MANITOBA PUBLIC UTILITIES BOARD

RE:

CENTRA GAS

2010 COST OF GAS APPLICATION

Before Board Panel:

Graham Lane - Board Chairman

Monica Girouard - Board Member

Len Evans - Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

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Pages 465 to 568

APPEARANCES

Bob Peters	)Board Counsel
Marla Murphy	)Centra Gas Manitoba
Kris Saxberg	)CAC/MSOS
Nola Ruzycki (np)	)Just Energy (Manitoba) L.P.

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--- Upon commencing at 10:02 a.m.

THE CHAIRPERSON: Okay, welcome, everyone, today to the closing arguments of our Cost of Gas Hearing.

Mr. Peters, will you remind us of what the order is going to be?

MR. BOB PETERS: Yes. Thank you and good morning, Mr. Chairman, Board members, Dr. Evans and Ms. Girouard, ladies and gentlemen. Today has been set for closing submissions related to Centra Gas' Cost of Gas Application for the 2009/'10 gas year, which also includes part of Centra's 2010/'11 fiscal year.

Before getting to that, Mr. Chairman, a few matters of housekeeping. One of the more significant matters, if I may, is that Centra has filed on April 19th response to Undertakings 5, 6, 7, and 8 and has circulated them, and also suggested that they be marked sequentially Centra Exhibit number 16, 17, 18, and 19 respectively.

These documents have been forwarded to the parties of record, and I suggest they be also accepted as exhibits in the cause of this Hearing.

THE CHAIRPERSON: Yes, we have them, and that's fine.

--- EXHIBIT CENTRA-16: Response to Undertaking 5

--- EXHIBIT CENTRA-17: Response to Undertaking 6

--- EXHIBIT CENTRA-18: Response to Undertaking 7

--- EXHIBIT CENTRA-19: Response to Undertaking 8

MR. BOB PETERS: Thank you, sir. I can indicate that I've also received communications from Ms. Ruzycki indicating that Just Energy will not be filing any closing submissions.

I believe her questions were answered last week, not only through the questions that were raised at this side of the room, but also those from Mr. Saxberg. And the ones that weren't, Ms. Ruzycki tidied up some of those with questions of her own. So, at this time, she has no closing submissions for the -- for the Board in this matter.

I do have brief closing comments before the Board hears from Mr. Saxberg with CAC/MSOS' closing submissions this morning. And the plan is, after hearing from Mr. Saxberg, the Board would stand down until approximately 1:00 p.m. today to hear from Ms. Murphy with Centra's closing submissions.

As counsel to the Board, I take no position on the merits, Mr. Chairman and Board members, of any aspect of Centra's application. Rather, to assist the Board, I propose to briefly walk through the various requests Centra has included in its application with reference to the Board counsel's book of documents.

The Board will have seen, in tab 1 of the book of documents, the application filed by Centra. And in the application, items (a), (b) and (c) -- that is, 1(a), 1(b) and 1(c) -- seek approval of supplemental gas, transportation to Centra, distribution to customers, and transportation rates effective May 1st of 2010.

There's also approval of the November 1, 2009 to October 31 forecast gas costs, estimated to be $300.6 million, and there's also approval being sought of the balances and the disposition of the various Non-Primary Gas Purchased Gas Variance Accounts, and those total approximately $2.8 million.

I should indicate that, in that forecast of gas costs for the current gas year, there's also included in that 300.6 million the sum of $69.1 million for non-primary gas costs.

Now in -- in tab 5 of the book of documents that was reviewed last week with the witnesses, the Board will see schedule 5.1.3(b). This is the document that contains the forecast runoff using a November 2nd, 2009 price strip, and it comes to the $300.6 million that is being sought by Centra.

What is of note in this document, Mr. Chairman -- and you'll hear more, I'm sure, from my colleague opposite -- that primary gas supplies recorded on this schedule in col -- in rows 33 and 34, those numbers are impacted by the new ConocoPhillips contract that has been discussed.

Turning the page, also in tab 5, is another schedule of 5.1.4, Mr. Chairman. Excuse me. This shows the $69.1 million of non-primary gas costs and their composition. This is approximately $12.1 million more than currently embedded in those rates, and that difference, somewhat loosely, but approximately 7.3 million, is related to TransCanada Pipeline toll increases, and we've talked about how that came to be and what the future may hold in that area. And we've also seen approximately $5 million of supplemental gas supply being included in that forecast.

In tab 4 of the book of documents, we'll see how the ratings go later, but there was a colour graph of the primary -- sorry, the Non-Primary PGVA Accrual and Dispositions to try to demonstrate graphically to the Board what's been happening with the rate riders that have been in place. And if we turn on that to the stage 5 of the graph, those are the rate riders that are to be disposed of by way of the $2.8 million of a deferral account.

The bill impacts all related to the matters that we've just talked about is found on tab 7 of the book of documents, and for these non-gas costs, we see that the base rate increases but the -- on a billed basis, found on page 1 of 2 of Schedule 8.1.1, actually shows that, for the typical residential customer -- and that's the only customer I'll focus on in my comments -- the rate goes down by .2 percent, and that's roughly two dollars ($2) on an annualized basis, all related to the requests for the non-primary gas cost approvals.

On a matter related historically in 1(d) of the application at tab 1, Centra also wants the Board to approve what has actually been the gas costs from November 1 of 2008 to October 31 of 2009. That comes in at 437 million. The details are found at tab 3 of the book of documents, and that's on schedule 4.0.0.

The Board will recall that, the last time Centra was before the Board at a GRA, there was a forecast that was provided to the Board. The Board did approve, on a forecast basis, certain rates. Those rates are now known on an actual -- or, sorry, those costs are now known on an actual basis, and the differences have been captured in various deferral accounts.

In items 1(f) and 1(g) of the application, there's approval sought for primary gas rates, and while this Hearing came before the Board as a non-primary gas hearing, there are some interim orders in place on August 1, November 1, and February 1 quarterly gas rates, and there has also been a recent filing seeking Board approval of the May 1st, 2010 rate for primary gas.

The impact of the May 1st, 2010 rate can be seen at tab 9 of the book of documents, and it's on, for those with the most updated, on a yellow sheet. It's part of Centra's Exhibit 10 filed April 13th and it's part of Schedule 1.2.0.

And it demonstrates that on primary gas, and primary gas alone, there is a 7.1 percent annualized reduction for the typical residential consumer, translating to an annual seventy-three dollar ($73) reduction in costs.

There is also, on May the 1st of 2010, a request to implement the second test year results from the GRA that was before the Board ten (10) months ago, and these deal with non-gas cost rates that will be reflected in the distribution rate.

This is the imposition of the various directives of the Board through Order 128/10. And some of that information -- and it was just extracts filed in tab 2 of the book of documents, to give the Board an understanding of where the numbers were -- were coming. And this was the -- the filing by Centra flowing from Order 128/10.

Let me correct myself. It was Order 128/09. It was the second part of the GRA order.

At tab 8 of the book of documents, there are the rate impacts shown on Schedule 10.1.1. On page 1 of 2 are the -- the billed rates, and the base rates are also shown on the next page.

The Board will recall that as a result of its GRA order, the typical residential consumer was going to receive a one dollar ($1) per month increase in the basic monthly charge. That can be seen on the table in Schedule 10.1.1, meaning one dollar ($1) a month or twelve dollars ($12) on an annualized basis in terms of a rate increase.

Mr. Chairman, in your opening comments you had noted that all these matters were coming to -- to a head with a request for May 1st rates for not only non-primary gas, but for primary gas, and now also for the non-gas costs flowing from the second test year of the

GRA.

The schedule that depicts what Centra has requested, if approved as requested, is found in tab 10 of the book of documents, and it also is a portion of Schedule 1.2.0. This, again, was part of Centra's Exhibit 10 filed on April the 13th.

The net effect, and I say the net effect, relates to a reduction in a typical residential consumer's bill of 6.1 percent on an annualized basis, translating through to sixty-three dollars ($63) a year reduction for the typical residential consumer.

Related to the final approval of the rates flowing from the General Rate Application and those rates that were shown in tab 8 of the book of documents, specifically, Centra has filed Undertaking Number 8, which stemmed from a discussion I had with Ms. Derksen about the cost allocation and specifically dealing with what number to be used as net income in the cost allocation model and what the impacts are.

And on a preliminary basis, my understanding from looking at the April 19th providing of Undertaking Number 8, which is Centra Exhibit Number 19, is that the -- the SGS and the LGS class rates have no change.

There are some, I believe, slight changes to the other classes, but one (1) of the factors is that the revenue to cost ratio of all classes remains at unity if done in one (1) way, that is putting the $2.4 million of net income through the cost allocation model rather than the $3 million being put through the cost allocation model. So there's a matter the Board can look at in its -- its review, as well.

In addition to the specifics that I've mentioned, Mr. Chairman, you've heard from the Centra witnesses on the Affordable Energy Program, which is now the, in my words, the umbrella program related to lower income energy efficiency programs, including the Furnace Replacement Program, and there was some specific discussion about the Furnace Replacement Program, where it sits now, what the forecasts are going forward.

The Board also heard about the fixed rate primary gas service offered by the company and the various subscription rates for the various offerings. The Board also heard the company's plans going forward related to that service.

The hedging and hedging impacts were -- were reviewed, and there was discussion about the -- the Board order -- I believe it was 170/09 -- where hedging is to be phased out, and the Corporation's thoughts and comments related to that. The Board also had the benefit of hearing from a presenter, Mr. William Carroll -- or, sorry, Mr. Bill Carroll, of William Carroll and Associates -- provided some -- a presentation related to that matter on behalf of various commercial clients.

Lastly, the US storage assets were discussed, and while 2013 is the sunset date -- I think it's March 31 of 2013 -- there was discussion as to what's being planned by the Corporation, and it appears there's going to be a review and a plan consultation process sometime in either the first or more likely the second quarter of the calendar year 2011.

Mr. Chairman, subject to any questions you have of me, those would be my comments this morning, and I suggest you turn to Mr. Saxberg for his closing submissions on behalf of CAC/MSOS.

THE CHAIRPERSON: Thank you, Mr. Peters, and thank you again for your normal thoroughness.

Mr. Saxberg?

FINAL SUBMISSIONS BY CAC/MSOS:

MR. KRIS SAXBERG: Thank you, Mr. Chairman. Good morning to you, and good morning, Board members, ladies and gentlemen.

I have brought with me a closing argument brief that I'd like to circulate, as I will be going through it during my presentation.

THE CHAIRPERSON: Very good.

(BRIEF PAUSE)

MR. KRIS SAXBERG: I -- I've done a count in the room, and I see there's fourteen (14) people and I have thirteen (13) copies, so I don't know who the unlucky person is -- or maybe the lucky person -- who won't have to follow this brief is, but I'll leave it up to Mr. Singh to -- to make that discretionary call.

(BRIEF PAUSE)

THE CHAIRPERSON: We'll deal with that, Mr. Saxberg.

MR. KRIS SAXBERG: Okay. Thank you, Mr. Chairman.

In many ways, I thought to myself last night, this was a good news hearing. The price of natural gas is down to levels that no one expected only a few years ago. Gas prices haven't been this low in ten (10) years.

Another interesting thing about this Hearing is that, for the first time that I can remember, all five (5) types of rates, primary gas, supplementary gas, transportation, distribution, and the basic monthly charge, are slated to be adjusted on May 1st, 2010. Also, new rate riders, declared deferral accounts are being implemented.

