recreational	A6A	Community Recreational Centres/Halls/Cultural Centres
			A6B	Arena
			A6C	Gymnasiums
			A6D	Indoor Swimming Pools
			A6E	Club Houses, Youth Centres, Senior Citizen Drop-in Centres
Utilities	0.8	Water Supply, Treatment and Distribution	B1A	Heated Water Mains
			B1B	Water Mains
			B1C	Water Treatment System
			B1D	Water Treatment Unit
			B1E	Water Storage
			B1F	Community Well
			B1G	Water Standpipes
			B1H	High Level Lift Station
			B1I	Low Level Lift Station

.... Continued

Continued.....

Asset Category	NFR Factor	Asset Class	Asset Code	Asset Subclass
Utilities	0.8	Wastewater Collection, Treatment and Disposal System	B2A	Sanitary Mains
			B2B	Storm Mains
			B2C	RBC/Trickling Filters
			B2D	Extended Aeration Plant
			B2E	Lagoon
			B2F	Community Septic Tank
			B2G	Jet-Pump Disposal
			B2H	Lift Station
			B2I	Aerated Lagoon
			B2Q	Low Pressure Sewer
	0.9	Electrical Power Supply and Distribution	B3B	Diesel Generators
			B3C	Street Lights
			B3D	Transmission Lines
			B3E	Distribution Lines
	0.8	Solid Waste Disposal System	B4A	Refuse Site
			B4B	Landfill Site
			B4C	Incinerator
Transportation	0.9	Reserve Roads	D1A	Earth Roads
			D1B	Gravel Roads
			D1C	Surface Treated Roads
			D1D	Paved Roads
		Reserve Bridges	D2A	Vehicular Bridges
			D2B	Pedestrian Bridges
			D2C	Large Culverts
Vehicles	0.9	Fire Fighting	E1A	Mini Pumper
			E1B	Triple Combination Pumper
	0.8	Solid Waste	E2A	Compactor
			E2B	Compactor (Unmodified Chassis)
		Liquid Waste	E3A	Commercial Pumper
			E3B	Pumper (Unmodified Chassis)
		Water Delivery	E4A	Tanker
			E4B	Tanker (Unmodified Chassis)

Appendix D

O&M Compliance Requirements

1.0 Purpose

1.1 These Compliance Requirements are intended to ensure DIAND O&M funded assets are operated and maintained properly, and that the accountability objectives of both DIAND and First Nations are achieved in the O&M of capital assets.

2.0 General

2.1 First Nations are considered in compliance if the terms and conditions of their funding arrangement with respect to facilities operation and maintenance have been met. No corrective action is required if a First Nation is in compliance.

2.2 On asset O&M, compliance will be assessed on both the detailed formal ACRS inspection as well as the annual O&M update inspection.

2.3 To assess asset O&M compliance, the following parameters should apply:

- (a) the majority of First Nation assets have received a consistently satisfactory rating for O&M through either the ACRS or annual O&M update inspection process; and
- (b) First Nations, as a minimum, have completed the health and safety maintenance projects identified through the ACRS inspection process and noted on the ACRS Inspection Report Schedule.

3.0 Procedures

3.1 Regions should assist First Nations to establish and implement an accountability regime using the following approaches:

- (a) **Establish Maintenance Management Plans (MMP):**
 - have a MMP for each First Nation's asset that identifies the required maintenance activities, frequencies, etc.
 - review the MMP annually at the time of asset inspections and adjust the plan as necessary.

- have each First Nation document a systematic approach to operation and maintenance by identifying policy, roles and responsibilities, procedures, etc. A checklist of the essential features of a MMP is attached as **Appendix D1 - Maintenance Management Checklist**.
- include all DIAND O&M funded assets on the MMP, while ensuring that the annual O&M inspection reports covered, as a minimum, those assets which DIAND funds at 80 percent of GFR or greater, as well as significant public buildings such as arenas, band administration buildings etc.

(b) Develop Capacity through Maintenance Management Reviews and Training Plans

- recognize and support the close relationship between the management capacity of First Nations and success in meeting accountability requirements (see **Appendix D2 - Capacity Development**).
- ensure the effective management of a First Nation's MMP by determining if the First Nation has the capacity for successful development and implementation of the plan.
- identify any deficiencies in a First Nation's maintenance management capacity and take the appropriate steps, such as training plans, to ensure that any deficiencies are addressed.

(c) Establish a Review Process for Maintenance Management Reports

- On-site compliance reviews can be completed by DIAND staff, Tribal Councils or other parties. The following is the schedule for the implementation of the O&M compliance cycle in each fiscal year:
- **March 31** - regions will complete the annual CAIS/ACRS updates and prepare a status report for each First Nation detailing the condition of all assets on reserve that were funded with departmental appropriations, as well as an assessment of the general O&M effort. Any deficiencies in asset condition and/or the general O&M effort will be brought to the attention of the affected First Nation for follow-up action.

- **June 30** - regions will have action plans by First Nation detailing the corrective action that is to be undertaken to correct inadequacies identified in the above-noted status report.
- **December 31** - regions will verify that corrective action has taken place during negotiations for the upcoming year's funding arrangement.

4.0 Corrective Action

4.1 If corrective action is required, the following process should be followed:

- the corrective action must be in accordance with the provisions of the First Nation's funding arrangement. DIAND must review the funding arrangements to ensure that they include appropriate provisions for corrective action.
- the cause of the non-compliance will dictate the method of resolution. For non-compliance issues related to First Nation capacity such as lack of training or outdated maintenance management plans, refer to **Appendix D2 - Capacity Development**. To address a situation of "lack of will" in the delivery of the O&M program, regional management would have to determine appropriate corrective measures.
- the extent of the non-compliance will also affect the method of resolution. Minor issues may be resolved by meetings/negotiations between DIAND and the First Nation. More serious issues may require the services of a Tribal Council or an independent third party.
- Individual regions may be required to refer O&M non-compliance issues to their respective audit/accountability committees or internal compliance units for direction and approval of any corrective action provisions.

5.0 Appendices

D1 - Maintenance Management Checklist
D2 - Capacity Development

Appendix D1

Maintenance Management Checklist

1. Is there an organized approach to maintenance whereby roles, responsibilities and reporting relationships of maintenance and management personnel are clearly defined?
2. Is there a process in place for the authorization of maintenance work, including both routine and emergency maintenance activities?
3. Are maintenance activities planned and scheduled?
4. Is there an organized system in place for the development of a yearly budget for the operation and maintenance of physical assets? Has the budget been linked back to the maintenance management plan?
5. Is there a responsible party to ensure that maintenance is being properly carried out (i.e. maintenance inspections)?
6. Are regulatory inspections of assets and facilities (e.g. water quality, sewage effluence) carried out?
7. Are maintenance funds used only for maintenance activities?
8. Are maintenance work records, equipment manuals and warranties maintained in a reasonable manner?
9. Are as-built drawings readily available?
10. Are adequately qualified or trained operators employed for the operation of community infrastructure systems?
11. Are contractors and specialists used for work beyond the capability and capacity of band employees?
12. Are Capital Assets Inventory System (CAIS) records maintained and updated annually by the First Nation?

Appendix D2

Capacity Development

An essential part of any compliance strategy is capacity development. All means possible should be used to improve the ability of First Nations and Tribal Councils to effectively carry out facilities operation and maintenance activities. Procedures which work well in one region may not in others.

The following outlines several methods of achieving capacity development while at the same time dealing with the diversity of the regions. The purpose of capacity development is to improve the knowledge and ability of First Nations' operation and maintenance personnel in the performance of their duties. To achieve this, a combination of the following steps is proposed:

a) Encourage the Support of First Nations Councils and Tribal Councils

The first objective in any region should be to secure the cooperation and support of First Nation Councils and Tribal Councils. A successful O&M program is more difficult, if not impossible, without community leadership. First Nations and Tribal Councils must be encouraged by regions to take the lead role in the development of O&M training programs.

b) Utilize the "Best Practices" of First Nations or Tribal Councils with Successful O&M Programs

The knowledge and experience of more successful First Nations could be utilized by means of training sessions held at these First Nation communities. These sessions could be a combination of classroom lectures plus hands-on training facilitated by First Nation personnel.

c) Attain Minimum Standards as Set by other Government Sources (Provincial & Federal) or the Private Sector

Many provincial governments are taking steps to set mandatory levels of service or minimum standards in many areas of municipal infrastructure. For example, most provinces are progressing towards a mandatory requirement that all water and sewage treatment plant operators be certified for the type of plant that they operate. To do this, they offer courses in Water Treatment and Distribution, and Wastewater Treatment and Collection. All First Nations with central water and sewer systems should be encouraged to attend these courses and write the examinations.

d) Utilize the "Circuit Rider Concept" or a Suitably Modified Version

A circuit rider trainer is a professional that will fully review a First Nations Maintenance Management Plan, personnel and implementation results. Visits can be scheduled as required to ensure the plan is reasonable, personnel have or will attain the necessary capacity and implementation is effective. The circuit rider trainer can provide the same service to a number of First Nations over the same time frame. Tribal Councils may be used in this capacity.

This method provides the O&M personnel with expert, hands-on training at their own facility. It can occur at a frequency and length of time which maximizes benefits of this training to the recipient. This method has had good success in regions that have used it.

e) Awareness Training

DIAND Headquarters has developed a briefing package (Level 1) to encourage support of Band Councils and Tribal Council management for O&M regimes. There is also a three day briefing for technical staff which focuses on the principles of good O&M practice. Regions should promote and encourage presentations of these briefings to First Nations and Tribal Councils.

f) Training Plans

While all maintenance staff should meet basic qualification standards, skills upgrading will be required on an ongoing basis. Measures to identify specific skill or upgrading requirements for maintenance staff should be taken annually and training plans established to ensure these skill requirements are addressed.

TAB D

PART D - Program/Service Budgets, Authorities and Monthly Expenditure Plan

Program/Service Budgets, Authorities and Monthly Expenditure Plan

Fiscal Year 2010-2011

Arrangement No.:

Comprehensive Funding Arrangement

Funding

PROGRAM/SERVICE DESCRIPTION	Code	Seq	Auth	RCM	Fund. Auth.	P1 Apr	P2 May	P3 Jun	P4 Jul	P5 Aug	P6 Sep	P7 Oct	P8 Nov	P9 Dec	P10 Jan	P11 Feb	P12 Mar	Pool	Holdback	Allocation Total \$
E3702 ACQUISITION AND CONSTRUCTION OF INFRASTRUCTURE ASSETS AND FACILITIES																				
CAPITAL PLANNING PROJECTS - INFRASTRUCTURE	04673	001	377	0567	FTP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	542,900.00	0.00	542,900.00
P3301 ASSISTED LIVING																				
IN - HOME CARE	02365	001	375	0525	Cont	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	5,556.00	0.00	0.00	66,660.00
G4103 BAND EMPLOYEE BENEFITS																				
BAND EMPLOYEE BENEFIT PLANS - ADMIN COSTS AND EMPLOYER NON-STATUTORY BENEFITS CONTRIBUTIONS	01016	001	383	0525	FTP	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	1,971.00	0.00	0.00	17,754.00
BAND EMPLOYEE BENEFIT PLANS - CANADIAN PENSION PLAN AND PRIVATE PENSION PLAN EMPLOYER CONTRIBUTIONS	01015	001	383	0525	Cont	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	7,760.00	0.00	0.00	66,914.00
G4102 BAND SUPPORT FUNDING																				
BAND SUPPORT FUNDING	01011	001	410	0525	Grant	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	48,966.00	0.00	0.00	440,597.00
E5201 COMMUNITY ECONOMIC DEVELOPMENT																				
COMMUNITY ECONOMIC DEVELOPMENT PROGRAM	04835	001	372	0525	FTP	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,415.00	7,424.00	0.00	66,989.00
P2101 ELEMENTARY/SECONDARY INSTRUCTIONAL SERVICES - BAND OPERATED SCHOOLS																				
ADMINISTRATION - INSTRU. SERV.	02108	001	374	0525	FTP	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,660.00	1,740.00	0.00	29,000.00
INSTRUCTIONAL SERVICES FORMULA	02105	001	374	0525	FTP	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	100,543.00	0.00	1,211,344.00
INSTRUCTIONAL SERVICES FORMULA	02105	002	374	0525	FTP	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,134.00	3,283.00	0.00	37,757.00
LOW COST SPECIAL EDUCATION	02109	001	374	0525	FTP	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,110.00	14,791.00	0.00	170,801.00
LOW COST SPECIAL EDUCATION	02109	002	374	0525	FTP	440.00	440.00	440.00	440.00	440.00	440.00	440.00	440.00	440.00	440.00	440.00	440.00	459.00	0.00	5,269.00

