

## MANITOBA PUBLIC UTILITIES BOARD

Re: CENTRA GAS MANITOBA INC.  
GENERAL RATE APPLICATION  
2013/14

## Before Board Panel:

Regis Gosselin	- Board Chairman
Marilyn Kapitany	- Board Member
Larry Soldier	- Board Member

## HELD AT:

Public Utilities Board  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
June 25th, 2013  
Pages 1400 to 1579



“When You Talk - We Listen!”



1 APPEARANCES

2 Bob Peters (np) ) Board Counsel

3 Sven Hombach )

4

5 Marla Boyd ) Centra Gas Manitoba

6 Brent Czarnecki ) Inc.

7

8 Brian Meronek, Q.C. ) CAC (Manitoba) Inc.

9 D. Tomas Masi )

10

11 Nola Ruzycki (np) ) Just Energy

12

13 Paul Kerr (np) ) Shell Energy

14

15 Kim Johnston (np) ) CEPU

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1403

1	LIST OF EXHIBITS		
2	EXHIBIT NO.	DESCRIPTION	PAGE NO.
3	CENTRA-16	May 26, 2013, email from Mr.	
4		Jerrold Oppenheim	1431
5	CENTRA-17	Response to Undertaking 11	1475
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1404

1	LIST OF UNDERTAKINGS	
2	NO.	PAGE NO.
3	12	Mr. Oppenheim to prepare a list
4		of items he believes should
5		be included in the TRC test and
6		explain how they should be
7		quantified
8		1563
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1 --- Upon commencing at 8:59 a.m.

2

3 THE CHAIRPERSON: Good morning. I  
4 believe everyone is in position so we'll start today's  
5 proceedings. Good morning, everyone. Before we start  
6 to hear from CAC, I wonder, are there any matters to  
7 attend to before we recommence this morning?

8 MR. SVEN HOMBACH: Nothing from Board  
9 counsel.

10 MR. BRENT CZARNECKI: Not at the  
11 moment, but shortly in the morning we'll be filing  
12 another undertaking or two (2), Mr. Chairman. Good  
13 morning.

14 THE CHAIRPERSON: Good morning. So,  
15 good morning, Mr. Meronek. I -- I hope -- I hope  
16 you'll introduce your -- your witness today?

17 MR. BRIAN MERONEK: It's probably the  
18 last time you'll hear my name today. It's my pleasure  
19 to have Mr. Masi conduct proceedings for today, and  
20 he'll -- he'll do the honour of introducing our  
21 witness.

22 THE CHAIRPERSON: Good morning, Mr.  
23 Masi. Looking forward to hearing from you.

24 MR. D. TOMAS MASI: Good morning, Mr.  
25 Chairman, members of the panel, ladies and gentlemen.

1 It is my pleasure to introduce Jerrold Oppenheim as a  
2 witness on behalf of CAC, and I believe he's ready to  
3 be sworn in.

4

5

6 JERROLD OPPENHEIM, Sworn

7

8 EXAMINATION-IN-CHIEF BY MR. D. TOMAS MASI (QUAL.):

9

MR. D. TOMAS MASI: Mr. Oppenheim,  
10 you're -- you were responsible for the preparation of  
11 written evidence in this proceeding?

12

MR. JERROLD OPPENHEIM: Yes, I am.

13

MR. D. TOMAS MASI: And the evidence  
14 is marked in this proceeding as Exhibit CAC-5?

15

MR. JERROLD OPPENHEIM: That is my  
16 understanding, yes.

17

MR. D. TOMAS MASI: And in addition to  
18 your evidence, you have prepared answers to  
19 Information Requests posed to you by the Board  
20 advisors?

21

MR. JERROLD OPPENHEIM: I have, yes.

22

MR. D. TOMAS MASI: And those are  
23 marked as Exhibits number PUB/CAC-810 through to 821?

24

MR. JERROLD OPPENHEIM: That's  
25 correct.

1 MR. D. TOMAS MASI: And was your  
2 evidence and the answers to the Information Requests  
3 prepared by you or under your supervision and control?

4 MR. JERROLD OPPENHEIM: Yes, they  
5 were.

6 MR. D. TOMAS MASI: Do you have any  
7 corrections that you would like to make to your  
8 evidence, or to your answers to the Information  
9 Requests?

10 MR. JERROLD OPPENHEIM: I want to  
11 correct one (1) number that appears two (2) times in  
12 the testimony. At page 7 of the testimony, line 35,  
13 and again at page 10, line 14, the -- the figure  
14 twenty-seven point eight (27.8) appears. And I would  
15 correct that, as I have in Information Response to the  
16 Board, to the figure twenty-three point nine (23.9).

17 And that's -- that's explained in my  
18 response to the Board's Interrogatory 14, which  
19 appears in the book of documents at page 547. Other  
20 than that, I have no corrections.

21 MR. D. TOMAS MASI: Mr. Oppenheim,  
22 just on the first revision to the years, could you  
23 please just reference the page number in the book of  
24 documents, at the top right corner of the book of  
25 documents?



1 MR. JERROLD OPPENHEIM: Oh, sure.

2 Page 7 of the testimony corresponds to page 489 of the  
3 book of documents. Page 10 of the testimony  
4 corresponds to page 492 of the book of documents.

5 MR. D. TOMAS MASI: Thank you, Mr.  
6 Oppenheim. And do you -- and do you adopt your  
7 evidence and the answers to the Information Requests  
8 as your testimony in this proceeding?

9 MR. JERROLD OPPENHEIM: With that  
10 correction I just made, yes, I do.

11 MR. D. TOMAS MASI: Mr. Oppenheim,  
12 with reference to your resume, which is found at Board  
13 counsel's supplementary book of documents at Tab 69,  
14 specifically pages 516 to 527 of your evidence, would  
15 you please describe your qualifications and experience  
16 as they relate to this proceeding?

17 MR. JERROLD OPPENHEIM: Yes, at the --  
18 at the risk of being a little lengthy, my initial  
19 training was at Harvard College at a Boston College  
20 law school. Professionally I've worked for more than  
21 forty (40) years, mostly on consumer -- almost  
22 entirely and mostly on con -- on consumer and low-  
23 income energy issues. I've worked for Attorneys  
24 General in two (2) states, federally funded legal  
25 services programs in three (3), Pace University law

1 school.

2 In Massachusetts and in Arkansas, I've  
3 led negotiations of energy efficiency agreements with  
4 gas utilities and also electrics, and negotiated low-  
5 income energy efficiency programs in both those states  
6 and elsewhere. And I've designed and analyzed low-  
7 income programs in -- in many places.

8 I've been an -- an independent  
9 consultant for the last period of time, a lawyer as  
10 well. Again, working for utilities, labour unions,  
11 governments, even one (1) group of industrial clients  
12 on Long Island in New York, and a broad number of  
13 consumer and environmental groups, all involving  
14 utility regulation and specifically energy and, for  
15 the most part, low-income energy efficiency.

16 So just to give you an idea, the DC  
17 Energy Office being an example of a -- of a government  
18 client. The New England Gas Workers Association and  
19 the International Labour Organization and another  
20 federation in Iceland are labour groups.

21 I've done work for the Edison Electric  
22 Institute in Washington, DC, the Entergy Corporation,  
23 which serves five (5) jurisdictions in the southern  
24 part of the US, and a number of community action  
25 programs: the American Association for Retired

1 Persons, the Alliance for Affordable Energy, the Ohio  
2 Partners for Affordable Energy, Texas Legal Services,  
3 Utah Committee for Consumer Services. So all  
4 community-based groups that have an interest in low-  
5 income energy efficiency.

6 Oh, I guess one (1) other thing I  
7 should add is I have written a fair amount. With two  
8 (2) co-authors I've written what I think is the only  
9 sort of how to -- serious how to book about utility  
10 regulation from the consumer point of view. It's  
11 called 'Democracy and Regulation'.

12 I've also written scores of papers,  
13 both in North America and for journals like the  
14 Electrical Journal, for regulatory bodies like the  
15 National Association of Regulatory Utility  
16 Commissioners in the US, as well as for a -- a number  
17 of entities in Europe: the International Labour Office  
18 at the UN, which is in Geneva, the European Federation  
19 of Public Service Unions, International Association of  
20 Energy Economists, which is worldwide. The paper I  
21 wrote was for a conference in Italy, and -- and so on.

22

23 All -- all this is detailed -- this is  
24 a lot of detail already, but this -- even more detail  
25 in the back of the testimony.

1 MR. D. TOMAS MASI: Thank you, Mr.  
2 Oppenheim. Have you ever been qualified as an expert  
3 witness?

4 MR. JERROLD OPPENHEIM: I have. US  
5 federal judges in Mississippi and South Carolina.  
6 Local judges in the US and Baltimore and in the two  
7 (2) counties of Illinois, those were all cases  
8 involving my testimony about utility credit and  
9 collection policies, including late charges.

10 Legislatures in at least three (3)  
11 states and utility regulatory commissions, again, in  
12 at least three (3) states. And I submitted testimony  
13 but did not physically appear in the last Centra GRA  
14 case here.

15 MR. D. TOMAS MASI: With respect to  
16 the proceedings you just mentioned, in what capacity  
17 as an expert were you qualified to testify?

18 MR. JERROLD OPPENHEIM: I would  
19 summarize it as regulation of public utility funded  
20 low-income energy efficiency programs and the  
21 implementation thereof, with the exception of the  
22 court cases that I mentioned at the beginning, where I  
23 was asked about utility collection policies.

24 MR. D. TOMAS MASI: Subject to the  
25 decision and/or comments by Mr. Czarnecki, Mr.

1 Hombach, and/or this Board, based on Mr. Oppenheim's  
2 testimony regarding his qualifications, I would like  
3 the Board to accept Mr. Oppenheim as an expert,  
4 specifically in the area of regulation and  
5 implementation of public utility low-income energy  
6 efficient programs.

7 THE CHAIRPERSON: Thank you, Mr. Masi.  
8 Could I hear from Mr. Czarnecki, please?

9

10 CROSS-EXAMINATION BY MR. BRENT CZARNECKI (QUAL.):

11 MR. BRENT CZARNECKI: Yes. Thank you,  
12 Mr. Chairman. I will have a few questions on Mr.  
13 Oppenheim's qualifications. Sir, if you can have  
14 handy the book of documents that Mr. Hombach  
15 distributed yesterday.

16 MR. JERROLD OPPENHEIM: I have it.

17 MR. BRENT CZARNECKI: Okay. Now, I  
18 understand your direct testimony this morning, that  
19 you adopt your evidence?

20 MR. JERROLD OPPENHEIM: Yes, that's  
21 true.

22 MR. BRENT CZARNECKI: Now, did anyone  
23 in particular review your evidence at CAC?

24 MR. JERROLD OPPENHEIM: To my  
25 knowledge, yes.

1 MR. BRENT CZARNECKI: And who was  
2 that, sir?

3 MR. JERROLD OPPENHEIM: That would be  
4 Gloria Desorcy at CAC and, of course, the lawyers to  
5 my left.

6 MR. BRENT CZARNECKI: And is it your  
7 understanding that CAC as well adopts your evidence  
8 that you filed on this?

9 MR. JERROLD OPPENHEIM: That -- that  
10 is my understanding, yes.

11 MR. BRENT CZARNECKI: Now, just  
12 turning to your witness qualifications. And if you  
13 can turn, first of all, to page 516.

14

15 (BRIEF PAUSE)

16

17 MR. JERROLD OPPENHEIM: I'm there.

18 MR. BRENT CZARNECKI: Now, your  
19 education specifically, sir, you have a bachelor of  
20 arts degree in government from Harvard College?

21 MR. JERROLD OPPENHEIM: That's  
22 correct.

23 MR. BRENT CZARNECKI: And then you  
24 have a JD, or a juris doctor, as I understand it.  
25 It's a law degree from Boston College?

1 MR. JERROLD OPPENHEIM: That is also  
2 correct.

3 MR. BRENT CZARNECKI: But, sir, you  
4 have no doctorate in law?

5 MR. JERROLD OPPENHEIM: No. Some  
6 people on the other side of the Atlantic consider the  
7 JD to be a doctorate, but that's not considered so in  
8 North America.

9 MR. BRENT CZARNECKI: Yeah. Thank you  
10 for the clarification. You -- sir, you have no  
11 specific or formal education or professional  
12 designation in economics?

13 MR. JERROLD OPPENHEIM: That's  
14 correct.

15 MR. BRENT CZARNECKI: Accounting?

16 MR. JERROLD OPPENHEIM: Correct.

17 MR. BRENT CZARNECKI: Engineering?

18 MR. JERROLD OPPENHEIM: Correct.

19 MR. BRENT CZARNECKI: And do you have  
20 any professional affiliation with any economics,  
21 accounting, or engineering bodies?

22 MR. JERROLD OPPENHEIM: Actually, I  
23 may be --I don't remember if I am currently a member  
24 of the International Association of Energy Economists.  
25 But other than that, I do not.

1 MR. BRENT CZARNECKI: Now, if I can  
2 just turn you to page 483 of your evidence.

3

4 (BRIEF PAUSE)

5

6 MR. JERROLD OPPENHEIM: I have it.

7 MR. BRENT CZARNECKI: I'm looking at  
8 lines 13 to 14.

9 MR. JERROLD OPPENHEIM: Okay.

10 MR. BRENT CZARNECKI: And you say:

11 "I have often worked as a lawyer on  
12 these issues, and also as a  
13 consultant, analyst, and expert  
14 witness."

15 Is it fair to characterize your work,  
16 Mr. Oppenheim, in consumer and low-income energy  
17 issues primarily as legal counsel?

18 MR. JERROLD OPPENHEIM: I would find  
19 it very difficult to allocate my time. For example,  
20 the -- my -- the -- the client I have that takes the  
21 most time of my clients is the low-income energy  
22 affordability network in Massachusetts, which is a  
23 group of community action programs, and that work is  
24 entirely on low-income energy efficiency.

25 But the work is certainly partly law



1 negotiation, which is I -- I guess you could  
2 characterize it as law though much of that is work  
3 that a non-lawyer could do, and many do. Much of the  
4 rest of the work that I do there has to do with  
5 analytical work, quantitative work, working on cost  
6 effectiveness, working on measure selection, and --  
7 and so on.

8                   So to allocate my time between legal  
9 and non-legal issues I think will be very difficult.  
10 My guess is that it's probably less legal and more  
11 other things.

12                   MR. BRENT CZARNECKI:    Okay. Fair  
13 enough, sir. Just drop your eyes down to lines 20 and  
14 21 for me. And --

15                   MR. JERROLD OPPENHEIM:    Yes.

16                   MR. BRENT CZARNECKI:    -- it provides  
17 that:

18                   "For about twenty-five (25) years  
19 have led pioneering ongoing  
20 negotiations of energy efficiency  
21 agreements with all-electric and gas  
22 utilities in Massachusetts."

23                   MR. JERROLD OPPENHEIM:    Yes.

24                   MR. BRENT CZARNECKI:    And was that in  
25 your capacity as legal counsel?

1 MR. JERROLD OPPENHEIM: Well, yes --  
2 yes and no. And the answer really is the same --  
3 excuse me -- as I just gave you. The -- the  
4 negotiations were, and have been, around a wide  
5 variety of issues, a few of which were legal, but many  
6 of which were technical involving cost effectiveness,  
7 how one should measure it, how one should screen  
8 measures using cost effectiveness and other tools such  
9 as engineering.

10 So -- and I -- I think in response to  
11 an Information Request to the board I provided the --  
12 the book which is about as thick as this book of  
13 documents that represents the results, or the last  
14 result of those negotiations. And you can see from  
15 that book that it covers a very wide variety of  
16 topics.

17 The negotiations were conducted on the  
18 other side by a lawyer, for sure, but also a very wide  
19 variety of -- of technical and analytical personnel  
20 from the utilities. So a very difficult question to  
21 answer. I think the answer is both.

22 MR. BRENT CZARNECKI: Okay. To -- to  
23 be clear though for that work, sir, you weren't  
24 qualified or performing in the capacity as an expert  
25 witness, were you?

1 MR. JERROLD OPPENHEIM: I -- I don't  
2 believe that there were any -- we're covering twenty-  
3 five (25) years here so in that period I don't believe  
4 there were any hearings in which I appeared as an  
5 expert witness in -- in that respect.

6 MR. BRENT CZARNECKI: And then if I  
7 can carry on to lines 22 through 25, I -- I see that  
8 you've referenced that you've led similar negotiations  
9 as what you've been referencing in Massachusetts, in  
10 Arkansas and also in the District of Columbia. Is  
11 that correct?

12 MR. JERROLD OPPENHEIM: That is  
13 correct.

14 MR. BRENT CZARNECKI: And -- and in  
15 those jurisdictions, sir, were you qualified as an  
16 expert or similarly to Bos -- to Massachusetts, you  
17 were more of a negotiator in those states?

18 MR. JERROLD OPPENHEIM: Well, the two  
19 (2) are different from each other. In Ark -- Arkansas  
20 the posture was similar to that in Massachusetts, and  
21 my participation there was similar, so that mixed  
22 participation that I described.

23 In the District of Columbia I filed  
24 expert testimony, so I appeared as -- as an expert.  
25 There was also some negotiation too, of course.

1 MR. BRENT CZARNECKI: And -- and can  
2 you assist me in understanding what you were qualified  
3 as an expert as in the District of Columbia?

4 MR. JERROLD OPPENHEIM: Yes. With  
5 Theo MacGregor, we designed the -- the programs that  
6 eventually the District of Columbia energy office  
7 actually ran, the low-income energy efficiency  
8 programs. And I also conducted an analysis of the  
9 cost effectiveness of those programs, which was  
10 accepted by the regulatory body there.

11 MR. BRENT CZARNECKI: And -- and in  
12 which year was that, or years?

13 MR. JERROLD OPPENHEIM: Now, you're  
14 really testing me. Give me a moment, I'll see if I  
15 can find it.

16

17 (BRIEF PAUSE)

18

19 MR. JERROLD OPPENHEIM: Well, the list  
20 of my testimony does not provide the year so, I don't  
21 remember exactly. I -- I could provide it if you  
22 really need it but it's -- it's probably on the order  
23 of ten (10) years ago.

24 MR. BRENT CZARNECKI: Thank you, sir.  
25 You mentioned Theo MacGregor, and I -- I see her name

1 sprinkled throughout your resume. She's a colleague  
2 of yours?

3 MR. JERROLD OPPENHEIM: She's both a  
4 colleague and my wife. She used to be the director of  
5 the electric power division at the Massachusetts  
6 version of -- of this Board.

7 MR. BRENT CZARNECKI: And she, like  
8 yourself, sir, would classify her as -- classify  
9 herself as a pioneer for low-income and consumer  
10 advocate issues?

11 MR. JERROLD OPPENHEIM: I -- I've  
12 learned never to speak for my wife, but I -- I -- but  
13 I think she probably would, yes.

14 MR. BRENT CZARNECKI: Now, if I can  
15 just have you turn to page 483 of your evidence,  
16 please.

17 MR. JERROLD OPPENHEIM: That's the  
18 page we've been on?

19 MR. BRENT CZARNECKI: Yes, thank you.

20 MR. JERROLD OPPENHEIM: Okay.

21 MR. BRENT CZARNECKI: Lines 26 to 27,  
22 and you made reference to this this morning to Mr.  
23 Masi that:

24 "I've also published many papers in  
25 North America and abroad and am a

1 co-author of the book 'Democracy and  
2 Regulation'."

3 MR. JERROLD OPPENHEIM: Yes.

4 MR. BRENT CZARNECKI: And I looked  
5 from pages 518 to 524 of your evidence, and indeed  
6 there is a lengthy list and wide variety of books and  
7 book chapters and other legal and professional  
8 publications that you've authored or co-authored. And  
9 in fact I arrived at the number --

10 MR. JERROLD OPPENHEIM: Yes.

11 MR. BRENT CZARNECKI: -- seventy (70).

12 MR. JERROLD OPPENHEIM: Well, thank  
13 you for counting them for me.

14 MR. BRENT CZARNECKI: Yes. Would you  
15 agree, sir, that none of those publications are  
16 specific to Manitoba?

17 MR. JERROLD OPPENHEIM: Not specific  
18 to Manitoba. I would say that's true. I think that  
19 there is information and wisdom in many of them that  
20 are applicable here.

21 MR. BRENT CZARNECKI: In a general  
22 sense, correct?

23 MR. JERROLD OPPENHEIM: Well, I don't  
24 know what you mean by 'general'. I mean, every --  
25 every place is different. Every state in the United -

1 - every jurisdiction, I should say, in the United  
2 States is different, every part of every country in  
3 Europe is different, and certainly every province in  
4 Canada is different. But there are lessons that can  
5 be taken that are learned in one (1) place and can be  
6 applied in another.

7                   So, for example, Arkansas in many ways  
8 could not be more different than Massachusetts, but we  
9 have successfully applied many of the lessons, process  
10 lessons, including supplement lessons that we've  
11 learned in Massachusetts to the situation in Arkansas,  
12 and have met with considerable acceptable and success  
13 there.

14                   MR. BRENT CZARNECKI:    Okay.  And --  
15 and further, sir, your seventy (70) entries, none were  
16 again specific to any Canadian province or Canada at  
17 all?

18                   MR. JERROLD OPPENHEIM:   Well, my  
19 answer would be the same as I just gave.

20                   MR. BRENT CZARNECKI:    And, sir, I take  
21 it that none of your publications have been referenced  
22 by any order of the Manitoba Public Utilities Board?

23                   MR. JERROLD OPPENHEIM:    I don't know  
24 the answer to that, other than to say that the last  
25 Centra order certainly referenced my testimony in that

1 case. Beyond that, I don't know. I haven't read  
2 every order of the Public Utilities Board here.

3 MR. BRENT CZARNECKI: Not that you're  
4 aware of, sir, and not your testimony. I'm referring  
5 specifically to your publications at this point.

6 MR. JERROLD OPPENHEIM: Well, as I  
7 said, I -- I don't know.

8 MR. BRENT CZARNECKI: Okay.

9 MR. JERROLD OPPENHEIM: I'm not aware  
10 of any, but I don't know.

11 MR. BRENT CZARNECKI: Are you aware of  
12 any Canadian energy regulator adopting or referencing  
13 any of your publications?

14 MR. JERROLD OPPENHEIM: I can't say  
15 I'm aware of any. That doesn't mean it hasn't  
16 happened.

17 MR. BRENT CZARNECKI: Now if I could  
18 just direct your attention to pages 524 and 525.

19 MR. JERROLD OPPENHEIM: Yes, sir.

20 MR. BRENT CZARNECKI: And you have a  
21 variety of selected journalism entries, and some  
22 relate to cable television, broadcasting, education  
23 and consumer issues.

24 And I think, more relevant to this  
25 proceeding, on page 526, is public utilities?



1 MR. JERROLD OPPENHEIM: Yes.

2 MR. BRENT CZARNECKI: And I see seven  
3 (7) entries listed dating back from 1976, when you  
4 authored 'Declaring War on Ele -- the Electricity  
5 Companies' to 'Consumers Not Benefiting from  
6 Deregulation', as published in the Boston Globe on  
7 January 25th, 2003?

8 MR. JERROLD OPPENHEIM: Yes.

9 MR. BRENT CZARNECKI: And, sir, you'd  
10 agree that there's -- you've been in active in this  
11 area since publishing within the Boston Globe on  
12 January 25, 2003, more than ten (10) years ago?

13 MR. JERROLD OPPENHEIM: If -- if your  
14 question is have I been doing less journalism in  
15 recent years, the answer is yes.

16 MR. BRENT CZARNECKI: Okay. And none  
17 of those journalism entries again are specific to  
18 Manitoba or to any jurisdiction within Canada?

19 MR. JERROLD OPPENHEIM: That's  
20 correct. Or given the same caveats as I gave before.

21 MR. BRENT CZARNECKI: And to be clear,  
22 Mr. Oppenheim, those journalism entries were opinions  
23 of yours that were published in some papers?

24 MR. JERROLD OPPENHEIM: Oh, of course;  
25 that's why the publications were interested in

1 publishing them.