Notwithstanding this wholesale change in rates, the average small general service customer is going to enjoy a 6.1 percent decrease on an annual basis from what they would have paid had the February 1, 2010 billed rates remained in effect for a year, and that's very good news to consumers.

I'd like to be able to report that it was Centra's good work that led to the six point one (6.1) bill decrease, but it's better explained as Centra's customers' good fortune. The market price of natural gas is not something that Centra can control, but that is what ultimately is driving this 6.1 percent decrease, notwithstanding that all rates are being adjusted at once.

Now Centra can't affect the market price of gas, but Centra can, in large measure, control the amount that its customers pay to get gas to Centra's distribution system to satisfy Manitoba's highly variable daily load.

A large part of that cost, and a part that

Centra has some ability to control, is the cost that Centra pays to its main supplier of natural gas for certain services rendered.

The major issue in this Hearing was testing whether Centra had arranged its affairs, such as to get the gas it purchases to its distribution system at the lowest cost possible, having regard to reliability of service.

Centra purchased most of its customers' gas requirements under a large long-term sole supplier contract. Approximately 95 percent of the gas that the average residential customer uses arises as a result of this single contract.

It goes without saying, but I'll say it nonetheless, that the terms of this major contract are, therefore, very important to consumers. There are many different ways in which Centra could purchase gas for its customers; however, it chooses to purchase all of its gas from one (1) supplier.

Compared to other gas utilities in Canada, Centra's purchasing model is unusual. Centra's own consultant calls Centra's gas purchasing strategy relatively uncommon.

In this proceeding, CAC/MSOS sought to test whether the new gas supply arrangement was appropriate. However, this task was made virtually mission impossible when Centra refused to produce the contractual terms of the new gas supply contract.

Centra also refused to produce information that would allow these Intervenors to determine the precise premium above the Alberta monthly index price that Centra is paying for the gas it distributes to its customers.

The non-disclosure of the new gas supply contract was the most important issue for CAC/MSOS in this Hearing. I will spend most of my time on the mic this morning arguing that Centra should have disclosed the new gas supply contract.

I will then detail my clients' concerns about Centra's unusual gas purchasing methodology, which conthern -- concerns, parenthetically, had to be based on assumptions and inferences, supposition, since we did not have access to the contract.

Other issues that I will briefly discuss include the GRA compliance filing and interest on common assets and inventory, Centra's Fixed Rate Program, the Furnace Replacement Program, adjustments to the '09/'10 gas year forecast, and the exchange rate in particular, and the portfolio review process. And I'll have some brief -- brief other comments on matters introduced by

Mr. Peters earlier.

So, to begin with, the non-disclosure of the ConocoPhillips gas supply contract. The big news in Centra's world this past year was that Centra had entered into a new long-term gas supply contract with marketer/producer ConocoPhillips.

Centra is forecasting gas costs of 300.6 million, inclusive of 69.1 million in non-primary gas costs for the current gas year. Centra states that implicit in the Board's approval of that forecast is the approval of the gas cost consequences of Centra's new long-term supply contract with Conoco.

Centra also is seeking to finalize interim ex parte Order 04/10, which dealt with primary gas rates for the first quarter of the current gas year, November 1 to the end of January.

Centra states that implicit in the finalization of that order would be the approval of the gas cost consequences of the new gas supply arrangement. Centra acknowledges that when it enters into a long-term gas supply contract on behalf of customers it has an obligation to ensure that it's made prudent decisions with respect to the terms of that contract.

And if you turn to tab 2 of the -- my closing argument brief, you'll see that I've -- I've taken out some sections from the Public Utility Board Act that the Board is familiar with, the first being that Section 123, of course, indicates that the burden of proof at any hearing before the Board is on the applicant. Centra acknowledged that during cross-examination.

But in this Hearing, unlike all other hearings dealing with new gas supply contracts, Centra seeks to meet that burden of proof without making its new gas supply contract available to the public, more importantly, without making it even a matter for examination at the Hearing, because, as I'll discuss later, Centra had the option of allowing the contract to be vetted in this proceeding, while getting an order from the Board to ensure that the contract was not disclosed to the public at large, which is a common remedy in -- in the common law world when commercial contracts, sensitive commercial contracts are at the centre of litigation.

The questions about the new gas supply contract were put to the Centra panel during the -- this proceeding. However, Board counsel and I, in effect, had one (1) arm tied behind our backs during the examinations by virtue of not having seen the contract and its terms. In my view, this amounted to more than just a simple disadvantage. It puts the question -- it puts into question the very fairness of the Hearing.

In its deliberations the Board will have to consider whether the gas cost consequences of this new contract were properly tested, in short, whether Centra was able to satisfy its burden without producing the contract itself.

What does approving the gas cost consequences of the new contract mean? The Board heard Centra indicate that that's the Board's function in this proceeding.

Why doesn't Centra accept that the Board must essentially approve the key terms of the new gas supply arrangements? Approving the cas -- the gas cost consequences is the same thing as approving the pricing formula within the contract. From one (1) flows out of the other. Surely the pricing formula is one (1) of the essential terms of the contract.

The other major term of the contract -- contract, would relate to the liability of service and to the creditworthiness. Well, Section 126 of the Public Utilities Board Act, which I've also included at Tab 2, indicates that the Board in making any order under this part, which is the part of the Act dealing with natural gas, the Board may consider the following factors: whether the rates charged are excessive or unjust, et cetera. That's item (a). Price consequences would fit into that category. But item (b) is security of gas supply.

Whenever the Board is issuing an order on rates, it has to consider that fundamental issue. And so when you consider that the Board is required, in order to fulfill its mandate, to consider the price consequences of this contract, and to consider the security and liability aspects of this contract, you -- you really have to question whether the Board can do that if the contract wasn't the centrepiece of the Hearing, such that the parties were able to review it and question the Board -- or the Centra panel directly on the contract.

With respect to the security of supply, these Intervenors are aware of ConocoPhillips and its significant stature, and creditworthiness, and record in terms of reliability. And so we don't have any major concerns on that score.

However, the contract itself is -- is important to review in order to determine whether its terms adequately ensure reliability of service and, more importantly, to compare the obligations that the supplier has in the contract to the premiums that it is receiving for providing that service. And that's something we weren't able to do, by virtue of not seeing the contract.

Now not withstanding that the Board is, as I say, tasked with reviewing the price consequences and the security of gas flowing from the new contract, Centra states -- takes the position that the contract should be kept in confidence and also not publically available.

And there are three (3) arguments that Centra put forward. The first is that Conoco indicated a preference to keep the contract confidential in an email that was read into the record during cross-examination, and I've reproduced that at tab 3. And here, Mr. Kostick is reading from the email at line 23, quote:

> "Disclosure of the contract to third parties would result in those parties having direct knowledge of information that is intrinsically commercial and competitive in nature. Competitors to ConocoPhillips and parties with whom ConocoPhillips might have commercial arrangements would have access to contract information that could reasonably be expected to result in commercial prejudice to ConocoPhillips."

End quote.

Sounds like one of those typical

disclaimers that a lawyer writes. Doesn't -- doesn't strike me as containing any substantive information as to how the disclosure of this formula, which is obviously in the public interest, is going to negatively affect this behemoth marketer/production company.

The second argument that Centra raises is that its, i.e., Centra's, future gas supply negotiations might be negatively impacted. So three (3) years down the road, when Centra is re-contracting, the disclosure of this information at this Hearing, Centra asserts, might have a negative effect.

And at Tab 4, I've included Mr. Stephens' testimony indicating his perception of what the -- the negative effect would be, and that's at -- beginning at line 12, quote:

> "And from that perspective, if we are getting a discount of two (2) cents, or it's a premium of plus two (2) cents, I mean, the incumbents have an opportunity to look at what was acceptable to us in prior periods, and, I mean, it will restrict their -- potentially restrict their bids in that context. So, from that perspective, we're not doing our customers any

favours by bringing that information or making it public."

And then it goes on. End quote.

As the Board knows, the disclosure of the pricing details on all previous contracts were made public, tested in this proceeding, and I never heard Centra complain once that that -- in this proceeding, that that somehow impacted on its ability to negotiate a contract with ConocoPhillips this time around.

Moreover, one would think that, if the competitors or the bidders are aware of what you already have, they're going to try to beat it, not provide something that's less advantageous. So, in that regard, I don't see how there could be any commercial harm, from a broad public perspective, to releasing the information.

And, finally, number three (3), the third argument that Centra relies on is section 14 from the North American Energy Standards Board base contract, which I've included at tab 5. And that section, as Mr. Peters was able to point out through his cross-examination, clearly indicates the parties are contemplating regulatory proceedings where the Board may order a review of the contract.

And near the end of the paragraph 14(10), the contract reads, quote:

"Each party shall notify the other of any proceeding of which it is aware which may result in disclosure of the terms of any transaction."

It goes on and then continues:

"...and use reasonable efforts to prevent or limit the disclosure."

There's no strict confidentiality obligation flowing from this provision. Also, it's important to note that this provision was applicable to past contracts and didn't serve as a barrier to having them made public.

It's clear that Centra has satisfied this clause. It's made reasonable efforts to prevent or limit the disclosure; there's no question about that. So it's in compliance with the -- with the clause.

At Tab 6, I have included some further sections out of the Public Utilities Board Act which relate to the Board's authority and jurisdiction relating to the production of documents.

The first point to note is Section 15(3):

"All sittings of the Board or a member for hearing applications and taking evidence shall be open to the public."

The use of the word "shall" is important.

That is a mandatory pronouncement of the legislature. A Public Utility Board proceeding shall always be open to the public.

This requirement mirrors an important principle in our common law civil system, being the open court principle. The open court principle provides that court proceedings shall be public and should only be curtailed where there is present the need to protect social values of superordinate importance. The open court principle is tied to the constitutional right of freedom of expression.

Section 24(4) of the Public Utilities Board Act provides that with respect to the production and inspection of documents and all other necessary matters for the Board to exercise its powers, the Public Utility Board has all the powers, rights, and privileges as vested in the Court of Queen's Bench or a judge thereof. That is a significant amount of jurisdiction to allow the Board to order the disclosure of the Conoco contract.

And I've included other sections that speak to the same point, but I think it's rather notorious and that the Board's aware that it certainly has the jurisdiction to order the disclosure of the contract.

So then the question becomes, well, what test should the Board apply to determine if this is a situation where confidentiality should prevail or where the open court process, open hearing process, should allow for the full disclosure of this contract.

And the Board has in its own rules of practice set out provisions for determining confidentiality, and that's included at Tab 7. And here, the rules of practice and procedure of this Board indicate that where the Board is of the opinion that disclosure of the information could reasonably be expected to result in undue financial loss, and it goes, and/or to -- number 2, to harm significantly the person's competitive position, or -- and it goes on to list other situations where the Board can maintain the confidentiality of a document.

CAC/MSOS submits that the Board should decide this matter though in accordance with the common law test relating to confidentiality orders, also referred to as ceiling orders, pronounced by the Supreme Court of Canada in the leading case on this subject, which is the Sierra Club of Canada case, and that I've include at Tab 8.

I've included the -- the head note, which is -- I commend to the Board to read at a minimum the head note of this case as it sets all of the -- the considerations that the Supreme Court has considered in determining identical -- identical issues.