Same as Trans Activity on O&M Calculation Spreadsheet

Unclassified

Arrangement No.:

Comprehensive Funding Arrangement

Funding

PROGRAM/SERVICE DESCRIPTION	Code	Seq	Auth	RCM	Fund. Auth.	P1 Apr	P2 May	P3 Jun	P4 Jul	P5 Aug	P6 Sep	P7 Oct	P8 Nov	P9 Dec	P10 Jan	P11 Feb	P12 Mar	Pool	Holdback	Allocation Total \$
P2104 ELEMENTARY/SECONDARY/STUDENT SUPPORT SERVICES																				
GUIDANCE AND COUNSELLING	02139	001	374	0525	FTP	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,031.00	3,181.00	0.00	0.00	35,822.00
STUDENT TRANSPORTATION SERVICES (ALL SCHOOL TYPES)	02137	001	374	0525	FTP	20,766.00	20,766.00	20,766.00	0.00	0.00	20,766.00	20,766.00	20,766.00	20,766.00	20,766.00	20,766.00	20,764.00	0.00	0.00	207,856.00
P3101 INCOME ASSISTANCE - BASIC NEEDS																				
BASIC NEEDS	02305	001	375	0525	Cont	582,236.00	182,236.00	182,236.00	182,236.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,297,863.00	0.00	2,348,837.00
P3103 INCOME ASSISTANCE - SERVICE DELIVERY																				
SERVICE DELIVERY	02330	001	375	0525	FTP	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,568.00	4,818.00	0.00	0.00	55,306.00
P3102 INCOME ASSISTANCE - SPECIAL NEEDS																				
SPECIAL NEEDS	02320	001	375	0525	Cont	0.00	0.00	0.00	7,250.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	83,155.00	0.00	70,405.00
E3202 OPERATION AND MAINTENANCE OF EDUCATION ASSETS AND FACILITIES																				
SCHOOLS - O&M	04355	001	379	0567	FTP	177,780.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,020.00	83,030.00	0.00	0.00	1,091,910.00
TEACHERAGES/RESIDENCES/GROUP HOMES - O&M	04356	001	379	0567	FTP	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	30,358.00	31,817.00	0.00	0.00	385,155.00
E3603 OPERATION AND MAINTENANCE OF INFRASTRUCTURE ASSETS AND FACILITIES																				
WASTEWATER SYSTEMS	04550	001	379	0587	FTP	82,403.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,514.00	17,525.00	0.00	0.00	275,069.00
WATER SYSTEMS	04551	001	379	0587	FTP	23,412.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	22,212.00	23,183.00	0.00	0.00	269,895.00
E3703 OPERATION AND MAINTENANCE OF INFRASTRUCTURE ASSETS AND FACILITIES																				
COMMUNITY BUILDINGS	04890	001	379	0587	FTP	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,352.00	8,780.00	0.00	0.00	100,832.00
COMMUNITY BUILDINGS	04890	002	379	0587	FTP	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	9,685.00	10,147.00	0.00	0.00	118,882.00
ELECTRICAL SYSTEMS	04898	001	379	0587	FTP	363.00	363.00	363.00	363.00	363.00	363.00	363.00	363.00	363.00	363.00	363.00	377.00	0.00	0.00	4,370.00
FIRE PROTECTION	04898	001	379	0587	FTP	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,330.00	6,830.00	0.00	0.00	76,260.00
MAINTENANCE MANAGEMENT	04894	001	379	0587	FTP	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,158.00	2,262.00	0.00	0.00	29,800.00
ROADS AND BRIDGES	04687	001	379	0587	FTP	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,100.00	4,297.00	0.00	0.00	49,397.00
P3204 REGISTRATION AND MEMBERSHIP																				
INDIAN REGISTRY ADMINISTRATORS	02057	001	304	0581	FTP	609.00	609.00	609.00	609.00	609.00	609.00	609.00	609.00	609.00	609.00	609.00	642.00	0.00	0.00	7,441.96
P2201 SPECIAL EDUCATION PROGRAM/HIGH COST																				
BAND OPERATED SCHOOL - DIRECT SERVICES	02234	001	381	0525	Cont	17,833.00	17,833.00	18,166.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	53,432.00
Total						1,145,389.00	585,720.00	585,853.00	553,371.00	363,865.00	404,851.00	404,851.00	404,851.00	404,743.00	345,954.00	345,954.00	356,055.00	1,903,948.00	0.00	7,824,005.86

PART D - Program/Service Budgets, Authorities and Monthly Expenditure Plan
2010/07/08 - 14:48:34

These numbers are from the O&M Calculation Sheets

O&M funding for both Education and Infrastructure

Unclassified

Comprehensive Funding Arrangement

Arrangement No.:

Where an instalment would be due on a Saturday, Sunday, or statutory holiday, the instalment will be made on the next following business day.

Arrangement No.: 1011-05-000059

Comprehensive Funding Arrangement

PART D - Program/Service Budgets, Authorities and Monthly Expenditure Plan
Allocation Summary Per Program

Fiscal Year 2010-2011

	P1 Apr	P2 May	P3 Jun	P4 Jul	P5 Aug	P6 Sep	P7 Oct	P8 Nov	P9 Dec	P10 Jan	P11 Feb	P12 Mar	Pool	Holdback	Total
Community Development	\$344,841.00	\$185,292.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$184,092.00	\$2,817,958.00
Economic Development	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$7,415.00	\$98,989.00
Education	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$161,317.00	\$1,742,033.00
Indian Government Support	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$58,697.00	\$528,345.00
Indian Registration	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$609.00	\$7,341.86
Social Development	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$572,390.00	\$2,538,318.00
Total	\$1,145,368.00	\$585,720.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$7,824,005.06

Allocation Summary	P1 Apr	P2 May	P3 Jun	P4 Jul	P5 Aug	P6 Sep	P7 Oct	P8 Nov	P9 Dec	P10 Jan	P11 Feb	P12 Mar	Pool	Holdback	Total
Total Funding	\$1,145,368.00	\$585,720.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$7,824,005.06
Total	\$1,145,368.00	\$585,720.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$585,053.00	\$7,824,005.06

TAB E

TERMS OF REFERENCE - CO-MANAGEMENT

1.0 CO-MANAGEMENT AGREEMENT

1.1 The Council has entered into the Co-Management Agreement with XXX, a copy of which is attached to and forms part of this Part J of the Arrangement.

1.2 The Council shall:

- 1) comply with all its obligations under, and with the terms and conditions of, the Co-Management Agreement.
- 2) provide all such information or access to records as is necessary for XXX to fulfill its obligations under the terms and conditions of the Co-Management Agreement.
- 3) advise the Minister of termination, for any reason, of the Co-Management Agreement and provide to the Minister a copy of any Notice thereof:
- 4) immediately advise the Minister of the expiry, without renewal, of the Co-Management Agreement;
- 5) advise the Minister of any default by XXX that continues for 10 days following notice thereof; and
- 6) advise the Minister of any changes, revisions or amendments to the Co-Management Agreement.

2.0 ADDITIONAL UNDERTAKINGS OF THE COUNCIL

2.1 The Council shall:

- a) ensure that all expenditures of funds provided by the Minister under this Arrangement are endorsed by the Co-Manager;
- b) ensure that all expenditures are in accordance with the Remedial Management Plan; and;

OPTIONAL - Add any additional obligations (get from FSO) Examples follow:

- a) review and amend all Bank signing authorities, providing for joint signing of all cheques relating to program services and activities;

provide authorization to give the Co-Manager joint signing authority on all of First

Nation's bank accounts related to the administration of the First Nation;

ensure that all expenditures of funds provided by the Minister under this Arrangement are endorsed by the Co-Manager; and

have joint signing for reviewing and approving expenditures of funds in accordance with the budget and recovery plan approved by DIAND;

- b) ensure that all expenditures are in accordance with the Remedial Management Plan once approved;
- c) provide full support and cooperation to the Co-Manager in the performance of his or her duties;
- d) provide all documents, letters and Band Council Resolutions required by the Co-Manager to carry out his or her duties;
- e) manage the operations of the First Nation enterprises wholly independently of the First Nation Administration;
- f) develop and provide a Remedial Management Plan in conjunction with the Co-Manager outlining the savings and/or reallocation of revenue from other sources to retire the debt. This is to be provided to DIAND no later than _____(enter date) for review and approval. The approved Remedial Management Plan will be an Appendix to this agreement;
- g) develop and provide budgets for the remainder of the 200_____/200_____ fiscal year to ensure that program services continue to be delivered to _____(enter date). This is to be provided to DIAND no later than _____(enter date) for review and approval.
- h) complete the Management Accountability Assessment Workbook and provide to the Minister by _____(enter date);

develop policies and procedures regarding accountability (as outlined in the Funding Agreement), personnel (i.e. hiring, remuneration, employee conduct, etc.) and finance (accounting processes and procedures, budgeting, reporting, etc.) and implement management control systems and any other administrative policies, procedures and methods ensuring proper financial control in all matters including purchases, salaries, travel, loans and advances;

develop the Management Development Plan and submit to DIAND no later than _____(enter date) for review and approval. The Management Development Plan will be implemented to address the areas of finance and capacity development. The approved Management Development Plan will be an Appendix to this agreement;

- i) provide the DIAND with detailed monthly financial statements, accounting for all of

the First Nation's activities, within twenty-one (21) days of each month end, in accordance with generally accepted accounting principles. The monthly financial statement will be comprised of the following:

- a) Financial Statements
- b) aged Accounts Payable
- c) aged Accounts Receivable
- d) bank reconciliations
- e) variance report and budgets (actual, year-to-date and projections)
- f) analysis (narrative) by programs
- g) other reports as mutually agreed upon
- h) training plans

The due dates of the monthly financial statements are as follows:

- a) February, 2005 Report due March 21, 2005
- b) March, 2005 Report due April 21, 2005

_____ (enter date) _____ (enter date)
_____ (enter date) _____ (enter date)

- j) actively participate on the Monitoring Committee, provide a commitment to retire the debt and to resolve the financial and management deficiencies;
- k) retain qualified personnel to deliver the programs and services specified in existing and future funding agreements; and
- l) familiarize themselves with the Terms and Conditions of this agreement and commit themselves to operating within the policies contained herein;
- m) ensure compliance with the Terms and Conditions of all current and future funding agreements;
- n) ensure that they work with the Co-Manager to submit to the Department any information prescribed in the First Nations Reporting Guide and such other information as the Department may prescribe; and
- o) submit the 200_____/200____ Consolidated Audit to DIAND no later than _____ (enter date) for review and analysis.

3.0 MONITORING COMMITTEE

3.1 The Monitoring Committee shall:

- a) be comprised of Chief and Council/Band Staff, the Co-Manager, representatives from DIAND and others as the First Nation may require. The Chief and Council and Co-Manager will be accountable to the Monitoring Committee for the use of the funding advance under existing and future funding agreements, and the results achieved in terms of program and service delivery to the Council's members.