2 MR. BRENT CZARNECKI: But, sir, they  
3 don't represent expert testimony, do they?

4 MR. JERROLD OPPENHEIM: Well, they're  
5 not testimony at all in that -- in a -- in a narrow  
6 sense.

7 MR. BRENT CZARNECKI: And similarly,  
8 can you advise the Public Utilities Board how many of  
9 your journalism entries were referenced by a Canadian  
10 energy regulator?

11 MR. JERROLD OPPENHEIM: I have no  
12 idea.

13 MR. BRENT CZARNECKI: Now, lastly, Mr.  
14 Oppenheim, if I can have you turn to page 527.

15 MR. JERROLD OPPENHEIM: Yes.

16 MR. BRENT CZARNECKI: And you would  
17 agree with me, sir, that with the lone exception of  
18 your written testimony in 2009/'10 and 2010/'11 Centra  
19 GRA, that all of your expert testimony is found within  
20 the United States?

21 MR. JERROLD OPPENHEIM: Yes, that's  
22 true. I guess I would make the observation that there  
23 has to be a first time.

24

25 (BRIEF PAUSE)

1 MR. BRENT CZARNECKI: And you  
2 confirmed with Mr. Masi this morning that you did not  
3 provide viva voce evidence for the 2009/'10, '10/'11  
4 Gas GRA?

5 MR. JERROLD OPPENHEIM: Well, I guess  
6 you folks at Centra were so impressed that you decided  
7 you had no questions to ask. Neither did the Board  
8 staff. So as a result, I did not come to testify.  
9 That's correct.

10 MR. BRENT CZARNECKI: We'll -- we'll  
11 leave that assumption to argument, maybe, Mr. Opp --  
12 Oppenheim, but can you --

13 MR. JERROLD OPPENHEIM: Absolutely.

14 MR. BRENT CZARNECKI: -- can you  
15 advise if you've ever provided viva voce evidence in  
16 any other Canadian jurisdiction?

17 MR. JERROLD OPPENHEIM: I have not.

18 MR. BRENT CZARNECKI: And I -- I note  
19 that you did mention this morning to Mr. Masi that the  
20 dates were not provided within the corresponding  
21 jurisdictions on page 527.

22 Could you just maybe provide me with  
23 those dates, if you can recall when you provided that  
24 expert testimony?

25

1 (BRIEF PAUSE)

2

3 MR. JERROLD OPPENHEIM: As -- as I sit  
4 here, I don't think I could. Some of them are as  
5 recent as about two (2) years ago. And they certainly  
6 stretch back quite some time. I've been at this forty  
7 (40) years, as I've said, so...

8 I -- I really am not sure. I'd have to  
9 guess, and I'm not going to speculate when the first  
10 one (1) was. But as I said, I've been doing this for  
11 quite some time.

12 MR. BRENT CZARNECKI: And one (1) more  
13 question with respect to your involvement in Texas. I  
14 notice the docket number, they trend from 22349 to  
15 22350. And is that because the docket represents an  
16 individual entity, but it's as part of the same  
17 proceeding?

18 MR. JERROLD OPPENHEIM: In some case -  
19 - well, it depends what you mean by 'the same  
20 proceeding'. But they're -- they're -- you can see  
21 that there were two (2) cases having to do with  
22 providers of last resort, for example. And those are  
23 -- those involved the same utilities, related topics.

24 There are several listed as low-income  
25 system benefit fund. Those are denoted each docket

1 for a different utility. Those were technically  
2 separate proceedings, but they were heard at the same  
3 time, as I recall. That's -- that's not true with --  
4 with the others.

5 MR. BRENT CZARNECKI: And -- and your  
6 Utah Public Service Commission, I see '97. I take it  
7 that's from 1997. And I note that you've in  
8 parentheses put, "report."

9 And -- and does that mean that your  
10 report was used, that you didn't actually testify in  
11 Utah?

12 MR. JERROLD OPPENHEIM: No, my  
13 reconciliation is that that is not the case, that I  
14 did testify. But it was -- it was denoted as a report  
15 rather than testimony. I don't see a substantive  
16 difference.

17 MR. BRENT CZARNECKI: So the -- so the  
18 ones without 'report' in parentheses, you filed no  
19 report in those jurisdictions?

20 MR. JERROLD OPPENHEIM: No, they were  
21 simply testimony; in some cases live, in some cases  
22 pre-filed, as here.

23 MR. BRENT CZARNECKI: Okay. And I --  
24 I think, Mr. Oppenheim, I -- I heard you earlier when  
25 you were making your distinctions between states and

1 jurisdictions and countries, that you would agree that  
2 there's significant differences between the United  
3 States and Canada with respect to low-income issues?

4 MR. JERROLD OPPENHEIM: There are  
5 significant differences and significant similarities,  
6 lessons that can be learned, things that one might  
7 learn to avoid given the experience in other places.  
8 But I would -- I would drop down a level and say that  
9 it's equally true of the provinces within Canada as  
10 well as the jurisdictions within the United States.

11 MR. BRENT CZARNECKI: And, sir, I'm --  
12 I'm going to ask you if you would agree that -- and  
13 I'm going quote, that:

14 "Direct experience in Canada would  
15 obviously be more relevant for this  
16 Board than experience in the United  
17 States."

18 End quote. Do you agree?

19 MR. JERROLD OPPENHEIM: Tha -- that's  
20 way too broad a statement for me to agree to. It  
21 depends on too -- too many other factors that depend  
22 on the topic, for example.

23 MR. BRENT CZARNECKI: Sir, would you  
24 agree that you sent an email on Sunday, May 26, 2013,  
25 to your Canadian colleagues, and I quote again,

1 "Seeking any help, including links," to support your  
2 position on behalf of CAC?

3 MR. JERROLD OPPENHEIM: I don't recall  
4 the date, but I certainly recall sending such an  
5 email.

6 MR. BRENT CZARNECKI: I have your  
7 email because one (1) of our colleagues within Hydro  
8 was part of that distribution list and why I'm quoting  
9 directly. And I'm going to take you back. And I can  
10 provide you a copy, if you wish, and everyone. But my  
11 reading of it is, quote, again:

12 "Experience in Canada would  
13 obviously be more relevant to cite  
14 than the experience down here. I  
15 would appreciate any help, including  
16 links, this list can provide."

17 End quote. Do you recall that, sir?

18 MR. JERROLD OPPENHEIM: Not  
19 specifically, but it sounds about right.

20 MR. SVEN HOMBACH: Mr. Czarnecki, I  
21 would suggest we take a one (1) minute break. Board  
22 counsel has not seen that email. Are you applying to  
23 introduce it into evidence?

24 MR. BRENT CZARNECKI: I was hoping not  
25 to, but the -- if I would have received agreement.

1 But if it's your wish, I'm more than happy to  
2 distribute a copy to everyone.

3 MR. SVEN HOMBACH: I would suggest  
4 that before you continue that's the appropriate course  
5 of action.

6 MR. BRENT CZARNECKI: Thank you, Mr.  
7 Hombach.

8

9 --- Upon recessing at 9:29 a.m.

10 --- Upon resuming at 9:35 a.m.

11

12 THE CHAIRPERSON: Mr. Czarnecki, I  
13 take it this document must be recognized an exhibit.

14 MR. BRENT CZARNECKI: Yes. Thank you,  
15 Mr. Chairman. I believe it's Centra Exhibit 16. And  
16 -- and I will just be very brief with this document.

17

18 --- EXHIBIT NO. CENTRA-16: May 26, 2013, email from

19 Mr. Jerrold Oppenheim

20

21 CONTINUED BY MR. BRENT CZARNECKI:

22 MR. BRENT CZARNECKI: Sir, the  
23 document speaks for itself. But I just would like to  
24 confirm with you that you sent this email on Sunday,  
25 May 26th, 10:09 Central Standard Time. And that was



1 the evening before your evidence was to be filed in  
2 this proceeding.

3 Is that correct?

4 MR. JERROLD OPPENHEIM: I don't  
5 remember when I filed the testimony.

6 MR. BRENT CZARNECKI: Well -- well --

7 MR. JERROLD OPPENHEIM: But --

8 MR. BRENT CZARNECKI: -- you did. I  
9 can help you, sir. You filed your testimony on May  
10 the 28th, which was the Tuesday. It's on your report.

11 MR. JERROLD OPPENHEIM: Okay, thank  
12 you. But this was not necessarily in preparation for  
13 the testimony itself. It was preparation -- pardon  
14 me, for today should it come, and also for  
15 conversations that I was having with my client.

16 You -- as you can see from the first  
17 paragraph, the topic is not energy efficiency, it's  
18 bill assistance, and more specifically in that, the  
19 low-income discount rate idea, which has been rather  
20 thoroughly discussed in the last Manitoba Hydro case.

21 And the -- the point of the sentence  
22 that you read was to say that the -- having Canadian  
23 citations would be more persuasive but not -- it's --  
24 it's not to say that they would be any more important  
25 in a substantive way. But as I'm sure you understand

1 as a lawyer, the closer one can come in a citation to  
2 the jurisdiction that you're in, the more persuasive  
3 it often is.

4 MR. BRENT CZARNECKI: Thank you, sir.  
5 And instead of the word 'persuasive' I see -- I do see  
6 the word 'relevant'.

7 MR. JERROLD OPPENHEIM: The words are  
8 relevant to cite, and the purpose for that is in order  
9 to be more persuasive.

10 MR. BRENT CZARNECKI: And -- and you,  
11 sir, as legal counsel, understand that relevancy is an  
12 important test before this Public Utilities Board?

13 MR. JERROLD OPPENHEIM: I hear that as  
14 a different question from what we've been talking  
15 about but, yes, of course. Relevance is always  
16 important.

17 MR. BRENT CZARNECKI: Thank you, Mr.  
18 Chairman. Those are my questions on behalf of -- to  
19 Mr. Oppenheim on his witness qualifications.

20 Now, procedurally I'm not sure where  
21 Mr. Hombach wants to go but I -- I would like to  
22 address further at some point the -- how Mr. Oppenheim  
23 was qualified by Mr. Masi and -- and to try and  
24 attempt to limit that as to what we've just heard.

25 MR. SVEN HOMBACH: Mr. Chairman, I

1 myself have a few follow-up questions to Mr.  
2 Oppenheim. I would suggest that after that Mr. Masi  
3 be given the opportunity for a brief re-direct. At  
4 that point I would suggest you hear submissions from  
5 Mr. Czarnecki as to whether or not he is prepared to  
6 have Mr. Oppenheim admitted to -- as an expert, or  
7 whether he's objecting.

8 THE CHAIRPERSON: Thank you, Mr.  
9 Hombach. Go ahead, please.

10

11 CROSS-EXAMINATION BY MR. SVEN HOMBACH (QUAL.):

12 MR. SVEN HOMBACH: Mr. Oppenheim,  
13 you've given evidence at the last Centra general rate  
14 application in Manitoba on behalf of CAC?

15 MR. JERROLD OPPENHEIM: That's  
16 correct.

17 MR. SVEN HOMBACH: And I understand  
18 you submitted a written report into evidence that was  
19 dated May 11, 2008, in that general rate application?

20 MR. JERROLD OPPENHEIM: I don't  
21 remember the exact date but that sounds about right.

22 MR. SVEN HOMBACH: And the Board  
23 accepted your evidence in that particular proceeding?

24 MR. JERROLD OPPENHEIM: That's my  
25 understanding, yes.

1 MR. SVEN HOMBACH: Now, I understand  
2 correctly that you had made a recommendation in that  
3 proceeding that the amortization of DSM should be  
4 reduced to a five (5) year period. Do you recall it?

5 MR. JERROLD OPPENHEIM: I -- I do.

6 MR. SVEN HOMBACH: And Centra  
7 previously had used a fifteen (15) year period?

8

9 (BRIEF PAUSE)

10

11 MR. SVEN HOMBACH: Sorry, Mr.  
12 Oppenheim, I think I misspoke. Your recommendation,  
13 if I recall, was that a ten (10) year amortization  
14 period would be appropriate?

15 MR. JERROLD OPPENHEIM: I don't -- I  
16 guess this shows that both of our memories are faulty  
17 about this. This was some time ago, of course, and I  
18 -- I don't remember the exact details. But, yes, I  
19 would suggest --

20 MR. SVEN HOMBACH: You accept it  
21 subject to check?

22 MR. JERROLD OPPENHEIM: I will accept  
23 it subject to check.

24 MR. SVEN HOMBACH: And Centra in that  
25 particular hearing had proposed a five (5) year

1 amortization period. Again, you accept that subject  
2 to check?

3 MR. JERROLD OPPENHEIM: Yes, I will.  
4 I think my point at the time was that it would be  
5 easier to finance if it were stretched out.

6 MR. SVEN HOMBACH: Have you had an  
7 opportunity to review the order that emanated from  
8 that proceeding, which I understand was Order 128/'09?

9 MR. JERROLD OPPENHEIM: I have. My  
10 recollection of it -- it's been a while since I looked  
11 at that issue, but my recollection of it is that the  
12 Board certainly accepted my evidence in the sense of  
13 accepting it as coming from an expert but did not  
14 accept my argument.

15 MR. SVEN HOMBACH: And if I may quote  
16 briefly from Order 128/'09, as I do not believe that  
17 particular section is on the record. The Board stated  
18 that:

19 "PUB does not agree with the  
20 position put forward by CAC/MSOS  
21 witness Mr. Oppenheim. A return to  
22 a fifteen (15) year amortization  
23 period for DSM expenditures would be  
24 contrary to the Board's view on what  
25 represents a more appropriate time

1 frame for amortization of DSM  
2 spending. That said, the Board  
3 notes that the shortened  
4 amortization period of five (5)  
5 years adopted for accounting for DSM  
6 expenditures by Centra in 2008 would  
7 have an impact on customer rates,  
8 and was a major driver for the rate  
9 increase sought in Centra's  
10 application. On balance, the Board  
11 favours an amortization period of  
12 ten (10) years, an approach  
13 consistent with the accounting  
14 treatment of electric DSM and would  
15 direct Centra to revise the  
16 amortization period prospectively to  
17 ten (10) years."

18 MR. JERROLD OPPENHEIM: Do -- do you --  
19 - I'm sorry, I've lost track of the question.

20 MR. SVEN HOMBACH: I merely read that  
21 section into the record. That was a recommendation  
22 that was a finding that emanated from the Board, which  
23 I understand neither accept -- fully accepted Centra's  
24 proposition for a five (5) year amortization, nor your  
25 proposition of a fifteen (15) year amortization, but

1 rather decided that ten (10) years, an amount in the  
2 middle, would be an appropriate amount --

3 MR. JERROLD OPPENHEIM: Yes.

4 MR. SVEN HOMBACH: -- of time? Okay.  
5 Those are my questions. Mr. Masi...?

6

7 (BRIEF PAUSE)

8

9 MR. D. TOMAS MASI: I do have one (1)  
10 follow-up question for re-exam for Mr. Oppenheim.

11

12 RE-DIRECT EXAMINATION BY MR. D. TOMAS MASI (QUAL.):

13 MR. D. TOMAS MASI: Mr. Oppenheim, are  
14 you aware of any other individuals that are considered  
15 experts in the field of low-income programs in terms  
16 of energy-efficient programs?

17 MR. JERROLD OPPENHEIM: Well, sure.  
18 My wife, for one. But, yes, there -- there is a small  
19 number of -- of experts in low-income energy  
20 efficiency. I'd have to guess that in Canada there --  
21 there might be a couple dozen, most of whom would  
22 probably think of themselves as advocates rather than  
23 expert witnesses. The US is a larger country, so  
24 there are more, but still -- still, a very small  
25 number relative to the size of the country.

1 MR. D. TOMAS MASI: Thank you, Mr.  
2 Oppenheim.

3 MR. SVEN HOMBACH: Mr. Chairman, I  
4 would suggest you call on Mr. Czarnecki to advise us  
5 to Centra's position.

6 THE CHAIRPERSON: Mr. Czarnecki,  
7 please.

8 MR. BRENT CZARNECKI: Thank you, Mr.  
9 Chairman. I guess the difficulty we have is that,  
10 previously, Mr. Oppenheim filed evidence in front of  
11 this Board, but he did not physically appear. And so,  
12 at that particular time, we didn't have to -- we  
13 didn't have the opportunity to have this session.

14 Now I understand that his evidence was  
15 referenced within the previous order. The vast  
16 majority of his recommendations were not followed, but  
17 it leaves us in the dilemma of having me think to say  
18 to you that I don't think it would be appropriate to  
19 have Mr. Oppenheim not testify today. I think he's  
20 here, he's filed evidence, he should be heard. So, in  
21 other words, I'm saying his evidence should be  
22 admissible and you should hear him today.

23 That said, Centra has significant  
24 concerns with how Mr. Oppenheim was qualified as an  
25 expert. And I wrote -- tried to write carefully as to



1 what Mr. Masi attempted to qualf him -- qualify him  
2 as, and I think I have it as the regulation and  
3 implementation of public utilities and low-income  
4 energy.

5 And our significant concern arises from  
6 the fact which we just heard, that, in his field, it's  
7 a fine line between activist or advocate, and an  
8 expert witness. And so we have some serious questions  
9 in terms of his level of independence, which is one  
10 (1) of the tests, I would submit to you, that forms an  
11 expert witness.

12 Secondly, and as important, is his  
13 experience is almost exclusively within the United  
14 States. I would also submit that a -- he is not  
15 current, as most experts like to keep. His -- some of  
16 his testimony he does not even recall when it was  
17 provided specifically.

18 It's dated, it's stale, so I -- on  
19 those two (2) fronts, Mr. Chairman, I would suggest to  
20 you that, when this Board is considering Mr.  
21 Oppenheim's evidence, that it keep these concerns top  
22 of mind when it accords what, if any, weight that it  
23 prescribes to his evidence going forward in terms of  
24 the applicability to the unique situation of Centra  
25 being a wholly-owned subsidiary of a Crown agency here

1 in Manitoba. Thank you.

2 MR. SVEN HOMBACH: Mr. Chairman, I  
3 would suggest the Board take a five (5) minute break,  
4 and then we'll proceed with the direct examination, if  
5 the Board decides to hear from Mr. Oppenheim.

6 MR. BRIAN MERONEK: Excuse me. I  
7 think we should be entitled to respond, and Mr. Masi  
8 will do so.

9 THE CHAIRPERSON: Mr. Masi, please.

10 MR. D. TOMAS MASI: Thank you, Mr.  
11 Chairman. Just a few points I would like to make,  
12 just in response to Mr. Czarnecki's position.

13 I -- I think it's quite clear from both  
14 Mr. Oppenheim's testimony today, as well as his resume  
15 and CV, that he has vast and extensive experience with  
16 respect to -- or at least in the area of regulation  
17 and implementation of public-utility-funded low-income  
18 energy efficient programs. I think that is quite  
19 clear. And I -- I do think it's very useful for the  
20 Board, his testimony, in that regard.

21 And I do take issue with Mr.  
22 Czarnecki's position with respect to Mr. Oppenheim's  
23 written testimony that was submitted at the previous  
24 Centra GRA. I think that Centra had every chance and  
25 ability to -- to question that testimony going in if

1 they actually had questions with his expertise.

2                   They could have had him called as a  
3 witness in the testimony, and they chose not to. I  
4 can only assume that that means that they were --  
5 they've -- they decided that his expert testimony was  
6 acceptable. And I -- I assume we can deal with that  
7 more in argument, but -- but I do think that that  
8 should be noted.

9                   THE CHAIRPERSON:    Okay, with that --

10                  MR. D. TOMAS MASI:    Sorry, I --

11                  THE CHAIRPERSON:    -- sorry.

12                  MR. D. TOMAS MASI:    -- I do have one  
13 (1) -- one (1) final point, sorry. Mr. Czarnecki also  
14 questioned Mr. Oppenheim's independence. However, I  
15 didn't -- in my -- my respectful position on it is  
16 that I don't think his independence was questioned at  
17 all to date.

18                   And again that can be dealt with more  
19 in argument, but -- but as it stands I don't think his  
20 independence has been questioned at all with respect  
21 to his expert testimony. Those are my submissions.

22                  THE CHAIRPERSON:    With that, let's  
23 take five (5) minutes, please.

24

25 --- Upon recessing at 9:49 a.m.

1 --- Upon resuming at 9:59 a.m.

2

3 RULING (QUALIFICATION):

4 THE CHAIRPERSON: The Board has had an  
5 opportunity to -- to consider the questions and  
6 responses from Mr. Oppenheim, the questions from the  
7 legal counsel and so on. So the Board in particular  
8 acknowledges Mr. Czarnecki's comments regarding Mr.  
9 Oppenheim. The Board also understands that Centra is  
10 not actually objecting to his providing evidence.

11 The Board has decided to accept Mr.  
12 Oppenheim as an expert witness. The Board therefore  
13 is prepared to hear from Mr. Oppenheim. The Board  
14 will not limit his testimony, and any concerns that --  
15 that Centra has regarding his evidence should be  
16 addressed as part of the closing arguments from  
17 Centra.

18 So with that, I would turn the  
19 microphone back to Mr. Masi.

20 MR. D. TOMAS MASI: Thank you, Mr.  
21 Chair.

22

23 EXAMINATION-IN-CHIEF BY MR. D. TOMAS MASI:

24 MR. D. TOMAS MASI: Mr. Oppenheim,  
25 when you were retained as an expert witness by CAC,

1 what issues did CAC ask you to review relative to the  
2 Centra GRA Application and filing?

3 MR. JERROLD OPPENHEIM: CAC asked me  
4 to review the case as it then stood, which was  
5 basically the Application, with respect to low-income  
6 energy efficiency, and in response I identified four  
7 (4) broad issues to recommend that be addressed in  
8 this testimony.

9 One (1) is the -- the pace of the  
10 implementation of the Furnace Replacement Program;  
11 secondly, the coverage of low-income renters; third,  
12 the process and impact evaluations and the conduct of  
13 those; and, finally, the -- the general topic of bill  
14 assistance.

15 MR. D. TOMAS MASI: Mr. Oppenheim, do  
16 you have an opinion with respect to the pace of the  
17 implementation (sic) of the Furnace Replacement Program  
18 by Centra?

19 MR. JERROLD OPPENHEIM: Well, I do. I  
20 guess the one (1) -- the one (1) word response would  
21 be it's slow. The -- the Company thus far has  
22 achieved a pace at less than -- by its own numbers,  
23 less than half of the budget that's been set out for  
24 that program, as well as, as you would expect from  
25 that, less than half of the population goals.

1 I should say the Company knows that  
2 those are based on what they refer to as crude  
3 estimates, and we certainly agree with that. But  
4 taking those at face value, it would take almost  
5 twenty-four (24) years at this pace to -- to reach the  
6 Board's goal, if low-income folks didn't give up and  
7 replace the furnaces they had on their own.

8 It -- it seems to me that the -- what -  
9 - what the Company is saying is that they are  
10 satisfied with a pace of implementation that matches  
11 or approximates the US average. And I guess my  
12 response to that would be that that's essentially  
13 equivalent to saying that, We want to be mediocre,  
14 because that's what the US average is.

15 It's -- it's -- the performance across  
16 the United States varies considerably. There are a  
17 few leaders, there are a few who don't do much of  
18 anything, and then there's a vast group in the middle  
19 that are, in my view, mediocre at best. And that  
20 seems to be the -- the goal that Centra is seeking to  
21 reach.

22 And I would submit that a more  
23 appropriate goal would be to approach the leaders in  
24 the US or somewhere else. The -- the pace at which,  
25 for example, California targets its programs,

1 according to Mr. Dunsky, is -- is 8 percent of the --  
2 of the target population per year. In Massachusetts,  
3 I calculate roughly that the pace and the -- on the  
4 gas side is about 7 percent a year.

5                   The Company seems to be achieving  
6 around 2 to 3 percent. And that's with a vastly  
7 narrower program, that we're just talking in Manitoba  
8 about the Furnace Replacement Program when we say 2 to  
9 3 percent. Massachusetts and California, 7 and 8  
10 percent, is for an extraordinarily comprehensive  
11 program where everything is -- is done, including air  
12 sealing weatherization and furnace and boiler  
13 replacements, all at no cost to the low-income  
14 consumer.