And I -- I say, with respect, that the -- the test set out by the Supreme Court is more strict than the confidentiality section in the Board's rules of practice. And I would suggest that -- that the -- the Board give careful consideration to the pronouncements of the Supreme Court in light of -- of this arena of being a, you know, governmental arena in terms of review of -- of rates in this contract.

The test that the Supreme Court of Canada set out is found at page 27. It's about six (6) or seven (7) pages in, and it's a two (2) part test, a two (2) stage test. The first stage is for an order of confidentiality to be issued, the first stage:

> "a) Such an order is necessary in order to prevent a serious risk to an important interest, including a commercial interest in the context of litigation, because reasonably alternative measures will not prevent the risk."

And the second stage is:

> "The salutary effects of the

confidentiality order, including the effects on the right of civil litigants to a fair trial outweigh its deleterious effects, including the effects on the right to free expression,"

which in this context includes the public interest in open and accessible proceedings.

There are three (3) important elements in the first stage of the test, apparent on their face, I would suggest. And they are, first, the risk in question has to be real and substantial, well-grounded in the evidence and poses a serious threat to commercial interests in question.

And on that point, harken back to my earlier comments in reviewing the three (3) pieces of evidence and argument that Centra relies on here, and suggest that none of those even comes close to rising up to the level of real and substantial evidence of a serious threat to a commercial interest.

The next aspect of that first stage is: Well, what's a commercial interest? And here, the commercial interest has to go beyond a private commercial interest. It's not the commercial interest of a person, or a business, such as ConocoPhillips.

In order to qualify as an important commercial interest, the interest must be one (1) that can be expressed in terms of public interest in confidentiality, some general principle that has to be applicable. And the Supreme Court explains that on page 27 at paragraph 55:

"In addition, the phrase 'important commercial interest' is in need of some clarification. In order to qualify as an 'important commercial interest', the interest in question cannot merely be specific to the party requesting the order. The interest must be one which can be [examined] in terms of a public interest in confidentiality. For example, a private company could not argue simply that the existence of a particular contract should not be made public because to do so would cause the company to lose business, thus harming its commercial interests."

End quote. That sounds familiar because that's exactly what's being asserted here. A private commercial interest is being asserted as being affected, without there being any real or substantial evidence that it's a serious risk.

The Court then goes on in Paragraph 55 to explain the type of commercial interest that is to be protected. Quote:

"However, if, as in this case, exposure of information would cause a breach of a confidentiality agreement, then the commercial interest affected can be characterized more broadly as the general commercial interest of preserving [confidentiality] confidential information. Simply put, if there is no general principle at stake, there can be no important commercial interest for the purposes of this test."

And I submit that in this case there is no general principle at stake here. There is no specific confidentiality agreement that's been entered into in advance, and that this Board is going -- is -- is being forced to uphold the contractual effects of that type of a -- a confidentiality agreement.

And if that isn't enough to convince the Board, just on this first stage of the test, that this isn't an appropriate case for confidentiality, it's the third phase which I think dooms Centra. And the third pha -- the third element of the first stage is the phrase 'reasonable alternative measures.' Are there reasonable alternative measures that will prevent the risk?

And so a judge -- or, in this case, the Board -- has to consider whether there are such reasonable alternatives to restrict the order as much as possible, while preserving the commercial interest in question.

Here, are there reasonable alternatives? Absolutely. And as -- as Mr. Peters pointed out, the parties to this proceeding could have -- it could have been required that the parties sign non-disclosure agreements, but what typically happens, and what happened in the Sierra case that the Supreme Court is looking at here, is that the court ordered that the confidentiality would relate to the public; it wouldn't relate to the parties in the lawsuit -- or there it was a judicial review. That the parties that were before the court would all have access to this information in order to adjudicate the matter, but that the public wouldn't be permitted access to that information. That was the reasonable alternative measure that the Supreme Court of Canada determined was appropriate in this case.

And I would suggest that that's all that -

- that need happen here, is that the Board doesn't have to release the details of the price formula when it renders its decision. The parties are free to argue within this proceeding, in view of the contract, and there can be a ban in terms of that information being available to the public, and that would be a reasonable alternative measure.

That second stage of the -- of the test is -- is where you balance between the beneficial aspects of an order against the -- the deleterious, negative effects of an order. And here, I would submit, that the benefits of the order to allow the parties to view the contract and then test the Centra panel are obvious, and obviously in the public interest, so that the Board can ensure itself that this major contract is an appropriate one. And the -- so -- and that would be an order of confidentiality that the public can't see the contract, but the contract can be part of the Hearing.

The deleterious effects of such an order would be that that does impair the open court principle, but not to a degree that's significant enough to -- not to a degree that -- that outweighs the salutary or beneficial effects of allowing that type of order, such -- so that the parties can address all of the issues related to the contract in the Hearing.

Now, as I said, I -- I don't see that Centra has produced any compelling evidence that there's a real substantial risk that disclosure would pose a threat to Conoco's commercial interests. In fact, when I asked the Centra panel if it was aware how big of a contract this was for Conoco in relation to its business, the Centra witness was unable to say whether this contract was much of a big deal to Conoco at all.

One would be surprised if -- even if there was some negative effect in terms of -- of the information flowing out of this contract, that it would have such a minimalistic impact on -- on Conoco, given the amount of transactions that it -- that it deals with, and the diversity of those transactions compared to the one that's at issue here. I mean, this is a very unique supplier agreement that -- between Conoco and Centra.

And Centra admitted to the uniqueness of the arrangement, and that there was only one (1) service of this type, one (1) customer for this service of this type, because of the unique circumstances of Manitoba variable load. And so therefore, one really has to question how this pricing formula would be applicable to any other pricing formula for other services that Conoco is providing.

Now, as a result of the non-disclosure of the contract, these Intervenors had to base their entire interventions on assumptions and inferences. In fact, our uneasiness with respect to the cost consequences flowing from the contract can be attributed directly to the fact that we don't know what the contract says, and in particular, what the pricing structure is. Had the contract been produced, it's possible we may not have had concerns.

The non-production, however, led us to question whether the pricing formula within the agreement was sufficiently flexible in order to appropriately capture all of the possible market dynamics that might come Centra's way during the life of this three (3) year contract.

I'm going to move on to -- to CAC's assumed -- assumptions about the contract and its concerns in regard to those assumptions. And that's in reference to Mr. Stauft's evidence.

The major market dynamic that Mr. Stauft was concerned -- may not have been adequately addressed in the new sic -- supply contract, relates to the fact that over the last year, the Empress/AECO market differential, also referred to as the Transportation Index, has behaved in an unexpected way.

We heard and discussed this unexpected

trend as an anomaly during the course of the proceedings; or if it's an anomaly that's gone on for quite some time. At Tab 9 I have some excerpts from the evidence of Mark Stauft. And at page 5, starting at line 20, Mr. Stauft says, quote:

"As I have explained, the general expectation should be that Empress/AECO prife -- price differentials will reasonably reflect the prevailing NGTL delivery toll. And historically, that has generally been true.

However, over time, the observed market price differentials have steadily decreased, and over the past year they have decreased dramatically, to the point where they have become a negative. In other words, in recent months AECO's prices have often actually been higher than Empress prices."

And on the next page, continuing, quote:

"The cause of this seemingly anomalous market behaviour appears to be an increase in the value of natural gas liquid's extraction rights on the NGTL system." End -- end quote.

And Mr. Stauft goes on the explain from his perspective why it is that the anomaly of Empress market prices being lower than AECO prices.

The Centra panel, when questioned about this information, confirmed that the current market situation is anomalous. And at page 361 of the transcript, Mr. Stephens agreed that the anomaly was because of the competitive bidding being done amongst these extraction plants, as Mr. Stauft asserts in his evidence on page 6.

So there's no issue between the parties that there is something that's changed in the market and it's significant. The market seems to have taken a hard and unexpected turn with respect to the value of transportation between the AECO point and the Empress point. There's been a fundamental shift in the market. And that is displayed at Tab 13 of my closing argument brief.

This document indicates that what Mr. Stauft is saying, that the differential has gone from being an amount somewhat equivalent to the NOVA toll, fourteen (14) cents, to a point where it's a negative, so that the difference in values between the NOVA toll and the differential is in excess of twenty (20) cents.

And you see that, then, when you look, commencing in January 2009. The differential -- this is on page 2 at Tab 13. The differential for January 2009, fourteen (14) cents. In February it goes down to nine (9) cents; in March, eight (8); April, seven (7); May, six (6), June it's at seven (7); July it's at four point seven (4.7); in August it's one point five (1.5) cents; and then it's in the negative.

And now I'll explain, from our perspective, the relevance of this dramatic market change.

The -- the AECO hub, as we were reminded during the Hearing, is a physical point, a valve, in fact, in mid-Alberta that is the most liquid pricing point for the sale of natural gas in Canada. Centra's purchasing gas for its consumers at that point based on the monthly AECO index for base volumes and the daily index for swing volumes.

But Centra doesn't pick up the gas at AECO. It takes receipt of the gas molecules at Empress, which is another market point, albeit less liquid in comparison to AECO, at the Alberta-Saskatchewan border. It is at the Empress point, of course, that Centra has arranged for its transportation to its distribution system.

As the consequences of these arrangements, the pricing formula that Centra negotiates with its suppliers has to include a cost associated with getting the gas from AECO to Empress. That's not a -- a matter of dispute.

The NOVA gas pipeline system transports gas from AECO to Empress. Therefore, the NOVA demand toll is one (1) means of pricing the value of transportation from AECO to Empress.

Another method of valuing that transportation, though, is to rely on the AECOS -- the AECO-to-Empress price -- price differential as reported in various pricing -- price reporting services; that is the difference in the price of gas trading at these two (2) points.

As Mr. Stauft indicated in his evidence, all else being equal, one would expect the market price, the market differential, should be the same as that NOVA toll. And his evidence is that, in very general historic terms, that was an observed pattern.

These Intervenors have long contended in previous hearings that the price differential appears to be lower than the NOVA demand toll in the long run. And in prior proceedings, these Intervenors have voiced a preference that more weight should be on measuring the --

the value of the transportation from AECO to Empress using the differential rather than the NOVA toll.

Centra certainly acknowledged the importance of reflecting the differential in the price formula in previous contracts. Every single contract from 2000 to the expiry of the most recent Nexen contract included an express consideration of the AECO/Empress differential. This was referred to as a blended formula that weighted 70 percent of the formula based on the NOVA toll and 30 percent of the formula based on the differential.

During cross-examination, Mr. Stephens conceded that the issue of basis differential versus toll was always an issue in previs -- previous hearings, and for Centra. And I've included that quote in the brief, and that's at Tab 10.

Where at the first page, the very last line, line 25, Mr. Stephens says:

"I will conceded the fact that the issue of basis differential versus toll was always an issue."

He goes on at line 4, quote:

"And so we had a mixture. It was a function of how much we can negotiate. Ideally, I would want the gas supply that we purchase to be an even split between the two (2). But that was a function of the negotiation process, and I couldn't get any further than seventy/thirty (70/30)." End quote.

Here Mr. Stephens is acknowledging that Centra attempted to move the weighting in favour of the differential in order to acknowledge that often, and we would argue more often than not, the differential is lower than the NOVA demand toll. That's historically.

CAC/MSOS's major concern about the new gas supply contract is that it may not include an appropriate consideration of the differential. If the current contract does not include any weighting for the differential, or a low amount of weighting, lower than past contracts, then this contract would represent a much higher cost to consumers in the current market than the previous Nexen contracts that included the seventy/thirty (70/30) blended formula between the NOVA toll and the differential.