The Monitoring Committee will meet on a monthly basis, or as mutually agreed upon, to ensure compliance with the conditions of this Agreement and all existing and future funding agreements (meetings will be held in the community of _____ (enter where meetings will be held)); actively participate on the Monitoring Committee, provide a commitment to retire the debt and to resolve the financial and management deficiencies;

- b) review and approve the budgets for the 200_____/200_____ fiscal year, the new budgets for 200_____/200_____ fiscal year and the Remedial Management Plan that meets the DIAND's Intervention Policy;
- c) review monthly accounting provided by the Chief and Council and Co-Manager with the agreement that only expenditures authorized by the both the Chief and Council and Co-Manager will be incurred and that federal funding will only be used for the purposes of administering programs and services specified in existing and future funding agreements;
- d) provide full support, cooperation and advice to the Co-Manager in the performance of his or her duties;
- e) review the policies and procedures developed by the Chief and Council and the Co-Manager regarding accountability (as outlined in the Funding Agreement), personnel (ie. hiring, remuneration, employee conduct, etc.) and finance (accounting processes and procedures, budgeting, reporting, etc.) These are to be implemented by the Chief and Council.

TAB F

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

ARTICLES OF AGREEMENT

These Articles of Agreement are made

Between *Her Majesty the Queen in Right of Canada* as represented by the Minister of Indian Affairs and Northern Development (hereinafter referred to as "Canada")

And *Legal Name of TPM*

Address Line 1

Address Line 2

Address Line 3

(Hereinafter referred to the as the "Third Party Manager" or "TPM")

Whereas Canada may require from time to time the TPM to administer funding otherwise payable to a First Nation and/or Tribal Council (hereinafter referred to as "Recipient") related to programs and services to First Nations communities and to account to Canada for the use of the funding provided and the results achieved and to offer assistance to the Recipient to remedy default; and

Whereas the Third Party Manager (TPM)

has offered, in return for payment and according to the conditions in this agreement, to assume third party management responsibilities as and when requested by Canada;

Therefore Canada and the TPM agree as follows:

1. Framework Agreement

This agreement is a framework agreement under which the TPM offers to assume third party management responsibilities at the prices and according to the terms set out in this agreement as and when Canada may, by a **TPM Call-up**, request. The TPM shall carry out these responsibilities in a prompt, diligent and efficient manner.

This agreement applies to all TPM Call-ups issued by Indian and Northern Affairs Canada (INAC).

INAC may make available this agreement, and all material related to this agreement to other federal institutions that may wish to appoint the TPM to administer funding provided to Recipient by those institutions.

2. TPM Call-up Documents

This agreement consists of:

2.1 these **Articles of Agreement**;

2.2 **Appendix A – TPM Terms of Payment**;

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

- 2.3 Appendix B - General Description of Third Party Management;**
- 2.4 Appendix C - General Conditions; and**
- 2.5 Appendix D - TPM Call-up Response and Acceptance Form.**

3. Definitions

Unless the context requires otherwise, the expressions listed below have the following meanings in this agreement and in any TPM Call-up(s):

"Recipient" means the First Nation or Tribal Council identified in Annex C of a TPM Call-up;

"Recipient Funding Agreement(s)" means the document(s) in Annex C of a TPM Call-up(s) containing terms and conditions for funding one or more program(s), service(s), and/or project(s);

4. Payment to the TPM

Canada shall pay the TPM those amounts payable in accordance with TPM Call-up(s) and as per the conditions in Appendix A -TPM Terms of Payment.

5. Goods and Services Tax (GST) / Harmonized Sales Tax (HST)

The TPM must determine whether the third party management provided under this agreement is subject to Goods and Services Tax or Harmonized Sales Tax. If so, the TPM must also determine the amount and claim it from Canada in accordance with the terms in Appendix A.

6. Appropriate Law

This agreement and any TPM Call-up will be governed by and construed in accordance with the laws in force in the province or territory of the Recipient.

7. Replacement of Personnel

Replacement of personnel named in this agreement is subject to approval by INAC. The qualifications of replacement personnel must equal or exceed those they replace. Replacement personnel must meet the language and security screening requirements and be available to provide third party management from the same closest point(s) of departure as those they replace. The curriculum vitae of replacement personnel are to be submitted to the representative of Canada named in section 11 in these articles of agreement. INAC shall evaluate proposed replacement personnel in keeping with criteria applied to the TPM's submission in response to the request for proposals.

Acceptance of proposed replacement personnel will be via an exchange of letters and as approved by Canada.

8. Addition of Personnel

Personnel can be added during the life of this agreement. Addition of personnel is subject to approval by Canada as administrator of this agreement. Additional personnel must meet the

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

evaluation requirements described in the original request for proposals. The curriculum vitae of replacement personnel are to be submitted to the Transfer Payments and Financial Policies Directorate at Indian and Northern Affairs Canada. The Directorate shall evaluate such personnel in keeping with the evaluation grid in the original request for proposal.

Acceptance of proposed additional personnel will be via an exchange of letters and as approved by Canada.

9. Duration

This agreement takes effect on the date of the latter signature of the parties. Unless sooner terminated as provided for in this agreement, it will remain in effect until March 31, 2013.

Canada may renew this agreement for two (2) periods of one-year or less after March 31, 2013. If Canada exercises this right, Canada must do so by written notice to the Manager.

10. Security Requirements

Prior to the commencement of third party management under a TPM Call-up, named TPM personnel involved in the third party management, must each hold a valid Government of Canada Security Screening at the level of RELIABILITY STATUS.

If the TPM or named personnel require a security screening during the life of this agreement, the forms can be accessed at the following web site: <http://www.tbs-sct.gc.ca/tbsf-fsct/330-23-eng.asp>. The forms are to be submitted to the representative of Canada named in section 11 who will submit them to Canada security officials for carrying out the screening.

If the security screening issued prior to the commencement of third party management under the TPM Call-up is revoked or reduced below RELIABILITY STATUS during the life of this agreement, Canada may terminate the TPM Call-up upon notice and the TPM shall have no claim against Canada as a result of the termination.

11. Representative of Canada

For the purpose of this agreement, unless otherwise specified, Canada designates as its representative the Director, Transfer Payment and Financial Policies Directorate, Indian and Northern Affairs Canada.

12. Notice of Communication

Any notice, information or document pertaining to this agreement must be in writing, must make reference to this agreement, and will be deemed to be given if it is delivered, sent by facsimile or e-mail or mail. Any notice sent by facsimile or e-mail will be deemed to be given one working day after it is sent. Any notice that is mailed shall be deemed to be given eight (8) calendar days after it is mailed.

Either party may change the address shown in this agreement by informing the other party of the new address, and such change shall take effect fifteen (15) days after the notice is received.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

All notices must be sent to the following addresses:

To Canada: Director, Transfer Payments and Financial Policies Directorate
Indian and Northern Affairs Canada
Les Terrasses de la Chaudière, North Tower
10 Wellington Street, Room 1210
Gatineau, Quebec K1A 0H4

To the TPM:

13. TPM Call-ups

If and when required, Canada will issue TPM Call-ups for third party management using the TPM Call-up Response and Acceptance form attached as Appendix D. A signed TPM Call-up Acceptance Form by Canada constitutes the financial commitment by Canada to pay for the satisfactory fulfillment of third party management responsibilities.

14. Termination

14.1 Upon notice Canada may terminate this agreement as well as any TPM Call-ups:

- a) if there is a change in appropriation by the Parliament of Canada for the fiscal year in which the payment is to be made;
- b) for default by the TPM in fulfilling any term or condition of this agreement;
- c) if the TPM or any of its employees or other persons for whom the TPM is responsible in respect of fulfilling the terms and condition of this agreement are charged or convicted of fraud, theft, committing false pretences or any similar offence or are disciplined by their professional body; or
- d) if Canada determines that the TPM is in actual or potential conflict of interest under section 3 of Appendix C of this agreement.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

14.2 Without limiting the power of Canada to terminate this agreement under section 14.1, either Canada or the TPM may terminate this agreement at its convenience without cause before the expiry of this agreement upon providing the other party with at least thirty (30) days prior written notice.

14.3 Following the termination of this agreement, the TPM shall:

- a) Return the balance of the Funding Account refer to in paragraph 4.1.4 of Appendix B, including any interest earned, along with any other amounts owing, due or payable to Canada forthwith, and in any event, no later than seven (7) days from the receipt of the notice referred to in sections 14.1 or 14.2 unless Canada and the TPM agree otherwise in writing;
- b) Provide audited financial statements to Canada in respect of the funding provided under this agreement as required by subsection 6.4 of Appendix B within one hundred and twenty (120) days of the date of termination of this agreement;
- c) Fulfill any other reporting requirements of this agreement relating to the period ending on the date of termination as Canada may reasonably require; and
- d) Submit a final quarterly schedule to Canada in accordance with requirements set out in subsection 6.5 of Appendix B within sixty (60) calendar days of the date of the termination of this agreement.

14.4 Canada may, by notice to the TPM, require the TPM to promptly provide copies, to the extent permitted by law, of all accounts and records that are reasonably required to support the continuity of the program(s), service(s) and/or project(s) funded under this agreement to the person, corporation or entity(ies) identified by Canada that will take on the administration of the program, service and/or project funding.

15. Withholding of Payments

Canada may withhold any payments under any TPM Call-up in respect of any Recipient Funding Arrangement where the TPM is in default in fulfilling any term or condition of this agreement or any TPM Call-up or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or where a receiver is appointed under a debt instrument or a receiving order is made against the TPM, or an order is made or a resolution passed for the winding up of the TPM.

16. Recipient Approval or Consent

Where approval or consent of the Council is required under any provision of this agreement or any TPM Call-up, that approval or consent must be expressed to the TPM by way of a resolution of the council of the First Nation signed by a majority of the councillors present at a duly convened meeting of councillors. Where the Recipient is a Tribal Council, the approval or consent must be expressed by way of a resolution of the board of directors of the Tribal Council.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

17. Amendment

Amendments to this agreement and to any TPM Call-up must be in writing and, except as provided in subsection 4.1.2 of Appendix B, must be executed by both parties.

This agreement, together with any written amendment to this agreement and any TPM Call-ups under this agreement, comprise the entire agreement between the parties. No negotiation, undertaking or other agreement or document relating to the subject of this agreement has legal effect.

This agreement binds the parties to this agreement and their respective administrators and successors.

This agreement has been signed on behalf of the Third Party Manager and on behalf of Canada by their duly authorized officers.

FOR Name of TPM

Signature

Date

Print Name

Title

FOR Canada

Signature

Date

Print Name

Title

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

APPENDIX A – TPM TERMS OF PAYMENT

1. Basis of Payment

For the satisfactory delivery of programs and services as per the funding agreement(s) identified in Appendix B of this agreement and as per the Specific Description of Third Party Management in the TPM Call-up(s) and the fulfilment of all the TPM's other obligations, Canada shall pay the TPM, in accordance with the provisions of this agreement, the fees and expenses incurred by the TPM, at the times set out in the TPM Call-up specifying responsibility details, associated levels of effort, dates, times and performance measurement if any, and as approved by Canada:

- 1.1 For each day spent directly on the fulfillment of the third party management program and service delivery as specified in the TPM Call-up, the daily rates for the following categories and named personnel:

Third Party Administrator	Daily Rate	Closest Point(s) of Departure

Advisory / Capacity Development Expert	Daily Rate	Closest Point(s) of Departure

Financial Administration Support

Daily Rate of \$

- 1.1.1. A workday of seven and one-half (7.5) hours to a limit of five (5) days a week, to a limit of thirty-seven and a half (37.5) hours per week unless previously authorized by the representative of Canada identified in the TPM Call-up Acceptance Form.
- 1.1.2 The rate for actual time worked of less than one (1) day will be calculated by dividing the daily fee by seven and a half (7.5) hours and multiplying the result by the number of hours actually worked during the day.
- 1.1.3 The daily fee rate includes fringe benefits, overhead costs and the TPM's profit. Costs of travel from the personnel's residence to the closest point of departure are deemed to be part of the daily fee rate and will not be reimbursed separately.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

1.2 Travel Expenses

1.2.1 The maximum travel expenses that Canada will reimburse are actual travel expenses incurred to reach the work location from the closest point(s) of departure specified in the TPM Call-up or less if the personnel is at closer location to the actual work location.