15                   So a far more aggressive program, and a  
16 much more rapid pace. And that would be a more  
17 appropriate target if the Company were to compare  
18 itself to -- to someone else.

19                   MR. D. TOMAS MASI: Mr. Oppenheim, in  
20 your evidence, you suggest that Centra has not  
21 completed the demographic study it was ordered by the  
22 Board to complete.

23                   Can you please explain your position in  
24 this regard?

25                   MR. JERROLD OPPENHEIM: Certainly.

1447

1 This has been kind of a long story, because the Board  
2 initially ordered a demographic study back in 2007,  
3 and nothing was filed, as I understand it, until 2010.  
4 And even then, one (1) very significant part of the  
5 order was not followed, and if I may just quote the  
6 sentence, it -- the -- this Board asked for:

7 "The neighbourhoods where lower-  
8 income consumers reside in order  
9 that  
10 part] -- in order that targeted  
11 mailings and other marketing  
12 activities can be directed where  
13 they will be best received."

14 So the -- closed quote. So the purpose  
15 of the study in the Board's view on 128/'09 was to  
16 assist in the marketing efforts. The Company's  
17 response in discovery was that they didn't design  
18 their survey to elicit that information, despite, I  
19 would add, the order that it do so.

20 And what it did instead is it looked at  
21 some seven (7) year old census data in a way that's  
22 not clear. It's -- the Company was opaque about what  
23 they actually did with that census data. So it's --  
24 it's impossible for me or for you to review it.

25 But whatever they did it's apparent



1 that the marketing itself has not been very  
2 successful, the focus studies that the -- the focus  
3 study, rather, that the Company itself filed indicates  
4 that there are segments of the low-income population  
5 that is -- are not responding very well to the  
6 marketing, or at least some of the marketing that the  
7 -- the Company has done.

8 And it's clear that a better  
9 understanding of the neighbourhoods is needed in order  
10 to reach low-income folks in those neighbourhoods.

11 MR. D. TOMAS MASI: Mr. Oppenheim,  
12 Centra projects that -- that all estimated -- and I  
13 think it was later clarified by Centra in -- in its  
14 testimony at this hearing that almost all standard  
15 efficiency furnaces used by LICO-125 customers will --  
16 will be replaced by the fiscal end of 2018/2019.

17 And just as a reference point, if -- if  
18 anyone needs to go to it it's Board counsel's book of  
19 documents Tab 22 at page 85: (as read)

20 "An assumption made by Centra with  
21 respect to this projection is that a  
22 significant number of LICO-125  
23 customers with standard efficiency  
24 furnaces will replace these furnaces  
25 on their own without utilizing the

1                               Furnace Replacement Program."

2                               Do you have an opinion with respect to  
3 Centra's assumption?

4                               MR. JERROLD OPPENHEIM:    I do.   A  
5 couple of thoughts.   One (1) -- one (1) is that the  
6 assumption itself, according to the Company's data is  
7 probably wrong.   The -- the Company's residential  
8 energy use survey report for the LICO sector, which  
9 was provided in discovery at CAC/CENTRA-1-20A, Table  
10 5.6, and what that says is that the average, at least  
11 as of 2009, the average life of a low-income furnace  
12 was thirty-two point six (32.6) years, not -- not  
13 twenty (20).

14                            So that suggests that there are a lot  
15 of low-income furnaces out there that are even older,  
16 perhaps forty (40) years, who knows.   So the -- the  
17 assumption itself is -- is questionable.   But more  
18 important I think is -- is the assumption behind the  
19 assumption, which is that it's okay for the Company to  
20 wait for low-income customers to replace their own  
21 furnaces while the Company just kind of watches and  
22 doesn't spend the money that this Board has set aside  
23 for the purpose.

24                            One (1) of the problems -- one (1) of  
25 the reasons that the program is proceeding so slowly,

1 in my opinion, is because of the level of co-payment.  
2 It doesn't amount to much of an incentive to a poor  
3 person to tell them, Here participate with us and five  
4 (5) years from now your heating bill will go down.

5 That's taking the Company's claim at  
6 face value. We're talking about people who can't  
7 afford to put food on the table next week. They're  
8 worried about how to pay the rent next month. The --  
9 the idea of planning financially five (5) years ahead,  
10 impossible. They don't know even where they'll be  
11 living in many cases in five (5) years.

12 So it's -- it's amazing that they've --  
13 to me, that they've gotten any participation at a --  
14 at what amounts to a break-even rate. But I suppose  
15 the answer to that is this is an average. All of  
16 these calculations are based on averages. So it may  
17 be the case that at nineteen dollars (\$19), on  
18 average, some folks will break even. People with  
19 particularly low par -- high bills rather, might save  
20 more. And so for them this might be a better than  
21 average deal and then they would participate. For  
22 people who have smaller bills, the reverse would be  
23 true and this would operate as no incentive at all.

24

25 (BRIEF PAUSE)

1 MR. D. TOMAS MASI: Mr. Oppenheim, in  
2 your opinion does co-payments reduce participation?

3 MR. JERROLD OPPENHEIM: I think it  
4 does. There -- I don't know of any systematic study  
5 that's been done. I think that's probably because  
6 most people look at the question and just say, Well of  
7 course.

8 But as Mr. Dunsky said, there is  
9 certainly anecdotal evidence on the subject. And one  
10 (1) anecdote I can give you is -- has to do with  
11 landlords in Massachusetts where that's a very  
12 difficult sector to penetrate in the first place, as  
13 the Company has said, and I agree, but we tackled that  
14 problem.

15 We had originally started out, I think  
16 partly because the feeling was, Well it is -- this is  
17 a bunch of slum lords. We don't want to give  
18 something away to them so we're going to force them to  
19 pay part of the cost of this heating system that we  
20 want to provide. And most of the landlords said:  
21 Well, the heck with that. We're not going to get the  
22 benefit anyway if the -- if the tenant is paying so  
23 we're not going to participate.

24 We dropped the cost to -- to the  
25 landlord to zero, provided the landlord agreed not to

1 raise the rent based on that improvement. And  
2 suddenly the market opened, and we have had no problem  
3 in fully spending -- actually we're -- well, just for  
4 example, here we are in June and the allocation for  
5 that part of the budget is already committed.

6                   So we're having no problem at all in  
7 reaching landlords at no co-payment where we had a  
8 terrible time reaching landlords with a co-payment.  
9 So that's -- that's one (1) more data point that would  
10 suggest that a co-payment makes a huge difference in -  
11 - in participation.

12                   The -- the custom in most of the US is  
13 to not require co-payments for any low-income measure,  
14 as Mr. Dunsky also pointed out. And that's resulted  
15 in very good participation.

16                   THE CHAIRPERSON:   How long did the --  
17 the moratorium on the rent increase last for the land  
18 -- participating landlord?

19                   MR. JERROLD OPPENHEIM:   That actually  
20 varies depending on the type of building. For -- and  
21 it also varies a little bit by administering agency.  
22 So for the smaller buildings which are two (2) to four  
23 (4) units, I believe the requirement is one (1), two  
24 (2), or three (3) years. For the larger buildings,  
25 five (5) and above, the requirement is that the

1 building be maintained for low-income residence for a  
2 period of at least ten (10) additional years.

3

4 (BRIEF PAUSE)

5

6 MR. JERROLD OPPENHEIM: I don't -- and  
7 the latter, of course, encompasses many more units  
8 because you get a lot at a time. I think in response  
9 to the Board staff -- Board counsel, I provided  
10 samples of some of those two (2) to four (4) unit  
11 agreements. And they're -- they're actually in the  
12 book at...

13

14 (BRIEF PAUSE)

15

16 MR. JERROLD OPPENHEIM: Starting at  
17 page 557 at the end of Tab 71.

18

19 (BRIEF PAUSE)

20

21 CONTINUED BY MR. D. TOMAS MASI:

22 MR. D. TOMAS MASI: Mr. Oppenheim,  
23 what do you recommend with respect to the Furnace  
24 Replacement Program in order to achieve better  
25 results? And by better results I guess I should

1 specify greater participation.

2 MR. JERROLD OPPENHEIM: Yes. Two (2)  
3 -- two (2) major changes, at least. One is to reduce  
4 the co-payment that we were just talking about. And  
5 my recommendation would be to reduce it by half in  
6 order to provide -- keep the timetable the same, but  
7 reduce the actual co-payment by half to provide an  
8 incentive right away for folks to participate because  
9 they would see -- at least most would see an immediate  
10 reduction in their heating bill.

11 If you did that and you increased the  
12 timeline for the program from the six (6) remaining  
13 years, increased to eight (8) years, so add two (2)  
14 years, and then, of course, use the fund that's been  
15 accumulated and the 3.8 million a year, you'd need to  
16 add about three hundred thousand dollars (\$300,000)  
17 per year is my calculation in order to reduce that co-  
18 payment by half.

19 And the viewpoint of my client is that  
20 that's such an infinitesimal -- it would represent  
21 such an infinitesimal increase in rates that it would  
22 be acceptable from their point of view. So that's one  
23 (1) thing I would do.

24 The other recommendation I have is to  
25 bring community organizations much more deeply into

1 the implementation and marketing of the programs since  
2 the Company really doesn't seem to understand how to  
3 reach or speak with this population. And by  
4 definition, the community-based organizations, that  
5 I'm referring to, do. They are rooted in those  
6 communities.

7                   So what I would suggest is that this  
8 Board order the Company to put out an RFP to community  
9 organizations to actually market and operate the  
10 program, so not -- not, as present, to consult or meet  
11 or hire one (1) canvasser or anything like that, but  
12 to -- to use their deep knowledge of the community in  
13 order to reach that community and then -- and then to  
14 implement a program.

15

16                   (BRIEF PAUSE)

17

18                   MR. D. TOMAS MASI: In Centra's  
19 rebuttal evidence, and just for a reference point, Tab  
20 70 of the board -- Board counsel's supplementary book  
21 of documents, page 532:

22                   "Centra takes the position that the  
23 development of a community  
24 organization or agency that would be  
25 capable of operating a program of



1 the size and scope of LIEEP or FRP -  
2 - or the FRP could take significant  
3 time and resources to establish and  
4 implement."

5 Do you agree with this statement?

6 MR. JERROLD OPPENHEIM: Not --  
7 certainly not from the Company's point of view. All I  
8 would ask the Company to do is put on an RFP, which is  
9 -- does not require much in the way of resources, and  
10 perhaps also to provide small planning grants to the  
11 community organizations to help them develop, first of  
12 all, networks to bid, and then, secondly, to actually  
13 develop the bids. That wouldn't require enormous  
14 amounts of money or other resources either.

15 Now, that said, from the organization's  
16 point of view, from the community organization's point  
17 of view, this is a big deal. What this program  
18 requires of the winner of the bid is a very serious  
19 effort, would take very deep resources and very deep  
20 commitment.

21 Now, that commitment is probably the  
22 most important thing that, from all appearances to me,  
23 has been lacking so far. And the commitment can make  
24 up for a lot of resources, but it's going to take an  
25 enormous -- an enormous effort that should not be

1 underestimated in order to -- in order to get a  
2 successful program established, and then running.

3               So in -- in that connection, I would  
4 suggest a couple of timing issues. One (1) is that  
5 they're -- when the RFP that I propose is issued there  
6 needs to be an adequate amount of time for the  
7 organizations to talk to each other, form networks.

8               I mean, bear in mind these  
9 organizations -- and this is what we want. These  
10 organizations serve particular neighbourhoods or  
11 particular communities of people. But you don't want  
12 to limit the program to that. You want to cover a  
13 broad cross-section, everybody who is identifiable as  
14 low income.

15              So that's going to require these groups  
16 to get together. And so you need to allow time for  
17 that to happen and for them to develop their  
18 relationships and figure out who is going to do what  
19 and all those sorts of things. So you -- the RFP  
20 process needs to allow at least several months for  
21 that to occur.

22              Once a winner is chosen, then there  
23 needs to be time for the program to actually get  
24 established. And so it may make sense for the current  
25 Centra program to be run, at least for a time, in

1 parallel with the new program as the community  
2 organizations program is ramped up.

3           The Company has pointed out that it is  
4 uniquely positioned to implement a program like this,  
5 and that's true. In many jurisdictions where I've  
6 worked, it's hand in hand with the utility. Not  
7 always. There are places where the judgment was made  
8 that the utility just isn't going to do the job and it  
9 needs to be handed over to somebody else.

10           But in -- in truth, the Company has  
11 engineering resources, financial knowledge, data. It  
12 could be shared, and in some cases it would have to be  
13 shared in any case. And it would certainly be helpful  
14 to the community organizations if the Company did  
15 that.

16           The -- the problem, it seems to me, is  
17 that the Company really doesn't like the Furnace  
18 Replacement Program. I -- from my reading of the  
19 transcript the Company's attitude seems to be that  
20 they don't like the economics of the program from  
21 their point of view. So they -- but they of course  
22 recognize the Board's authority to order them to run  
23 the program, so they're doing that.

24           But they're doing, it appears to me,  
25 the absolute minimum that they think they have to do

1 in order to be in compliance with the Board's order.  
2 And that's -- that's really the opposite of the kind  
3 of commitment that is necessary in order to make a  
4 program like this work. You've -- you've got to have  
5 a very strong commitment to making it work in order to  
6 make it work. And that -- that seems to have been  
7 lacking. The Company has really had -- seems to have  
8 had the attitude of implementing the program under  
9 duress, and that -- that doesn't achieve the best  
10 results.

11

12 (BRIEF PAUSE)

13

14 MR. D. TOMAS MASI: Mr. Oppenheim, in  
15 your evidence you suggest that the LIEEP program and  
16 the FRP should include renters.

17 Can you expede -- can you please  
18 explain why you take this position?

19 MR. JERROLD OPPENHEIM: Yes, just as  
20 the low-income population on the whole is about 20  
21 percent of the population, all contributing to the  
22 fund that created the -- a program and therefore  
23 should be served in a serious way, the low-income  
24 renters comprise almost 10 percent of the population,  
25 according to the Company's data. And they contribute

1 to the fund that operates this program.

2 Yet it is the case that, with the --  
3 the exception of one (1) project in -- in an  
4 Aboriginal community that appears to be a one (1) off,  
5 at least so far, and it only has eight (8) or nine (9)  
6 installations to date, with that one (1) exception,  
7 there is no LICO-tenant-specific program. So here --  
8 here we have almost 10 percent of the population  
9 contributing to a program that provides them with  
10 nothing.

11 And I would add that the -- the  
12 response that there as a -- a PAYS, Pay As You Save,  
13 program, is -- is not an adequate response for at  
14 least two (2) reasons. One (1) is that it appears to  
15 not have actually been a -- adopted, with that one (1)  
16 exception I mentioned earlier. It does not appear to  
17 have been adopted in any building housing low-income  
18 tenants.

19 But the other, more serious problem is  
20 that with PAYS for low-income tenants is that it  
21 provides no benefits for the tenants. The tenants get  
22 to pay for the heating system, but according to the  
23 Company's statements they calculated the payment under  
24 Pay As You Save to approximate the savings.

25 So that means, at best, that the tenant

1 breaks even. And the winner, if there is one (1), is  
2 the landlord, who gets the benefit of the actual  
3 physical equipment.

4

5 (BRIEF PAUSE)

6

7 MR. D. TOMAS MASI: Mr. Oppenheim, do  
8 you have any recommendations as to how a LICO-125  
9 tenant-specific energy efficient program should be  
10 developed?

11 MR. JERROLD OPPENHEIM: Excuse me. I  
12 do, and I -- but I would first acknowledge that this  
13 is probably the most difficult sector to reach, so it  
14 has to be taken very seriously. And that perhaps is  
15 the most important point, that you can't take a  
16 collection of programs that were developed to target  
17 other sectors, like commercial and industrial, or  
18 landlords in general, and expect that that program  
19 will successfully reach low-income tenants, and low-  
20 income landlords.

21 They are for -- for this purpose at  
22 least, unique, and they need to be approached with a  
23 unique program. So I think the -- the program to  
24 reach them needs to be at least as generous as the  
25 program that I proposed for the Furnace Replacement

1 Program generally.

2 And those who are on social assistance,  
3 meaning that their utility bill is already capped and  
4 paid for, need not and should not be part of the  
5 program because basically they -- the tenants would  
6 get nothing from that. And -- and finally the -- the  
7 rental agreements, the rent freeze agreements that I  
8 mentioned earlier in response to the Chair's question  
9 should become part of -- of any such program.

10 MS. MARILYN KAPITANY: Mr. Oppenheim,  
11 can you just clarify what you said about tenants on  
12 social assistance? Those rental dwellings should not  
13 be part of the program? How would you proceed with  
14 reaching those homes then?

15 MR. JERROLD OPPENHEIM: My -- my  
16 understanding is that for those tenants, the utility  
17 bill is essentially set as part of the social  
18 assistance program. If it's not adequate, or if it's  
19 too high because the equipment is inefficient, that  
20 needs to be addressed for sure.

21 But I don't think that the utilities or  
22 this Board is well positioned to address it. It needs  
23 to be addressed through the social service channels.

24 MS. MARILYN KAPITANY: So then how  
25 would you propose to reach those homes in terms of

1 furnace replacement?

2 MR. JERROLD OPPENHEIM: Well, we're  
3 reaching a little -- a little outside my expertise  
4 because it would require a negotiation with whomever  
5 it is who is responsible for setting the terms of the  
6 social assistance policy.

7 I mean, some programs that have -- that  
8 I do know about that have been done have allocated  
9 funds to the social assistance programs, or the  
10 housing programs, in order to fund the replacement of  
11 those furnaces. And -- and then you have to make sure  
12 that the reduction in utility bill requirements is  
13 passed through into the payment that the tenants are  
14 expected to make.

15 So it's a different -- I mean, it's the  
16 same end result but it's -- you need a different  
17 process in order to get there.

18

19 (BRIEF PAUSE)

20

21 CONTINUED BY MR. D. TOMAS MASI:

22 MR. D. TOMAS MASI: Mr. Oppenheim, in  
23 your evidence you indicated that Centra has failed to  
24 plan or conduct appropriate evaluation of its lower-  
25 income demand-supply management programs.



1 Can you please explain how Centra has  
2 failed to conduct an appropriate evaluation of said  
3 programs?

4 MR. JERROLD OPPENHEIM: Yes, and let  
5 me start by explaining what the evaluations do.  
6 They're two (2) basic types of evaluation: a process  
7 evaluation and an impact evaluation. The process  
8 evaluation looks at the methods of implementation.  
9 The impact evaluation is an effort to actually measure  
10 the savings that occur.

11 The -- the Company actually did hire an  
12 independent evaluator, Mr. Dunsky, to conduct a  
13 process evaluation before it began the program. That  
14 was a good move. That gave them some advice in order  
15 to help them design the program. Unfortunately they  
16 didn't follow all of that advice. Perhaps that's why  
17 they're resisting going outside again.

18 In particular, Mr. Dunsky suggested  
19 that the co-payments were not a good idea, that it  
20 would inhibit uptake, as I think it has. But that  
21 illustrates why having a process evaluation is helpful  
22 because it helps you design the program or redesign  
23 the program.

24 And -- and that also is an illustration  
25 of why it is important to repeat them every once in a

1 while. So the Company had an independent process  
2 evaluation before the program began. And now here we  
3 are, five (5) years later, and it's time to see, to --  
4 for someone to take an independent look at how the  
5 program is actually operating.

6                   Is it following the original design?  
7 Should it follow the original design? Are there are  
8 some things that could be changed in order to make it  
9 work more efficiently or more effectively? And that's  
10 what I recommend the Company do for a process  
11 evaluation.

12                   These, just for an impact evaluation,  
13 are a little different. There -- there needs to be a  
14 quantita -- it's a quantitative look. And what the  
15 Company does now is it looks -- it develops  
16 engineering estimates, which is fine for a start, and  
17 it adjusts those engineering estimates. And it -- and  
18 it's on average -- takes average engineering estimates  
19 of the difference between an inefficient and an  
20 efficient heating system, and then it adjusts them by  
21 the average size of a low-income home.

22                   That is an interesting exercise, and a  
23 useful one, but it doesn't tell you much about what's  
24 actually happening in the field. Engineering  
25 estimates, first of all, could be wrong. You don't

1 know -- there could be -- you don't know the actual  
2 savings until you actually go out in the field and  
3 measure them in some way.

4                   There could be differences in  
5 installation, for example, there could be differences  
6 in the housing stock other than the square footage of  
7 the house. The mix of sizes in the house may not be  
8 the average. It may be skewed in one (1) direction or  
9 another.

10                   There will be differences depending on  
11 the amount of insulation in the house, differences in  
12 the construction of the house. Is it masonry or is it  
13 wood? So all these things affect the actual savings  
14 that occur. And that needs to, a) be looked at, and  
15 b) be looked at independently so that you, the Board,  
16 have a credible and reviewable estimate of what the  
17 savings actually have been over a particular period of  
18 time.

19

20                   (BRIEF PAUSE)

21

22                   MR. D. TOMAS MASI: Mr. Oppenheim, in  
23 your evidence, you recommend that bill assistance to  
24 LICO-125 customers should be further investigated. I  
25 guess, first off, it might be helpful if you explain

1 what you mean when you say, "bill assistance."

2 MR. JERROLD OPPENHEIM: Yes, I think  
3 it would. And I -- perhaps I should start by saying  
4 what it doesn't mean, at least exclusively. I know  
5 there's been a lot of debate about billing discounts,  
6 or discount rates, and that this has come before the  
7 Board.

8 And the idea of billing -- bill  
9 assistance that I have in mind is much, much wider  
10 than that. And there are many good reasons why a -- a  
11 generic, wide-ranging discount rate would not work  
12 here because your social support system is -- is very  
13 different from the place where the idea of the  
14 discount rate was developed, which is the US, where  
15 there are no such supports.

16 So you have a lot of people who would  
17 not actually benefit from a discount rate, because  
18 their utility bill is set in advance, effectively. So  
19 all you'd be doing is transferring money from one (1)  
20 government corporation to another.

21 So I don't -- I don't advocate for  
22 that, but I do advocate for providing more assistance  
23 than their currently is for folks, in that there needs  
24 to be a serious look taken at -- at what that -- what  
25 -- what that might be, and what other programs have

1 been done in various places, and how they might fit  
2 into the unique circumstances in Manitoba.

3                   And as I understand it, that's exactly  
4 the question this Board asked in the last Manitoba  
5 Hydro GRA, namely, You have some social service  
6 programs, you have some utility programs, both  
7 oriented towards helping folks pay their bills, is  
8 there a gap between the two (2) that could be filled  
9 by utility programs. And I think that needs to be --  
10 that very specific question needs to be specifically  
11 investigated.

12                   One (1) of the things that has  
13 happened, even just since the last Centra GRA order in  
14 '09 is that arrears are up about 25 percent. So  
15 there's -- there's clearly a problem that perhaps  
16 could be addressed by increasing bill assistance.

17                   That bill assistance could take the  
18 form of broader crisis management. There's some  
19 crisis assistance available now. Maybe that should be  
20 more -- more generous or more frequently provided or  
21 adjusted in some other way. There may be payment  
22 plans that could be developed that are easier for  
23 people to meet.

24                   There may be additional shut-off  
25 protections that could be considered. If you have a

1 weather moratorium, perhaps certain other classes of  
2 customers, such as elderly or ill, seriously ill,  
3 could be protected in some way.

4 But there's -- there's one (1) program  
5 in particular that I just want to describe briefly to  
6 you to give you an idea of the kind of thought that  
7 could go into the kind of investigation that I'm  
8 suggesting, and it's -- it comes from my home state of  
9 Massachusetts, where we run what we call an Arrearage  
10 Management Program.