Now I know in 2007, I believe it was on the base volumes, the blended formula was replaced with a hundred percent NOVA toll, but on the swing volumes it was still a seventy/thirty (70/30) split. So that's why we say in every previous contract, and in particular, if we go back to the contract this Board approved in 2004, it included that seventy/thirty (70/30) blended split. Because of the enormity in the swing of the differential to becoming a negative, that -- the impact of that market dynamic would significantly have reduced consumer's costs for gas.

Now, at page 350 of the transcript Mr. Stephens acknowledged that the AECO index plus the basis differential is considerably cheaper these days than the AECO index plus the NOVA toll.

Now, as I said, I think in my opening comments, I -- at this point in my argument I'm at a very awkward point, because my -- I'm fully alive to the fact that the Board has the contract before it on a confidential basis, and that the Board can review the contract and determine if our assumption is correct, and if there is any weighting of the differential within the price formula. And if there is a strong weighting then -- then CAC's concerns are -- are attenuated. If there isn't, then Mr. Stauft's concerns should be taken very seriously.

At page 9 of his evidence, which I had included at Tab 9, Mr. Stauft writes, beginning at line 6, and this is really the essence of our concern, quote:

"The second major adjustment to pure

AECO index..."

Sorry. I'm at page 9, which is three (3) pages into the tab, and at line 6. Quote:

"Centra's strategy of employing a contractual intermediary, a -- negotiated contractual structures intended to mimic short-term market prices carries with it a risk that the contractual proxy for the short-term market prices that is selected, will turn out not to be an accurate or appropriate one. The type of potential disconnect between Centra's contractual Empress prices and actual Empress market prices that I described in connection with the AECO -- sorry, Empress/AECO differential issue would be an example of such a risk manifesting itself. If there is a problem of that kind in the ConocoPhillips contract, Centra's customers would likely be better off if Centra had elected to purchase its supply directly in the market."

And it goes on. End quote.

I asked the Centra panel point blank if the differential was factored into the formula for pricing in the new gas supply contract, and the panel witness refused to provide that information, relying on the assertion of confidentiality. And that's at transcript page 379 and 380 where the Centra witness said, "You can make your own assumptions."

And that's what CAC/MSOS is forced to do here. We have to assume that the differential is not appropriately factored into this formula, and that consumers are paying, in this price environment, a lot more than they would have if Centra contracted in the more usual way that other LDCs contract, because, if they did, they would be -- that circumstance would allow for flexibility that would take advantage of changes in the market.

Now, was agreeing to a price mechanism that does not include an appropriate weighting of the differential prudent? Assuming Centra did not factor the differential into the pricing formula, the question arises: What did Centra know with respect to the historic trends concerning the differential, and when did the market begin to turn against that historical dynamic and that analysis?

In my opening comments, I indicated that the difference in position between Mr. Stauft and Centra was likely one of opinion, not fact. It turns out that there is a factual dispute at play in this Hearing. Centra contends that the historical differential between AECO and Empress prices indicated a tight relationship between the differential and the NOVA toll. In other words, Centra's historic research indicated to it that giving up the differential or weighting it less than previously would not amount to a significant concession to its supplier.

If Centra's historic information was these two methods of valuing transportation between AECO and Empress are -- are close to the same, then, if the supplier is saying, We want to rely on 100 percent NOVA demand toll, it may be -- not be that big of a concession to allow for that.

These intervenors were not aware that Centra had conducted such a historical analysis. There was no mention of that in any of the Information Request information or in the application. That evidence was led on April 14th at the Hearing.

CAC/MSOS concedes that Centra would have acted prudently if it conducted an appropriate historical analysis of the transportation index and factored that into its review of the RFP proposals. If it was only after the contract was executed that the historic research was shown to be no longer accurate, then Centra cannot be faulted for its actions.

And included in tab 11 of my brief, I've included Mr. Kostick's comments in this regard, which -- in which he says, the bottom line is, Centra made its decision, quote:

> "...based on the information that we had available to us at the time, and that is the test of prudence." End quote.

And I agree with that. If Centra had -- and it appears that it has -- done its due diligence in terms of the pricing mechanism based on historical research and future price information, as well, and future price forecasts, that gives these Intervenors comfort that the Utility was acting appropriately.

However, Mr. Stauft's concern about the -- the rigid formula and the -- the system wherein Centra is purchasing all of its gas from one (1) supplier on a long-term contract remains a valid concern. His observations that entering into this kind of contract can lead to the very risk that has here manifested itself, being the loss of opportunity for customers of Centra to enjoy the market dynamic which has seen the differential become a negative.

The fact that Centra has now locked itself into this particular formula means that consumers could pay far more than they would have paid if Centra had arranged for the purchase of its gas in the same way as other LDCs purchased their gas.

And I know that Centra, throughout the proceeding, indicated that because of its unique circumstance it has to purchase its gas in this way; however, I would have the Board note that at Tab 12 of my brief I've included an excerpt from the ICF Report in which -- in the very last paragraph ICF says, quote:

> "The natural gas exchange offers several intra-Alberta services that could provide similar daily flexibility to Centra, including daily purchases on the day ahead market, and the daily market..."

And it goes on. End quote.

There's no question that Centra could meet its needs by purchasing gas, shorter term contracts, or from multiple parties, and also meet its intraday requirements. And in the long run the most optimal way to meet those difficult intraday requirements may be with storage and that's something that we look forward to

Centra analyzing in its portfolio review.

And we do acknowledge that Centra has voiced a strong preference to rely on the single supplier model as a method of improving reliability of service and to reduce price risk. Centra's evidence was replete with justifications that this allows for a, quote, "virtual storage," end quote, by providing for intraday nominations to balance Centra's difficult load.

A second problem though of the -- a second example of the problems inherent in Centra's gas purchase methodology relates to comments that ICF made in its report about the cost of this swing service that Centra purchases from its supplier.

Centra conceded the obvious during the Hearing when it acknowledged that it pays the supplier a premium to provide the swing service, this flexibility for intraday nominations, this virtual storage. We don't know what that premium is without seeing the contract.

But one (1) thing that it -- was of interest to these Intervenors was: at page 85 of the ICF Report, Centra's consultants note -- and this is in the last paragraph on the page, second sentence -- quote:

> "In an unconstrained market, swing service should be widely available at relatively modest premiums. In a

constrained market, swing service will be expensive." End quote.

ICF goes on in the next page to list some factors which are likely to impact on the availability and cost of this service. One (1) of the factors is the growth in shale gas production in northeastern British Columbia; and there are other factors, including completion of pipelines.

The point here is that the cost of the swing service, the premium associated with it, is something that is going to change as the market changes. But Centra cannot enjoy any of the benefits of the market changing; for instance, the market moving into an unconstrained market, which appears to be the case these days, in order to secure swing service at a lower cost than is embedded into this three (3) year contract. So it's just another example of the type of risks that manifest themselves by virtue of the particular unique unusual way that Centra arranges for the purchase of its natural gas.

And I know I've been prattling on for -- for some time, but I am fairly close to the end of my presentation, ten/fifteen (10/15) more minutes, if I can continue on.

The RFP process. Centra relies heavily on the RFP process to demonstrate that the gas cost consequences arising out of the new contract must be appropriate. However, these Intervenors have concerns because there were essentially only four (4) bidders, notwithstanding that Centra sent the RFP out to more than fifty (50) potential suppliers. The fact that there were only four (4) bidders, combined with the very unique service that Centra is asking for, raises a very serious question as to whether the service that Centra has purchased is provided at a truly competitive price, with only four (4) other bids, and given, as I say, the uniqueness of this service. Questions also arise in terms of the profit opportunities for Centra's supplier.

There is a Centra exhibit that was provided late in the proceeding, which I've included at Tab 15. It's Centra Exhibit 12. That document was also put forward by Centra to assuage concerns with respect to whether or not the contract with Conoco is appropriate.

That exhibit does not provide these Intervenors with any significant level of comfort in connection with the premium Centra may be paying above the AECO index, and that's because it relies on forecast information. And Centra's forecast cost of gas has always been widely at odds with its actual cost of gas; therefore, this exhibit really provides no helpful evidence to the Board.

What would be helpful, would be if Centra were to provide the information requested by Mr. Stauft in his written evidence, in order for it to be able to perform a retrospective review of the actual premiums above the AECO index that consumers are paying for the gas consumed in Manitoba. Period.

What Mr. Stauft's request -- requested information would disclose is how much consumers could have benefited had the differential been more reflective of an equal split, as Mr. Stephens indicated he aspired to. And that will at least give us some measure as to whether or not the contract premiums paid to the supplier are appropriate.

And as Mr. Stauft indicates in his evidence, if it's a matter of five (5) to ten (10) cents, he may not be that fussed about it, but if it's twenty-five (25) cents, that's a serious matter that the Board is going to need to -- to consider.

Centra argues that to provide the information Mr. Stauft seeks would be to disclose the confidential pricing formula. Maybe so. However, as argued earlier, the confidentiality concerns of Centra and Conoco do not come close to outweighing the important public interest in determining whether the premiums paid by Centra customers to Conoco are appropriate, in view of today's unusual market conditions.

Therefore, CAC/MSOS urges the Board to:

Number 1. Order Centra to disclose the Conoco contract to these Intervenors on whatever terms the Board considers appropriate, or alternatively, to simply order that the Conoco contract be made public.

Secondly, order Centra to provide all of the information sought by Mr. Stauft in his evidence, and to keep track of that information, in order to allow for a retrospective review of gas cost consequences of the Conoco contract at a future proceeding.

3. Withhold approval of the gas cost consequences of this contract at this time, until the retrospective review is conducted in a future proceeding. And that also includes withholding making the primary gas interim ex parte orders final, as that would lead to a -- an implicit approval of the ConocoPhillips contract.

And, Number 4. Order that Centra further investigates other gas supply contracting methodologies to avoid the constraints and -- and risks identified by Mr. Stauft in his evidence.

Now, moving on to those other five (5) areas that I wanted to talk very briefly about.

The first: Centra's compliance filing. I had asked Mr. Warden to confirm on the record that interest on common assets and interest on inventory, as financed by Manitoba Hydro long-term and short-term debt, at whatever rates are available to Manitoba Hydro in the market. The Board's familiar with -- with that -- with that issue.

Mr. Warden confirmed there's no special arrangement between the electric side of the business and the gas side of the business with respect to interest charged on common assets. And I pointed out to Mr. Warden that the overall reduction in interest on long-term and short-term debt combined in each year is approximately 20 percent, so why wasn't it that the interest on common assets and inventory was reduced by 20 percent when Centra filed its compliance filing in February of 2010?

And he indicated that he would undertake to determine what adjustment, if any, there should be made, and that information was provided in the form of Undertaking Number 5, which has been marked as CENTRA Exhibit 16.

And that's found at Tab 16 of my brief. Oh, no isn't, sorry. Tab 17 of my brief.

And in this undertaking, Centra is acknowledging that adjusting the calculation by applying the interest rates directed by the PUB for Centra revenue requirements calculations would result in the following changes to interest charges made to Centra. And you see that, in the '09/'10 year, the total finance expense would be reduced by a hundred and sixty-eight thousand (168,000), and in the next test year, a hundred and fifty-two thousand (152,000), for a combined three hundred and ten thousand dollar ($310,000) adjustment to finance expense. And I would urge the Board then to require Centra to -- to implement that.