1.2.2 Expenses will be reimbursed as per the Treasury Board Travel Directive.

1.2.3 A fee rate based allowance for time spent on travel. The number of hours allowed for travelling shall be determined and approved by Canada on the basis of the points of origin and destination. The fee rate based allowance cannot exceed 7.5 hours per 24 hours period for time spent on travel.

1.3 All necessary, reasonable and justifiable out-of-pocket expenses arising from the third party management as approved by Canada, such as long distance telephone calls, translation costs, production costs of reports, reproduction including printing of extra copies of documents.

2. Fee Increases

2.1 The rates specified in paragraph 1.1 may be increased annually on this agreement's anniversary date.

2.2 The annual rate of increase is established in accordance with the lower of

(a) The Consumer Price Index (CPI) for the past 12 months as determined by Statistics Canada, or

(b) The average annual increase for the Public Service salary levels for the same period, as determined by Treasury Board.

2.3 The effective date of the annual increase shall be the anniversary date or if that date has passed, the date of the first workday for which the TPM invoices Canada at the increased rate.

2.4 Canada will not accept a payment request which invoices the rate increase, or rate differential, for workdays previously billed at a former rate.

3. Goods and Services Tax and Harmonized Sales Tax

3.1 The TPM acknowledges that the fees, prices and costs specified herein:

3.1.1 Take into account the Goods and Services Tax (GST) and the Harmonized Sales Tax (HST), if any, that the TPM must pay on the goods and services that the TPM incurs to fulfill the requirements described in the TPM Call-up(s), excluding tax credits and rebates to which the TPM is entitled;

3.1.2 Do not take into account the GST or the HST that Canada must remit to the TPM and that the TPM must collect from Canada pursuant to the Excise Tax Act.

3.2 The amount of GST or HST, if any, must be indicated separately on TPM Call-ups for payment, financial reports or other documents of a similar nature that the TPM submits to Canada.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

4. Method of Payment

4.1 Option 1 – Monthly Progress Payments

Canada shall pay the TPM, not more often than once a month, the fees and expenses incurred by the TPM the previous month.

Each monthly payment shall be subject to a holdback of ten percent (10%) applicable to all the fees. The holdbacks will be released quarterly in accordance with paragraph 5.

Option 2 – Quarterly Payments

Canada shall pay the TPM, not more often than once a quarter, the fees and expenses incurred by the TPM the previous quarter. Requests for payment must be accompanied by quarterly financial and narrative reports satisfactory to Canada.

No holdback is applied to quarterly payments.

4.2 Payment Requests

No payment shall be made to the TPM until Canada receives the following documentation properly completed:

- 4.2.1 A detailed invoice of the TPM's fees for time spent in the fulfillment of third party management as described in the TPM Call-up during the previous period indicating the date, the day and the number of hours worked each day;
- 4.2.2 A statement of expenses incurred during the previous period including all information which supports the said expenses and copies of original receipts; and
- 4.2.3 In the event that the number of hours or days worked exceeds the total authorized for the week, a document in support of a claim for such work which also establishes that such work had been authorized, in advance, by the representative for Canada named in the TPM Call-up.
- 4.2.4 For monthly invoicing, a narrative report and financial report on activities carried out, results achieved and funds expended during the month to Canada's satisfaction.
- 4.2.5 For quarterly invoicing, quarterly reports to Canada's satisfaction.

4.3 Notification to the TPM regarding issues with the Payment Requests

Within fifteen (15) days of the receipt of the documentation required for payment requests, Canada shall notify the TPM, in writing, when any or a combination of the following situations occurs:

- 4.3.1 There are errors or omissions in the documentation;
- 4.3.2 The third party management of programs and services as specified in the TPM Call-up by the TPM is not, based on the information available to Canada at the time, satisfactory or in conformity with the TPM Call-up; or
- 4.3.3 The amount claimed by the TPM appears to exceed the actual value of the third party management carried out.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

- 4.4** Any fees or expenses incurred by the TPM which are the subject of a notification for reasons referred to in subsection 4.3 shall be excluded for the purposes of payment until the said fees or expenses have been accepted by Canada.

5. Release of Holdback

Where holdbacks are applied to the TPM Call-up, the TPM must request the release of the holdback. Canada shall release the holdback to the TPM at the end of the corresponding quarter if the TPM has submitted the corresponding quarterly report to the satisfaction of Canada and Canada determines that the performance of the TPM in that quarter is satisfactory.

6. Right of Set-Off

Without restricting any right of set-off or holdback under law or by any provision of the TPM Call-up, Canada may set off against any amount payable to the TPM by Canada under the TPM Call-up, any amount payable to Canada by the TPM under the TPM Call-up. This provision survives the termination or expiration of this agreement.

7. Appointment of Other TPM

The TPM shall notify Canada when another federal institution appoints the TPM to administer funding for the same Recipient.

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

APPENDIX B – GENERAL DESCRIPTION OF THIRD PARTY MANAGEMENT

1. BACKGROUND

Indian and Northern Affairs Canada (INAC) and other federal government institutions provide funding for the delivery of programs and services for the benefit of members of Recipient. The funding is provided by way of transfer payments that are governed by funding agreements.

Funding is provided for a mix of block funded services and targeted programs. Recipient Funding Agreement(s) will contain terms and conditions specific to the funding provided by each federal institution. Other federal institutions typically include: Health Canada, Human Resources and Skills Development Canada, and Canada Mortgage and Housing Corporation.

Recipient Funding Agreement(s) include provisions for remedies on defaults including the appointment of a third party manager by Canada to administer the funding otherwise payable to the Recipient and preferably also to assist the Recipient in developing its capacity for management of the funding agreement(s). If no funding agreement is in place with the Recipient, Canada may appoint a TPM to ensure continuity of programs and services to Recipients. However, the provisions normally contained in the Recipient Funding Agreement(s) would apply.

The entity assuming third party management responsibilities under this Framework Agreement is referred to as Third Party Manager (TPM).

The INAC funding agreement templates with Recipients are available on INAC's website at <http://www.ainc-inac.gc.ca/ai/arp/trp/pubs/cfafn/cfafn-eng.pdf>

2. CONTEXT OF THIRD PARTY MANAGEMENT

Recipient Funding Agreement(s) will not normally be terminated nor amended upon appointment of the TPM. Funding under the Recipient Funding Agreement(s) will be redirected to the TPM. Recipient Funding Agreement(s) will remain in place to ensure the contractual relationship with the Recipient is maintained, recognizing that some of the Recipient's obligations may not be possible for the TPM to fulfil, e.g. financial statements, certain accountability requirements which are of a governance nature; and the Recipient's participation with and support of the TPM in the resolution of the default and/or the difficulties which gave rise to the default.

3. PURPOSE/OBJECTIVE

The TPM may be asked to carry out advisory, administrative or capacity development roles. Administrative roles include safeguarding the financial operations required in support of delivery of programs and services to First Nation communities while assisting the Recipient to be in a position to administer the funding in the near future. The TPM may be asked, and as specified in the TPM Call-up, to

- a) Administer, in whole or in part, the Recipient's funding and its obligations set out in the Recipient Funding Agreement(s);
- b) Act as facilitator between the Recipient and its creditors to negotiate repayment plans, if required;
- c) Assist the Recipient to remedy default in order to facilitate the return of administration of the funding to the Recipient, including the preparation and implementation of the plan identified in

THIRD PARTY MANAGEMENT FRAMEWORK AGREEMENT

the third party management agreement. This may include the provision of advice on the resolution of difficulties as well as capacity development, including the preparation and implementation of strategy as defined in the policy.

4. GENERAL DESCRIPTION OF RANGE OF FUNCTIONS THAT MAY BE INCLUDED IN TPM CALL-UPS

Notwithstanding the generality of the foregoing, the following describes the functions that have to be performed and as specified in the TPM Call-up, by function category:

4.1 FINANCIAL ADMINISTRATION:

4.1.1 Funding for Programs and Services

Except as otherwise specified in the TPM Call-up, the TPM shall:

- a) Accept, competently administer, and professionally manage all funding advanced by Canada pursuant to and only for the purposes expressly provided for in this agreement, including implementing procedures to facilitate program management and to support financial control, and account to Canada for the use of the funding advanced and the results achieved;
- b) Ensure that no funding advanced by Canada to the TPM in a fiscal year is expended for any purpose other than for program(s), service(s) and/or project(s) that are set out in the Recipient Funding Agreement(s) and that are delivered in the same fiscal year;
- c) Assume and carry out all the obligations of the Recipient related to program(s), service(s) and/or project(s) as set out in the Recipient Funding Agreement(s);
- d) Ensure qualified personnel deliver the programs and services for which funding is provided under this agreement;
- e) Not purport to terminate the employment of Recipient staff or to hire staff on behalf of the Recipient;
- f) Determine which of the Recipient's staff are necessary for the continuance of programs and services and shall pay, on the Recipient's behalf, salaries and benefits of such staff to the extent that funds are provided under the Recipient Funding Agreement(s) for this purpose;
- g) Where the TPM pays, on the Recipient's behalf, salaries and benefits of such staff, in consultation with the Canada Revenue Agency, open a secondary account using an extension to the Recipient's employer number, and complete all reporting and statutory deductions at source; and make best efforts to comply with any collective agreements covering the Recipient's employees; and
- h) Comply with all applicable employment laws including the *Canada Labour Code*.

4.1.2 Recipient Funding Agreement(s) - Expenditures Management

In respect of each Recipient Funding Agreement, the TPM shall:

- a) Ensure that no expenditure limit set out in the Recipient Funding Agreement(s) is exceeded without the prior written consent of Canada;

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- b) Frequently review the monthly expenditure amounts and the annual program and service amounts set out in Recipient Funding Agreement(s) and advise Canada of estimated cash requirements and possible reallocation of funds where applicable within the overall annual amount.
- c) Where monthly expenditure amounts or annual program and service amounts no longer reflect the TPM's estimated cash requirements, advise Canada in writing of the changes required to ensure that schedule conforms to estimated cash requirements without increasing the aggregate amount of program(s), service(s) and/or project(s) funded under a specific Recipient Funding Agreement. Such changes will take effect thirty (30) days after written notice is given by Canada of acceptance, unless the TPM and Canada agree otherwise in writing; and
- d) Canada may, upon notice to the TPM, unilaterally adjust the monthly amounts or the annual program(s), service(s) and/or project(s) amounts set out in the Recipient Funding Agreement(s) as applicable.

4.1.3 Surpluses

- a) All Surpluses, and any other amounts owing by the TPM to Canada, are debts owed by the TPM to Canada and are due to Canada when they arise and shall be promptly reimbursed to Canada. In the event such amounts are not paid to Canada, Canada may set off such amount against any amount payable by Canada to the TPM.
- b) The TPM shall not set off any remuneration or reimbursement owing to the TPM under APPENDIX A – TPM TERMS OF PAYMENT against any Surplus owing to Canada.
- c) In this clause, "Surplus" means the aggregate amount by which funds provided by the Minister to the TPM in respect of any Recipient Funding Agreement in the one year period beginning April 1 of one year and ending March 31 of the following year exceeds the aggregate amount of expenditures made by the TPM in respect of that Recipient Funding Agreement in the same period in accordance with this agreement and the applicable TPM Call-up(s).
- d) This section prevails over terms governing definition and disposition of surplus in any Recipient Funding Agreement.

4.1.4 Funding Account

The TPM shall establish and maintain an account (hereinafter "Funding Account") with a recognized Canadian financial institution in the TPM's name, in trust, with the explicit notation that the account is established "in trust" into which all payments advanced by Canada under the Recipient Funding Agreement(s) shall be deposited.