11 The way it works is that, in -- in  
12 Massachusetts, the self-identified low-income  
13 customers are known to the company, so that's a big  
14 advantage, or the companies, I should say. So what  
15 the companies do is they go through their billing  
16 system every month and look for all the folks who are  
17 self-identified as low-income who have an arrearage  
18 over a specified amount. So let's say the specified  
19 amount is a thousand dollars. They -- they will  
20 identify those folks. And they will call them up on  
21 the phone. They will make outreach to them and say,  
22 We have a program that might help you reduce those  
23 arrears.

24 And the program is to develop a payment  
25 plan for the next year. And the payment plan is based

1 on an estimate of consumption minus whatever other  
2 benefits might come to that customer, and then put in  
3 a uniform amount, so a budget billing kind of process.  
4 And the customer is asked to make a uniform monthly  
5 payment of that amount.

6               Each month that the customer makes that  
7 payment their arrears are reduced by one twelfth. So  
8 there's pretty good incentive to make the payment on  
9 time. If a customer sticks with it for a year, which  
10 is not easy, so not everybody does it, then two (2)  
11 things are true. One (1) is that they no longer have  
12 those arrears that were identified. So that's a good  
13 thing. The other is that they have hopefully and, in  
14 many cases, have actually developed the habit of  
15 making that payment on time every month and they --  
16 and it's built into their budgeting process.

17               The utilities are thrilled with this  
18 because the result has been, although they've written  
19 off, of course, all those arrears, those are amounts  
20 that they would have written off anyway. But what  
21 they have received in return is payments that they  
22 would not have received. And they know that just from  
23 past experience.

24               So the revenue is up from this set of  
25 customers even though they've written off some of the

1 arrears. So that's -- that's just an example of the  
2 kind of creative thinking that might go into the  
3 development of a bill assistance program that would  
4 work specifically in -- in Manitoba.

5                   So my suggestion is to -- is to either  
6 open -- for the Board to open its own investigation  
7 and ask for proposals, or to order the Company to  
8 investigate what's been done in other places and to  
9 make their own recommendations. And then when they  
10 come in, of course, I'm sure that other folks will  
11 come in, as well, and share their -- their views with  
12 you and you can -- you can make a judgment about what  
13 you think might have to happen, but...

14                   So there's -- this -- this -- as I sit  
15 here, I certainly can't say there's any single right  
16 answer to this. But -- but there's clearly a problem.  
17 You have a group of people for whom, on average, the -  
18 - the energy burden, that is the fraction of income  
19 that they are devoting to energy, is two point six  
20 (2.6) times, according to the Company's data, two  
21 point six (2.6) times what -- that everybody else has  
22 to.

23                   So imagine if -- if your energy bill in  
24 total is two (2) and a half times bigger than it is.  
25 You'd notice. It would -- it would -- it may not be



1 the struggle that it is for low-income folks, but it  
2 certainly would be a lot harder than it is. And  
3 that's the position that these folks are in.

4 And by and large, they're folks who  
5 would like to pay their bills. So if there's some way  
6 that they can be helped to do that, I would hope that  
7 this -- this could be found through such -- through  
8 such an investigation.

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Mr. Masi, have you  
13 got lots of questions to go yet?

14 MR. D. TOMAS MASI: No, I -- I have  
15 actually one (1) last question.

16

17 CONTINUED BY MR. D. TOMAS MASI:

18 MR. D. TOMAS MASI: Mr. Oppenheim, are  
19 you aware of Centra or Manitoba Hydro contacting a  
20 client of your called Low-Income Energy Affordability  
21 Network, otherwise known as LEAN?

22 MR. JERROLD OPPENHEIM: I am. It --  
23 to the best of my memory, it was earlier this month,  
24 actually, early in the month. And the inquiry was  
25 made in sort of a general way to learn more about what

1 the LEAN program was about, and the request was to  
2 have a conversation about it.

3 MR. D. TOMAS MASI: Do you recall what  
4 form of correspondence this was in?

5 MR. JERROLD OPPENHEIM: There may have  
6 been a phone call. My memory thought clearly is that  
7 there was for sure a -- an email from -- from somebody  
8 at -- at one (1) of those two (2) companies.

9 MR. D. TOMAS MASI: Mr. Chairman, we  
10 would like to file that email as a -- as an exhibit  
11 with respect to this proceeding. However, we don't  
12 have copy, a physical copy of it on hand, so we were  
13 hoping to provide that maybe after the break, provide  
14 it to all parties first and then possibly file it as  
15 an exhibit.

16 MR. BRENT CZARNECKI: We have no  
17 objection. And, in fact, if you can't find it I'm  
18 sure we could find it for you.

19 THE CHAIRPERSON: So it's agreed  
20 you'll file it after break?

21 MR. D. TOMAS MASI: Yes, Mr. Chairman.  
22 Mr. Chairman, that concludes our direct-examination of  
23 Mr. Oppenheim and he is now available for cross-  
24 examination.

25 THE CHAIRPERSON: I would suggest that

1 we take fifteen (15) minutes. Is that enough Mr.

2 Czarnecki?

3 MR. BRENT CZARNECKI: Mr. Chairman,  
4 I'd appreciate about twenty (20) minutes based on the  
5 volume of his testimony this morning.

6 THE CHAIRPERSON: Okay. Let's --  
7 let's take twenty (20) then. So back -- back in this  
8 room at five (5) after 11. Thank you.

9

10 --- Upon recessing at 10:44 a.m.

11 --- Upon resuming at 11:05 a.m.

12

13 THE CHAIRPERSON: I believe we're  
14 ready to resume the proceedings. We have an exhibit  
15 to record.

16 MR. D. TOMAS MASI: I think Mr.  
17 Czarnecki was kind enough to make copies for everyone.

18 MR. BRENT CZARNECKI: Yes, it's in the  
19 process but, Mr. Chairman, I do have an undertaking to  
20 file, so I would use this time for that.

21 THE CHAIRPERSON: Yeah, let's do that,  
22 please.

23 MR. BRENT CZARNECKI: It would be  
24 marked as Centra Exhibit number 17, and it's  
25 Undertaking number 11 from transcript page 1,246. And

1 it had to do with a confirmation on Hydro -- Centra's  
2 understanding of retroactive testing from a previous  
3 Board order.

4

5 --- EXHIBIT NO. CENTRA-17: Response to Undertaking 11

6

7 MR. BRENT CZARNECKI: And -- and, Mr.  
8 Chairman, I now do have copies of the -- the email  
9 that was referenced by My Learned Friend. And I guess  
10 I would propose that we mark it as the next CAC  
11 exhibit, which is number 6.

12

13 --- EXHIBIT NO. CAC-6: Copies of email

14

15 THE CHAIRPERSON: Mr. Czarnecki,  
16 please?

17 MR. BRENT CZARNECKI: Thank you, Mr.  
18 Chairman.

19

20 CROSS-EXAMINATION BY MR. BRENT CZARNECKI:

21 MR. BRENT CZARNECKI: Mr. Oppenheim,  
22 I'm going to be referring again to Board counsel's  
23 supplementary book of documents, which is PUB Exhibit  
24 number 13. So if you have that at hand, that would be  
25 great. And I would start by directing your attention

1 to page 486.

2

3

(BRIEF PAUSE)

4

5

MR. JERROLD OPPENHEIM: I'm there.

6

MR. BRENT CZARNECKI: And, sir, you  
7 have a summary of Board orders. And I note you've  
8 quoted rather extensively from previous Board orders.  
9 And I just want to draw your attention to a few that  
10 you've quoted.

11

The first one (1) is on page 486 if you  
12 look to lines 34 to 35, and it says, "The Board is,"  
13 and then it has 'dot dot dot'. And when I read this I  
14 went back to the order to see what was missing from  
15 that particular quote. And subject to check, would  
16 you confirm that the full sentence would read:

17

"The Board is satisfied with the  
18 design of the LIEEP [or LIEEP] and  
19 FRP but..."

20

And then:

21

"...dissatisfied with the pace of  
22 actions undertaking."

23

MR. JERROLD OPPENHEIM: I'll accept  
24 that subject to check, sure.

25

MR. BRENT CZARNECKI: And I'm just

1 wondering, is there any reason why you chose to leave  
2 that certain section out, knowing that the Board would  
3 prefer to have full information before it?

4 MR. JERROLD OPPENHEIM: The purpose of  
5 this section is to discuss the pace, so I tried to  
6 limit the material I quoted which is, as you said, is  
7 already pretty extensive to that topic.

8 MR. BRENT CZARNECKI: Limit the  
9 material, sir? I counted ten (10) words that were  
10 omitted. Is that correct?

11 MR. JERROLD OPPENHEIM: If you say so.

12 MR. BRENT CZARNECKI: Likewise, if you  
13 can turn to page 496 of your evidence.

14 MR. JERROLD OPPENHEIM: Yes.

15 MR. BRENT CZARNECKI: And now I'm  
16 looking at lines 16 to 18.

17 MR. JERROLD OPPENHEIM: Okay.

18 MR. BRENT CZARNECKI: And I see again  
19 on line 18, 'dot, dot, dot', and again, subject to  
20 check, but when I look back at the order, the  
21 paragraph went on to say:

22 "As CAC/MSOS stated, the LIEEP, and  
23 particularly the FRP, is an 'amazing  
24 program' [in quotes] for low-income  
25 consumers."

1 Take that, subject to check?

2 MR. JERROLD OPPENHEIM: I'll take it  
3 subject to check, sure.

4 MR. BRENT CZARNECKI: And -- and  
5 again, sir, was it because of volume that you chose to  
6 omit that sentence?

7 MR. JERROLD OPPENHEIM: No. As I  
8 said, it's because of focus. I was focussed here, and  
9 wanted the reader to be focussed here, on the  
10 particular topic, which in this case is the inclusion,  
11 or not, of renters.

12 MR. BRENT CZARNECKI: And, sir, aside  
13 from the pace which we've heard you testify, is it  
14 your position, is it CAC's position, that the LIEEP  
15 and the FRP remains an amazing program?

16 MR. BRIAN MERONEK: Mr. Chairman, CAC  
17 will speak for itself when it comes to its position.  
18 Mr. Oppenheim is here to give his position. So if Mr.  
19 Czarnecki would restrict his question to his opinion,  
20 I'd be much happier.

21 MR. BRENT CZARNECKI: That's fine, Mr.  
22 Chairman.

23

24 CONTINUED BY MR. BRENT CZARNECKI:

25 MR. BRENT CZARNECKI: Mr. Oppenheim,

1 could you share your view whether or not you believe  
2 LIEEP and FRP remains an amazing program, as was cited  
3 by CAC in 2009?

4 MR. JERROLD OPPENHEIM: I think my  
5 testimony speaks to that rather thoroughly. In some  
6 respect, the program is a good one; in other respects,  
7 it is lacking. And I've tried to detail those areas  
8 where I think that -- the most important areas where I  
9 think that is so.

10 MR. BRENT CZARNECKI: And if I can  
11 drop your eyes down a little further on that same  
12 page, 496, to lines 27, where again I see 'dot, dot,  
13 dot'.

14 MR. JERROLD OPPENHEIM: Yes.

15 MR. BRENT CZARNECKI: And to fill in,  
16 again subject to check, it should read:

17 "Advantage of the programs and  
18 what's missing is due to the  
19 monetary contributions required to  
20 participate. The LIEEP and the FRP  
21 are now structured to -- to such  
22 that lower-income residential  
23 customers will be able to afford the  
24 DSM initiatives which are expected  
25 to reduce their energy bills while



1 also assisting with the reduction of  
2 GHGs."

3 MR. JERROLD OPPENHEIM: I'll take that  
4 subject to check, although I don't agree with it.

5 MR. BRENT CZARNECKI: You don't agree  
6 with that particular Board finding?

7 MR. JERROLD OPPENHEIM: No, and that's  
8 one (1) of the reasons for my testifying today.

9 MR. BRENT CZARNECKI: Now, back to  
10 page 489, please, sir.

11 MR. JERROLD OPPENHEIM: Okay.

12 MR. BRENT CZARNECKI: And I'm now  
13 looking at lines 10 to 13. And you state that:

14 "The evidence shows that Centra has  
15 been slow to begin compliance with  
16 Board directives concerning  
17 demographic studies and marketing,  
18 and has never complied with Board  
19 orders regarding program pace."

20 MR. JERROLD OPPENHEIM: I see that.

21 MR. BRENT CZARNECKI: And the last  
22 time you filed evidence with respect to the '09/'10,  
23 '10/'11 GRA, you had recommended a five (5) year  
24 period for the pace of replacing furnaces?

25 MR. JERROLD OPPENHEIM: I believe so,

1 subject to check, yeah.

2 MR. BRENT CZARNECKI: And subject to  
3 check again, would you agree that the Board rejected  
4 your time period and ordered a ten (10) year period  
5 for the pace of the FRP program?

6 MR. JERROLD OPPENHEIM: Yes, and my  
7 point here is that that is not going to be reached  
8 either, at least not with the Board's -- sorry, not  
9 with the Company's efforts. It's mostly going to be -  
10 - if it's reached, it'll be reached as a result of  
11 efforts by the customers themselves.

12 MR. BRENT CZARNECKI: And the ten (10)  
13 year period from 2009, if my math is correct, would  
14 take us to 2019, sir?

15 MR. JERROLD OPPENHEIM: 2009 plus ten  
16 (10) is 2019, yes.

17 MR. BRENT CZARNECKI: And then  
18 therefore, Mr. Oppenheim, would you not agree that  
19 Centra is not non-compliant, as you allege, in terms  
20 of the pace of the program?

21 MR. JERROLD OPPENHEIM: No, I don't  
22 agree with that. In my -- in my view, the Company is  
23 relying upon low-income customers to replace their own  
24 units and to reach the Board's target in that way  
25 through insufficient effort by the Company.

1 MR. BRENT CZARNECKI: I understand  
2 your perspective. And maybe I wasn't clear. But you  
3 would agree that Centra is not non-compliant with the  
4 existing Board order of ten (10) years for the pace of  
5 furnace replacement?

6 MR. JERROLD OPPENHEIM: I just  
7 explained why I do not agree with that statement.

8

9 (BRIEF PAUSE)

10

11 MR. BRENT CZARNECKI: Further down the  
12 page of 489 I'd like to address lines 36 to 39, in  
13 particular the sentence that reads:

14 "Thus the Company appears to be  
15 reaping profits at the expense of  
16 its lower-income customers."

17 Do you see that line?

18 MR. JERROLD OPPENHEIM: I do.

19 MR. BRENT CZARNECKI: And I understand  
20 you made that statement in reference to your position  
21 that Centra's administrative expenses are at 32  
22 percent?

23 MR. JERROLD OPPENHEIM: Well, it's --  
24 it's really a combination of factors. One (1) is that  
25 they're at 32 percent. One (1) is that they've risen

1 from much less than that. And third is that this is  
2 in the context of a program that, in my view, is  
3 failing.

4 MR. BRENT CZARNECKI: Thank you for  
5 your position again, sir. Did you use the word  
6 'appears' intentionally?

7 MR. JERROLD OPPENHEIM: I guess I was  
8 trying to be kind, sir.

9 MR. BRENT CZARNECKI: Kind. Maybe I  
10 can suggest you used the word 'appears' because you  
11 have no evidence supporting that allegation?

12 MR. JERROLD OPPENHEIM: I think the  
13 evidence is clear that the administrative -- from the  
14 Company's own responses in discovery, that the  
15 administrative costs are at 32 percent.

16 MR. BRENT CZARNECKI: Agree, sir. But  
17 with respect to reaping profits, you have no evidence  
18 of that?

19 MR. JERROLD OPPENHEIM: I think we're  
20 into a semantic territory that I'm not sure I  
21 understand.

22 MR. BRENT CZARNECKI: Sure. Mr.  
23 Oppenheim, what's your understanding of Centra's  
24 ownership structure?

25 MR. JERROLD OPPENHEIM: My

1 understanding is that Centra is owned by Manitoba  
2 Hydro which is, in turn, owned by the government.

3 MR. BRENT CZARNECKI: And is it your  
4 understand then, sir, that there's no private  
5 shareholder of Centra?

6 MR. JERROLD OPPENHEIM: Oh, sure.  
7 Just like any nonprofit corporation, however, there  
8 are profits, what -- however they're called.

9 MR. BRENT CZARNECKI: Okay, but -- and  
10 in the circumstances of a cost-of-service, Centra or  
11 Manitoba Hydro, we refer to profits as 'net income'?

12 MR. JERROLD OPPENHEIM: 'Net income'  
13 is often a synonym for 'profit', sure.

14 MR. BRENT CZARNECKI: And the net  
15 income, sir, would you agree that it flows to the  
16 retained earnings of the Corporation?

17 MR. JERROLD OPPENHEIM: In this  
18 instance, sure.

19 MR. BRENT CZARNECKI: And those  
20 retained earnings are held on behalf of all Manitoba  
21 consumers?

22 MR. JERROLD OPPENHEIM: Yes, sub --  
23 subject to the supervision of this Board, sure.

24 MR. BRENT CZARNECKI: And those  
25 customers, of course, include all low-income customers

1 in Manitoba?

2 MR. JERROLD OPPENHEIM: Yes. And I  
3 think the expectation is that they, along with  
4 everyone, will benefit from that.

5 MR. BRENT CZARNECKI: So, Mr.  
6 Oppenheim, would you agree with my characterization  
7 that your use of the words 'reaping profits', as you  
8 suggest, is incorrect and unfounded in this context?

9 MR. JERROLD OPPENHEIM: No, I -- I  
10 think you're playing a semantic game, but I certainly  
11 don't agree with your characterization.

12 MR. BRENT CZARNECKI: Now, sir, if we  
13 can turn to page 493. I would like to review your  
14 experience in Massachusetts referenced as LEAN.

15 MR. JERROLD OPPENHEIM: I'm sorry,  
16 LEAN? Sure.

17 MR. BRENT CZARNECKI: And can you just  
18 remind me what the acronym 'LEAN' stands for?

19 MR. JERROLD OPPENHEIM: Low-Income  
20 energy Affordability Network.

21 MR. BRENT CZARNECKI: And, sir, I -- I  
22 did a little bit of my own research on LEAN. And I  
23 just want you to confirm a few facts that I found,  
24 actually, as contained on your website.

25 MR. JERROLD OPPENHEIM: Sure.

1 MR. BRENT CZARNECKI: It's -- LEAN is  
2 specific to the Commonwealth of Massachusetts?

3 MR. JERROLD OPPENHEIM: For the most  
4 part. There is some work that at least one (1) of the  
5 agencies does in New Hampshire. And they certainly  
6 render advice in many jurisdictions.

7 MR. BRENT CZARNECKI: And my  
8 understanding of the Commonwealth of Massachusetts is  
9 there's fourteen (14) counties spanning west to east  
10 geographically, from Berkshire to Martha's Vineyard or  
11 Nantucket?

12 MR. JERROLD OPPENHEIM: I confess I  
13 haven't counted them lately, but that's -- that's at  
14 least about right.

15 MR. BRENT CZARNECKI: And is there --  
16 would I be right and, subject to check, that there's  
17 approximately fifty (50) cities and three hundred and  
18 one (301) towns in Massachusetts?

19 MR. JERROLD OPPENHEIM: That sounds  
20 right. The number we usually is three hundred and  
21 fifty-one (351) cities and towns.

22 MR. BRENT CZARNECKI: And I -- would  
23 you also confirm that there's eleven (11) PAs, or what  
24 I understand to mean program administrators (sic), as  
25 part of the LEAN program?

1 MR. JERROLD OPPENHEIM: Program  
2 administrators. Pardon me. And I -- I think that's  
3 right. Some of them are gas only. Some of them are  
4 electric only. And some of them are combined gas and  
5 electric. So it depends how you count them.

6 MR. BRENT CZARNECKI: And that there's  
7 approximately twenty-three (23) delivery agencies,  
8 including ninety-four (94) auditors and a hundred and  
9 sixty (160) contractors?

10 MR. JERROLD OPPENHEIM: Yes, the --  
11 the twenty-three (23) -- pardon me, the -- the twenty-  
12 three (23) is -- is right. The number of auditors and  
13 contractors, of course, varies from time to time, but  
14 that's certainly in -- approximately -- approx -- it  
15 was right when written and approximately right today.

16 MR. BRENT CZARNECKI: And there's also  
17 a number of state and federal organizations and  
18 departments that are involved in LEAN. And the ones I  
19 found were specific to the state: the Energy  
20 Efficiency Advisory Counsel, the Department of Energy,  
21 the Department of Public Utilities, the Clean Energy  
22 Centre, and the Department of Housing and Community  
23 Development.

24 Does that sound right?

25 MR. JERROLD OPPENHEIM: The -- the



1 statement as you made it is not correct, they are not  
2 in LEAN. The program taken as a whole does involve  
3 all of those entities.

4 MR. BRENT CZARNECKI: Thank you for  
5 the clarification. And for the federal government I  
6 understand that for their involvement in the  
7 Massachusetts program, the Department of Energy is  
8 involved and the Department of Health and Human  
9 Services as well, on a federal level?

10 MR. JERROLD OPPENHEIM: That's  
11 correct.

12 MR. BRENT CZARNECKI: And there's a  
13 series of networks of contractors to deliver the  
14 multiple state and federal programs within  
15 Massachusetts?

16 MR. JERROLD OPPENHEIM: For the most  
17 part the programs are run seamlessly. So they're run  
18 as a single program with a few exceptions, probably  
19 not relevant today, and they're quite small. So it  
20 wouldn't be exactly right to say that they run -- that  
21 the contractors are serving under multiple programs.  
22 There are multiple funders of a single program.

23 MR. BRENT CZARNECKI: And, sir, would  
24 you agree with the suggestion that because of the  
25 complex and wide array of structures within

1 Massachusetts that LEAN was founded primarily as a  
2 coordinating effort amongst all these entities?

3 MR. JERROLD OPPENHEIM: Well, that  
4 certainly was one (1) of the purposes, but there were  
5 a lot of other purposes as well. A principal one (1)  
6 was to assure equality among all of those efforts. So  
7 LEAN, for example, has developed training activities  
8 for contractors and for auditors and it's also  
9 developed quality control standards for final  
10 inspection and process inspection and then independent  
11 quality control inspection after that.

12 So it's -- it's purpose really has been  
13 not just coordination, but to make sure that the  
14 program is at the highest possible quality and is as  
15 comprehensive in terms of both measures and depth  
16 within a house as -- as can be.

17 MR. BRENT CZARNECKI: And -- and thank  
18 you, you jumped ahead of me. I was just about to  
19 reference the objectives of LEAN and maybe I'll run  
20 them through you and you can agree or disagree.

21 MR. JERROLD OPPENHEIM: Okay.

22 MR. BRENT CZARNECKI: The other ones I  
23 found was -- in addition to coordination was  
24 consistency or standardizing, eliminate redundancy --

25 MR. JERROLD OPPENHEIM: Well, why

1 don't -- why don't we take them one (1) at a time,  
2 because the answers might not be entirely the same.

3 MR. BRENT CZARNECKI: How about I run  
4 them through. I'm not interested in a description,  
5 just at a high level that you would agree that these  
6 were the obje -- the stated objectives of LEAN.

7 MR. JERROLD OPPENHEIM: Well, the  
8 consistency is a bit of an over-simplification. It's  
9 consistency when it's appropriate to be consistent,  
10 but there are places where it's not.

11 MR. BRENT CZARNECKI: And I saw behind  
12 consistency there was the word 'standardizing'.

13 MR. JERROLD OPPENHEIM: Same idea.

14 MR. BRENT CZARNECKI: And then I also  
15 read that one (1) of the objectives of LEAN was to  
16 eliminate redundancy?

17 MR. JERROLD OPPENHEIM: Yes.

18 MR. BRENT CZARNECKI: And as you just  
19 mentioned, stabilize quality?

20 MR. JERROLD OPPENHEIM: Right.

21 MR. BRENT CZARNECKI: Program  
22 development?

23 MR. JERROLD OPPENHEIM: I should say  
24 stabilize and enhance, get to the highest possible  
25 level of quality.

1 MR. BRENT CZARNECKI: Program  
2 development is another objective?

3 MR. JERROLD OPPENHEIM: Yes, and that  
4 includes things like screening new measures for cost  
5 effectiveness and effectiveness in saving energy.