In terms of the fixed-rate program, in previous orders, this Board directed Centra to increase its fixed-price offerings to Centra customers. The intention was to ensure that customers had sufficient options and choices available to them to lock in their gas rates, if they so chose, prior to the hedging program being wound down.

At this Hearing, we learned Centra's fixed-rate program is moving in the opposite direction. With only ten (10) customers signing up to Centra's last offering, Centra has decided that it will not offer further fixed rates -- rate options until, quote, "circumstances are appropriate," end quote.

These Intervenors support that decision. The last offering saw Centra spend nineteen thousand dollars ($19,000) in advertising to secure ten (10) customers. We all heard the evidence that the -- the mark-to-market of the -- for the fixed-price swaps are, at this point, according to Mr. Warden, at a total cost to Centra's net income of approximately $1 million.

The reason why Centra customers do not appear to be interested in this program, I submit, is obvious; and I -- I won't belabour it, because I'm sure it's obvious to everyone. If you turn to Tab 18 of my brief, you'll see the ads that Centra placed prominently in the Winnipeg Free Press and other papers. And you'll see that the quarterly rate service is prominently displayed and compared with the other three (3) fixed rate options. And it's obvious to anyone who's interested in saving some money that this is a -- that the best deal is the quarterly rate.

It's significant that when marketers advertise their product -- and they have advertised. We've all heard their advertisements on the radio, seen them in newspapers, and some of us have experienced them at the door. There is no advisement as to the Centra quarterly rate service and that cost to compare to their products.

So even though the program is -- Centra's program appears to be a significant -- appears to be failing at this point, there is a massive tangible benefit to the program, in that customers who see the Centra advertisements and become more aware of this fixed rate product become knowledgeable with respect to the product and pricing and options available to them with respect to the different services. When they are knowledgeable, it appears, from Centra's experience, that they don't find the product attractive. And from this -- these Intervenors' perspective that's not surprising.

A second reason for the low interest in the program relates to the gas prices and their ten (10) year low, and the perception that they're declining. In a market where the perception is that gas prices are rising and will continue to rise, it is at that point that, we would submit, that Centra should offer further fixed rate options. It is that situation which should define, quote "circumstances are appropriate," end quote.

How Centra determines when people have that perception is a -- is a question that's difficult to answer but it's something that Centra is going to have to figure out, because it would appear that this business is mostly about timing. And you will note in watching brokers doing their business that they seem to flood the market at periods where it does appear that the price is going up, and people at that point have a -- have a concern about locking in.

With respect to the Furnace Replacement Program, we simply want to request of the Board that it order Centra to make available to CAC/MSOS the 2009 residential survey that will -- is expected to be filed within a month, I believe.

In terms of the longer term plan that Mr. Kuczek discussed, we're also significantly interested in -- in learning about that plan sooner rather than later, so we would ask the same with regard to that information.

The -- the information on the record in this proceeding was that there are twenty-two thousand (22,000) LICO 125 low efficiency furnaces; fifteen thousand (15,000) if you're measuring at the hundred percent of LICO. And to date, there have been eight hundred (800) energy efficient furnaces install -- installed and thirteen (13) energy efficient boilers. That's not good news; however, the expectation that there will be eleven hundred (1,100) installations this year was -- was good news and it certainly moves the ball forward.

With respect to forecast revisions, non-primary gas costs have increased rather substantially by $12 million, 7 million of which relates to TCPL tolls increasing astronomically this year, and hopefully that's something that is turned around, in the way that Mr. Warden described in -- in his evidence, to -- to bring the tolls back to -- to levels from last year.

But $2 million of that increase in the non-primary gas costs relates to the exchange rate forecast, which is now stale-dated and -- and at the point in which this Board will be determining the appropriate forecast for -- for this gas year.

In previous orders, and I've included an extra -- extract from this order at Tab 19, it's Order 99/07, the Board ordered Centra to update its cost of gas forecast to reflect the more recent exchange rate estimate. In that case, the order of magnitude was 1.8 million, would be the reduction in -- in the forecast costs. Coincidentally, in this proceeding, in PUB/CENTRA-18, that indicated that if the gas cost forecast of the exchange rate was changed to reflect the actual exchange rate to date, and the parity going forward, that would result in a $1.84 million reduction to the forecast. And so, following past precedent, we recommend that the Board make that same adjustment here.

With respect to the portfolio review, we simply want to put on the record that when the discussion paper is circulated, we expect early in 2011, that Intervenors and stakeholders, other stakeholders, be given the opportunity to retain and compensate a consultant who can provide CAC/MSOS with an opinion about the discussion paper, such that MT -- CAC/MSOS can contribute to the technical conference in a meaningful way and assist Centra in providing its contribution to the process at that time. So to do so, we would ask the Board to contemplate a procedure wherein CAC/MSOS could, on the basis of a budget, hire a gas supply consultant to assist in that process. And I'd submit that in the long run the costs that would be saved from -- from an adversarial approach to dealing with this important issue would be significant.

And just in terms of other comments, we do think that the Board should comment on the systematic underestimate of volumes, which was reflected in the Information Request PUB/CENTRA-26, and which it was dealt with by Mr. Peters in his examination, to ensure that the -- the new methodology, even as updated, does not contain the same bias.

And with respect to the cost allocation issue, the Undertaking 8, Exhibit 19, which shows that there were no material impacts or changes to the small general service class and, however, allows for the revenue to cost to be at unity is -- is a change that should be affected in order to avoid consequences the next time -- the next time that rates are struck that are negative to that rate class.

And those are my comments.

THE CHAIRPERSON: Thank you for your thoughtful remarks, Mr. Saxberg, and to CAC/MSOS for intervening in the process. We'll adjourn now to -- Ms. Murphy, how much time do you require?

MS. MARLA MURPHY: If we can come back at 1:30, that would work well for us. I'm -- I'm mindful that the Board has time constraints at the end of the day, but I don't anticipate being more than an hour.

THE CHAIRPERSON: Very good, 1:30 it is. Thank you very much.

--- Upon recessing at 1:34 a.m.
--- Upon resuming at 1:32 p.m.

THE CHAIRPERSON: Welcome, Ms. Southall.

MS. ANITA SOUTHALL: Thank you very much, Mr. Chairman. I'm just replacing Mr. Peters this afternoon.

THE CHAIRPERSON: And you're here just in time for Centra's closing argument.

Ms. Murphy...?

FINAL SUBMISSIONS BY CENTRA GAS:

MS. MARLA MURPHY: I guess I could say she came for the best part. My friends have abandoned me, so I'm on my own here, but the back row's still behind me, I'm sure.

So, Mr. Chairman and members of the Board, I want to begin by summarizing Centra's application. We filed the 2010/'11 Cost of Gas Application on December 18th of 2009. In its application, Centra is seeking the following approvals:

Number 1. Approval of supplemental gas, transportation to Centra, and distribution to customer sales and transportation rates, effective May 1st, 2010.

Number 2. Final approval of actual gas costs from November 1st, 2008, to October 31st, 2009, in the amount of $437 million.

Number 3. Approval of November 1st, 2009 to October 31st, 2010 forecast gas costs, estimated as at November 2nd, 2009 to be approximately $300.6 million, including non-primary gas costs of approximately $69.1 million.

Number 4. Final approval of the balances and disposition of the various non-primary gas purchase gas variance accounts, or PGVA, and the gas cost deferral accounts as at October 31st, 2009, with carrying costs to

April 30th, 2010, which reflect the recovery of approximately $2.8 million.

Number 5. Final approval of supplemental gas, transportation to Centra, and distribution to customer sales rates, effective August 1st, 2009, which were approved on an interim basis in Order 116 of '09.

Number 6. Final approval of primary gas sales rates effective August 1st, 2009, which were approved on an interim basis in that same Order 116/09.

And final approval of Orders 147/09 and 4 of 10, related to the interim ex parte approval of primary gas sales rates, effective November 1st, 2009 and February 1st, 2010, respectively.

And, finally, final approval of interim Order 170 of '09, which related to changes in the derivatives hedging program for primary gas.

Centra proposes that the rates stemming from these requested approvals be implemented in May 1st, 2010, together with a change in the primary gas sales rates, as filed with the PUB on April 9th of 2010.

The impact of the rate changes proposed in this application, the implementation of changes arising from Order 128/09, and the changes to primary gas effective May 1st, 2010, as requested in that quarterly primary gas rate filing, can be seen on Schedule 1.2.0, which was filed as Exhibit 10, CENTRA Exhibit 10, a copy of which has been included at Tab 1 of Centra's book of documents, which I believe has been circulated to -- to the parties.

I would like to turn first to the issues of gas supply transportation and storage arrangements.

As was noted on page 5 of Centra's rebuttal evidence, the primary objective of Centra's supply contracting approach is to obtain reliable, firm supply that cost effectively meets Centra's highly variable market requirements. Centra's gas supply RFP issued in 2009 was not seeking to simply obtain gas commodity supplied at a point, but rather sought to obtain reliable, firm service that could be -- that could provide the optionality required to accommodate Centra's challenging requirements.

As noted by Mr. Kostick at page 305, line 13 of the transcript:

> "The Manitoba market has some of the most extreme, variable and volatile weather in North America. Centra's largely residential and commercial space heating loads results in large variations in gas requirements, as changes in the weather have a

significant impact on load
requirements."

These requirements drive a significant swing requirement. The swing requirement refers to Centra's gas commodity and transportation volume requirements that are unknown day to day, and therefore must be acquired or disposed of daily, including intraday, or during the day of the gas flow.

Mr. Kostick referred to the findings of the ICF Report, a copy of which you'll find at Tab 13 of Mr. Saxberg's book of documents. At page 83 ICF noted, and I quote:

"The combination of high weather volatility and a high concentration of Manitoba load in the weather sensitive residential and commercial sectors results in a much larger day-to-day swings in gas load than almost any other LDC in North America. The high day-to-day swings in demand also lead to significant forecasting volatility in daily requirements.

As a result, the Centra supply portfolio needs to be structured to provide cost-effective natural case natural gas service over a wide variety of natural gas demand levels, as well as providing flexibility to meet wide variations in daily natural gas demand." Closed quote.

Weather related demand and the absence of local storage in Manitoba make it necessary for Centra to be able to make daily weather driven volume adjustments or nominations thought its supply acquisition arrangements. This was also noted by ICF at page 84 of their report.

Mr. Kostick referenced ICF's findings in this regard at pages 306 and 307 of the transcript, which evidence, I should note, was actually erroneously attributed to Mr. Saxberg.

The ability to swing must be firm, not on a best efforts or interruptible basis. It must be available intraday, that is during the day of gas flow, including use of the late afternoon or ID2 nomination window, even when the AECO hub is also a -- relatively illiquid, and it must be available at that late afternoon nomination window on weekends and holiday afternoons when the market is closed.

It should be noted that managing swing requirements applies to both the commodity and the transportation required to move the gas to Centra's receipt point at Empress. Further, Centra's requirements are such that it must be able to acquire -- both acquire and dispose of gas commodity and transportation on that intraday basis.

Centra notes that in the absence of its contractual swing arrangements, Centra and its customers would be exposed to the supply risk of being short commodity and/or transportation due to illiquid or closed markets. In addition, Centra and its customers would be exposed to price risk associated with transacting when the market is illiquid, assuming that supply and transportation are available.

As I noted, this price risk applies to both acquiring and disposing of, or being long and short on commodity and transportation, as Centra may need to adjust its volumes, either up or down, due to weather volatility.