Where the identity of the Recipient's primary banking facility for funding by Canada immediately prior to the appointment of the TPM is known to the TPM, and where that facility is a recognized Canadian Financial Institution, the TPM shall establish and maintain the funding account in that financial institution, unless, in the TPM's opinion, it is inconsistent with the

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purposes of this agreement to establish or maintain the funding account in the Recipient's primary banking facility.

For further clarity, the TPM shall not draw its remuneration from the Funding Account.

4.1.5 Notices to the Public and to the Recipient's Financial Institution

The TPM shall, upon appointment, or as soon thereafter as is reasonably possible:

- a) Provide public notice in a local newspaper of the appointment of the TPM to administer funding for the provision of programs and services; and
- b) If the financial institution where the Recipient held accounts immediately prior to the appointment of the TPM is known to the TPM notify that financial institution of the appointment.

4.1.6 Support Staff

Where the TPM requires assistance with the administration of the funding or the delivery of services beyond that which is provided by Recipient staff funded under the Recipient Funding Agreement(s), the TPM may utilize TPM Financial Support staff contemplated in the corresponding TPM Call-up for this purpose; and

4.2 FINANCIAL ADVISORY / CAPACITY DEVELOPMENT:

4.2.1. ADVISORY ASSISTANCE TO THE RECIPIENT

The TPM shall approach the Recipient's leadership to offer advisory assistance in the following areas: management and repayment of the Recipient's debt; capacity-building in the administration of funding for programs and services; and addressing any difficulties which gave rise to default under Recipient Funding Agreement(s).

4.2.1.1 For the purpose of providing such advisory assistance, the TPM shall seek the Recipient's written consent to:

- a) Review the Recipient's records, books and reports;
- b) Review and assess the management and financial systems of the Recipient;
- c) Review and analyse any arrangements between the Recipient and its creditors with respect to Recipient debt;
- d) Review and analyse any management development plans or Remedial Management Plans as defined in any Recipient Funding Agreement(s); and
- e) Facilitate discussions between the Recipient and its creditors on repayment and renegotiation of the Recipient's debt.

4.2.1.2 Upon receiving the Recipient's consent, the TPM shall:

- a) Review the Recipient's records, books and reports;

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- b) Assess the management and financial systems of the Recipient;
- c) Review and analyse any arrangements between the Recipient and its creditors with respect to the Recipient debt; and
- d) Review and analyse any management development plans or Remedial Management Plans as defined in Recipient Funding Agreement(s).

4.2.1.3 Within sixty (60) calendar days of the date of execution of the TPM Call-up agreement, or, if sixty (60) calendar days is not reasonably adequate for this purpose, then at such later date as the parties to the TPM Call-up may agree upon in writing, the TPM shall prepare a plan which shall include:

- a) According to the TPM's best information, an aged listing of the Recipient's accounts receivable and accounts payable and a list of the Recipient's debt;
- b) Terms and payment obligations on amounts owing, including a description of any pre-existing repayment or renegotiation arrangements between Recipient and its creditors and the terms and conditions of such arrangements;
- c) A list, according to the TPM's best information, of all sources of Recipient funds that the TPM recommends the Recipient draw upon to make Recipient debt repayments;
- d) Proposed repayment schedules for the Recipient debt having regard to any arrangements between the Recipient and its creditors with respect to the Recipient debt; and
- e) Other recommendations to the Recipient that would address the Recipient's capacity to administer funding for programs and services and any difficulties which gave rise to default under Recipient Funding Agreement(s).

The TPM shall seek and, where possible, obtain Recipient support for the plan. This should take the form of the Recipient's written approval of the plan; and the Recipient's consent to provide the plan to Canada for the purposes of reviewing the progress of the Recipient to address default under Recipient Funding Arrangement(s) and of the TPM in complying with the terms and conditions of this agreement.

4.2.1.4 In preparing the plan, the TPM shall:

- a) Ensure that the plan is consistent with any Remedial Management Plan as defined by any Recipient Funding Agreement(s) unless Canada consents in writing;
- b) Address in priority any Recipient debt impacting the delivery of essential services;
- c) Consider, where such information is available to the TPM:
 - (i) Whether the non-payment of a Recipient debt is impacting the delivery of essential services;
 - (ii) Whether any part of the Recipient debt was incurred in order to provide programs or services provided for under a funding agreement with Canada;
 - (iii) Whether any Recipient debt is secured against off-reserve assets of the recipient; and
 - (iv) Other factors and circumstances surrounding the Recipient debt with a view to assisting the Recipient to treat its creditors fairly and equitably.

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- d) Consult the Recipient on the content of the proposed plan by:
 - (i) Inviting the Recipient to provide input on the content of the proposed plan;
 - (ii) Making any adjustments suggested by the Recipient to the proposed plan that are, in the TPM's professional opinion, reasonable and consistent with the requirements of this section; and
 - (iii) Informing the Recipient of any inconsistencies the TPM identifies between the proposed plan and any arrangements between the Recipient and its creditors with respect to the Recipient debt.

4.2.1.5 If the Recipient approves the plan, the TPM shall assist the Recipient to implement the Recipient-approved plan by seeking the Recipient's consent to:

- a) Directly and individually notify the Recipient's creditors of the plan;
- b) Thereafter inform the Recipient's creditors from time to time of matters that might impact on their relationship with the Recipient; and
- c) Provide the Recipient's creditors with relevant financial information on matters outside this agreement that the Recipient has agreed to disclose.

Upon the consent of the Recipient, the TPM shall:

- d) Directly and individually notify the Recipient's creditors of the plan;
- e) Thereafter inform the Recipient's creditors from time to time of matters that might impact on their relationship with the Recipient;
- f) Provide the Recipient's creditors with relevant financial information on matters outside this agreement that the Recipient has agreed to disclose
- g) Provide any capacity-building assistance contemplated in the plan and assist the Recipient to address any other difficulties giving rise to default under Recipient Funding Agreement(s).

4.2.1.6 In any dealings with the Recipient's creditors, the Manager shall make clear to the Recipient's creditors that the government of Canada is not liable for any current or future indebtedness of the Recipient.

4.2.1.7 The TPM shall amend the plan as required and in so doing shall follow the process set out in this section for preparing the plan. The TPM shall make any amended plan available forthwith to the Recipient, and, on Recipient consent, to Canada.

4.2.1.8 Without disclosing confidential financial information of the Recipient or its creditors to Canada, the TPM shall provide to Canada quarterly written progress reports on the preparation of the plan and, in consultation with the Recipient, on the implementation of the plan by the Recipient.

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5. ACCOUNTABILITY TO RECIPIENT

The TPM shall maintain a system of accountability to the Recipient and the Recipient's community members that meets or exceeds the requirements set out in the Recipient Funding Agreement(s) and that in any event must include:

- a) Regular financial reports for each program and service funded under the Recipient Funding Agreement(s) to be provided to the Recipient and its members to the extent permitted by law;
- b) Regular written progress reports on the preparation of a plan by the TPM and also, where the Recipient consents, on the plan's implementation by the Recipient;
- c) Decision making processes of the TPM affecting individuals shall be made known to the individual that may be affected by the decision. An individual or individuals that dispute decisions of the TPM shall have an opportunity to be heard by the TPM; and the outcomes of decisions by the TPM on such dispute shall be disclosed to the affected individual(s);
- d) Making best efforts to keep the Recipient and community members informed in respect of progress under this agreement, and shall, during the term of this agreement initiate, at a minimum, quarterly information sessions with the Recipient and its community members to provide updates on any decisions and actions taken under this agreement. If the TPM encounters difficulty in arranging such information sessions, the TPM must either conduct these information sessions in an off-reserve location or make best efforts to provide relevant information by mail to community members.
- e) Informing community members on how they can communicate with the TPM. The TPM shall respond to inquiries from community members.

6. ACCOUNTS, RECORDS AND FINANCIAL REPORTING

6.1 Except as provided in this section, the TPM shall fulfill the reporting obligations set out in Recipient Funding Agreement(s).

6.2 The TPM shall maintain for the term of any TPM Call-up and for at least seven (7) years following the expiry or termination of that TPM Call-up:

- a) Proper and accurate accounts and financial and non-financial records relating to the TPM Call-up and each program, service and project for which funding is provided under that TPM Call-up, including supporting documentation; and
- b) Accounts and records acquired from the Recipient or any other third party manager for the purposes of carrying out its obligations under any TPM Call-up.

6.3 Without limiting subsection 6.2, the TPM shall maintain financial accounts and records referred to in subsection 6.2 in accordance with generally accepted accounting principles and in such a way as to substantiate any schedules of revenues and expenditures to be provided to the Canada under subsection 6.5.

6.4 Without limiting subsection 6.2, the TPM shall provide to Canada and the Recipient audited financial statements in respect of the funding provided under this agreement relating to Recipient Funding Agreements in each Fiscal Year that must:

- a) Be general purpose financial statements that meet the needs of all potential readers;

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- b) Be prepared in accordance with generally accepted accounting principles as prescribed by the Canadian Institute of Chartered Accountants;
- c) Disclose any Surpluses as defined in paragraph 4.1.3 as accounts payable to Canada;
- d) Disclose any amounts claimed by the TPM for reimbursement from Canada under this agreement as accounts receivable; and
- e) Be provided to Canada and the Recipient within one hundred and twenty (120) days of the end of the Fiscal Year in which that funding is advanced to the TPM under any TPM Call-up.

6.5 Unless otherwise required by Canada, the TPM shall furthermore provide:

- a) On a quarterly basis (or more often as Canada may require) to Canada and the Recipient any schedules of revenue and expenditure required under Recipient Funding Agreement(s) and prepared according to the requirements of those funding agreements; and
- b) Monthly variance reports that establish comparisons between budgets and actual expenditures.

6.6 Where the Recipient communicates to the TPM, by way of a resolution signed by a majority of the councillors present at a duly convened meeting of the council where the Recipient is a First Nation, or by way of a resolution of the board of directors where the recipient is a Tribal Council, a reasonable requirement for further information, including copies of records maintained under subsection 6.2, associated with the administration of the funds provided under any TPM Call-up, the TPM shall, to the extent permitted by law, disclose the requested information to the Recipient.

6.7 Where the Recipient's auditor, retained by the Recipient by way of a resolution signed by a majority of the councillors present at a duly convened meeting of the council where the Recipient is a First Nation, or by resolution of the Recipient's board of directors where the Recipient is a Tribal Council, determines that the Recipient's financial statements should consolidate the activities funded under this agreement, the TPM shall, to the extent permitted by law, provide to that auditor full access to the TPM's financial records maintained under this agreement in order to assist that auditor in the preparation of the Recipient's consolidated financial statements. The TPM shall, in any event, provide to that auditor copies of the TPM's audited financial statements provided to Canada and the Recipient under this section on or before the date the TPM's audited financial statements are provided to Canada and Recipient.

6.8 In this section, Fiscal Year means a one year period beginning April 1 of one year and ending March 31 of the following year.

6.9 This section survives the termination or expiration of this agreement.

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APPENDIX C – GENERAL CONDITIONS

1. Assignment of Agreement

This agreement shall not be assigned, in whole or in part, by the TPM without the prior written consent of Canada and any purported assignment made without that consent is void and of no effect. No assignment of the agreement, in whole or in part, shall relieve the TPM from obligation under this agreement, or impose any liability upon Canada.

2. Audit by Canada

- 2.1 Canada may audit or cause to have audited the accounts and records of the TPM at any time during the term of this agreement or within seven (7) years of the termination or expiration of this agreement, in order to:
 - a) Assess or review the TPM's compliance with the terms and conditions of this agreement;
 - b) Review the TPM's program management and financial control practices in relation to this agreement; and
 - c) Confirm the integrity of any data which has been reported by the TPM pursuant to this agreement.
- 2.2 The scope, coverage and timing of any audit under subsection 2.1 shall be determined by Canada and may be carried out by one or more auditor(s) employed or contracted by Canada, and may be carried out without advance notice.
- 2.3 In the event of an audit under subsection 2.1, the TPM shall:
 - a) Upon request by the auditor referred to in subsection 2.2, provide to those auditors all accounts and financial and non-financial records maintained by the TPM relating to any TPM Call-up under this agreement and to the funding provided under any TPM Call-up, including all original supporting documentation and any accounts and records acquired from the Recipient or any other TPM for the purposes of carrying out the TPM's obligations;
 - b) Allow those auditors to inspect such accounts and records and, except where prohibited by law, to take copies and extracts of such accounts and records;
 - c) Provide to those auditors such additional information as they may require with reference to such accounts and records; and
 - d) Provide all necessary assistance to those auditors, including providing them with access to the TPM's premises.
- 2.4 For further clarity,
 - a) Any audit under subsection 2.1 does not limit the TPM's obligations to have financial statements and, where applicable, statements of revenues and expenditures audited under Appendix B; and
 - b) This section survives the termination or expiration of this agreement.