6 MR. BRENT CZARNECKI: Okay. And  
7 there's an assisting of agencies across the network as  
8 another objective?

9 MR. JERROLD OPPENHEIM: Right. So  
10 that would encompass things like the training I  
11 mentioned.

12 MR. BRENT CZARNECKI: And monitoring  
13 and evaluation you spoke of.

14 MR. JERROLD OPPENHEIM: Yes, that's  
15 correct. And what -- what we do there is -- is  
16 monitor the -- sort of monitor the monitors. We -- we  
17 work with the evaluators to make sure they have the  
18 facts that they need in order to accurately evaluate  
19 the programs.

20 And those -- those evaluators are all  
21 independent both of us and of the program  
22 administrators who are mostly utilities. There's one  
23 (1) program administrator that is a municipal body  
24 rather than a utility.

25 MR. BRENT CZARNECKI: And one (1) last

1 objective was cost effectiveness.

2 MR. JERROLD OPPENHEIM: Yes. Very  
3 important. We spend -- and I personally spend a fair  
4 amount of time on developing the rules and standards  
5 for cost effectiveness, looking at measures to assure  
6 that the ones we implement are cost effective.

7 MR. BRENT CZARNECKI: And, sir, would  
8 you agree that Manitoba does not have a similar  
9 patchwork of, and number of, entities that have an  
10 involvement in energy programming in Manitoba?

11 MR. JERROLD OPPENHEIM: Well, I  
12 wouldn't call it a patchwork but I would certainly say  
13 you have a simpler structure, and you're lucky to have  
14 it.

15 MR. BRENT CZARNECKI: So you would  
16 agree, sir, that Centra and Manitoba Hydro as a Crown  
17 utility already have the good fortune of being  
18 uniquely positioned to achieve the same objectives  
19 that LEAN does?

20 MR. JERROLD OPPENHEIM: Given -- given  
21 the commitment that I -- as I testified earlier I  
22 think is lacking, yes. I think the Company has the  
23 resources, if it only had the desire to -- to operate  
24 an excellent program.

25 MR. BRENT CZARNECKI: Now, sir, I did

1 hear you speak of that commitment, and are you aware  
2 of Centra's marketing efforts with respect to the FRP?

3 MR. JERROLD OPPENHEIM: To some  
4 extent, sure.

5 MR. BRENT CZARNECKI: Perhaps we  
6 should turn up -- it's undertaking -- or, pardon me,  
7 Information Request Answer CENTRA/CAC-120V, in  
8 particular.

9 MR. JERROLD OPPENHEIM: 120A, did you  
10 say?

11 MR. BRENT CZARNECKI: 'V'.

12 MR. JERROLD OPPENHEIM: 'V'.

13

14 (BRIEF PAUSE)

15

16 MR. BRENT CZARNECKI: Are you with me,  
17 sir?

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: Mr. Masi (sic), it's  
22 PUB/CENTRA-1-120. Did I get that right?

23 MR. BRENT CZARNECKI: Yes, Mr.  
24 Chairman, sub part V, 'V' as in 'Victor'.

25

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: Mr. Chairman, just  
4 for clarification it's CAC/CENTRA, not PUB/CENTRA.

5

6 (BRIEF PAUSE)

7

8 MR. JERROLD OPPENHEIM: Okay, I think  
9 I have it.

10 MR. BRENT CZARNECKI: And, Mr.  
11 Oppenheim, it was an Information Request that CAC  
12 posed. I trust that you've reviewed this material?

13 MR. JERROLD OPPENHEIM: Yes.

14 MR. BRENT CZARNECKI: And, sir, if  
15 there was a lack of effort on behalf of Centra with  
16 respect to the FRP, as you allege, at least with  
17 respect to marketing materials, the package of  
18 materials that was provided, would you take it would  
19 be either absent or far less than what appears on this  
20 record?

21 MR. JERROLD OPPENHEIM: No, I -- I  
22 don't agree with that. The problem is the  
23 effectiveness of the marketing that was done and the  
24 effort that went into determining the kind of  
25 marketing that would appeal to low-income consumers,

1 that would work in low-income neighbourhoods. There's  
2 a reference somewhere, I don't remember, but from this  
3 answer to canvassing, that's generally not a very  
4 successful effort in low-income neighbourhoods.

5                   There -- there was a focus group report  
6 that the Company provided that showed considerable  
7 differences of opinion in how people reacted to the  
8 Company's use of the phrase 'low income'. That's --  
9 that's a sensitivity that -- in my opinion, that's --  
10 that's a place where the Company's in a very difficult  
11 position, 'cause there's some folks that don't mind  
12 and a lot of folks who do mind. And I think the fact  
13 it comes from the Company makes it feel different to  
14 the folks who are low income than if it came from  
15 their friends, through their own community  
16 organizations.

17                   A lot of the -- if -- if I'm  
18 remembering accurately, a lot of the information here  
19 has to do with meetings and booths and that sort of  
20 thing with low-income community organizations. And  
21 while one could call that marketing, it really is not  
22 an adequate effort, in -- in my opinion, to actually  
23 reach the people.

24                   If you meet with the leader or the --  
25 say the executive director of a community



1 organization, that does not -- especially if you're  
2 not funding that community organization to do  
3 anything, that does not put the Company in touch with  
4 the actual individual people who need to respond to  
5 the offer.

6 Those are just some examples.

7 MR. BRENT CZARNECKI: Sir, you don't  
8 profess to be a marketing expert?

9 MR. JERROLD OPPENHEIM: Well, yes and  
10 no. I mean, I know something about what reaches low-  
11 income people from my own experience.

12 MR. BRENT CZARNECKI: You're not  
13 qualified as, or educated as, a marketing specialist?

14 MR. JERROLD OPPENHEIM: Well, that  
15 depends on how you define 'education'. I've been  
16 working with low-income communities for just about my  
17 entire career.

18 MR. BRENT CZARNECKI: Now, on the --  
19 on the hard to reach and dealing with the specific  
20 low-income community groups, sir, are you aware of any  
21 community group within Manitoba that Centra or Hydro  
22 does not currently actively try and participate with?

23 MR. JERROLD OPPENHEIM: Well, again,  
24 that depends on how you define 'participation'. In my  
25 view, meetings and advertisements and newsletter

1 inserts and that sort of thing certainly could  
2 qualify, I suppose, in some way, as participation.  
3 But I don't think that that is an effective way of  
4 reaching the folks in those communities.

5 Those folks are more effectively  
6 reached by the groups themselves reaching out, and not  
7 on a volunteer basis, I would add, but -- but reaching  
8 out in a supported way to the people whom you want, I  
9 hope, to -- to participate in the program.

10 And then you have a -- a trusted,  
11 community-based group of people talking to the folks  
12 who hopefully will participate in the program, instead  
13 of a -- instead of, in some cases, the utility that  
14 just sent the shut-off notice.

15 MR. BRENT CZARNECKI: Sir, and again  
16 you -- you read all the evidence with respect to DSM  
17 and the FRP in this proceeding.

18 Is that correct?

19 MR. JERROLD OPPENHEIM: I did.

20 MR. BRENT CZARNECKI: Can you identify  
21 even one (1) community group that you would consider  
22 that Centra does a good job of actively participating  
23 with?

24 MR. JERROLD OPPENHEIM: Well, I don't  
25 feel I really have enough information from this

1 record. There was a First Nation group that the  
2 Company identified that the effort so far sounds  
3 minimal, but there is a potential there, it -- it  
4 strikes me.

5 And there -- there have been some other  
6 references to community groups where -- but again, the  
7 references are too vague for me to understand fully  
8 what was going on. But it -- there's a group called  
9 BUILD, for example, that the Company has a  
10 relationship with, and it appeared to have something  
11 to do with the implementation.

12 And if the -- if the Company were  
13 hiring those folks in order to market and deliver the  
14 program, that would be a good thing. I don't know  
15 that that's the case though from the record here.

16 MR. BRENT CZARNECKI: How about your  
17 client, sir?

18 MR. JERROLD OPPENHEIM: What about my  
19 client?

20 MR. BRENT CZARNECKI: Do you view them  
21 as an active participant with Centra's FRP and LIEEP  
22 programs?

23 MR. JERROLD OPPENHEIM: Well, they're  
24 here. They certainly are an active -- I don't -- I  
25 don't know if 'participant' is the right word, but

1 they certain are active in the consideration of your  
2 program. And the purpose of presenting my testimony  
3 today was to help improve the program.

4 MR. BRENT CZARNECKI: Thank you, sir.  
5 Back to LEAN and the objectives of LEAN --

6 MR. JERROLD OPPENHEIM: Yes.

7 MR. BRENT CZARNECKI: -- would you  
8 agree that your proposal for a separate community-  
9 based energy efficiency agency in Manitoba to  
10 implement LIEEP programs and FRP programs would be  
11 inconsistent with some of the stated objectives of the  
12 LEAN program?

13 MR. JERROLD OPPENHEIM: Oh, I think  
14 there are some -- pardon me, some of the objectives  
15 that -- the LEAN have, mostly in the area of  
16 coordinating with a large number of utilities, would  
17 not be necessary here. And, in fact, that should make  
18 the job easier in Manitoba than it has been in  
19 Massachusetts, and yet the Massachusetts effort has  
20 been extremely successful.

21 So I think that shows a couple of  
22 things. One (1) is that a similar effort here could  
23 be successful if you -- if you can find the right  
24 people, which is no small task. Secondly, I'd say  
25 that many of the objectives and activities that LEAN

1 does provide in Massachusetts would be useful here -  
2 for example, the training and the quality control.

3 MR. BRENT CZARNECKI: A separate  
4 agency though would be another layer and, in my mind,  
5 defeat the objective, wouldn't have -- and would be  
6 redundant.

7 Would you agree with that?

8 MR. JERROLD OPPENHEIM: I wouldn't.  
9 The -- the main thing that a separate agency would  
10 provide would be the passion and the commitment to get  
11 the job done, and that does seem to be missing. So I  
12 think that would more than make up for the fact that  
13 it would be that -- yet another entity involved.

14 MR. BRENT CZARNECKI: And, sir, on  
15 training, I assume that you mean training with respect  
16 to replacing furnaces in Manitoba?

17 MR. JERROLD OPPENHEIM: Yeah. And the  
18 basic targets of training would be the technicians who  
19 do that work and the auditors who -- who go through  
20 the homes.

21 MR. BRENT CZARNECKI: And again, to  
22 the redundancy point, sir, are you aware that the  
23 Department of Labour offers those types of training  
24 initiatives within the Province of Manitoba?

25 MR. JERROLD OPPENHEIM: Well, no,

1 that's fine. The same thing is true in -- in  
2 Massachusetts. And the effort would be to make sure  
3 that the contractors who are doing the work are fully  
4 up to speed, that they've either taken part in -- in  
5 those Department of Labour programs, or, if for one  
6 reason or another they weren't available to them, that  
7 they got the training that they need.

8 MR. BRENT CZARNECKI: I think I just  
9 heard you say that it's not a difficult -- or not an  
10 easy task, sorry, to find someone that's capable of  
11 being this program administer.

12 Is that correct?

13 MR. JERROLD OPPENHEIM: Well, I -- I  
14 guess the real answer is we won't know until we --  
15 until we try it. It is -- what I would say is that it  
16 is a difficult task. And I think the evidence that  
17 the Company's not been terrifically successful at it  
18 perhaps goes to that, the question of it being a  
19 difficult task, to actually implement a program like  
20 this in a successful way.

21 I think that it is likely that there  
22 are folks in the community, in community groups, who  
23 have the passion and the commitment and single-  
24 mindedness that would be necessary in order to make a  
25 program like this work. It would still take them a

1 lot of hard work in order to make it happen. That's -  
2 - hard -- hard work is part of this game.

3 MR. BRENT CZARNECKI: And -- and, sir  
4 -- sir, I just want to move from the theoretical  
5 argument we're having to the practical world.

6 You would agree that you haven't  
7 identified one (1) particular possible proponent in  
8 Manitoba that would be capable of running a program  
9 such as the size and scope of Manitoba Hydro's DSM  
10 programs, correct?

11 MR. JERROLD OPPENHEIM: That's the  
12 reason for my proposal of a -- of an RFP. It would  
13 not -- it would necessarily not be one (1)  
14 neighbourhood group. It needs to be a network of  
15 groups covering the -- the wide variety of  
16 neighbourhoods and types of people who would be  
17 served. And that -- as far as I know, such a network  
18 doesn't exist but it -- it could be gathered together  
19 by someone with the -- with the interest to do that.

20 MR. BRENT CZARNECKI: And -- and on  
21 that point, sir, I understand your proposal to be that  
22 Centra would contract with each and every one of these  
23 community groups, and that then this Board, the Public  
24 Utilities Board, would oversee or regulate those  
25 arrangements?

1 MR. JERROLD OPPENHEIM: Well -- well,  
2 yes, to the latter. I think the Board should  
3 definitely oversee the arrangements but I would not  
4 suggest that there be a number of contracts between  
5 Centra and the community groups.

6 I think the community groups should get  
7 together on their own and if -- if there is to be --  
8 and there is a number of different ways you could set  
9 this up but if you set it up as a contract with Centra  
10 as opposed to an entity that simply reported on its  
11 own to the Board, there should be a single contract  
12 with the supervision of the agencies being the  
13 responsibility of the -- of the network coordinator  
14 itself.

15 MR. BRENT CZARNECKI: And lastly on  
16 this topic, sir, and on the -- on the grassroots level  
17 of the community groups, again in your evidence I  
18 don't see anything that proves that Centra isn't  
19 already dealing with such existing community groups.

20 Is that correct?

21 MR. JERROLD OPPENHEIM: Well, this is  
22 a semantic -- and again it depends on what you mean by  
23 'dealing with'. Is it meeting with community groups?  
24 Yes. Is that adequate to get a program as important  
25 and as difficult as this one to work? No.



1                   Instead of meetings and expos and  
2   newsletter ads, and all that kind of activity that the  
3   Company is indeed doing, and you could call that  
4   'dealing with', there needs to be a serious effort  
5   supported by the funding that has been created by the  
6   Board to put the community organizations into their  
7   own communities to market this program and then  
8   implement it.

9

10                   (BRIEF PAUSE)

11

12                   MR. BRENT CZARNECKI:   One of the  
13   objectives of LEAN again, sir, was cost effectiveness,  
14   correct?

15                   MR. JERROLD OPPENHEIM:   That's --  
16   yeah, it's a broad word but, yes.

17                   MR. BRENT CZARNECKI:   And would you  
18   agree, sir, that that is an objective that Manitoba  
19   Hydro and Centra should strive towards in implementing  
20   and creating its DSM and low-income programs?

21                   MR. JERROLD OPPENHEIM:   Well, that's -  
22   - that's a little more complicated. First of all, my  
23   view of cost effectiveness and at least the view the  
24   Company has expressed so far don't match up very well.

25

1 But more importantly my understanding  
2 of the last Board order was, at least as to low-  
3 income, the Board is satisfied that the traditional  
4 tests such as the TRC as defined by either me or the  
5 Company, were not necessary, that the Board is  
6 satisfied that those programs, including the Furnace  
7 Replacement Program, should be undertaken no matter  
8 what.

9 And I read that -- I infer from that  
10 that from the Board's point of view the benefits which  
11 they list, social benefits and benefits to the Company  
12 alike, as well as to participants, benefits to the  
13 Company being things like arrears reduction, that all  
14 together those add up to enough benefits to make the  
15 furnace replacement -- and the LIE program more  
16 generally, cost effective in their view without going  
17 through the arithmetic of a particular test.

18 MR. BRENT CZARNECKI: Sir, are you  
19 aware of the levelized cost of -- for Centra to run  
20 the Furnace Replacement Program?

21 MR. JERROLD OPPENHEIM: Yes, that's  
22 just a -- just another way of stating the same -- the  
23 same thing as the -- as some of the cost effectiveness  
24 tests.

25 MR. BRENT CZARNECKI: I'm looking for

1 a specific answer, sir.

2 MR. JERROLD OPPENHEIM: Well, what --  
3 what --

4 MR. BRENT CZARNECKI: A number.

5 MR. JERROLD OPPENHEIM: Oh, for the  
6 Furnace Replacement Program? My memory is it's over a  
7 hundred cents.

8 MR. BRENT CZARNECKI: Thank you.

9

10 (BRIEF PAUSE)

11

12 MR. BRENT CZARNECKI: Thank you, Mr.  
13 Chairman, those are our questions. And thank you, Mr.  
14 Oppenheim.

15 MR. JERROLD OPPENHEIM: You're very  
16 welcome.

17 THE CHAIRPERSON: The preference of  
18 the -- of the panel is to continue on with the  
19 questioning and break at the end for lunch. So I'm  
20 not hear -- unless there are objections, we'll  
21 continue going.

22 MR. BRIAN MERONEK: There are plumbing  
23 issues, sir. I know that's not within your  
24 jurisdiction, but if we could take a couple minutes.

25 THE CHAIRPERSON: Okay. Let's do

1 that. Let's -- let's -- would ten (10) minutes do it?

2 MR. BRIAN MERONEK: If it doesn't,  
3 would you come and help me?

4

5 --- Upon recessing at 11:47 a.m.

6 --- Upon resuming at 11:58 a.m.

7

8 THE CHAIRPERSON: I believe everybody  
9 is in position, so Mr. Hombach, please.

10

11 MR. SVEN HOMBACH: Thank you, Mr.  
12 Chairman. Since I'm standing between everybody and  
13 lunch, I'll endeavour to be brief.

14

15 CROSS-EXAMINATION BY MR. SVEN HOMBACH:

16 MR. SVEN HOMBACH: Good morning, Mr.  
17 Oppenheim.

18 MR. JERROLD OPPENHEIM: Good morning.

19 MR. SVEN HOMBACH: Continuing on the  
20 topic of LEAN, on which Mr. Czarnecki canvassed you  
21 quite extensively, to whom exactly does the LEAN  
22 report?

23 Does it report to the utilities or does  
24 it report to the local regulator?

25 MR. JERROLD OPPENHEIM: Well, I guess

1 the short answer to that is yes, but it's even -- it's  
2 even more complicated than that. There are  
3 relationships with the utilities. And in -- in  
4 Massachusetts each -- the -- the twenty-three (23)  
5 agencies are organized to be under the supervision of  
6 what are called lead vendors.

7                   And the lead vendor will have a  
8 contract with a utility. So -- so the -- the  
9 subagency, if you will, will report to the lead vendor  
10 and the lead vendor will report to the utility.

11                   But there are also reports to the  
12 regulators, of which there are two (2). There's the  
13 Department of Public Utilities, which is analogous to  
14 this Board, and there's also a Department of Energy  
15 Resources, which is chair of the Energy Efficiency  
16 Advisory Council that you might have noticed  
17 mentioned. And actually the LEAN sits on the Energy  
18 Efficiency Advis -- Advisory Council -- I warned you  
19 this was complicated -- and -- and reports to that  
20 board and to the energy office at the same time.

21                   I would say there's also two (2)  
22 federal agencies involve, as we spoke about a few  
23 minutes ago: the US Department of Energy and the US  
24 Department of Health and Human Services. Those each  
25 provide small amounts of money to the program. And so

1 there's reports to them through another state agency  
2 that administers the federal program. It's known in  
3 Massachusetts as the Department of Housing and  
4 Community Development.

5                   So I think I -- I think I've got it  
6 all. I may have missed one (1) 'cause there are some  
7 other smaller grants actually that involves some  
8 separate reporting, but I -- I think you get the  
9 flavour. There's a lot of reporting. It's --

10                   MR. SVEN HOMBACH:    What --

11                   MR. JERROLD OPPENHEIM:   -- it's -- I  
12 should add, this is -- this not a small program. The  
13 -- the program altogether is -- is a \$90 million  
14 program. So it's a -- it's a very broad and serious  
15 effort to -- and it's -- it's just for low incomem to  
16 -- to make low-income homes much more efficient than  
17 they are now.

18                   MR. SVEN HOMBACH:    What chain of  
19 accountability are you proposing in Centra's case?  
20 Are you proposing reporting to the utility or  
21 reporting to the Public Utilities Board or some other  
22 agency?

23                   MR. JERROLD OPPENHEIM:   Well, it would  
24 be much simpler than the one I just described for  
25 Massachusetts, and I'm -- I hope that was understood.

1 I -- I would hope that -- I mean, if -- if the Utility  
2 is -- is interested in making a contribution to this  
3 program, then I certain think the Utility should be  
4 involved.

5 But my strong hope would be that the  
6 Board would exercise overall supervision, either  
7 through the Utility or directly, so that in effect  
8 there would be reporting either to the Board or with  
9 the Board in mind. So the Board would have a very  
10 thorough understanding of what is or is not happening  
11 in this program.

12 MR. SVEN HOMBACH: Turning back to the  
13 LEAN program, is that funded exclusively through the  
14 utilities, or does that program receive government  
15 grants in addition to a portion of rates?

16 MR. JERROLD OPPENHEIM: Yes, it -- it  
17 -- of the -- of the total of about 90 million, about  
18 13 million comes from -- well, I can break it down a  
19 little further. About 8 million comes from the  
20 federal Health and Human Services Department; about  
21 five (5) comes from the -- these are round numbers,  
22 but about five (5) comes from the US Department of  
23 Energy. The balance, most of the balance, comes from  
24 ratepayers via the program administrators, all of  
25 which are utilities except for the one (1) municipal

1 program on Cape Cod.

2 Then there are also some smaller grants  
3 from various sources, mostly state agencies, an  
4 occasional foundation.

5 MR. SVEN HOMBACH: In response to a  
6 question from Mr. Czarnecki, you suggested that what  
7 is needed is a network of groups, and your  
8 recommendation was that Centra put out an RFP.

9 In your experience, what type of  
10 manpower and resources are actually required by  
11 community organizations to deliver the services that  
12 you envision?

13 MR. JERROLD OPPENHEIM: I am actually  
14 constantly surprised by how few people at the agency  
15 level are required. You need a lot of contractors to  
16 do the actual physical work, and depending on how you  
17 set up the auditing system you need one (1), two (2),  
18 three (3) -- it depends on how big the area is, of  
19 folks to actually go into the homes and see what's  
20 needed and to create the specifications for the work.

21 And then you need some kind of a  
22 supervisory structure over those folks, so that might  
23 be another one (1) or two (2) people. And -- and then  
24 probably as part of the work of those last two (2) I  
25 mentioned, you need some coordinating amongst the



1 network of agencies.

2 So it's -- so it's not -- it's  
3 surprising to me, but it's not a lot of people.

4 MR. SVEN HOMBACH: Has it been your  
5 experience that a lot of community organizations are  
6 run by volunteers, as opposed to paid staff?

7 MR. JERROLD OPPENHEIM: Well, not  
8 these. This -- this cannot be done on a volunteer  
9 basis. This has to be done on a paid basis. This is  
10 full-time-plus work. It's -- it's -- I mean, as I  
11 said, it's a \$90 million program.

12 This is a very -- this is a big  
13 business, or a medium-sized business. And -- and you  
14 don't -- with very serious consequences to the lives  
15 of the people who are helped. So you don't just hire  
16 a bunch of volunteers to do that.

17 MR. SVEN HOMBACH: So the RFP process  
18 that you envision would be primarily limited to the  
19 larger organizations that have paid staff members that  
20 could respond to an RFP and then actually run the  
21 program on a day-to-day basis?

22 MR. JERROLD OPPENHEIM: Well, not  
23 necessarily. That -- that would depend on -- on who's  
24 out there and what their abilities and desires would  
25 be. I mean, it is -- and that's one (1) reason why I

1513

1 mentioned the possibility that it might make sense for  
2 the Company to provide small planning grants to some  
3 of the less resourced, smaller, perhaps, organizations  
4 in order to help them get together with other  
5 organizations in a combined bid.

6 But ultimately it would -- it would be  
7 paid work, if that's -- if that's your question.

8 MR. SVEN HOMBACH: You understand that  
9 Manitoba has one (1) very large city, a few smaller  
10 cities, but otherwise it's predominantly rural?