As Mr. Kostick testified on page 305 at lines 16 to 22 of the transcript, these risks are typically managed by LDCs through local storage. Gas and storage has been paid for, therefore, no price risk, is readily available, and is connected to the LDC system, such that no transportation is necessary.

ICF notes in its report at page 86:

"The ability to provide swing service is traditionally one (1) of the key drivers for the development of natural gas storage, and utilities fortunate enough to have local storage resources have an array of swing service options not available to other companies."

Centra does not own any storage capacity and no storage capacity currently exists with the Centra service territory, so as an alternative Centra mitigates these risks supply contracting approach. They emulate storage connected to its Empress receipt point as a cost-effective alternative to the development of local storage. Through the RFP process Centra cost effectively attained this service with the best combination of supplier and proposal attributes available in the market.

Centra issued a comprehensive RS -- RFP which established its requirements for supply, including significant swing optionality. The RFP also invited respondents to offer any alternatives to the proposed requirements in order to ensure that any relevant proposals were available for review by Centra.

In order to mitigate the price and supply risks that I've described, Centra contract -- Centra's contract attempts to emulate storage connected to the

Empress receipt point. Specifically, Centra considered the following traits as desirable:

A contract with a larger marketer or producer willing to us its assets to bear the supply and price risks of serving Centra's daily requirements at Empress; such a supplier being better able to move gas within Alberta as a result of having large scale operations and assets in Alberta and multiple customers or markets for which to pool those assets.

To contract for firm swing service, including unfettered use of intraday late afternoon nominations. Mr. Kostick testified at pages 304 and 305, lines 8 through line 2, that Centra recognizes that this unfettered swing optionality requirement alone is difficult to serve and is generally not attractive to suppliers. As such, Centra combined that swing requirement with a substantial base load requirement in order to attract interest in the overall package of firm service requirements that Centra has.

Finally, Centra considered it desirable to contract at a published major AECO indices for price transparency. As Mr. Kostick noted at page 328 and 329 of the transcript, in the 2007/'08 and '08/'09 General Rate Application, Mr. Stauft acknowledged the benefits of -- of Centra's supply contracting approach with respect to the use of the published indices and the price transparency and predictability that results from that approach.

Centra notes that the response rate to its RFP, being six (6) our of fifty (50) is in itself that Centra's requirements are challenging, and constitute more than a simple provision of supply at a point. Through the RFP process Centra cost effectively obtained the service it requires with the best combination of supplier and proposal attributes available from the competitive market.

ConocoPhillips was the only respondent to the RDP to score in the top two (2) of each of the evaluation matrix categories. They are recognized as a substantial player in the Alberta market, with significant capabilities of moving gas to Empress. ConocoPhillips expressed no reservations and indicated its full willingness to supply Centra's requirements, including intraday swing volumes.

As Mr. Kostick observed, this matter was discussed with Conoco during negotiations, and they've indicated they could accommodate Centra's requirements, including weekends, holidays, and times when the market is closed. Thus far they have demonstrated this in practice as well.

You'll find Mr. Kostick's discussion of those matters at Page 330 of the transcript, lines 1 to 17.

As you've seen from the evaluation matrix and Centra's testimony, Centra's first and foremost priority is to ensure a safe and reliable supply of natural gas for its customers. This requires that Centra contract with a highly qualified counterparty that is willing and able to serve Centra's supply requirements, including those ID and ID2 swing requirement, and being of such a substance as to provide assurance as to these capabilities.

Centra submits that the chosen supplier demonstrates those necessary qualifications. Centra has also noted in its evidence that its supply must be cost effective. The cost advantages of the current supply contract have been reviewed during the course of the Hearing. Perhaps one (1) of the greatest benefits of the contracting approse (sic) is that Centra does not have to pay for any transportation on the NOVA Gas transmission line, and only pays for the transportation that it uses.

Centra is not charged by its supplier a fixed demand charge that is typical for firm transportation service, yet it still receives firm service to Empress from its supplier, making for cost effective service. The supplier bears the risk of being long or short transportation, and is better positioned to do so than a modest sized LDC like Centra.

And you'll find that discussion at pages 217, line 22 through 218, line 10 of the transcript, and pages 333 and 334.

Centra is also able to emulate local storage through the swing service provided under the contract, and in doing so does not incur the fixed charges associated with storage, nor is it required to keep storage filled, as it would be if it actually held storage. Centra also noted in its rebuttal evidence that Centra's swing service can be compared to a dai -- daily physical call or a daily peaking service that can be used at the latest nomination window of the day, while being priced at the daily index. That daily index, of course, may be far removed from the pricing at ID2, if such supply were to be available at all.

The peaking services are normally less flexible than Centra's swing service, and generally are only available on a day ahead basis. Such service also normally carry a fixed daily demand charge, whether it's called on by the customer or not. In contrast, Centra only pays for its swing service when it uses it, with no fixed demand charge associated with that component.

Although Mr. Stauft has suggested that Centra could arrange its own supply and transportation on a short-term basis, Centra cannot effectively -- cost effectively replicate the intra-Alberta capabilities of a large Alberta marketer or producer such as ConocoPhillips. Centra would have to be able to not only acquire commodity and transportation at Empress when short, or when the market may be illiquid, or even closed, but to dispose of that commodity or transportation when they're long. As I noted earlier, these scenarios create supply and price risks for Centra.

In order to arrange transportation to Empress, Centra would either need to hold firm transportation on the NOVA Gas transmission system for its maximum potential requirements, whether needed on a particular day or not, resulting in unutilized demand charges, or it would have to rely on interruptible transportation, which by the very nature of the service may not be available, and would not provide firm transportation capabilities. In either case, Centra would still face the additional supply and price risks that we've identified earlier, and which the current contracting approach avoids.

Mr. Stauft also suggests that if Centra were to hold transportation on the NOVA transport system, that we would benefit by collecting the revenues associated from extraction rates. This view is erroneous in several respects.

Firstly, it ignores the fact that if Centra were to hold such transportation, it would pay for such transportation, whether it needed it or not, thus increasing the unutilized demand charges.

Secondly, we would only be in a position to collect the extraction revenues when it was actually utilizing the transportation, which is dependent upon the variable weather conditions.

Thirdly, Mr. Stauft has not considered that the existing contract, made in a competitive RFP setting, can be assumed to have already taken into account the value of those extraction rates and the prices offered by the various bidders, including ConocoPhillips.

CAC/MSOS has suggested that it may not be appropriate for Centra to have entered into a three (3) year contract in its -- a three (3) year term in its supply contract. Centra wishes to note, however, that the evidence in fact supports its decision. In particular, Mr. Kostick referenced the ICF report at page 339 of his evidence, which recommended an intermediate contract term of two (2) to four (4) years. Mr. Kostick also noted that the three (3) year period chosen dovetails with Centra's portfolio review and that -- the expiry of its US storage contracts in 2013. Centra's evidence also reflected that this period avoids the costs of undertaking an RFP process on an annual basis.

Centra has noted that given the challenges in serving Centra's requirements, including intraday swing, Centra has a high degree of interest in the capabilities and qualifications of its counterparty. And if a highly qualified counterparty is available under terms reflective of the nature of the service being provided, Centra believes it is well advised to contract for an intermediate term of three (3) years rather than a short term of one (1) year in the interests of security of supply. Centra was also of the view that counterparties may offer a more competitive bid for a longer term contract than might otherwise be offered for a shorter term contract.

Centra has also noted that given the unprecedented uncertainty in the market today, that Centra cannot become complacent and simply assume that there will be qualified counterparties interested in bidding on our supply requirements, including intraday swing service, every time it takes an RFP to market, or assume that the party that -- that they contract with for one (1) year will be interested in an extension or a modification of that contract to extend to a second or a third year.

By way of conclusion on this topic, we note that Centra's supply contracting approach is preferable to purchasing directly in the daily spot market in a number of ways.

First, Centra has intraday swing optionality that allows it to emulate local storage and to manage the significant weather-driven variability of the Manitoba load.

Second, Centra has secured firm transportation to Empress provided by Conoco, without fixed demand charges which would otherwise be payable.

Third, Centra has reduced the supply risk which would otherwise be associated with having to secure commodity and transportation when markets are illiquid or closed, or contract for firm transportation directly on NOVA and incur unutilized demand charges.

Fourth, Centra has reduced the price risk associated with transacting to acquire or dispose of commodity and/or transportation when markets are illiquid.

And, fifth, Centra is able to retain the price transparency of a predictable, formulaic and observable relationship to major AECO indices, which is of benefit to the PUB, Intervenors, and to customers.

I would also reference the ICF report at page 74, wherein they stated, and I quote:

> "In ICF's opinion, Centra's approach, which was utilized in the existing Nexen contract and is contemplated in the current RFP, is likely to be more efficient, and in some ways more reliable, than the traditional LDC supply planning model for Centra."
>
> Closed quote.

As outlined by Mr. Barnlund in his -- his direct evidence, Centra is not seeking PUB approval of the gas costs -- gas supply contract, but rather approval of the gas cost consequences arising from the contract, which is consistent with past practice in these matters in this jurisdiction.

Consistent with past practice, Centra will continue to provide information to the PUB in connection with its quarterly primary gas applications, and will incorporate the impli -- implications of the contract in its forecasts, and we will of course report on the actual costs incurred.

I note that the last time that the PUB

considered the matter of approving costs arising from a new gas supply contract was in 2004. In Order 131 of '04, the Public Utilities Board considered the RFP process undertaken by Centra and the bids received. The Board suggested that Centra ought to have filed the RFP with the Board prior to issuing same.

The Board reviewed the Nexen contract, and also reviewed all of the other eight (8) responses to Centra's RFP, which were filed in confidence with the Board. The Board concurred with Centra's ranking of Nexen in the evaluation, acknowledged the new arrangements would add approximately four hundred thousand dollars ($400,000) in direct costs, with a further potential to decrease capacity management revenues by an estimated two (2) -- two hundred (200) -- sorry, two hundred thousand dollars ($200,000) per year, and approved the gas cost consequences arising out of the Nexen contract.

I've included, at Tab 2 of our book of documents, an excerpt from that order, pages 38 through 40, which outline the Board's findings in that -- in that respect.

Centra expects that the current process has met with the PUB's expectations, in that a stakeholder meeting was conducted prior to the issuing of the RFP which allowed stakeholders the opportunity to raise issues and concerns for inclusion in the RFP. Centra also provided the draft RFP to the Public Utilities Board prior to its issuance.

Centra has filed the contract with the Board in confidence, in accordance with the terms of the NAESB Agreement, and has responded to questions raised by the Board's advisors, also, in confidence. Centra has responded to Information Requests posed in this Application and has publically filed the evaluation matrix with the names removed. The weighting of the various evaluation criteria have been considered and were endorsed by the witness for CAC/MSOS in response to the Information Request of the PUB, which is found at PUB/CAC/MSOS-1E.

ConocoPhillips was the only party to score in the top two (2) of every category in the matrix and represented the best combination of supplier and proposal attributes for the specific services that Centra requires, ensuring good value for ratepayers. Centra, therefore, respectfully requests that the PUB approve the gas cost consequences arising out of the ConocoPhillips contract.

Mr. Saxberg has suggested that the PUB ought not to approve those gas cost consequences because, in his client's view, Centra has not met the burden of demonstrating that the contract is prudent. Centra knows, firstly, that the PUB has had the full benefit of information which it -- it has historically received in considering such contracts. The difference, of course, is that this information hasn't been made publically available.