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3. Conflict of Interest

- 3.1 The TPM shall not conduct any business with the Recipient or its community members except as provided for in the TPM Call-up for the duration of the TPM Call-up and thereafter until all requirements of the TPM Call-up are fulfilled to Canada's satisfaction.
- 3.2 In the event that the TPM, in the course of fulfilling its obligations under a TPM Call-up, finds itself in an actual or potential conflict of interest situation as a result of the TPM's past, current or anticipated provision of services to the recipient, including its organizations, companies, individuals or other legal entities, the TPM shall:
 - a) Declare the actual or potential conflict of interest to Canada by written notification;
 - b) Where the interests of the Recipient may be affected, declare the actual or potential conflict to the Recipient;
 - c) Take immediate measures to address the actual or potential conflict of interest

4. Indemnity and Liability

- 4.1 The TPM shall indemnify and save harmless Canada and its representatives from and against all damages, claims, liabilities, and demands arising directly or indirectly from any act, omission, or negligence of the TPM, any breach of this agreement by the TPM and performance or non-performance in whole or in part of the TPM's obligations under this agreement.
- 4.2 Canada will not be liable for any losses, claims, damages, or expenses relating to any injury, disease, illness, disability or death of the TPM or any employee, agent, or representative of the TPM or the Recipient, or loss or damage to any property, caused or alleged to be caused as a result of activities carried out under this agreement.
- 4.3 Canada will not be liable for any negative consequences or extra costs arising out of the TPM's following any advice given by Canada, whether given without or upon invitation by the TPM, unless the advice was provided to the TPM in writing by Canada and was accompanied by a statement specifically relieving the TPM of any responsibility for negative consequences or extra costs that might arise from following the advice.
- 4.4 This section survives the termination or expiration of this agreement.

5. Misconduct and Legal Processes

- 5.1 The TPM shall provide to the appropriate policing authority, all evidence of fraud or other criminal conduct related to the subject matter of this agreement.
- 5.2 In the event that the TPM receives a complaint or an allegation by any person against the TPM or the Recipient alleging any civil or criminal wrongdoing, the TPM shall immediately notify Canada in writing.
- 5.3 The TPM shall, at its own expense, take all appropriate steps to timely respond and, as appropriate, defend against any legal process with which the TPM is served or of which the TPM becomes aware that is in any way related to this agreement or to the TPM's obligations under this agreement or that might impair the TPM's ability to fulfill its obligations under the agreement.

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5.4 This section survives the termination or expiration of this agreement.

6. Borrowing or Loans

- 6.1 The TPM shall not borrow or use borrowed funds to make expenditures under the TPM Call-up.
- 6.2 The TPM shall not make, secure, guarantee or co-sign any loans to or for the Recipient or any of its community members, either from funding provided under the TPM Call-up or from any other source.

7. Obligations of the TPM

- 7.1 The TPM shall:
 - a) Take all necessary action to maintain itself in good standing, to preserve its legal capacity, to maintain the security screening , and to inform Canada without delay of any failure to do so;
 - b) Complete the work described under the TPM Call-up and take all necessary action to carry it out successfully within the limits set out in any TPM Call-up and in accordance with good business practice and using qualified staff;
 - c) Disclose to Canada, without delay, any fact or event that would or might compromise the chance of success of the work or its ability to carry out any of the conditions of this agreement, either immediately or in the long term, including but not limited to, pending or potential lawsuits and audits;
 - d) In the acquisition of assets and the letting of service contracts for the execution of the services, the TPM shall call upon suppliers to the extent that they are competitive and available.

8. Partnership

This agreement does not constitute an association for the purpose of establishing a partnership or joint venture and does not create an agency employment relationship between Canada and the TPM.

9. Representation and Warranties

- 9.1 The TPM represents and warrants that:
 - a) Where it is incorporated, it is a corporation duly incorporated and in good standing under the laws of Canada or of a province or territory of Canada as the case may be, and will remain in good standing under those laws at all times during the term of this agreement; and
 - b) It is not in contravention of any other agreement it may have with the Recipient or any other person by entering into this agreement, and that its duties and obligations under this agreement are not affected by any other agreement it may have with Council or any other person;

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- c) That the personnel have the necessary qualifications, including language capacity and experience, to carry out its/their obligations under this agreement;
- d) It has not directly or indirectly paid or agreed to pay to a person, and undertakes not to directly or indirectly make or offer to a person, any payment or other compensation that is contingent upon or calculated upon the basis of degree of success in soliciting or obtaining this agreement or negotiation the whole or any part of its terms;
- e) Where any person who, for payment, during the duration of this Arrangement, undertakes to communicate or arrange a meeting, on behalf of the TPM, with any "public office holder" or "designated public office holder" as defined by the Lobbying Act, that person is registered as required by that Act;
- f) Where the TPM employs one or more individuals whose duties include communicating, on behalf of the TPM, with any "public office holder" or "designated public office holder" as defined by the Lobbying Act, the officer responsible for filing returns for the TPM files all returns required by that Act;
- g) No member of the House of Commons or the Senate will be admitted to any share or part of this agreement or to any benefit to arise from this agreement;
- h) No individual to whom the post-employment provisions of the Conflict of Interest Act, the Conflict of Interest and Post- Employment Code for Public Office Holders, or the Values and Ethics Code for the Public Service applies will derive any direct benefit from this agreement unless that individual is in compliance with the applicable post-employment provisions.

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APPENDIX D - TPM Call-up Response and Acceptance Form

This TPM Call-up is subject to the provisions of the Third Party Management Framework Agreement.

Identification of the Parties			
Consulting Entity Data		INAC Representative	
Legal Name		Name	
Mailing Address		Title	
Location Address if different from mailing address		Office Address	
Telephone Number		Telephone Number	
Fax No		Fax No	
E-mail Address		E-mail Address	

Duration of this TPM Call-up: Between the date of acceptance by Canada and the (end date)

Remuneration

Function	Name of Personnel	Level of Effort (in days or portions thereof)	Daily Fee Rate	Total Fee Cost per Function
TPM Administrator			\$	\$
TPM Advisory / Capacity Development			\$	\$
TPM Financial Support			\$	\$
Total Maximum Remuneration				\$

Please note that quoted fee rates cannot exceed those in the signed Framework Agreement and as may be adjusted from time to time for inflation.

Manager's Travel and Living Expenses - Estimate for Budget Purposes

Travel Living Expenses (Itemize required travel/transportation costs, including any/all flights, mileage, accommodations and meal/incidental expense allowances, for the number of days required)	Maximum Amount per Item	Number of Days	Maximum Amount
Transportation (provide details)			
Accommodation (provide details)	\$ _____ Per day		
Meals	\$ _____ Per day		
Incidental Expenses	\$ _____ Per day		
Maximum Amount of Total Travel and Living Expenses			\$

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Total Cost of TPM Call-up

Total Fee Cost excluding GST/HST	\$
Total Travel and Living Expenses	\$
Applicable GST/HST	\$
Total Cost of TPM Call-up	\$

I (name of consulting entity) have chosen the Method of Payment indicated in the table below.

	Method of Payment	
Option 1	Monthly progress payments subject to a 10% holdback	Yes/No
Option 2	Quarterly milestone payments without holdback	Yes/No

I (name of consulting entity) am willing to undertake the third party management as described in Annex A and for the duration of the assignment at the cost quoted above. I (name and title) am the authorized representative.

Signature

Date

Representing Indian and Northern Affairs Canada, I (name and title of authorized representative) accept your proposal as above.

Signature

Date

Attachments:

- Annex A - Specific Description of Third Party Management;
- Annex B - Performance Measurement Framework, if any;
- Annex C - Recipient Funding Agreement(s).

TAB G

Band	City	Zone	Gov Rate	Non Gov Rat	Trans	Year	Approximate Breakdown by Component										Print Status:		
	2	6	6.87	23.05	1	2010/11													
							Electricity						Operation				Maintenance		
Asset Type	Units	Qty	Time in Service	Base Cost	Site Index	Formula Budget	Labour		Energy		Mat & Equip	Sub Total	Labour		Mat & Equip	Sub Total			
							Local	Import	Elec	Heat			Local	Import					
59 Lift Station - Base	ea	3	1	2000.00	1.96	11,770	2102	0	0	1338	2876	6116	801	2378	2876	5655			
60 Lift Station - Volume	Units	1380	1	5.40	9.43	70,280	1863	0	60130	3253	2440	67686	298	1157	1139	2594			
61 Mech Treatment - Base	ea	1	1	7000.00	1.84	12,890	3158	0	0	1563	1563	6284	702	2779	3126	6607			
62 Mech Treatment - Volume	Units	1181	1	16.00	6.03	113,950	7556	0	87079	4208	8415	107258	756	2992	2945	6693			
63																			
64																			
65 Lagoon - Base	ea	1	1	3250.00	1.42	4,620	1137	0	0	0	1173	2310	1137	0	1173	2310			
67 Plant Buildings	m2	21	1	21.75	5.42	2,480	0	0	0	0	0	0	206	343	1931	2480			
69 Sewage Trucks - Base	ea	1	1	7000.00	2.09	14,640	351	0	0	0	2511	2862	2106	2976	6696	11778			
70 Sewage Trucks - Volume	Units	0	1	60.00		0	0	0	0	0	0	0	0	0	0	0			
72 Sub-Total						241,680	16335	0	147209	10362	19066	192972	7769	12625	28317	48711			
73 Less User Fess	Houses	123	1	81.00		9,963													
74 Sewer Total						231,717													
75																			
76 Garbage																			
77 Trucks - Base	ea	1	1	7000.00	2.09	14,640	351	0	0	0	2511	2862	2106	2976	6696	11778			
78 Trucks - Volume	Units	832	1	19.00	1.82	25,610	8676	0	0	0	11287	19963	631	2007	3010	5648			
79																			
80 Sub-Total Garbage						40,250	9027	0	0	0	13798	22825	2737	4983	9706	17426			
81 Less User Fees	Houses	123	1	93.00		11,439													
82 Garbage Total						28,811													
83																			
84 Category II Sub-Total						627,963	38448	0	317665	24376	53755	434244	19464	33720	74854	128038			
85																			
86																			
87 Category III																			
88																			
89 Admin Bldg	m2	100	1	50.25	4.37	21,960	1607	0	4141	8203	1727	15678	452	3454	2375	6281			
90 Comm Hall	m2	470	1	33.40	4.2	65,940	4709	0	17256	28469	4380	54814	785	4866	5475	11126			
92 Warehouses - Unheated	m2	112	1	10.75	3.65	4,400	193	0	1657	0	1015	2865	217	0	1319	1536			
94 Garages - Unheated	m2	810	1	10.75	3.65	31,790	1394	0	11969	0	7330	20693	1568	0	9529	11097			
95 Arena - Heated	m2	2452	1	33.40	4.2	343,970	24567	0	90012	148505	22847	285931	4094	25386	28558	58039			
97 Daycare	m2	179	1	57.00	3.44	35,100	4289	0	7016	12905	2151	26361	613	3824	4302	8739			
98																			
99 Sub-Total Category III						503,160													
100																			
101 Less Band Share (80%)						402,528													
102																			
103 Category III Sub-Total						100,632	36759	0	132051	198082	39450	406342	7729	37530	51559	96818			
104																			
105 Community Services Total						1,212,730	99629	0	468930	241826	132338	942723	34688	77273	158037	269998			
106																			
107 Less User Fees/Band Share						437,118													
108																			
109 INAC Share - Comm Services						775,612													
110																			