11 MR. JERROLD OPPENHEIM: Sure. I --  
12 yeah. That -- I'm not sure what your question is, but  
13 what that could mean is that you're going to have a  
14 number of relatively small organizations that would  
15 require some -- some coordination in the -- pardon me  
16 -- outside of Winnipeg.

17 But it's also true that Winnipeg --  
18 it's my under -- it's my understanding that Winnipeg  
19 itself is made of -- made up of a number of  
20 neighbourhoods and you might well end up with  
21 community organizations that are very well grounded in  
22 a particular neighbourhood of Winnipeg, so that you  
23 would need several such organizations.

24 So that -- that -- I mean, that is a  
25 challenge in -- in any network like this. And you've

1 -- you've -- so you've got to have that in mind in  
2 order to meet the challenge.

3 MR. SVEN HOMBACH: Have you noticed  
4 any distinct difference between the available -- the -  
5 - the availability of suitable organizations in cities  
6 as opposed to rural environment?

7 MR. JERROLD OPPENHEIM: Oh, I -- I've  
8 seen a lot of variation on it. You -- you might think  
9 that the cities -- that cities would be better  
10 equipped, but it -- it's not necessarily so. So  
11 there's -- I've seen portions of cities, at least,  
12 that are not very well served by community  
13 organizations, whereas rural areas, even though  
14 they're far flung, are very -- have a very tight sense  
15 of community, so they are well served.

16 So it -- it really does depend on the -  
17 - on the particulars of each community. You really  
18 kind of create a one (1) size fits all kind of  
19 solution to something like this.

20 Excuse me. It's -- it's also true that  
21 there are -- it's -- it's possible and perhaps even  
22 likely that there'll be some portions of the city  
23 and/or the province where there's not enough organized  
24 community activity to support something like this.

25 So in that instance, you've -- you've

1 still got to be sure that you're, one (1) way or  
2 another, covering every nook and cranny of the  
3 province. So you need to have a -- an organization  
4 hopefully that's nearby that is willing to step up and  
5 serve the communities, or perhaps a numbers of  
6 organizations, each serving a community or so that  
7 would not be otherwise served.

8 And that is -- that is a pattern that  
9 you -- you often see in the networks that are  
10 established in the US, just as an example.

11 MR. SVEN HOMBACH: So how many  
12 community organizations across the province would a  
13 utility like Centra realistically be dealing with?

14 MR. JERROLD OPPENHEIM: Well, I would  
15 say that the Utility would be dealing with one (1),  
16 with -- with one (1) coordinator, if you will, of all  
17 of the agencies. So that would be a -- an entity  
18 analogous to, certainly not identical with, but  
19 analogous to LEAN.

20 How many organizations would they need  
21 to be in touch with? I don't know. That's par --  
22 part of the purpose of the RFP and the investigation  
23 that the community groups would need to do in response  
24 to the RFP, would be to learn the answer to that  
25 question.

1 MR. SVEN HOMBACH: Well, do you agree  
2 with the proposition that the more community  
3 organizations there are to administer these programs,  
4 the higher the total administrative expense is going  
5 to be?

6 MR. JERROLD OPPENHEIM: Not  
7 necessarily. Administrative expense is mostly staff,  
8 so it would really be a function of the capacity of  
9 the staff vis-a-vis the -- the need for the work to be  
10 done. I think it would be very hard to predict that,  
11 but it's -- and it certainly wouldn't be a linear  
12 relationship, as -- as your question might suggest.

13

14 (BRIEF PAUSE)

15

16 MR. SVEN HOMBACH: You've heard Mr.  
17 Czarnecki ask you questions about Centra's marketing  
18 efforts and program administration efforts. In your  
19 view, does it make any difference that, unlike the  
20 utilities you deal with in Massachusetts, Centra is a  
21 Crown corporation that covers more or less the entire  
22 province?

23 MR. JERROLD OPPENHEIM: Well, the fact  
24 that there's one (1) could make it simpler, at least  
25 from an administrative point of view, but other than

1 that, just the fact of -- of government ownership, as  
2 I take your question to be, I -- no, I don't -- I  
3 don't see that all by itself as -- as making a  
4 difference.

5 MR. SVEN HOMBACH: My question was  
6 more on economies of scale and centralization as  
7 opposed to government ownership.

8 MR. JERROLD OPPENHEIM: Actually, I  
9 think that's a disadvantage, because this needs to be  
10 a decentralized program in order to work. And that's  
11 -- and perhaps that's the problem that the Company is  
12 having. You know, you could put advertisements in --  
13 in the -- in the national newspaper, if you want to go  
14 to the extreme of scale, and you'd get no response  
15 probably from the rural areas of -- of Manitoba.

16 What is needed is very decentralized  
17 efforts going into the particular communities. And  
18 sometimes those -- as you said, those communities are  
19 going to be very small, and the organizations doing  
20 the work to reach the people in those communities will  
21 therefore also be very small.

22 And that is an advantage to a network  
23 of -- that is decentralized and a disadvantage of  
24 operating on a centralized basis. A one (1) size fits  
25 all approach, whether it's to marketing or -- or

1 implementation of a program like this is -- is not the  
2 most effective way to proceed.

3 MR. SVEN HOMBACH: Is your current  
4 assessment of Centra's efforts primarily based on the  
5 participation rate of eligible homeowners?

6 MR. JERROLD OPPENHEIM: Well, that --  
7 that certainly raises a big red flag, but yes.

8 MR. SVEN HOMBACH: Are you aware that  
9 the Consumers' Association of Canada also intervenes  
10 in hearings involving Manitoba Hydro, which is the  
11 electric utility in this province?

12 MR. JERROLD OPPENHEIM: I am.

13 MR. SVEN HOMBACH: And as I understand  
14 it, in December 2010, the Consumers' Association  
15 submitted a report by a Tom Carter (phonetic) that  
16 contained a factual statement that the average LIEEP,  
17 low-income energy efficiency program, participation  
18 rate in the US is about 2 percent, and Centra's LIEEP  
19 rate is more than 2 percent.

20 And I'd like to get your view on that  
21 issue and whether or not you agree with that evidence.

22 MR. JERROLD OPPENHEIM: Several parts  
23 to the question. Let me see if I can remember them  
24 all and -- and answer them. I think 2 percent for the  
25 US is probably about right. I've not done or seen a

1 survey, so I don't know if it's exactly right. My own  
2 calculation for Centra was -- was something like 3.2  
3 percent.

4 But as I said earlier, the -- the idea  
5 that Centra should be aiming to achieve a level  
6 equivalent to the average US uptake rate is -- is the  
7 wrong target. That's -- that's a -- the average US  
8 low-income energy efficiency program is mediocre at  
9 best, and that participation rate, to me, is mediocre.

10 The -- the leaders in the US in low-  
11 income energy efficiency, and in fact in energy  
12 efficiency generally, are places like California,  
13 Massachusetts, Wisconsin, and a couple of others,  
14 perhaps New York and Ohio. So the two (2) -- the two  
15 (2) numbers I happen to have are California's pace,  
16 according to Mr. Dunskey, the target is about 8  
17 percent, and Massachusetts for gas I calculate to be  
18 about 7 percent. But what about --

19 MR. SVEN HOMBACH: Sorry, the --

20 MR. JERROLD OPPENHEIM: -- whatever  
21 those numbers are, that is a more appropriate target  
22 if the hope is -- in Manitoba is to achieve excellence  
23 rather than mediocrity.

24 MR. SVEN HOMBACH: Did you -- did I  
25 hear you correctly, you said the participation rate in



1 LIEEP is 8 percent?

2 MR. JERROLD OPPENHEIM: I'm sorry, did  
3 you say LIEEP?

4 MR. SVEN HOMBACH: In LEAN.

5 MR. JERROLD OPPENHEIM: Yes, my -- my  
6 calculation for LEAN for the gas programs is that the  
7 annual participation rate is in the neighbourhood of 7  
8 percent. That's not a precise number, but it's about  
9 right.

10 MR. SVEN HOMBACH: You understand that  
11 here in Manitoba eligibility is determined based on a  
12 LICO-125 standard?

13 MR. JERROLD OPPENHEIM: Yes.

14 MR. SVEN HOMBACH: What is the  
15 standard that's used in Massachusetts?

16 MR. JERROLD OPPENHEIM: Well, it's --  
17 it's hard to give you a comparable because the poverty  
18 line is drawn differently. But the -- the poverty --  
19 the eligibility standard actually in Massachusetts is  
20 60 percent of the state median income, so it's -- it's  
21 considerably higher than LICO-125 would be.

22 MR. SVEN HOMBACH: You testified  
23 earlier that the low-income demographic is the hardest  
24 one to reach. Does that mean that perhaps if the  
25 cutoff in Massachusetts is significantly higher, that

1521

1 that may account for the higher participation rate, or  
2 do you disagree that that is a possibility?

3 MR. JERROLD OPPENHEIM: No, I don't  
4 think so. The -- the -- because the -- the other side  
5 of that, just me -- just arithmetically, is that you  
6 have a much bigger pool. So even if it were easier to  
7 reach the wealthier of the poor people, the actual  
8 ratio that you would strike would be over the -- the  
9 entire population of people who were eligible. And if  
10 the entire population of people who are eligible is  
11 larger, then for any given effort, your ratio would be  
12 smaller. So that makes it more difficult the larger  
13 the pool.

14

15 (BRIEF PAUSE)

16

17 MR. SVEN HOMBACH: If this province  
18 were to adopt a similar approach, would you recommend  
19 that the various community agencies retain the  
20 utilities branding for the program delivery or that  
21 they all deliver it as their own individually branded  
22 programs?

23 MR. JERROLD OPPENHEIM: Oh, I -- I  
24 think that's probably a topic on which they shouldn't  
25 listen to me. They know their communities much better

1 than anybody else, myself included, and they should  
2 make that judgment based upon their own sense of what  
3 would appeal and create a response in their  
4 communities.

5 MR. SVEN HOMBACH: Let's move on to  
6 the issue of bill assistance then. Did I hear you  
7 right this morning that you're no longer advocating a  
8 discount rate for LICO-125 customers in this province?

9 MR. JERROLD OPPENHEIM: Well, I would  
10 -- I would quibble with the phrase 'no longer', but --  
11 because I never intended my testimony -- and I  
12 understand it was misinterpreted this way, but I did  
13 not intend my testimony to be a recommendation that  
14 this Board, nor anybody else, adopt a discount rate.

15 I think that should be on the table  
16 perhaps, although I think it would be very difficult  
17 to implement in Manitoba. But I do think that the --  
18 what should be done is that a investigation of all the  
19 possibilities, which I described a bit earlier, such  
20 as arrearage management, crisis assistance and so on,  
21 ought to be reviewed with a view for figuring out if  
22 there's a gap between the social programs that exist  
23 and the Utility programs that exist, and if -- if that  
24 gap could appropriately be filled by the Utility.

25

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: Just one (1) more  
4 question on that issue then. You described this  
5 morning a Massachusetts program of budget billing by  
6 which one-twelfth (1/12) of an arrearage is written  
7 off if the customer agrees to budget billing for the  
8 future year.

9 Does Massachusetts offer a general  
10 budget billing program to all customers?

11 MR. JERROLD OPPENHEIM: It does. So  
12 the way that's distinguished is the term for the low-  
13 income program that you just described is -- is it's  
14 called 'arrearage management', so it has budget  
15 billing as a component. And the requirement is that  
16 the customer, in order to get the forgiveness, the  
17 customer actually has to make a payment. And each time  
18 the customer makes a timely payment of the agreed  
19 budget billing amount, one-twelfth (1/12) of the  
20 arrearage is -- is written off or forgiven.

21 MR. SVEN HOMBACH: My actual question  
22 was -- is whether budget billing in Massachusetts is  
23 available to all customers at any time, or if this is  
24 just available as a portion of this arrearage  
25 management or arrearage forgiveness program?

1 MR. JERROLD OPPENHEIM: Okay, I beg  
2 your pardon. I thought I answered the question.  
3 Budget billing, as -- as I define it, would simply  
4 mean an arrangement by which you pay an -- an average  
5 -- an averaged amount of your annual bill each month.  
6 That is available to anybody. The arrearage  
7 management is available to low-income folks.

8 I -- I don't know if -- if that's -- if  
9 that's still unclear. If not, please ask.

10 MR. SVEN HOMBACH: It is quite clear.  
11 Thank you.

12 MR. JERROLD OPPENHEIM: Okay.

13

14 (BRIEF PAUSE)

15

16 MR. SVEN HOMBACH: Taking you back for  
17 a second to the issue of the RFP process, what would  
18 you suggest actually go into an RFP, in terms of the  
19 proposal? What particular services should be  
20 included?

21 MR. JERROLD OPPENHEIM: If you just  
22 give me a second, I think there was a Board question  
23 on that subject. I think it's -- I think it's my  
24 response to PUB/CAC-16, which begins at page 549 of --  
25 of the Board's book of documents.

1                   So I think what should be sought in the  
2 -- in the RFP is community groups that have a deep  
3 knowledge of their low-income communities, so  
4 experience in those communities, roots in those  
5 communities. If possible, experience delivering  
6 energy efficiency that probably doesn't exist in those  
7 communities; but if not that, then perhaps delivering  
8 other services in the community.

9                   It would be helpful if there was at  
10 least somebody in the network who had experience in  
11 contract management. You'd certainly want to see a  
12 track record of -- of trust between the -- the groups  
13 and the community. And probably the hardest one to  
14 measure is a level of passion and commitment to  
15 actually getting this work done.

16                   MR. SVEN HOMBACH: And I may have been  
17 unclear again. If I was, I do apologize. But my  
18 question actually was:

19                   What services specifically should be  
20 asked for in the RFP, as opposed to what  
21 qualifications the agencies would have to demonstrate?

22                   MR. JERROLD OPPENHEIM: Okay. It's  
23 bas -- the job, I'd say, is basically one of  
24 marketing; actual implementation contract management,  
25 if you will; and then quality control during and after

1 the fact of implementation; and reporting.

2

3 (BRIEF PAUSE)

4

5 MR. SVEN HOMBACH: I'd like to turn  
6 your attention then to the Furnace Replacement  
7 Program. You understand that Centra states that  
8 currently about half of the targeted standard-  
9 efficiency furnaces have been replaced through  
10 eligible customers actually accessing the FRP program?

11 MR. JERROLD OPPENHEIM: That's not my  
12 understanding of the facts they present. My  
13 understanding is that half have been replaced, but not  
14 necessarily by accessing the program. My  
15 understanding is about half of the half have been low-  
16 income consumers replacing -- replacing systems on --  
17 on their own.

18 And -- and I think they made the  
19 statement at one of the hearings, perhaps last week,  
20 that all -- all of their estimates in this regard are  
21 what they call 'crude estimates'. I think that's a --  
22 a direct quote. And I -- I think that's probably  
23 true. I think it's hard to -- and it's been hard for  
24 them to know exactly how many low-income furnaces are  
25 out there in the first place, let alone how many have

1 been replaced.

2                   It's -- it's hard to imagine someone  
3 with a LICO-125 income that -- managing to -- to  
4 borrow the money required to replace a -- a furnace.  
5 So it must happen, but I don't know if it happens on  
6 the scale that the Company has been projecting.

7                   MR. SVEN HOMBACH:   And just so that  
8 we're clear on the numbers, at Tab 22 of Board  
9 counsel's book of documents, page 85, there is a chart  
10 that suggests that among LICO-125 customers, as of the  
11 end of the 2012/'13 fiscal year, there's eleven  
12 thousand five hundred seventy-six (11,576) standard  
13 furnaces remaining?

14                  MR. JERROLD OPPENHEIM:   That's what it  
15 says. My understanding of the meaning of that number  
16 is that that is the Company's projection of the  
17 original universe of standard low-income univ --  
18 standard efficiency furn -- furnaces, which is  
19 eighteen thousand (18,000) some, minus the number that  
20 the company has replace, which as I recall is  
21 something like twenty-five hundred (2,500), and then  
22 minus the number that low-income consumers have  
23 replaced on their own, which is about the same number.

24                       So that would -- that -- that -- those  
25 numbers don't add, so those are approximate. But the



1 -- the result in their view is that there are eleven  
2 thousand (11,000) -- almost eleven thousand six  
3 hundred (11,600) in the universe left to go, but  
4 that's their words. That's a crude estimate.

5 MR. SVEN HOMBACH: Do you have any  
6 doubt to suggest that that number isn't accurate, or  
7 do you generally agree with that crude estimate?

8 MR. JERROLD OPPENHEIM: Well, there --  
9 there are data to suggest that it's -- it's not  
10 accurate. I just described one (1) of the problems  
11 with it. It assumes financing that low-income  
12 customers are unlikely to be able to achieve.

13 I'm also mindful of the -- the revision  
14 that the Company made in the -- the number, and that's  
15 -- I don't know where that is exactly, but that's in  
16 the Information Responses. Basically the -- the  
17 number of standard efficiency furnaces in the low-  
18 income community is based on a survey, and the survey  
19 is primarily based on people's memories.

20 Now, the Company did some adjustment  
21 based on some mismatches of the memories. People  
22 would remember installing a furnace in a year when the  
23 type of furnace that they remember installing couldn't  
24 have been installed, because it either wasn't  
25 available or wasn't lawful. But they only looked at

1 about a hundred and fifty (150) of those out of -- I  
2 forgot now, it's seven (7) or eight thousand (8,000)  
3 responses.

4                   So that leave an -- this -- there was a  
5 window between -- I don't think I have the years  
6 exactly right, but it's something like 1983 to 1992  
7 during which you could have installed either a low-,  
8 mid-, or high-efficiency furnace. So in that -- in  
9 those years it is possible for somebody to have --  
10 said, Yep, that's when I installed my furnace and I  
11 remember installing whatever.

12                   And the Company would not have  
13 necessarily caught that as a mismatched answer, so  
14 they wouldn't have investigated it further under the  
15 approach that's described in their revision analysis.  
16 So there could still be some faulty memory that's  
17 wrapped into these numbers.

18                   So I think it's fine to use them as an  
19 approximation or, as the Company says, as crude  
20 estimate of -- of what's out there. But to think that  
21 this is exactly right, I think -- I think there'll  
22 probably be agreement that it's not.

23

24                   (BRIEF PAUSE)

25

1 MR. SVEN HOMBACH: Based on your  
2 understanding, do most people replace their furnaces  
3 after a certain amount of time, or is it a problem  
4 that a lot of them may only replace the furnaces once  
5 they actually break?

6 MR. JERROLD OPPENHEIM: Well, if we're  
7 talking about low-income people, they will defer a  
8 major expenditure like that as long as they possibly  
9 can, just like they would with an automobile.

10 And you can see from the Company's --  
11 again, from the Company's survey from 2009, that the  
12 average age of a LICO furnace at that point was quite  
13 a bit longer than a non-LICO furnace. The LICO  
14 furnace was, I think, thirty-two point six (32.6)  
15 years, something like that, and the -- the non-LICO  
16 furnace was in the twenties.

17 So that -- what that says to me is that  
18 there are a lot of LICO furnaces out there that are  
19 even older than that, 'cause that's just an average.  
20 So there could be some forty (40) year old furnaces  
21 out there. And, you know, unless somebody wins a  
22 lottery or something, they're -- they're going to be  
23 hard pressed to replace that furnace before it -- it  
24 finally renders its last gasp.

25 MR. SVEN HOMBACH: Are there any

1 problems then, in your view, with people being able to  
2 access the Furnace Replacement Program if they're  
3 faced with an old, standard efficiency furnace  
4 suddenly breaking and it needs to be replaced right  
5 now?

6 MR. JERROLD OPPENHEIM: I'm not sure  
7 what you mean by 'problems'.

8 MR. SVEN HOMBACH: If there's a  
9 substantial percentage of LICO customers that wait  
10 until their existing furnace breaks, is there, in your  
11 view, a problem of accessing the Furnace Replacement  
12 Program if they're faced with a sudden need to replace  
13 their furnace because the old one broke?

14 MR. JERROLD OPPENHEIM: Do you mean  
15 are they -- if you mean are they able to access the  
16 program, my understanding is that they are, but the  
17 Company regards them as free riders so they don't  
18 count the savings.

19

20 (BRIEF PAUSE)

21

22 MR. SVEN HOMBACH: If the statistic  
23 is, though, that about half of eligible people replace  
24 their furnace on their own without availing themselves  
25 of the program, does that not suggest to you that

1 there's difficulty for those people to access the  
2 program? Or why would they not apply to the program  
3 if they could essentially get some discount for free?

4 MR. JERROLD OPPENHEIM: I think the  
5 major reason, as -- as I mentioned earlier, I think  
6 the major reason that folks do not access the program  
7 is that it's very difficult to see an immediate  
8 benefit. The -- the program is structured currently  
9 with a co-payment such that, at least on average --  
10 and this is the way it's sold to folks -- there's no  
11 benefit to the customer until year 6.

12 Very hard for a low-income customer  
13 living hand-to-mouth to look six (6) years ahead and  
14 make a decision today that is only going to benefit  
15 them six (6) years from today. So I think that --  
16 that is at least a major reason why people don't  
17 participate.

18 MR. SVEN HOMBACH: Do you agree,  
19 though, that the current replacement program still  
20 represents significant savings, assuming customers  
21 know that eventually they'll have to replace their old  
22 furnace?

23 MR. JERROLD OPPENHEIM: Well, yeah.  
24 The -- the savings are certainly real. From a  
25 societal point of view the savings are real, from a

1 customer point of view at year 6 the savings are real.  
2 So, you know, it's not bad from that point of view,  
3 but it's not optimal either because it's just not  
4 attracting people at the scale that is desired.

5 MR. SVEN HOMBACH: And your suggestion  
6 to this Board is not to eliminate the co-payment  
7 entirely, but just to cut it by 50 percent. Yet you  
8 testified that in the US program, there actually is no  
9 co-payment.

10 So my question to you is: Is that the  
11 problem with people simply being loss averse and not  
12 prepared to spend any money, even if it benefits them  
13 under the program, or is it just an issue with the  
14 size of the co-payment?

15 MR. JERROLD OPPENHEIM: I think  
16 there's almost a philosophical issue hidden in there,  
17 in -- in all those questions. I mean, in the -- in  
18 the programs that offer furnaces for no co-payment,  
19 the judgment is made that there's -- to put it in the  
20 vernacular, you can't get blood from a turnip. If you  
21 -- if you require a co-payment, it's just -- the  
22 problem is just going to show up somewhere else. If  
23 people have their incomes reduced in that way, then  
24 they're -- then their arrearage is going to go up, for  
25 example, and some of the other benefits that you have

1 of -- that the Board has identified of replacing  
2 furnaces will not occur.

3                   So there -- it's -- it's a judgment  
4 call, in effect. And my personal judgment would be to  
5 prefer as small a co-payment as -- as can be  
6 justified. I'm proposing cutting it in half because  
7 it seems to me to be a -- a good balance, and the  
8 Board may well want to strike the balance somewhere  
9 else.

10                   But that struck me as a good balance  
11 between keeping the ratepayer impact under control,  
12 not changing it to a noticeable amount, while at the  
13 same time making the program much more attractive to  
14 low-income people.

15

16                   (BRIEF PAUSE)

17

18                   MR. SVEN HOMBACH: Your report  
19 suggested increasing the annual FRP funding amount to  
20 two hundred and fifty thousand (250,000). But it's my  
21 recollection that you now have settled on a three  
22 hundred thousand dollars (\$300,000) per year increase.

23                   Do I recall that correctly?

24                   MR. JERROLD OPPENHEIM: You do. And I  
25 think the detail for that is set out in my response to

1 PUB/CAC-14, which begins at page 546 of the book of  
2 documents.

3

4 (BRIEF PAUSE)

5

6 MR. SVEN HOMBACH: You're aware of the  
7 fact that under the current program, there's  
8 approximately 17 million of unused funds remaining?