Mr. Saxberg suggested that Centra ought to have brought a motion to have the contract sealed and portion of the Hearing heard in camera. However, Centra notes that it has complied with the process as outlined in the Board's of pra -- practice and procedure and consistent with past practice for confidential filings.

Rule 13(3) provides that where disclosure of any document is refused due to a claim of confidentiality and a claim for public disclosure of such documents has been made, the Board shall hear such a claim on a motion under Rule 21 and may make such order as it finds to be in the public interest. No such motion has been made by CAC/MSOS.

Mr. Saxberg suggested this morning that the PUB ought to apply a different test, not based on the Board's rules, but upon a court decision in the Atomic Energy Canada and Sierra Club of Canada decision.

Now, I certainly haven't had an

opportunity to study that case in detail, but it stems from an application for judicial review of the Federal Government's decision to provide financial assistance to Atomic Energy for construction of nuclear reactors in China. Based on the head note of that case, disclosure information was authorized by the Chinese authorities, provided that a confidentiality order could be obtained. The decision to be made in that case was whether or not the court should issue a confidentiality order, and if not, the doc -- documents would not be disclosed by anyone -- to anyone by Atomic Energy.

The facts in this case, of course, are very different, as is the process established by the Board's rules. I noted with interest that the court does rule, according, at least, to page 3 of the head note of that case, that the objective of preserving a contractual obligation of confidentiality is sufficiently important to pass the first branch of the test established by the court. It sets out the criteria which have to be met, and which, I'd submit, are met here, that the information be treated as confidential, that on the balance of probabilities, commercial or proprietary interests could reasonably be harmed by disclosure, and that the information was accumulated with the reasonable expectation of it being kept confidential.

The issue, I'd submit, for the Board in this case, is one of process. Centra submits that CAC/MSOS ought to have followed the process established in the Board's rules and brought a motion prior to the conclusion of the Hearing. Such a motion would have permitted the forced disclosure provisions of the NAESB contract to be triggered. Conoco could have had the opportunity to present additional evidence, if it chose, as to the need for confidentiality, and the Board could then have made its determination. ConocoPhillips has not been afforded that opportunity, and we submit that the Board ought not to make the requested order of disclosure that CAC requested today without that process.

Suppliers have a need to keep their pricing information confidential. Mr. Kostick read into the record of this proceeding, at page 404 of the transcript, an e-mail received from ConocoPhillips. Mr. Saxberg has reviewed it with you this morning and I don't think I need to repeat it again.

Essentially, ConocoPhillips is concerned that its commercially sensitive information, including its business practice, strategies, information regarding its assets, would be disclosed to its competitors and to other parties to whom it may have commercial arrangements to the detriment of its business. ConocoPhillips is also concerned that other customers would learn of the terms of its agreement with Centra, to the detriment of its future negotiations with such customers.

Centra is also concerned with the impacts of this information being disclosed. As we outlined in the response to PUB/CENTRA-64, the practice of filing gas supply contracts on the public record is rare, and Centra is concerned that having information publically available, as to the specifics of the arrangement which Centra found acceptable, will limit the competidness -- competitiveness of future bids.

Centra is also concerned that suppliers who do not wish to have their contract terms disclosed may refrain from responding to Centra's RFPs in the future, or may limit the nature and type of proposals they submit.

Centra understands and acknowledges the difficulty CAC/MSOS suggests. However, we suggest that disclosure of the pricing formula is not required in order to access the reasonableness and prudency of the supply contract. In large part, the difficulty here may be the result of past practice. It's been the custom that Intervenors have had the opportunity to review the pricing formula, and a move to this more commercially reasonable practice will take some time to adjust to.

In considering the public interest, the PUB must weigh the potential consequences of the disclosure of the commercially sensitive terms of the contract against the benefits of such public disclosure. Centra has filed Information Requests and provided oral testimonies as to the increasingly competitive nature of the gas supply market, and its concern that disclosure of the contract terms may result in harm to comp -- to Centra and its supplier.

Centra's view on the issue of confidentiality is that this is almost a 'yes' or 'no' proposition. Unlike the courts, where they're determining a decision between parties who are adverse in interest, the PUB also has a role in considering and protecting the public interest. The Board, of course, has seen the contract terms and is in a position to assess the reasonableness.

Centra doesn't find favour with the suggestion that the contract be made, what I'll describe as in a little -- a little bit public. For CAC to suggest that only it see the contents of the contract creates a series of issues in our mind.

For example, CAC's advisors, who presumably would want to be able to see the contract along with CAC/MSOS, make a living testifying in other jurisdictions, and advising various groups at various time of -- of the -- the nature of their gas supply arrangements. We're not in a position to be able to satisfy ourselves or our suppliers that -- that that information won't be used to their determent.

Secondly, and I think perhaps more importantly, from our perspective, also party to this proceeding, are brokers, and I don't know that you can say that one (1) party to the proceedings, CAC, ought to be given a different level of disclosure than the other parties to brokers. If we look at this as being a way that's -- precedents are being set, it would certainly create difficulties in the future if we had potential respondents to RFPs registering as Intervenors in the process simply to be able to obtain such information that we're otherwise trying to keep protected.

In balancing the public interest at stake, it's significant to remember that the Board is not being asked to approve the contract, but rather the gas cost consequences that flow therefrom. That information has, and will continue to be made publically available, both on a forecast basis, and ultimately as Centra's actual costs.

As Mr. Kostick has noted, Centra has tradionally -- traditionally provided the average cost per unit of primary gas purchased and delivered to Manitoba. That cost has been compared to the monthly AECO index. In this respect, nothing has changed.

And you'll find his discussion of that at pages 398, lines 8 through 14, and 399, lines 1 through 16.

CAC/MSOS has also suggested that if the pricing formula is not made public, that some form of retrospective review of gas costs will be necessary. Gas costs have historically been considered both on a forecast and an actual basis; Centra expects that this practice will continue. Centra's quarterly primary gas costs will continue to be set through the quarterly rate setting process, and those interim orders will be confirmed as final at the next available public hearing.

The only adaptation which has been made in order to protect the pricing formula contained within the gas supply contract is the aggregation of base load and swing volumes and costs. This simple step allows the competitive interests of the supplier to be maintained to the benefit of Centra and its ratepayers. Centra expects that in future rate applications, the aggregated average cost of delivered primary gas supplied on a per unit basis will be available, and can be compared to the AECO monthly index, as has been the practice for many years.

CAC/MSOS has suggested a departure from past practice, that instead have historically favoured more liquid and representative AECO index, that the relatively illiquid Empress point be used. To accomplish this it is suggested that the day ahead transport index, which is Mr. Stauft's proxy for transportation for Empress, be used. As noted in its evidence, Centra does not agree that this is the appropriate index, for a number of reasons.

Firstly, the day ahead transport index is limited in the manner in which it can be traded. It is traded day ahead, not intraday, as Centra requires. It is not traded discretely for Saturday, Sunday, and Monday, which Centra requires, due to day-to-day weather driven load swings. As such, it is not reflective of the manner in which Centra must contract for supply.

Secondly, this transportation is often lightly traded and is significantly less liquid than the AECO hub. Mr. Stauft has acknowledged in his written evidence that the AECO hub is the most reliable price formation point for western Canadian gas, at page 4, lines 12 through 14 of his evidence, and that Empress is not nearly as large or liquid as AECO, and that direct market indices for the Empress point are not commonly available or relied upon.

And you'll find that in his written evidence in this proceeding at page 4 lines 24 through 26.

Nevertheless, Centra acknowledges that any party can compare Centra's actual costs to any index it desires. CAC/MSOS's suggestion that it's unable to do so without the formulas and the base swing volume split is simply false. What the Board and all parties should consider is the aggregate costs per gigajoule as historically compared to AECO, the most liquid and representative of Centra's purchases, and whether that cost is reasonable.

The nature of the pricing under Centra's supply contracting approach by supply relative to major AECO indices will produce consistent formulaic results relative to AECO, thus providing the benefit of price transparency identified by Centra and by Mr. Stauft in the 2007/'08 and '09 General Rate Application.

Mr. Stauft said at that time as Mr. Kostick quoted:

> "The advantages of the full requirements approach are that it provides more predictability and transparency in pricing. By tying prices to published indices the

arrangement enables Centra, the Board, and customers, to observe directly the relationship between the prices paid by Centra and market prices in Alberta." Closed quote.

Centra concurs with that comment.

Now, ironically, the supply alternative suggested by CAC/MSOS in this proceeding, which is to purchase daily direct spot purchases in Alberta, would not be linked to any index and would therefore, in fact, lose those transparency benefits. The Board and Intervenors are aware of the use of monthly and daily AECO indices. Exhibit 12 contains forecast information incorporating baseload and swing formulas and forecast volumes which allow for an easily observable relationship to AECO.

We have provided for you at Tab 3 Exhibit 12, which demonstrates the -- the Adder, if you will, that's shown.

Given the price transparency that exists even without the formulas being know, it's fair to say that Centra's approach will continue to provide for predictable, transparent and a simple relationship to the major AECO indices.

It's interesting to note as you look

through Exhibit 12, the time period there represents three (3) different contracts, three (3) different pricing mech -- mechanisms and produces a remarkably consistent result in terms of the Adder that's produced. That demonstrates that forecast costs are on por -- par with prior contracts, the cost consequences of which were approved by this Board. As we noted in the response to PUB-16D, a copy of which is also attached at the same tab, based on the May 1st, 2009 strip, the Conoco contract performed favourably and resulted in lower gas costs than other bids.

Centra submits that there's no need to create a further retrospective review process. The valuation of the actual costs incurred under the ConocoPhillips contract, relative to index, can be assessed in future regulatory proceedings much as they have been in the past, with the aggregation of baseload and swing volumes to protect the confidential nature of the pricing formula.

Turning to the issue of the portfolio review. Centra has commenced work on its portfolio review in advance of the expiry of the US transportation and storage contracts in 2013. Centra is anticipating stakeholder consultations will take place in respect of its portfolio review and has indicated it intends to circulate a discussion paper in advance of those stakeholder discussions and its openness to suggestions from stakeholders as to means of improving the nature of that consultation process; including, as Mr. Saxberg suggested, permitting time for Intervenors to review the discussion paper with their consultants prior to engaging in discussions with Centra.

Issues surround the TCPL tolls are also be considered in the context of this portfolio review. As Mr. Warden testified, the Tolls Taskforce is presently engaged in a process to attempt to address the competitiveness of the mainline tolls. Centra continues to participate in those discussions and to be mindful of the impact of those tolls on Centra's ratepayers.

With respect to its load forecast, Centra recognizes the importance of having an accurate load forecast, and the Corporation has been refining its forecasting models and forecasting methodologies to provide a more accurate forecast since purchasing Centra Gas in 1999. Centra also recognizes that the forecasting models are only as good as the input data used in those forecasting models.

Centra is satisfied with its existing forecasting methodologies, however, the Corporation will continue to monitor the accuracy of these models and further refine the models and techniques when and as it deems appropriate.

Over a longer period of time Centra expects that its load forecast should both over and underestimate the actual natural gas volumes, and during a twenty (20) year period the amount of over and underestimating should generally balance out.