Electrical budget based on Diesel ratio

4141

8203

1727

15678

452

3454

2375

6281

17256

28469

4380

54814

785

4866

5475

11126

1657

0

1015

2865

217

0

1319

1536

11969

0

7330

20693

1568

0

9529

11097

90012

148505

22847

285931

4094

25386

28558

58039

7016

12905

2151

26361

613

3824

4302

8739

Electrical budget based on Diesel ratio

Band	City	Zone	Gov Rate	Non Gov Rat	Trans	Year	Approximate Breakdown by Component								Print Status:				
	2	6	1	1	1	2010/11													
							Electricity						Operation				Maintenance		
Asset Type	Units	Qty	Time in Service	Base Cost	Site Index	Formula Budget	Labour		Energy		Mat & Equip	Sub Total	Labour		Mat & Equip	Sub Total			
							Local	Import	Elec	Heat			Local	Import					
54 Gravity Mains	m	4876	1	1.15	1.97	11,050	168	0	0	0	288	456	1963	0	8631	10594			
59 Lift Station - Base	ea	3	1	2000.00	1.96	11,770	2102	0	0	1338	2676	6116	601	2378	2676	5655			
60 Lift Station - Volume	Units	1380	1	5.40	1.71	12,750	1862	0	2607	3251	2438	10158	298	1156	1138	2592			
61 Mech Treatment - Base	ea	1	1	7000.00	1.84	12,890	3158	0	0	1563	1563	6284	702	2779	3126	6607			
62 Mech Treatment - Volume	Units	1181	1	16.00	1.62	30,620	7548	0	3774	4204	8407	23933	755	2989	2942	6686			
63																			
64																			
65 Lagoon - Base	ea	1	1	3250.00	1.42	4,620	1137	0	0	0	1173	2310	1137	0	1173	2310			
67 Plant Buildings	m2	21	1	21.75	5.42	2,480	0	0	0	0	0	0	206	343	1931	2480			
69 Sewage Trucks - Base	ea	1	1	7000.00	2.09	14,640	351	0	0	0	2511	2862	2106	2976	6696	11778			
70 Sewage Trucks - Volume	Units	0	1	60.00		0	0	0	0	0	0	0	0	0	0	0			
72 Sub-Total						100,820	16326	0	6381	10356	19056	52119	7768	12621	28313	48702			
73 Less User Fess	Houses	123	1	81.00		9,963													
74 Sewer Total						90,857													
75																			
76 Garbage																			
77 Trucks - Base	ea	1	1	7000.00	2.09	14,640	351	0	0	0	2511	2862	2106	2976	6696	11778			
78 Trucks - Volume	Units	832	1	19.00	1.62	25,610	8676	0	0	0	11287	19963	631	2007	3010	5648			
79																			
80 Sub-Total Garbage						40,250	9027	0	0	0	13798	22825	2737	4983	9706	17426			
81 Less User Fees	Houses	123	1	93.00		11,439													
82 Garbage Total						28,811													
83																			
84 Category II Sub-Total						238,823	38803	0	13790	24382	56298	133273	21582	36710	81577	139869			
85																			
86																			
87 Category III																			
88																			
89 Admin Bldg	m2	100	1	50.25	3.67	18,450	1610	0	604	8216	1730	12160	453	3459	2378	6290			
90 Comm Hall	m2	470	1	33.40	3.26	51,180	4708	0	2511	28460	4378	40057	785	4865	5473	11123			
92 Warehouses - Unheated	m2	112	1	10.75	2.48	2,990	193	0	242	0	1016	1451	217	0	1321	1538			
94 Garages - Unheated	m2	810	1	10.75	2.48	21,600	1396	0	1745	0	7343	10484	1571	0	9545	11116			
95 Arena - Heated	m2	2452	1	33.40	3.26	266,990	24560	0	13099	148466	22841	208966	4093	25379	28551	58023			
97 Daycare	m2	179	1	57.00	2.85	29,080	4286	0	1020	12894	2149	20349	612	3820	4298	8730			
98																			
99 Sub-Total Category III						390,290													
100																			
101 Less Band Share (80%)						312,232													
102																			
103 Category III Sub-Total						78,058	36753	0	19221	198036	39457	293467	7731	37523	51566	96820			
104																			
105 Community Services Total						791,270	99859	0	33786	241822	134529	509996	36718	80133	164411	281262			
106																			
107 Less User Fees/Band Share						346,822													
108																			
109 INAC Sh - Comm Services						444,444													

TAB H



DIESEL GENERATION COMMUNITIES
*
5 YEAR
CAPITAL PROJECT FORECAST

2009 09 11

CAPITAL PROJECTS BY COMMUNITY

BROCHET

PROJECT	YEAR	ESTIMATED CAPITAL COST	CAPITAL CONTRIBUTION REQUIRED FROM FIRST NATION	NOTES
Minor Overhaul Generator Set	2012/13	\$130,000	TBA	Unit #3 1015kW
Major Overhaul Generator Set	2011/13	\$132,000	TBA	Unit # 1 600 kW
Community Electrical Distribution.				No major projects have been identified at this time for the next 5 year period..

CAPITAL PROJECTS BY COMMUNITY

LAC BROCHET

PROJECT	YEAR	ESTIMATED CAPITAL COST	CAPITAL CONTRIBUTION REQUIRED FROM FIRST NATION	NOTES
Fire Suppression System	2010/11	\$4.5 million	TBA	New Federal & Provincial regulations require that the existing Halon1301 suppression & detection system be replaced as part of the Provincial/Federal National Action Plan for Environment control of Ozone Depleting substances.
Minor Overhaul Generator Set	2011/12	\$135,000	TBA	Unit # 2 425 kW
Major Overhaul Generator Set	2009/10 2010/11 2013/14	\$138,000 \$140,000 \$150,000	TBA TBA TBA	Unit # 3 425 kW Unit # 4 425 kW Unit # 5 855 kW
Generator Set Replacement / Upgrade	2010/11	\$200,000	TBA	House Unit Replacement- Obsolescence of 175 kW house unit generator set , CAT D-334 engine. Some critical parts are no longer available.
Community Electrical Distribution.				No major projects have been identified at this time for the next 5 year period.

CAPITAL PROJECTS BY COMMUNITY

TADOULE LAKE

PROJECT	YEAR	ESTIMATED CAPITAL COST	CAPITAL CONTRIBUTION REQUIRED FROM FIRST NATION	NOTES
Fuel Storage Tank Replacement	2010/11	\$3.99 million	TBA	Provincial tank farm operating license expires on Dec 31, 2010. 11 of the current 30 tanks can not be re-certified and must be removed from service. Proposed design will replace all 30 tanks with three new API 650 tanks.
Fire Suppression System	2010/11	\$4.5 million	TBA	New Federal & Provincial regulations require that the existing Halon1301 suppression & detection system be replaced as part of the Provincial/Federal National Action Plan for Environment control of Ozone Depleting substances.
Minor Overhaul Generator Set	2010/11 2011/12	\$125,000 \$155,000	TBA TBA	Unit # 3 425 kW Unit # 6 855 kW
Major Overhaul Generator Set	2009/10 2012/13	\$150,000 \$180,000	TBA TBA	Unit #2 425 kW Unit # 4 425 kW

CAPITAL PROJECTS BY COMMUNITY

TADOULE LAKE

PROJECT	YEAR	ESTIMATED CAPITAL COST	CAPITAL CONTRIBUTION REQUIRED FROM FIRST NATION	NOTES
Community Electrical Distribution.				No major projects have been identified at this time for the next 5 year period.

CAPITAL PROJECTS BY COMMUNITY

SHAMATTAWA

PROJECT	YEAR	ESTIMATED CAPITAL COST	CAPITAL CONTRIBUTION REQUIRED FROM FIRST NATION	NOTES
Minor Overhaul Generator Set	2010/11 2012/13	\$130,000 \$130,000	TBA TBA	Unit #1 1015 kW Unit #2 1015 kW
Major Overhaul Generator Set	2013/14	\$200,000	TBA	Unit #3 1015 kW
Community Electrical Distribution.				No major projects have been identified at this time for the next 5 year period..

CAPITAL COST SHARING FORMULA
BY COMMUNITY

BROCHET

AGENCIES	PERCENTAGE SHARE OF CAPITAL
First Nations	39.1%
Other Federal	5.7%
Provincial Government	11.6 %
Other (General Service etc.)	43.6%

LAC BROCHET

AGENCIES	PERCENTAGE SHARE OF CAPITAL
First Nations	84.8%
Other Federal	3.2%
Provincial Government	1.0%
Other (General Service etc.)	11%

TADOULE LAKE

AGENCIES	PERCENTAGE SHARE OF CAPITAL
First Nations	77.7%
Other Federal	6.1%
Provincial Government	1.8%
Other (General Service etc.)	14.4%

SHAMATTAWA

AGENCIES	PERCENTAGE SHARE OF CAPITAL
First Nations	72.7%
Other Federal	8.9%
Provincial Government	1.3%
Other (General Service etc.)	17.1%

TAB I



(15)

360 Portage Avenue • Winnipeg Manitoba Canada • R3C 2P4
Telephone / N° de téléphone : (204) 360-5658 • Fax / N° de télécopieur : (204) 360-6110
rcox@hydro.mb.ca

2010 07 07

4300 - 308

Chief Roy Bighetty & Council
Barren Lands First Nation
General Delivery
Brochet, MB.
R0B 0B0

Dear Chief Bighetty & Council:

Attached you will find a listing of the capital projects Manitoba Hydro has completed over the past five years at the diesel generating station in your community. I have also included the forecasted costs for capital projects to be completed over the next five years. In keeping with the spirit of the Settlement Agreement, Manitoba Hydro wishes to advise you that the Barren Lands First Nation is responsible for 45.1% of each project.

I have also attached a draft copy of the Settlement Agreement. Manitoba Hydro is still waiting for an opportunity to finalize the agreement so it can be signed by all parties involved. It is Manitoba Hydro's understanding that Tracy Fleck, ARDG of INAC will be arranging a meeting of the parties.

If you have any questions please do not hesitate to contact me.

Yours truly,

A handwritten signature in dark ink, appearing to read 'R.W. Cox'.

PC - DOCS
821086

R.W. Cox, Manager
Energy Services & Sales
Consumer Marketing & Sales
Customer Service

RWC/rwc/brochet

Chief Roy Bigehetty and Council

2010 07 07

Page 2

c: L Harper, MKO

R. Payne, INAC

R. Kristjanson, Manitoba Hydro

**Brochet Diesel Generating Plant
Barren Lands First Nation Share 45.1%**

Project	Year	Estimated Capital Cost	Capital Contribution Required	Notes
Minor Overhaul Generator Set	2010/11	\$160,000	\$72,160	UNIT #3
Major Overhaul Generator Set	2012/13	\$150,000	\$67,650	Unit #1
	2012/13	\$180,000	\$81,180	Unit #2
Total Contribution Future Capital Projects			<u>\$220,990</u>	
Previous Capital Projects				
Soil Remediation	2006	\$2,816,050	\$1,270,038	
	2007	\$55,874	\$25,199	
Well Monitoring Installation	2008	\$27,687	\$12,487	
Engine Failures	2009	\$85,837	\$38,712	
Misc. Small Capital	2009	\$11,530	\$5,200	
Total Contribution Completed Capital Projects			<u>\$1,351,636</u>	



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rcox@hydro.mb.ca

2010 07 07

Chief Joseph Danttouze & Council
Northlands Dene First Nation
P.O. Box 120
Lac Brochet, MB.
R0B 2E0

Dear Chief Danttouze & Council:

Attached you will find a listing of the capital projects Manitoba Hydro has completed over the past five years at the diesel generating station in your community. I have also included the forecasted costs for capital projects to be completed over the next five years. In keeping with the spirit of the Settlement Agreement, Manitoba Hydro wishes to advise you that the Northlands Dene First Nation is responsible for 85.0% of each project.