9

MR. JERROLD OPPENHEIM: Yes. And that  
10 -- that is actually somewhat -- a somewhat higher  
11 number than I assumed in the calculation that I just  
12 referred to. So that -- on the other hand, I -- as I  
13 understand it, somewhat less has been accomplished  
14 than was originally projected. So though -- those two  
15 (2) may wash each other out. The problem with all  
16 these numbers, because it's hard to be very precise  
17 and it's a moving target. But I -- yes, I am aware of  
18 that and I did take it into account.

19

MR. SVEN HOMBACH: So given that  
20 amount of unused funds, how exactly will increased  
21 funding on an annual basis speed up the replacement?

22

MR. JERROLD OPPENHEIM: Well, if I --  
23 if I understand your question, it's -- it's not so  
24 much that increasing the funding will speed up the  
25 replacement, but it will make it possible to actually



1 finish and reach all of the low-income folks who are  
2 eligible for replacement before they -- well, before  
3 something else happens, before they either replace the  
4 furnace on their own or what -- whatever else might  
5 happen.

6 MR. SVEN HOMBACH: I'd like to draw  
7 your attention to Centra Exhibit 11, which was an  
8 answer to Undertaking 3.

9 MR. JERROLD OPPENHEIM: Yes, I have  
10 that.

11 MR. SVEN HOMBACH: That exhibit  
12 contains a chart that runs through the numbers of the  
13 Furnace Replacement Program, and you see one (1) of  
14 the middle columns is the 2013 forecast?

15 MR. JERROLD OPPENHEIM: Yes, I see  
16 that.

17 MR. SVEN HOMBACH: Which has an  
18 opening balance of sixteen million fifty-five thousand  
19 (16,055,000).

20 MR. JERROLD OPPENHEIM: Yes.

21 MR. SVEN HOMBACH: And annual funding  
22 to go into the program of 3.8 million?

23 MR. JERROLD OPPENHEIM: Right.

24 MR. SVEN HOMBACH: And you can see, if  
25 you go two (2) columns to the right, this chart is

1 premised on the program receiving 3.8 million of  
2 additional funds in each of the 2013/'14 and 2014/'15  
3 test years, with no funding provided thereafter?

4 MR. JERROLD OPPENHEIM: Yes, I do see  
5 that.

6 MR. SVEN HOMBACH: And based on  
7 Centra's furnace replacement projections, by their  
8 math, the program will have about 8.5 million left  
9 over at the end of the 2018/'19 year?

10 MR. JERROLD OPPENHEIM: Yes.

11

12 (BRIEF PAUSE)

13

14 MR. SVEN HOMBACH: Now, two (2) time -  
15 -

16 MR. JERROLD OPPENHEIM: Par -- pardon  
17 me. That -- that assumes that there's no funding from  
18 the years 2015/'16 on, right?

19 MR. SVEN HOMBACH: Correct.

20

21 (BRIEF PAUSE)

22

23 MR. SVEN HOMBACH: So, I have a series  
24 of questions for you on this document. The first one  
25 is: When you see that there's currently projected to

1 be 8.5 million left over, the program is currently  
2 scheduled to be funded at 3.8 million for two (2)  
3 years, which is a total of 7.6 million, do you agree  
4 that even if funding were discontinued immediately,  
5 the program would not run out of money, assuming that  
6 Centra's furnace-replacement calculations are correct?

7 MR. JERROLD OPPENHEIM: Well, that --  
8 that's what the -- subject to check, that's what the  
9 numbers would appear to say, but that assumes that the  
10 -- the program continues to rely on low-income people  
11 replacing their own furnaces at the assumed rate.

12 MR. SVEN HOMBACH: That is correct,  
13 but is one -- it is your recommendation that the co-  
14 payment would be reduced by 50 percent?

15 MR. JERROLD OPPENHEIM: Correct.

16 MR. SVEN HOMBACH: What is your  
17 estimate on how that is going to increase the uptake  
18 rate?

19 MR. JERROLD OPPENHEIM: Well, hope is  
20 probably a better word than estimate. My -- my hope  
21 is that it would thereby reach all or nearly all of  
22 the eligible low-income customers. And I -- I based  
23 my own calculations on that assumption. We won't  
24 really know until we try it.

25 And it's also -- I mean, the result of

1 that is also a function of how the program itself is  
2 marketed and otherwise implemented. So, for example,  
3 if -- my hypothesis at least is that if a community  
4 organization, locally based, or a network thereof, is  
5 brought into the picture that that will also increase  
6 the level of participation.

7                   Those -- so those -- those two (2)  
8 things together might at least come closer to the 100  
9 percent participation rate that I think we all are  
10 hoping for.

11                   MR. SVEN HOMBACH: But you're not  
12 currently prepared to speculate on what the particima  
13 -- participation rate is going to be?

14                   MR. JERROLD OPPENHEIM: I think  
15 'speculation' is a good -- a good word for it. You --  
16 you can't -- the -- you can't know until you -- until  
17 you do it.

18                   MR. SVEN HOMBACH: Turn back to Tab 22  
19 of Board counsel's book of documents, please, page 85.

20                   MR. JERROLD OPPENHEIM: Yes.

21                   MR. SVEN HOMBACH: It's a chart I've  
22 already taken you to this afternoon. The chart shows  
23 that, among LICO-125 customers there currently appear  
24 to be approximately eleven thousand five hundred  
25 (11,500) furnaces of standard efficiency that remain

1 in service.

2 MR. JERROLD OPPENHEIM: Yeah.

3 MR. SVEN HOMBACH: And you've  
4 indicated to me that you don't have full confidence in  
5 those numbers but let's accept those for a moment. If  
6 the co-payment is cut by 50 percent then, by my math,  
7 that will result in an additional cost of about 6.6  
8 million.

9 Do you agree with that number?

10

11 (BRIEF PAUSE)

12

13 MR. JERROLD OPPENHEIM: Well, I'll  
14 take that subject to check.

15

16 (BRIEF PAUSE)

17

18 MR. SVEN HOMBACH: Perhaps you'll take  
19 it subject to check and --

20 MR. JERROLD OPPENHEIM: Yes.

21 MR. SVEN HOMBACH: -- if you disagree  
22 with the number, you can advise by undertaking?

23 MR. JERROLD OPPENHEIM: Okay.

24 MR. SVEN HOMBACH: If you do end up  
25 agreeing with that number and the program funding is

1 currently continued at 3.8 million for each of  
2 2013/'14 and 2014/'15, those 6.6 million are less than  
3 the 8.5 million that Centra is projecting to have left  
4 over, are they not?

5 MR. JERROLD OPPENHEIM: Yeah, that  
6 incremental expense would be less than the fund  
7 balance you mentioned, right.

8 MR. SVEN HOMBACH: And it suggests  
9 that there would be a safety margin of about 2  
10 million?

11 MR. JERROLD OPPENHEIM: Well, no,  
12 because you've still got to pay for the -- the 6.6  
13 million is just -- that you posited, as I understand  
14 it, is just the increment from reducing the co-  
15 payment. You've still got to -- you've still got the  
16 other costs of the program.

17 MR. SVEN HOMBACH: Yes, I'm -- I'm  
18 simply subtracting the 6.6 million from the 8.6  
19 million.

20 MR. JERROLD OPPENHEIM: Yeah, but the  
21 -- the 8.6 million assumes that the program doesn't  
22 reach everybody. It assumes that the program only  
23 installs, according to this chart, eight thousand and  
24 eighty-eight (8,088) units, that the rest are somehow  
25 provided in some other fashion.

1 MR. SVEN HOMBACH: So the program  
2 would run out of money if the increased uptake results  
3 in more than \$2 million of increases in total  
4 expenditure?

5 MR. JERROLD OPPENHEIM: If I  
6 understand your question, the answer is yes. That --  
7 that's the reason for the additional number of years  
8 past -- that I propose past 2014/'15, and also for the  
9 small additional contribution per year.

10 MR. SVEN HOMBACH: Why do you propose  
11 increasing the funding at this point in time as  
12 opposed to the Board simply reevaluating the issue in  
13 two (2) years to see if additional funding is  
14 required?

15 MR. JERROLD OPPENHEIM: Well, I don't  
16 know when the next opportunity for review would occur,  
17 but if you wait, then the increase in additional  
18 funding would have to be greater. I'm suggesting  
19 adding -- for -- for example, I'm suggesting adding  
20 three hundred thousand (300,000) a year, starting with  
21 the decision in this case.

22 If you wait two (2) years, that's  
23 another six hundred thousand (600,000) -- round  
24 numbers -- that you would have a smaller number of  
25 years to -- to raise. So -- so if you decided that

1 you had to increase the -- the funding, you'd have to  
2 increase it for the subsequent years by somewhat more.

3

4 (BRIEF PAUSE)

5

6 MR. JERROLD OPPENHEIM: It's kind of  
7 like a savings account.

8 MR. SVEN HOMBACH: Let's move on to  
9 the issue of renters, then.

10 MR. JERROLD OPPENHEIM: Okay.

11 MR. SVEN HOMBACH: You understand that  
12 Centra, through the existing LIEEP, does offer low-  
13 cost or no-cost upgrades to renters?

14 MR. JERROLD OPPENHEIM: Are you  
15 talking about insulation and that sort of thing?

16 MR. JERROLD OPPENHEIM: Yes,  
17 insulation, sealing, caulking around windows, that  
18 type of thing.

19 MR. JERROLD OPPENHEIM: Yes. My -- my  
20 focus has been on the furnace -- furnaces of renters  
21 who pay for their own heat.

22 MR. SVEN HOMBACH: So if you're  
23 suggesting a budget to deal with renters, are you  
24 suggesting that the program should be available to  
25 renters regardless of who the landlord is, aside from



1 your comment that you do not believe it's necessary to  
2 deal with people on social assistance?

3 MR. JERROLD OPPENHEIM: I guess I  
4 don't fully understand your question about regardless  
5 of who the landlord is. But the guiding principle I  
6 would have is that the -- the folks who would receive  
7 the program, if they are renters, should be in a  
8 position to reap the benefit of the program.

9 So if their rent is controlled in some  
10 way, either because of who their landlord is or  
11 because of the assistance they receive, then there's  
12 no point in enrolling them in the program.

13 MR. SVEN HOMBACH: But regardless of  
14 whether you're dealing with large, institutional  
15 landlords of apartment buildings or the guy who just  
16 owns a house and has it subdivided into a few suites,  
17 you'd like the program to be available regardless of  
18 who the landlord is?

19 MR. JERROLD OPPENHEIM: Oh, yes.  
20 Yeah. It would -- I mean, again, it would depend --  
21 what I'm talking about is those folks who pay for  
22 their own -- for their own heat. So if we're talking  
23 about very large buildings that are heated centrally,  
24 that's -- that's a whole separate problem.

25

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: Your primary  
4 concern with respect to renters was that landlords  
5 could simply just increase the rent, and the tenants  
6 would not see any actual benefit.

7 Do I have that right?

8 MR. JERROLD OPPENHEIM: Well, that --  
9 that's my problem with the -- with the -- the PAYS, P-  
10 A-Y-S, Pay As You Save, proposal, yes.

11 MR. SVEN HOMBACH: And in response to  
12 an Information Request from the Public Utilities  
13 Board, you provided two (2) agreements, both from the  
14 United States, that deal with some situations of  
15 limiting rent increases?

16 MR. JERROLD OPPENHEIM: Yes, as an  
17 illustration of the -- the approach that could be  
18 taken with a landlord, yes.

19 MR. SVEN HOMBACH: Let me take you to  
20 the first of those. They're both in Board counsel's  
21 book of documents. The first one is at Tab 71 at page  
22 557.

23

24 (BRIEF PAUSE)

25

1 MR. JERROLD OPPENHEIM: I have that.

2 MR. SVEN HOMBACH: This one is for  
3 Boston.

4

5 (BRIEF PAUSE)

6

7 MR. JERROLD OPPENHEIM: Primarily it  
8 works in a -- it's used rather in a couple other  
9 suburban communities as well.

10 MR. SVEN HOMBACH: If I go onto  
11 Section 7 of that agreement, that contains an  
12 undertaking not to increase the rent for one (1) year  
13 for weatherization or for two (2) years for heating  
14 system replacement?

15 MR. JERROLD OPPENHEIM: That's  
16 correct.

17

18 (BRIEF PAUSE)

19

20 MR. SVEN HOMBACH: And going to the  
21 next agreement at page 565, and that one (1) seems to  
22 be for the city or town of Malden, Massachusetts?

23 MR. JERROLD OPPENHEIM: Yes, that's  
24 where the agency is located. And again, it serves a  
25 number of surrounding communities.

1 MR. SVEN HOMBACH: And that agreement  
2 contains a one (1) year prohibition against grant  
3 increases?

4

5 (BRIEF PAUSE)

6

7 MR. JERROLD OPPENHEIM: Can you speed  
8 my review by pointing me to a paragraph?

9

10 (BRIEF PAUSE)

11

12 MR. SVEN HOMBACH: If you go to page  
13 566.

14 MR. JERROLD OPPENHEIM: Yes.

15 MR. SVEN HOMBACH: Section 8.

16 MR. JERROLD OPPENHEIM: Yes.

17

18 (BRIEF PAUSE)

19

20 MR. SVEN HOMBACH: The first two (2)  
21 lines of Section 8 contain a date actually. This  
22 agreement stipulates that the rent will not be  
23 increased until a certain date. My understanding from  
24 reading it is that it was a one (1) year period?

25 MR. JERROLD OPPENHEIM: My

1 understanding of the practice is that while the -- the  
2 basic principles that we just looked at in the Action  
3 for Boston Community Development Agreement are -- or  
4 at least taken into account, that this is -- the  
5 reason that it's blank is that this is actually a  
6 negotiated date. And it would be no less -- my  
7 understanding is it would be no less than the amount  
8 that Action for Boston Community Development  
9 negotiates, but it could conceivably be longer.

10 MR. SVEN HOMBACH: My understanding of  
11 the one (1) year time frame was from the fact that the  
12 termination period, for lack of a better word, for the  
13 rent restriction is May 2010. And the agreement seems  
14 to have been sent out in April 2009.

15 But can you tell me what -- the maximum  
16 duration of the rent freezes that you have seen?

17 MR. JERROLD OPPENHEIM: Well, I can  
18 tell you that -- that this -- this particular  
19 agreement appears to have been an actual agreement.  
20 You can see that the names and addresses -- address is  
21 blacked out. So that suggests to me that this was an  
22 actual negotiated duration that could have -- that  
23 could be different in other circumstances.

24 The maximum I've seen is for multi-  
25 family buildings, that is buildings with five (5) or

1 more units. And there the agreement is usually to  
2 keep the building available on a subsidized basis to  
3 low-income tenants for ten (10) years, or ten (10)  
4 years longer than the building is currently subject to  
5 those provisions.

6                   There are -- there are programs in the  
7 US that, in effect, control the rent of low-income  
8 buildings if they've been, let's say, financed by a  
9 government agency or if they receive vouchers from a  
10 government agency, and there's -- there's oft --  
11 usually an expiration date attached to that, and the  
12 agreement that I'm speaking of would extend that  
13 expiration date for ten (10) years.

14                   MR. SVEN HOMBACH: First of all, are  
15 you happy with the one (1) or two (2) year limits for  
16 most units?

17                   MR. JERROLD OPPENHEIM: Well, I guess  
18 what I would say is it has worked in the sense that it  
19 -- it certainly has been enough to encourage a large  
20 number of landlords to accept the program, whereas  
21 without this -- without the free service on which this  
22 is conditioned, they typically would not accept the  
23 program.

24                   And it -- it seems to have not created  
25 an undue -- I mean, we're -- we're in a -- in

1 Massachusetts we're -- we're not in a environment of  
2 any rent control, so the landlords are free to do what  
3 they wish afterwards. But they -- they do not appear,  
4 at least at any volume, to have unduly increased rents  
5 thereafter.

6 MR. SVEN HOMBACH: As I understand it,  
7 furnace life is about twenty-five (25) years, barring  
8 in mind the statistic that you referred to earlier  
9 that the average LICO standard-efficiency furnace is  
10 well over thirty-two (32) years old?

11 MR. JERROLD OPPENHEIM: If you're  
12 speaking of furnaces here in Manitoba, yes, that's my  
13 understanding.

14 MR. SVEN HOMBACH: In that case, isn't  
15 a one (1) or two (2) year reprieve fairly short,  
16 considering the total furnace life?

17 MR. JERROLD OPPENHEIM: Yes. Yes. I  
18 would not be unhappy if a longer term were imposed.

19 MR. SVEN HOMBACH: Taking you back to  
20 the issue of larger buildings for which you've stated  
21 that owners in Massachusetts may have to agree to keep  
22 the building available as low-income housing for a  
23 period of ten (10) years.

24 MR. JERROLD OPPENHEIM: It's an  
25 additional ten (10) years, yes. In other words they

1 are -- these are typically buildings that have some  
2 agreement in existence today that might have some  
3 period of time to run, usually less than ten (10)  
4 years. And the agreement -- the agreement they would  
5 be asked to sign would be to extent that provision for  
6 an additional ten (10) years past the existing  
7 expiration date.

8 MR. SVEN HOMBACH: Do you find that  
9 smaller buildings that may not currently have such  
10 agreements take this program up, or do you find that  
11 for them it may not be worthwhile to have the subsidy  
12 but then be unable to sell the property or turn it  
13 into condominiums or market rent housing?

14 MR. JERROLD OPPENHEIM: That's exactly  
15 the concern, and so far at least what we have found is  
16 that we have found it easier than we thought it would  
17 be to fully subscribe the budget for the programs. I  
18 think I men -- might have mentioned earlier that as we  
19 sit here in June, the budget for 2013 for large-  
20 building heating systems is already fully subscribed  
21 for the year.

22 MR. SVEN HOMBACH: You mentioned that  
23 the two (2) cities for which you provided agreements  
24 don't have rent control, and it coincides with my own  
25 research. You do understand that Winnipeg is a city



1 that has rent control?

2 MR. JERROLD OPPENHEIM: I do.

3 MR. SVEN HOMBACH: In the absence of  
4 rent control, who is the arbiter of whether rent is  
5 increased as a result of, let's say, the furnace  
6 installations as opposed to some other improvements,  
7 if there is a dispute?

8 MR. JERROLD OPPENHEIM: That would be  
9 an ordinary civil court. There have been a small  
10 number of cases where tenants have taken landlords to  
11 court under these agreements - a handful. I -- I  
12 haven't been the lawyer in those cases. But the --  
13 the agency involved will intervene and/or represent  
14 the tenant in those cases.

15 So I've spoken to the folks who have  
16 done it, and my understanding is that they have been  
17 uniformly upheld by those courts.

18 MR. SVEN HOMBACH: You actually have  
19 those same concerns in a rent-controlled environment?

20 MR. JERROLD OPPENHEIM: I wish we had  
21 that problem. We don't have any rent control in  
22 Massachusetts. And then I guess the answer would  
23 depend on the particular requirements of the -- and --  
24 and allowances of the rent control statute.

25

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: I think I've got  
4 your position that the fundamental problem is that  
5 landlords can't just increase the rent and there might  
6 not be a net benefit to the tenant.

7 But even if that is the case, total gas  
8 consumption still goes down with those types of  
9 programs, does it not?

10 MR. JERROLD OPPENHEIM: Oh, certainly.  
11 Al -- although, it -- it might be a hard sale to get  
12 tenants to participate, and if they don't participate,  
13 then you don't get the benefit of the consumption  
14 reduction.

15 MR. SVEN HOMBACH: So your problem  
16 then is not so much with a subsidy; it's really that  
17 it's a disincentive to upping the participation rate?

18 MR. JERROLD OPPENHEIM: I -- I'm  
19 definitely concerned about the -- the disincentive, or  
20 at least a lack of an incentive. I'm not sure exactly  
21 what you mean by the subsidy.

22 MR. SVEN HOMBACH: That word was  
23 chosen because it appeared to be your suggestion that  
24 the tenants would essentially be subsidizing  
25 improvements that benefit the landlord more than the

1 tenant.

2 MR. JERROLD OPPENHEIM: Oh, I see.

3 Okay. Well, that's -- yes, that's certainly an equity  
4 concern I would have. So that -- those are both --  
5 those are both concerns.

6

7 (BRIEF PAUSE)

8

9 MR. SVEN HOMBACH: So let's turn to  
10 your recommendation about evaluating Centra's Low  
11 Income Energy Efficiency Program, or LIEEP.

12 My first question to you is: What  
13 exactly can be achieved by evaluating the Program?

14 MR. JERROLD OPPENHEIM: Well, the prin  
15 -- the principle -- you're talking about impact  
16 evaluation, I assume? Or per -- perhaps you're not?  
17 I --

18 MR. SVEN HOMBACH: Correct.

19 MR. JERROLD OPPENHEIM: Okay. What  
20 the benefit of a process evaluation is it'll tell you  
21 some, perhaps, some way of improving the program. An  
22 impact evaluation will tell you what you are actually  
23 achieving in terms of energy savings. And so it will  
24 -- it will help you determine whether what you  
25 expected to achieve has actually occurred. And if it

1 hasn't, it might steer you towards a program  
2 improvement to get you to the place where you want to  
3 be, in terms of savings.

4                   And that's -- that's important, for  
5 example, in -- in setting the co-payment, whether you  
6 subscribe to the Company's view or you subscribe to my  
7 view that it should be 50 percent. If -- if your  
8 objective is to set the co-payment at a rate such that  
9 the tenant breaks even, you need to know what the  
10 savings are.

11                   And if all you have is an estimate, an  
12 engineering estimate of what those savings are on  
13 average, with no impact evaluation, no billing  
14 analysis to tell you what they really are, then you  
15 don't really know whether the nineteen dollars (\$19)  
16 that you've set is, in fact, going to be a break-even  
17 amount, or -- or that the -- half that, that I would  
18 propose, is really going to be half of a break-even  
19 amount.

20                   So it's -- so it's important to program  
21 design as well as simply the knowledge of whether or  
22 not you're achieving the -- the savings that you want.

23                   MR. SVEN HOMBACH: You suggested that  
24 the evaluation be independent of Centra. And just by  
25 way of clarification, does that suggestion hold for

1 both process and impact or for only one (1) of the two  
2 (2)?

3 MR. JERROLD OPPENHEIM: No, both. The  
4 -- the -- the point is that you want a -- another pair  
5 of eyes to look at it, both for a fresh approach, and  
6 -- and -- and for credibility. You want someone who  
7 has no interest in the outcome to give you their view  
8 of what either should be improved or what is actually  
9 going on.

10 MR. SVEN HOMBACH: So a fresh set of  
11 eyes and credibility, those are basically your reasons  
12 for wanting an independent evaluation?

13 MR. JERROLD OPPENHEIM: Yes. That --  
14 yeah. And by credibility, I would include an unbiased  
15 view with self-interest and un-self-interested view.

16 MR. SVEN HOMBACH: For purposes of the  
17 impact evaluation, I'm a little unclear on -- on why  
18 you think engineering estimates aren't sufficient to  
19 evaluate and, ultimately, execute LIEEP.

20 Perhaps you can elaborate.

21 MR. JERROLD OPPENHEIM: There are a  
22 lot of factors that go into savings. My understanding  
23 of -- based on the documents the Company has provided,  
24 of the engineering estimate that is performed, if they  
25 look at a -- it's kind of like looking at a light --

1 an incandescent light bulb and a compact fluorescent  
2 light bulb. On average, you know what the wattage is  
3 of each one (1), and you can just subtract the two (2)  
4 and the same -- one (1) from the other, and the same  
5 is true for a standard versus a high-efficiency  
6 furnace. You know how much one (1) consumes and how  
7 much the other consumes, and you could just do the  
8 subtraction on average, and it's very simple.

9                   The one (1) problem is it's only an  
10 average, so it doesn't tell you what's happening in  
11 the particular mix of houses that you're treating.  
12 The other problem is that there are a lot of other  
13 factors that go into the savings.

14                   So the Company mentions one (1) in its  
15 documentation, one (1) such factor, and that is the  
16 size of the house. Well, that's right, that is a  
17 factor, but there are other factors that -- that will  
18 go into the amount of savings that are achieved.