Turning to the issue of hedging. As we noted at the outset, Centra is seeking approval of final gas costs in the amount of $437 million for the 2008/'09 gas year. These amounts include settled hedging results which added to gas costs in this period. Centra has hedged in accordance with the derivative hedging policy and procedures during this period.

As you know, in October of 2009, Centra applied to the PUB for approval of amendments to its derivatives hedging policy and procedure, seeking to reduce the percentage of volumes hedged from 100 percent to 75 percent. Following a written process in which the PUB sought comments of interested stakeholders, the PUB issued Order 170 of '09 on December 21st of 2009, approving the requested amendment as a means of phasing out the hedging.

Centra has hedged in accordance with Order 170/09, hedging 75 percent of eligible volumes in January of 2010 for volumes to be consumed between November 2010 and January 2011. Centra has testified that it intends to comply with order 170 of '09, and will phase out hedging by August 1st of 2011.

The Board heard from Mr. Bill Carroll, on behalf of several large volume customers expressing concern with respect to the phasing out of hedging of primary gas purchases. Mr. Warden also testified that although Centra has not applied to review or vary Order 170 of '09, we remain concerned that some smoothing mechanism may be necessary in order to avoid exposing customers to large increases in primary gas rates.

And you'll find that discussion at page 29, lines 4 through 22, of the transcript.

Based on the evidence before the Board, Centra requests that the PUB confirm Order 170/09 as final. It is Centra's intention that it will continue to communicate with the Board as to Centra's plans with respect to managing customers' bill volatility.

Turning to capacity management. Centra's actual capacity management revenues for the 2008/'09 gas year are shown on Schedule 4.3.1 and total $5.2 million, inclusive of carrying costs. And, for your ease of reference, we've included that at Tab 4 of Centra's book of documents.

For the 2009/'10 gas year, Centra has forecast capacity management revenues of $6.96 million, excluding carrying costs, based on the five (5) year rolling average of Centra's actual capacity management results. These forecast amounts have been included on Schedules 5.1.3(a) at line 50. There appears to be little issue with capacity management revenues in this application.

I conclude on this area with the matters discussed by Mr. Stephens at pages 87 through 91 of the transcript, that as Centra continues to refine its portfolio, and particularly as it begins its portfolio review process, it expects that the amounts available as a result of these transactions will be reduced.

Before turning to cost allocation and rate design, I'd like to address the discussion that took place during the Hearing, regarding the matter of recovery of non-gas costs and the impact of weather on Centra's earnings.

Mr. Warden was asked if there should be a non-gas cost deferral account, to which he replied, at page 455 of the transcript, lines 19 and 20, and I quote, "There is. It's retained earnings." Closed quote.

Now, although that response was received in a somewhat lighthearted fashion, Mr. Warden went on to explain, at page 456, that the net effect of retained earnings, although not specifically referred to in that fashion, is very similar.

Centra's managed on a cost-of-service basis, and while there may be short-term volatility in its earnings due the effects of actual weather conditions on sales to customers, there is no need to devise or implement a separate deferral account mechanism to account for the impact of weather on corporate earnings. Centra management carefully considers the level of retained earnings to ensure that they are sufficient to meet the risks that Centra may face.

A decision to seek a change in rates will be made based upon the examination of the level of retained earnings in light of the current and future business circumstances that Centra foresees. As such, these examinations always consider the impact of weather to Centra's net income, and hence the impact on retained earnings.

The creation and maintenance of a non-gas deferral account would be a needless duplication of the existing manner in which Centra is managed. It would add an additional layer of administration and complexity, and would not serve any meaningful purpose beyond what is currently accomplished by way of the cost-of-service approach.

Turning to cost allocation and rate design matters. Centra's approach to functionalizing, classifying and allocating costs in this Application is consistent with that used in past filings. Centra proposes to implement new -- new base and billed rates on May 1st of 2010 to incorporate the non-gas cost approvals flowing from Centra's last GRA, as directed in Order 128/09, and the non-primary gas cost approvals as requested in this Application.

In addition, on April 9th, 2010, in accordance with the PUB's approved rate setting methodology, Centra filed its interim ex parte application for new primary gas rates, to be effective on May 1st, 2010.

With respect to non-gas costs, the Board directed in Order 128 of '09 that the approved revenue requirement be collected through a change in rates for all customer classes with the rate change for the SGS and LGS classes being limited to an increase in the basic monthly charge of one dollar ($1) per month and seven dollars ($7) per month for those classes respectively. Those changes have been reflected in the schedules prepared for this Application.

Centra allocated a $147.7 million of non-gas costs, inclusive of net income of $3 million to all customer classes. However, to comply with Order 128 of '09, a discreet rate design step was incorporated for the SGS and LGS customer classes. The rate design for those two (2) customer classes is only reflective of the directed change to the basic monthly charge for each of those classes and the previous level of non-gas related rates were sustained. This matter was discussed in cross -- cross-examination and Centra provided additional information in Undertaking number 8, which was filed on April 19th of 2010 as Exhibit 19.

It's worth noting that the rates for the SGS and LGS classes will still not be at unity, by virtue of the rate design and the information that was provided in that undertaking. That's -- that's because of the rate design that was ordered by the Board in Order 128/09. So regardless of the level of net income that's incorporated, we still will not have achieved unity.

The schedules filed on April 19th are reflective an -- of an allocation of non-gas costs, incorporating $2.4 million of net income instead of the $3 million of net income used by Centra in its application.

With regard to non-primary gas costs,

Centra has functionalised, classified, and allocated the $69.1 million of non-primary gas costs in accordance with the cost allocation methodology used in past filings. These non-primary gas costs are reflected in the new base rates proposed for implementation on May 1st, 2010.

Centra also proposes to implement rate riders to recover approximately $2.8 million of gas cost deferral balances. This reflects the net amounts of the gas cost deferral balances as of October 31st, 2009, with rate rider amortization to April 30th, 2010, inclusive of carrying cost to that date.

These riders are found on Schedules 8.4.0 and 8.4.1, both of which are included at Tab 5 of the book of documents.

The bill impact schedules filed in this proceeding by Centra on April 13th, 2010 incorporate all of the changes to rates that I've just described. Schedule 1.2.0 reports the bill impacts arising from the non-gas and non-primary gas cost changes, and also reports the bill impacts for all proposed rate changes, including primary gas rate impacts, to be effective May 1st, 2010.

For the typical residential customer, the combined rate impacts for May 1st are proposed to be a reduction of approximately 6.1 percent or $63 per year.

Although Centra's not requesting any approvals in respect of its lower income programs in this Application, nor are the amounts included in rates being adjusted in respect to these matters, we take a brief opportunity to update the Board with respect to these programs.

The Corporation's Furnace Replacement and the Lower Income Energy Efficiency Programs are two (2) programs which are targeting energy efficient opportunities within Manitoba's residential lower income market segment. These programs have been ramping up in the terms of participation and are expected to have eleven hundred (1,100) lower income households participate in the Furnace Replacement Program, and nineteen hundred (1,900) lower income households participate in the Lower Income Energy Efficiency Program during 2010/'11.

With the cancellation of the ecoENERGY Program, the Lower Income Energy Efficiency Program and the Furnace Replacement Program have lost a significant funding source, amounting to approximately twelve hundred ($1,200) and eight hundred dollars ($800) per upgrade respectively. The Corporation is currently in the process of assessing options for addressing this loss in funding. The Corporation also recently conducted a residential survey which has provided updated information on various market parameters.

Based on this information, the Corporation currently estimates that there are approximately fifteen thousand (15,000) LICO lower income households, or twenty-two thousand (22,000) lower income LICO 125 homes with standard efficient furnaces. Overall, it's estimated there -- there are still seventy-five thousand (75,000) standard furnaces in the market at large, which is 31 percent of Centra's natural gas residential market. With respect to insulation, it's estimated that fifteen thousand (15,000) LICO or nineteen thousand (19,000) LICO 125 homes, require substantive insulation upgrades.

With the cancellation of the ecoENERGY program, the availability -- the availability of updated market information, and with Centra taking a more aggressive marketing approach with its programs targeting the lower income residential sector, it's an opportune time for Centra to reassess its program designs to capture the energy efficient opportunities in the lower income market.

In assessing the program designs it's important to balance a number of considerations. One (1) of the more significant challenges is the -- balancing the provision of sufficient incentives to encourage lower income customers to participate in the programs against the fairness of having all ratepayers pay for these incentives while not being eligible for the same programs. Centra is mindful that a large number of these rate paying customers are also within the lower income category; however, they aren't eligible for the program, either because they live in apartments or they may have already incorporated the measures into their households.

Centra is mindful that a significant number of its non-lower income customers will also be subsidizing lower income programs and that these customs -- customers may also be experiencing higher energy bills, as a substantive number still have standard efficient furnaces in their own homes.

The issue of cross-subsidies was discussed by the Board in Order 99/07 and Centra agrees with the Public Utilities Board as to the appropriateness of a modest degree of cross-subsidization for the reasons provided in that order. Centra also recognizes that with expenditures incurred to date and with the planned budgets to the end of 2010/'11, expenditures targeting the lower income market sector is growing to a dispo -- disproportionate amount relative to its overall energy efficient budget.

In conclusion, Centra is committed to capturing energy efficient opportunities in all market sectors, including the lower income market.

The Corporation is confident that a successful lower income energy efficiency and furnace replacement program can be designed to address the lost funding source from the Federal Government's ecoEnergy Program and that participation under a modified program design can be achieved with an adequate and aggressive marketing effort to accompany the programs.

With respect to the fixed price service for natural gas, Centra is committed to providing this service offering to its customers, provided there is sufficient demand for the products. Based on experience to date, Centra does not expect that a very significant number of customers will be interested in fixed price service when the premium required to be paid for the service relative to the variable product offered is too large.

On a go-forward basis Centra will continue to monitor the market conditions and will consider offering fixed price offerings later this summer or this fall. In addition, Centra will consider alternative billing options which may also assist its customers to better manage their energy bills and the volatility of natural gas commodity prices.

In conclusion, Mr. Chairman, Members of

the Board, on behalf of Centra I wish to thank the Board, its advisors, and the Intervenors for their attention throughout this process. Centra submits that the evidence has been thoroughly tested and that its requested rate proposals are just and reasonable and that the requested approvals ought to be granted.

On an administrative note, in order to implement rates arising from this proceeding on May 1st, 2010, Centra respectfully requests that the Board issue its order in respect of these matters at its earliest opportunity so that rate schedules can be finalized before the April 29th -- before April 29th, 2010, in advance of our May 1st billing run.

Thank you, Mr. Chairman, and members of the Board for your attention and your patience throughout this process. Subject to any questions that you have, that concludes Centra's remarks.

THE CHAIRPERSON: Thank you, Ms. Murphy. On the question of the timeliness of the order, April 29th may be appear to be a bit aggressive. What's the latest date that Centra could have final direction for billing purposes?

MS. MARLA MURPHY: I believe from recollection -- and Mr. Barnlund is scrambling for a calendar -- that our first billing run commences on May

3rd, so we would need to have the rate schedules finalized in advance of that date.

THE CHAIRPERSON: Thank you. And thank you to all participants in the Hearing. It's been a good hearing. There's been an exchange of a considerable amount of evidence and information and positions taken, which we appreciate. This brings to a close the public phase of this Hearing and the Board will now deliberate and come up with an order, hopefully to meet your time requirements.

So with that we adjourn. Thanks again.

--- Upon adjourning at 2:21 p.m.

Certified correct,

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Cheryl Lavigne, Ms.