I have also attached a draft copy of the Settlement Agreement. Manitoba Hydro is still waiting for an opportunity to finalize the Agreement so it can be signed by all parties involved. It is Manitoba Hydro's understanding that Tracy Fleck, ARDG, of INAC will be arranging a meeting of the parties.

If you have any questions please do not hesitate to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read "R.W. Cox".

R.W. Cox, Manager
Energy Services & Sales
Consumer Marketing & Sales
Customer Service

RWC/rwc/lacbrochet

Chief Roy Dantouze & Council
2010 07 07
Page 2

c: L. Harper, MKO
R. Payne, INAC
R. Kristjanson, Manitoba Hydro

**Lac Brochet Diesel Generating Plant
Northlands Dene First Nation Share 85.0%**

Project	Year	Estimated Capital Cost	Capital Contribution Required	Notes
Fire Suppression System	2010/11	\$1,375,000	\$1,168,750	Regulations require existing Halon suppression systems be replaced.
Minor Overhaul Generator Set	2012/13	\$110,000	\$93,500	Unit #2
	2012/13	\$110,000	\$93,500	Unit #3
	2012/13	\$130,000	\$110,500	Unit #5
	2013/14	\$110,000	\$93,500	Unit #4
Generator Set Replacement	2011/12	\$200,000	\$170,000	House Unit Replacement
Total Contribution Future Capital Projects			<u>\$1,729,750</u>	
Previous Capital Projects				
Well Monitoring Installation	2008	\$31,326	\$26,627	
Misc. Small Capital	2009	\$53,391	\$45,382	
Total Contribution Completed Capital Projects			<u>\$72,009</u>	



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rcox@hydro.mb.ca

2010 07 07

Chief Jeffrey Napoakesik & Council
Shamattawa First Nation
Box 210
Shamattawa, MB.
R0B 1K0

Dear Chief Napoakesik & Council:

Attached you will find a listing of the capital projects Manitoba Hydro has completed over the past five years at the diesel generating station in your community. I have also included the forecasted costs for capital projects to be completed over the next five years. In keeping with the spirit of the Settlement Agreement, Manitoba Hydro wishes to advise you that the Sayisi Dene First Nation is responsible for 74.1% of each project.

I have also attached a draft copy of the Settlement Agreement. Manitoba Hydro is still waiting for an opportunity to finalize the Agreement so it can be signed by all parties involved. It is Manitoba Hydro's understanding that Tracy Fleck, ARDG of INAC will be arranging a meeting of the parties.

If you have any questions please do not hesitate to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read 'R.W. Cox'.

R.W. Cox, Manager
Energy Services & Sales
Consumer Marketing & Sales
Customer Service

RWC/rwc/shamattawa

Chief Joseph Napoakesik & Council
2010 07 07
Page 2

c: L. Harper, MKO
R. Payne, INAC,
R. Kristjanson, Manitoba Hydro

Shamattawa Diesel Generating Plant
Shamattawa First Nation Share 74.1%

Project	Year	Estimated Capital Cost	Capital Contribution Required	Notes
Minor Overhaul Generator Set	2010/11	\$160,000	\$118,560	Unit #3
	2011/12	\$160,000	\$118,560	Unit #1
	2012/13	\$160,000	\$118,560	Unit #2
Total Contribution Future Capital Projects			<u>\$355,680</u>	
Previous Capital Projects				
Powerhouse Mods	2006	\$290,763	\$215,455	
	2007	\$14,095	\$10,444	
Portable Water Supply	2009	\$96,550	\$71,543	
Engine Failures	2009	\$601,931	\$446,030	
Misc. Small Capital	2009	\$39,160	\$29,017	
Total Contribution Previous Capital Projects			<u>\$772,489</u>	



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rcox@hydro.mb.ca

2010 07 07

Chief Jimmy Thorassie & Council
Sayisi Dene First Nation
General Delivery
Tadoule Lake, MB.
R0B 0C0

Dear Chief Thorassie & Council:

Attached you will find a listing of the capital projects Manitoba Hydro has completed over the past five years at the diesel generating station in your community. I have also included the forecasted costs for capital projects to be completed over the next five years. In keeping with the spirit of the Settlement Agreement, Manitoba Hydro wishes to advise you that the Sayisi Dene First Nation is responsible for 79.3.0% of each project.

I have also attached a draft copy of the Settlement Agreement. Manitoba Hydro is still waiting for an opportunity to finalize the Agreement so it can be signed by all parties involved. It is Manitoba Hydro's understanding that Tracy Fleck, ARDG of INAC will be arranging a meeting of the parties.

If you have any questions please do not hesitate to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read 'R.W. Cox'.

R.W. Cox, Manager
Energy Services & Sales
Consumer Marketing & Sales
Customer Service

RWC/rwc/tadoulelake

Chief Jimmy Thorassie
2010 07 07
Page 2

c: L. Harper, MKO
R. Payne, INAC
R. Kristjanson, Manitoba Hydro

**Tadoule Lake Diesel Generating Plant
Sayisi Dene First Nation Share 79.3%**

Project	Year	Estimated Capital Cost	Capital Contribution Required	Notes
Fire Suppression System	2010/11	\$1,375,000	\$1,090,375	Regulations require existing Halon suppression systems be replaced.
Minor Overhaul Generator Set	2011/12 2011/12 2012/13	\$110,000 \$140,000 \$110,000	\$87,230 \$110,020 \$87,230	Unit #2 Unit #6 Unit #4
Major Overhaul Generator Set	2010/11	\$150,000	\$118,950	Unit #3
Tank Farm Replacement	2010/11	\$4,040,000	\$3,203,720	
Total Contribution Future Capital Projects			<u>\$4,697,525</u>	
Previous Capital Projects				
Well Monitoring Installation	2008	\$33,047	\$26,206	
Misc. Small Capital	2009	\$20,283	\$16,084	
Total Contribution Previous Capital Projects			<u>\$42,290</u>	

TAB J

Manitoba Region
INAC
Diesel Multiplier Calculation

1	2	3	4	5	6	7	8	9	10	11	12
		(0.4127 / .0600)		(4 - 2) / 2	(0.4127 / .0600)	(6 - 3) / 3		(9 - 2) / 2	(0.45 / 0.0684)	(10 - 3) / 3	
	Rate Approved Nov. 1, 2006	Current O&M Multiplier	Rate April 1, 2010	% Change	O&M Multiplier	% Change O&M Multiplier	Proposed Rates Sept 1, 2010	% Change	Proposed O&M Multiplier	% Change O&M Multiplier	Comments

Residential

Basic Monthly Charge	6.2500		6.8500	9.60%			\$6.8500	9.60%			
First 175 kW.h per month	0.0578		0.0638	10.38%			\$0.0638	10.38%			First 900 kW.h As of April 1, 2008
Next 1,825 kW.h per month	0.0565		0.0657	16.20%			\$0.0657	16.20%			Next 1,100 kW.h as of April 1, 2008
Remaining consumption	0.4127		0.4127	0.00%			\$0.4500	9.04%			

General Service

Basic Monthly Rental	15.8600		17.2500	8.76%			\$17.6500	11.29%			
First 1,090 kW.h per month	0.0600		0.0684	13.92%			\$0.0684	13.92%			First 2,000 kW.h as of April 1, 2008
Next 910 kW.h per month	0.0600		0.0684	13.92%			\$0.0684	13.92%			First 2,000 kW.h as of April 1, 2008
Next 1,000 kW.h per month	0.0600		0.0684	13.92%			\$0.0684	13.92%			First 2,000 kW.h as of April 1, 2008
Remaining consumption	0.4127	6.87	0.4127	0.00%	6.03	-12.22%	\$0.4500	9.04%	6.58	-4.29%	

Government / FN Education

Basic Monthly Rental	15.8600		16.5000	4.04%			\$17.6500	11.29%			
Rate per kW.h	0.4127		0.4127	0.00%			\$0.5853	41.82%			
Surcharge per kW.h	0.9709		0.9709	0.00%			\$1.6000	64.79%			
Total per kW.h	1.3836	23.05	1.3836	0.00%	20.23	-12.22%	\$2.1900	58.28%	32.02	38.93%	

Notes

Current O&M multiplier being used for Calculations

Not used, but displayed to show how an increase in the Gird rates effect the O&M Multiplier

Proposed increases

TAB K



PO Box 815 • Winnipeg Manitoba Canada • R3C 2P4
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Telephone / N° de téléphone : (204) 360-3946 • Fax / N° de télécopieur : (204) 360-6147
pjramage@hydro.mb.ca

June 7, 2010

To : See list below

Dear Sirs/Madams:

RE: MANITOBA HYDRO 2010 DIESEL APPLICATION

On April 29, 2010 Manitoba Hydro filed an Application seeking interim approval of New Electric Rates in Remote Communities Served by Diesel Generation to be effective September 1, 2010 together with Prospective Diesel Cost of Service Study for 2009/10.

By letter dated June 1, 2010, the PUB indicated that it intends to hear this matter by way of a paper hearing and provided a timetable for such process. The PUB further directed Manitoba Hydro provide a copy of the Application together with the PUB's letter of June 1, 2010 to parties involved in the most recent diesel hearing (MKO, Canada and CAC/MSOS) as well as those parties to Manitoba Hydro's current GRA.

Pursuant to Rule 5 of *The Public Utilities Board Rules of Practice and Procedure*, Manitoba Hydro is serving electronically those persons noted herein with the following materials:

1. Application for New Electric Rates in Remote Communities served by Diesel Generation to be Effective September 1, 2010;
2. Prospective Cost of Service Study for 2009/10;
3. Copy of the Public Utilities Board letter to Manitoba Hydro dated June 1, 2010.

It should be noted that use of the term "*ex parte*" on page one of the application was made in error. Manitoba Hydro intended any orders issuing as a result of the application be interim in nature and in fact served copies of the materials on MKO and Canada at the time of the filing.

Manitoba Hydro also wishes to bring parties attention to the second paragraph of the Application which states:

With this Application, Manitoba Hydro is requesting that the PUB approve its proposed rates only on the condition that the Federal Government, through Indian and Northern Affairs Canada (INAC), confirms that incremental funding will be provided sufficient to cover the proposed increases without detriment to the level of funding provided to the First Nations for all other purposes.

Clarification was sought by PUB Counsel with respect to this statement in light of INAC counsel's advice to PUB Counsel that INAC is not in a position to provide such assurances (such advice was also communicated by INAC to Manitoba Hydro during a meeting held subsequent to the filing of the Application). Manitoba Hydro can advise that it did not intend that its application be conditional upon INAC confirming sufficient incremental funding be provided, but rather that the PUB approve rates subject to it obtaining the assurances it sought in Order 1/10:

All Parties would best immediately demonstrate that First Nations will be adequately funded for essential services, and that First Nations, with the assistance of INAC, are addressing their financial obligations for such essential services. (Order 1/10 at p. 15)

In Manitoba Hydro's view, if the PUB is satisfied that INAC is not in a position to provide the desired assurances, the PUB can elect to unconditionally approve the rate increases being sought.

Yours truly,

MANITOBA HYDRO LAW DEPARTMENT

Per:



PATRICIA J. RAMAGE
Barrister & Solicitor

PJR/
encls.

cc: Counsel for CAC/MSOS - Byron Williams/Myfanny Bowman
Counsel for MIPUG - Antoine Hacault
Counsel for RCM/TREE - Bill Gange
Counsel for SCO - Jeffrey Rath/Delanie Coad
Counsel for City of Winnipeg - Denise Pambrun
Counsel for INAC - Glynis Hart
Counsel for MKO - Michael Anderson
Counsel for PUB - Bob Peters
Public Utilities Board - G. Gaudreau