19                   Is it a brick house? What's the  
20 insulation like? Perhaps even lifestyle. So an  
21 engineering estimate all by itself, especially if it's  
22 just those two (2) factors really doesn't -- it gives  
23 -- gives you an approximation, I suppose, at a very  
24 high level average level, but it really doesn't tell  
25 you what's actually going on in the homes that you're

1 actually treating.

2 MR. SVEN HOMBACH: Is what you'd like  
3 to see then simply a comparison of before and after  
4 gas consumption?

5 MR. JERROLD OPPENHEIM: Yes, and that  
6 -- that is the gold standard of evaluation in this  
7 area. Doing -- you do a billing analysis. You've got  
8 to adjust it for weather, obviously, of before and  
9 after.

10 MR. SVEN HOMBACH: That data though  
11 would be available to Centra, would it not?

12 MR. JERROLD OPPENHEIM: Of course.  
13 And in fact they indicated that they think that should  
14 be done in some LIEEP programs, and they say that  
15 they're -- they don't think it should be done for the  
16 Furnace Replacement Program, that is a billing  
17 analysis, but they're considering it anyway.

18 And that's progress. That's good if  
19 they do it. But I -- I think it would be more  
20 reliable, more credible if it were done by somebody on  
21 the outside so that you'd know for sure. Well, first  
22 of all it would be transparent, you'd see the  
23 calculations. And -- and hopefully there'd be some  
24 conversation along the way with the independent  
25 evaluator so that if there were any questions they

1 might get answered -- methodological questions, they  
2 might get answered ahead of time and there would be a  
3 lot more confidence in the results.

4 MR. SVEN HOMBACH: So what you'd like  
5 to see is Centra making raw data available to somebody  
6 else who then crunches the numbers?

7 MR. JERROLD OPPENHEIM: Yes, and that  
8 -- that is what is commonly done.

9

10 (BRIEF PAUSE)

11

12 MR. SVEN HOMBACH: Still on the issue  
13 of evaluation, one (1) of the recommendations that  
14 flowed from your report was that Centra should use the  
15 risk-free Canadian treasury note rate for measured  
16 life where programs are subject to guaranteed funding.

17 Do you recall that?

18 MR. JERROLD OPPENHEIM: Yes, I do.  
19 One (1) of the things I would point out is that that's  
20 important if you -- if you want to value the -- in my  
21 view if you want to value the savings and whatever  
22 other benefits you're measuring accurately.

23 But it should also be said that given  
24 the Board's ruling that the low-income programs are  
25 going to be conducted and ordered irrespective of the



1 result of that -- of that calculation, that's  
2 something you might want to take into account as well.

3 MR. SVEN HOMBACH: Is the reason for  
4 your recommendation then simply to better be able to  
5 evaluate cost effectiveness?

6 MR. JERROLD OPPENHEIM: Yes.

7 MR. SVEN HOMBACH: Turn to page 72 of  
8 Board counsel's book of documents, please, page 571.

9

10 (BRIEF PAUSE)

11

12 MR. JERROLD OPPENHEIM: I have it.

13 MR. SVEN HOMBACH: That is an excerpt  
14 from Manitoba Hydro's consolidated 2011 Power Smart  
15 Plan. And page 571 is page 20 of the Power Smart Plan  
16 report. If you go to the bottom you see that there is  
17 several footnotes?

18 MR. JERROLD OPPENHEIM: Yes, I see  
19 them.

20 MR. SVEN HOMBACH: And the second  
21 footnote, which is denoted by two (2) stars shows the  
22 rate impact measure rates and the levelized utility  
23 cost for various low-income programs?

24 MR. JERROLD OPPENHEIM: Yes, I see  
25 that.

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: And including the  
4 guaranteed funding through the Affordable Energy Fund,  
5 low-income programs without the furnace replacement  
6 have a rate impact measure of zero point five (0.5)  
7 and a levelized utility cost of thirty-five point five  
8 (35.5) cents per kilowatt hour -- sorry, per cubic  
9 metre?

10 MR. JERROLD OPPENHEIM: That -- yes,  
11 that -- that's -- that is what it says. And I should  
12 say that the levelized utility cost is not really a  
13 cost-effectiveness number because it doesn't tell you  
14 anything about the value on the other side.

15 MR. SVEN HOMBACH: If you deal only  
16 with the Furnace Replacement Program, the rate impact  
17 measure is zero point three (0.3) and the levelized  
18 utility cost is a hundred and ten point five (110.5)  
19 cents per cubic metre?

20 MR. JERROLD OPPENHEIM: Correct. At  
21 least that's what it says.

22 MR. SVEN HOMBACH: Do those numbers  
23 not suggest to you though that the programs do not  
24 meet the traditional cost-effectiveness parameters as  
25 commonly understood?

1 MR. JERROLD OPPENHEIM: No, they don't  
2 for a number of reasons. One is that the RIM is not  
3 traditional. And in fact the Company on the transcript  
4 of this proceeding a few days ago indicated that the  
5 RIM was not an appropriate test to use for gas, and I  
6 agree with that.

7 Secondly, for the reasons that we've  
8 just been talking about, the -- the use of the wrong  
9 discount rate. And I would also add the fail --  
10 failure to include most non-energy benefits, many of  
11 which have been mentioned by the Board, but not  
12 quantified. The benefit side is not -- for those two  
13 (2) reasons the benefit side is not well specified,  
14 not really well accounted for.

15 Third, if you look at the -- the TRC,  
16 with only one (1) non-energy benefit accounted for,  
17 which is water, instead of point -- zero point two  
18 (0.2), the result is zero point five (0.5). So just  
19 with that difference you see that it's at least moving  
20 towards one (1). I don't know what -- what it would  
21 be if you included all those other adjustments that I  
22 proposed, but I would suggest that it would be much  
23 closer to one point-o (1.0).

24 And in any event, even by the Company's  
25 calculation, the portfolio of low-income programs,

1 counting the Furnace Replacement Program, do meet a  
2 TRC of one point-o (1.0), which would make it cost  
3 effective even -- even on those, in my view, erroneous  
4 terms.

5 MR. SVEN HOMBACH: What test would you  
6 like to see used? Just the TRC?

7 MR. JERROLD OPPENHEIM: I would use  
8 the TRC, but not the TRC as applied here. I would --  
9 I would count -- I would account more non-energy  
10 benefits than have been accounted here. The Company  
11 accounts for water, does not account for health  
12 benefits, which the Board has identified as being  
13 important. It does not account for the savings in  
14 equipment maintenance, house maintenance, and so on.

15 And there's potentially a list of a  
16 dozen or more non-energy benefits that could be  
17 counted in addition to the error that I described of  
18 applying the wrong discount rate to those benefits.

19 MR. SVEN HOMBACH: Are you in a  
20 position to provide the Board with an undertaking that  
21 includes a list of the factors that you think should  
22 be included in the TRC?

23 MR. JERROLD OPPENHEIM: Well, I -- I  
24 could provide a list, yeah, sure.

25

1 --- UNDERTAKING NO. 12: Mr. Oppenheim to prepare a  
2 list of items he believes  
3 should be included in the  
4 TRC test and explain how  
5 they should be quantified  
6

7 CONTINUED BY MR. SVEN HOMBACH:

8 MR. SVEN HOMBACH: In addition to that  
9 question, do you agree with the approach assessment  
10 used before to simply use a proxy of, let's say, 10  
11 percent to account for externalities that aren't  
12 currently reflected in the TRC?

13 MR. JERROLD OPPENHEIM: No, I think  
14 that's probably an underestimate. And -- and this --  
15 there's an element of uncertainty in my mind about  
16 what is meant -- what the Company means by that 10  
17 percent. They -- they call it a way of accounting for  
18 additional non-energy benefits, but they only apply it  
19 in the societal test, not the TRC. It's the TRC that  
20 involves non-energy benefits, not the societal test.  
21 So I'm a little un -- unclear about what the Company  
22 means.

23 If what the Company means is to include  
24 societal benefits and to count those at 10 percent,  
25 well, it's probably still an underestimate, although

1 the Company does, as I understand it, include  
2 something for environmental emissions. So that would  
3 be an environmental benefit that is included.

4           There are other societal benefits  
5 again, such as healthcare benefits, that are borne by  
6 the society, and it's -- and -- and jobs. Those would  
7 be the two (2) big ones, probably. So those are --  
8 those are probably not adequately accounted for by the  
9 10 percent, but 10 percent's better than assuming it's  
10 zero.

11           MR. SVEN HOMBACH: I have your  
12 undertaking then, to provide a list of the factors  
13 you'd like to see included. I'd like to extend this  
14 to a description of how those items should be  
15 calculated or quantified.

16           Mr. Chairman, I anticipate being about  
17 ten (10) more minutes. Barring any further plumbing  
18 issues, I'm prepared to carry on, if it's acceptable  
19 to the Board.

20           THE CHAIRPERSON: I'd say let's carry  
21 on, please.

22           MR. JERROLD OPPENHEIM: Sure. I'll --  
23 I'll be glad to do that, and one (1) of the things  
24 I'll provide you is there was a fairly extensive study  
25 and I -- that was performed for the Massachusetts

1 utilities that showed how to quantify a fairly lengthy  
2 list of -- of non-energy benefits, and some societal  
3 benefits as well. I don't necessarily -- I think, in  
4 some cases, they underestimate it, but it still comes  
5 to a pretty healthy number. And I'll be happy to  
6 provide you with that study. It'll give you an idea  
7 of the effort that's involved.

8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MR. SVEN HOMBACH:

12 MR. SVEN HOMBACH: Moving on then, Mr.  
13 Oppenheim, one (1) of your recommendations was that  
14 there has to be an inventory of lower-income housing  
15 insulation levels.

16 MR. JERROLD OPPENHEIM: Yes.

17 MR. SVEN HOMBACH: Is your concern  
18 dealing with that recommendation that there aren't  
19 enough inspections to assess what the level of  
20 insulation is or that the current inspections just  
21 aren't being done right?

22 MR. JERROLD OPPENHEIM: No, my concern  
23 has nothing to do with the inspections that are going  
24 on. My concern exclusively had to do with the  
25 question of: What is the pace of the Company's

1 performance with respect to insulation?

2                   We know how many houses they are  
3 insulating. And for the purposes of this exercise, I'm  
4 perfectly willing to assume that the job was done  
5 professionally, although there could be perhaps more  
6 quality control done there.

7                   The question is the denominator of the  
8 fraction: How many homes are there with what the  
9 Company calls fair or poor insulation? And the way  
10 the Company determined that was it asked people: Is  
11 your insulation fair, poor, or something else? And it  
12 asked them that question because they didn't know the  
13 answer to the question: What is the R-value of your  
14 insulation? And I would suggest that they probably  
15 don't know whether it's fair or poor either.

16                   So the -- they might have a closer  
17 estimate, but it really is not a very complete  
18 estimate. And it would be a more accurate estimate to  
19 do a physical expend -- a -- a physical inspection as,  
20 for example -- although I would get permission before  
21 doing this from the homeowner -- one could obtain, for  
22 example, with an infrared camera, which is also a good  
23 tool for quality control.

24                   MR. SVEN HOMBACH: Are you suggesting  
25 any difference in -- in house inspections though,



1 between the evaluations that are currently done to  
2 determine if someone's eligible for LIEEP and the  
3 assessment that you're proposing?

4 MR. JERROLD OPPENHEIM: No.

5 MR. SVEN HOMBACH: If there were  
6 additional in-home inspections, do you still suggest  
7 that those people would have to perform the no-cost or  
8 low-cost options immediately if on site?

9 MR. JERROLD OPPENHEIM: I'm -- I'm not  
10 sure I understand the questions. If the question is,  
11 Would it be good to do more low-cost/no-cost measures,  
12 including insulation, then certainly the answer is,  
13 yes, the more the better.

14 MR. SVEN HOMBACH: You understand that  
15 Centra currently sends people into houses that apply  
16 for LIEEP, and if on site, those inspectors may  
17 perform the low-cost/no-cost options immediately?

18 MR. JERROLD OPPENHEIM: Do they do the  
19 insulation immediately? That's not my area --

20 MR. SVEN HOMBACH: Just the low-cost  
21 or no-cost options, the things like caulking around  
22 windows, easy items that can be done.

23 MR. JERROLD OPPENHEIM: Yeah. No,  
24 that's -- that's good, but the -- the real savings are  
25 from perhaps more thorough air sealing. I don't know

1 how thorough the air sealing is on the low-cost side,  
2 and -- and in insulation actually blowing in or  
3 otherwise inserting insulation material between the  
4 walls.

5 MR. SVEN HOMBACH: Do you have any  
6 cost estimate for your infrared camera proposal?

7 MR. JERROLD OPPENHEIM: No, my -- I  
8 could probably get you a better estimate than this,  
9 but my memory of the cost of an infrared camera in the  
10 US was in the low several-hundred-dollar range, maybe  
11 three (3) or four hundred (400), something like that.  
12 Don't -- don't -- that's a very approximate number. I  
13 don't know, but it's not that --

14 MR. SVEN HOMBACH: And that's per  
15 house?

16 MR. JERROLD OPPENHEIM: -- it's not --  
17 no, no, no, that's per camera.

18

19 (BRIEF PAUSE)

20

21 MR. SVEN HOMBACH: What's your  
22 estimate on how long it takes to do the average test?

23 MR. JERROLD OPPENHEIM: The average  
24 camera test you mean?

25 MR. SVEN HOMBACH: Yes.

1 MR. JERROLD OPPENHEIM: I really don't  
2 know exactly. I mean, it's -- it's basically taking a  
3 few pictures and then taking the time to analyze them,  
4 so I wouldn't think it would take more than an hour or  
5 two (2), but I could get you a better estimate if you  
6 need that.

7 MR. SVEN HOMBACH: So are you  
8 understanding that LIEEP is currently fully funded and  
9 there's no issue of prioritizing between competing  
10 houses based on insulation levels?

11

12 (BRIEF PAUSE)

13

14 MR. JERROLD OPPENHEIM: I -- I guess I  
15 don't completely understand your question.

16 MR. SVEN HOMBACH: To your knowledge,  
17 is there currently an issue with there not being  
18 sufficient funds to meet the LIEEP demand and  
19 homeowners being turned down based on a lack of funds?

20 MR. JERROLD OPPENHEIM: Oh, I -- I  
21 actually don't know the answer to that question. I --  
22 I don't know of a problem, but I don't know that  
23 there's not a problem.

24 MR. SVEN HOMBACH: In the absence  
25 then, what would -- what do you envision as the end

1 result if more inspections are taking place? What is  
2 the need -- more specifically, what is the need for  
3 additional inspections if program applicants are  
4 currently fully funded?

5 MR. JERROLD OPPENHEIM: Well, I guess  
6 the answer is -- is twofold. One (1) is you have a  
7 sense of whether the funding -- well, it would give  
8 you a sense of how many homes exist that are in need  
9 of insulation. You have an approximate number now.  
10 It would refine that number.

11 Knowing that and knowing what you are  
12 achieving now in terms of insulating homes, you would  
13 have a better idea of whether the funding that has  
14 been allotted to the program is adequate to the task  
15 if you define the task as getting through all the  
16 homes in need in, let's say, ten (10) years.

17 And I -- I guess what I'm suggesting is  
18 that you don't really have the data to know that. I  
19 mean, it's moving along at a -- what appears to be a  
20 decent pace but you don't know that for sure without  
21 knowing what the universe of homes in need really is.

22 MR. SVEN HOMBACH: And do you envision  
23 inspectors basically knocking on doors to see if they  
24 can go into houses and determine the insulation  
25 levels?

1 MR. JERROLD OPPENHEIM: Yeah, well,  
2 yeah, it could be done that way. It could be done in  
3 a -- as a -- a sampling basis. Depending on what kind  
4 of data are available it could be done by -- you could  
5 get at least and I -- an approximation by looking at  
6 the date of construction of homes and comparing that  
7 to the building code requirements at the date of  
8 construction.

9 So there's -- there's a variety of  
10 different ways it could be done other than a survey of  
11 people who don't really know what's in their walls.

12 MR. SVEN HOMBACH: So if I can attempt  
13 to paraphrase your recommendation, are you basically  
14 trying to get the Utility to switch from a homeowner-  
15 based program initiation to a Utility-based initiation  
16 where the Utility takes the first step?

17 MR. JERROLD OPPENHEIM: That's not my  
18 proposal. That may not be a bad idea, but that's --  
19 and it -- and it's a little hard to define which is  
20 which. I mean, if you're doing marketing and then  
21 customers respond, is that utility initiated or is  
22 that homeowner initiated?

23 MR. SVEN HOMBACH: How many additional  
24 houses do you want to see evaluated per year?

25 MR. JERROLD OPPENHEIM: It's -- it's

1 really not so much the number of homes you evaluate;  
2 it's the means you use to evaluate them. The -- the  
3 means that were used to evaluate the homes is a  
4 questionnaire that, I think, yields imprecise results.  
5 If, with that same number of homes, you evaluated the  
6 homes in a more precise way, you would get a more  
7 precise answer.

8 MR. SVEN HOMBACH: Well, it's a cost  
9 issue essentially, is it not?

10 MR. JERROLD OPPENHEIM: Well, not  
11 necessarily. I mean, it might cost something for the  
12 camera. But if you choose the approach of seeking the  
13 year of construction, if, assuming the data exists,  
14 that may not cost any more than sending out a survey;  
15 could be done by somebody at a desk.

16

17 (BRIEF PAUSE)

18

19 MR. SVEN HOMBACH: Moving on to the  
20 issue of administration expense --

21 MR. JERROLD OPPENHEIM: Yes.

22 MR. SVEN HOMBACH: -- was your  
23 conclusion that Centra's currently spending 32 percent  
24 of the LIEEP funds on administrative overhead, and it  
25 was your opinion that that amount is too high?

1 MR. JERROLD OPPENHEIM: Not  
2 necessarily. And I do compare it to two (2) things.  
3 One is what is was, which was close to zero, and close  
4 to zero is clearly too low; but the -- and -- and --  
5 and I also have in mind the success of program, which,  
6 in my view, is that there's a lot of room for  
7 improvement, so spending at the top of the range for  
8 the program that's not at the top of the range is not  
9 optimal.

10 MR. SVEN HOMBACH: You consider LIEEP  
11 to be -- sorry -- do you consider LEAN in  
12 Massachusetts to be top of the range?

13 MR. JERROLD OPPENHEIM: Well, that --  
14 tha -- that was the other thing I wanted to get to.

15 No, I think Centra's at the top of the  
16 range; they were thirty-two (32). LEAN is -- it's  
17 difficult to be precise about what the administrative  
18 cost is at LEAN; it's under thirty (30), for sure.  
19 The reason it's difficult is that the way the expenses  
20 are collected, there's a very large bucket of expense  
21 that is a mix of administrative and non-administrative  
22 costs. And the published data don't separate them  
23 out. So I -- I have no way to really -- to really  
24 know.

25 But even if the LEAN admin were to

1 include that entire bucket as admin, it's for a far  
2 more successful and far more comprehensive program.  
3 So it's a lot easier to justify that level of admin  
4 for a program like that than it would be for a program  
5 such as the Furnace Replacement Program here.

6 But I -- I think the reality for LEAN  
7 is probably that it's in the mid-twenties (20s)  
8 somewhere.

9 MR. SVEN HOMBACH: What range would  
10 you consider acceptable for Centra?

11 MR. JERROLD OPPENHEIM: Well,  
12 certainly, based on that experience, I would think the  
13 mid-twenties (20s) would be acceptable. But I -- I --  
14 to -- to me, the results are, at least it's important,  
15 probably more important, than the -- than the level of  
16 administration. So it if takes more effort to get  
17 better results, that may well be money well spent.

18 So I would -- I would focus -- I mean,  
19 this is not unimportant because it's money that could  
20 go in the program. But I would focus on program  
21 performance first.

22 MR. SVEN HOMBACH: And you're  
23 suggesting that the Board should investigate to  
24 determine whether the 32 percent administrative  
25 overhead currently is too high?



1 MR. JERROLD OPPENHEIM: Well, yes. I  
2 -- I think it would be important to know what the  
3 elements of all that administration are, to see  
4 whether they're -- they are appropriate, because it  
5 is, certainly, on the high side.

6 MR. SVEN HOMBACH: So do you have any  
7 specific recommendations on what the Board should  
8 consider to evaluate the administrative overhead?

9 MR. JERROLD OPPENHEIM: Well, I think,  
10 for starters, it should ask for an itemization and --  
11 and to test the reasonableness of those expenses, just  
12 like it would in any rate category in a rate case.

13

14 (BRIEF PAUSE)

15

16 MR. SVEN HOMBACH: In terms of LEAN, I  
17 -- I have your estimate as to administrative overhead.  
18 Do you have an estimate as to how many staff  
19 members there actually are to administer that program  
20 on the ground, both in respect of the main  
21 organization and the smaller community organization?

22 MR. JERROLD OPPENHEIM: I don't, and I  
23 would not -- it would take some effort to -- to  
24 determine that because the folks who are involved in  
25 administration, certainly at the Utility but also to

1 some extent at the agencies, divide their time between  
2 administrative activities and non-administrative  
3 activities. I imagine that's true for the Company as  
4 well.

5 MR. SVEN HOMBACH: Is the majority of  
6 the administrative overhead in Massachusetts,  
7 salaries, to your understanding?

8 MR. JERROLD OPPENHEIM: I don't think  
9 I've seen a -- well, I've seen some breakout. I -- I  
10 would think the majority would be. Some -- evaluation  
11 is in there so some of it is that, and that's around 3  
12 or 4 percent by itself. But certainly a very -- a  
13 very large amount of it would be -- would be salaries,  
14 yeah.

15 MR. SVEN HOMBACH: What factors do you  
16 look at in assessing those salary costs?

17 MR. JERROLD OPPENHEIM: Well, I think  
18 you want to know what -- what people are doing for --  
19 for the salaries. And the -- the best way to compare,  
20 I think, or to assess, aside from just applying a rule  
21 of reason as you would for any rate case expense, is -  
22 - is to compare the experience -- bless you -- is to  
23 compare the experience with other similar -- similarly  
24 situated utilities.

25 So in Massachusetts it's easy, we have

1 eleven (11) so, you know, we look across the eleven  
2 (11) utilities and look for an outlier. But you --  
3 you could look across the provinces and see what --  
4 what the administrative experience is here in Canada.  
5 It might also be profitable to look and see what the -  
6 - what -- what the experience is in -- in some other  
7 US states. But those kinds of comparisons are often  
8 helpful.

9 MR. SVEN HOMBACH: Thank you, Mr.  
10 Oppenheim. I don't have any further questions for you.  
11 I suggest that the panel check with Mr. Masi on  
12 whether there's any redirect.

13 THE CHAIRPERSON: Mr. Masi....?

14 MR. D. TOMAS MASI: I have no further  
15 questions.

16 THE CHAIRPERSON: Okay. Unless there  
17 are some administrative matters to attend to, this --  
18 we will bring -- we will bring these proceedings to a  
19 close today. So, Mr. Oppenheim, I would like to thank  
20 you for your appearance today, and for your pre-filed  
21 evidence. So thank you very much for that. And I  
22 wish you a safe journey back to -- to Boston. I hope  
23 that you have enjoyed your visit to Winnipeg.

24 MR. JERROLD OPPENHEIM: Well, I was  
25 just going to say I've enjoyed it very much. I'm

1 sorry I have to go back so soon.

2 THE CHAIRPERSON: And I wish you a  
3 happy July 4th holiday. In the meantime we're going  
4 to be celebrating July 1st in Canada, so I wish all of  
5 you here a very happy July 1st long weekend. And  
6 we'll see each other again on July 5th at 9:00 a.m.  
7 for the -- the next step in the proceedings. Thank  
8 you very much.

9

10 (WITNESS STANDS DOWN)

11

12 --- Upon adjourning at 1:33 p.m.

13

14 Certified correct,

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19 \_\_\_\_\_

20 Bob Keelaghan, Mr.

21

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