MANITOBA PUBLIC UTILITIES BOARD

Re: CENTRA GAS MANITOBA INC.
2005/06 TO 2006/07
GENERAL RATE APPLICATION

Before Board Panel:

Graham Lane	- Board Chairman
Monica Girouard	- Board Member
Mario Santos	- Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
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APPEARANCES

R.F. Peters		)Board Counsel
Marla Murphy Brent Czarnecki		)Manitoba Hydro
Karen Melnychuk David Brown		)Direct Energy Marketing)Limited/Municipal Gas
Nola Ruzycki		)Energy Saving (Manitoba))Corp.
Kris Saxberg		)CAC/MSOS
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--- Upon commencing at 9:08 a.m.

THE CHAIRPERSON: Good morning everyone. We've reached the closing remarks part of this process and we'll begin. Is it Ms. Murphy or Mr. Czarnecki is going to enter some more exhibits?

MS. MARLA MURPHY: I think that will be me. Good morning, Mr. Chairman, Members of the Board, ladies and gentlemen.

On Friday, June the 24th, we sent out a letter which included a number of responses to undertakings. In that letter we've included a -- a suggested exhibit number for each of those undertakings and, if I could just take a minute, we could perhaps enter them on to the record.

THE CHAIRPERSON: Please.

MS. MARLA MURPHY: We propose to mark the response to Undertaking Number 19 as Exhibit 34; the response to Undertaking Number 24 as Exhibit 35; the response to Undertaking Number 25 as Exhibit 36; the response to Undertaking Number 26 as Exhibit 37; the response to Undertaking Number 27 as Exhibit 38; the response to Undertaking 28 as Exhibit 39; the response to Undertaking 29 as Exhibit 40; the response to Undertaking Number 30 as Exhibit 41; the response to Undertaking

Number 37 as Exhibit 42; the response to Undertaking Number 41 as Exhibit 43; the response to Undertaking Number 43 as Exhibit 44; the response to Undertaking Number 46 as Exhibit Number 45; the response to Undertaking Number 47 as Exhibit Number 46; the response to Undertaking Number 48 as Exhibit 47; the response to Undertaking Number 49 as Exhibit 48; the response to Undertaking Number 50 as Exhibit 49;

--- EXHIBIT NO. CENTRA-34: Response to Undertaking Number 19. Provide the costs that were attributable to the integration of GANG

--- EXHIBIT NO. CENTRA-35: Response to Undertaking Number 24. Provide incremental costs of acquisition for 2005/06 and 2006/07 and carried forward for the thirty year period

--- EXHIBIT NO. CENTRA-36: Response to Undertaking Number 25. Provide the change in retained earnings as a result of the restatement of the financial statements

--- EXHIBIT NO. CENTRA-37: Response to Undertaking Number 26. When will the 75:25 debt/equity ratio be achieved: under the current proposal, (i.e. $15.1 million corporate allocation in 2002/03 and 2003/04 and $12 million corporate allocation going forward) if the corporate allocation was reduced to $12 million in 2002/03 and 2003/04 and remained at that level for going forward, and if the $12 million (Corporate Allocation) was made retroactive to the date of acquisition.
Provide the acquisition costs that were once included in Centra and were removed resulting from Order 208/02

--- EXHIBIT NO. CENTRA-38: Response to Undertaking Number 27. Provide the interest coverage ratios and capital coverage, given the reduced corporate allocation and increased net income, for the test years.

--- EXHIBIT NO. CENTRA-39: Response to Undertaking Number 28. Provide the amount of additional synergies as a result of the one bill.

--- EXHIBIT NO. CENTRA-40: Response to Undertaking Number 29.Provide the excel spreadsheet that contains the data points for Exhibit 16, including CPI and customer growth

--- EXHIBIT NO. CENTRA-41: Response to Undertaking Number 30. Provide the cost per customer for 2003/04 using the O&M of

$49.3 million.

--- EXHIBIT NO. CENTRA-42: Response to Undertaking Number 37.Provide the forecasted sharing of savings related to implementing the common CIS system.

--- EXHIBIT NO. CENTRA-43: Response to Undertaking Number 41.Provide the reference where the PUB indicated that Centra could apply for a multiple service offering.

--- EXHIBIT NO. CENTRA-44: Response to Undertaking Number 43.Provide the full-time equivalent headcount that underpins the direct purchase component of the Gas Supply program.

--- EXHIBIT NO. CENTRA-45: Response to Undertaking Number 46. Provide the rate of gas forecast prices.

--- EXHIBIT NO. CENTRA-46: Response to Undertaking
Number 47. Provide the savings that would have occurred from the current DSM program for 2005/06 and 2006/07.

--- EXHIBIT NO. CENTRA-47: Response to Undertaking
Number 48. For the Corporation's Power Smart Customer Service programs, Power Smart New Home program, and the Industrial Performance Optimization program, provide the budget and cost per cubic metre, for fiscal 2001/02 through 2004/05

--- EXHIBIT NO. CENTRA-48: Response to Undertaking
Number 49. Revise Centra Undertaking 45 to include how the dollar benefit from greenhouse gas reductions was determined

--- EXHIBIT NO. CENTRA-49: Response to Undertaking Number 50. Confirm whether the TRC number with respect to the electric side of the business, is higher than two (2).

--- EXHIBIT NO. CENTRA-50: Response to U Revise CAC/MSOS 40. To include details on how the incentives are allocated between gas and electric and provide for estimate of the total number, the total amount of incentives in any particular year and what you forecast that will be spent on gas versus electric. undertaking Number 51.

--- EXHIBIT NO. CENTRA-51: Response to Undertaking Number 52. Natural Gas Supplement - page 19, identifies four new programs

(Thermostat, Home Insulation,
High Efficiency Gas Furnace,
and Domestic Water Heating
Showerhead), for each program
provide the annual
projections of numbers of
participants, the estimate of
bill reductions. Also
provide the cost of each of
the new programs, on a year-
over-year basis, and the
amount of the incentives that
have been allocated for
each of these particular
programs.

--- EXHIBIT NO. CENTRA-52: Response to Undertaking
Number 53. Provide the
recommendations form the
consultant that was hired to
review the final design of
the one-bill initiative

MS. MARLA MURPHY: And we did circulate
those on Friday; I do have a couple of copies extra

available if anybody is without one.

THE CHAIRPERSON: Thank you, Ms. Murphy. Is there anyone without one?

One (1) for Ms. Ruzycki, please.

Mr. Saxberg, you have some undertakings as well?

MR. KRIS SAXBERG: Thank you, Mr. Chairman. I served on the interested parties, the Response to Undertakings 30, 31, 32 and 33, electronically, on Friday, and they came with some very, very large attachments.

And I understand that there was some trouble in -- with some of the recipients in being able to open or even receive those -- those e-mails, because of the size, notwithstanding that I think that we had attempted to put them into a zip format or something like that, whatever that means.

And I am going to have to canvass with the parties at some appropriate point, as to who requires hard copies, because the hard copy version that I had put together is about that large. It's huge, indicating about --

THE CHAIRPERSON: I think, Mr. Saxberg, if we give them the exhibit numbers, I think the staff is busy at work, making copies.

MR. KRIS SAXBERG: Okay. And thank you. And -- and in terms of just the actual responses, those could then be marked as the next series of exhibits for CAC and I believe...

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Peters, do you know what number we are up to?

MR. BOB PETERS: It would CAC-10, I believe.

THE CHAIRPERSON: Subject to check, we'll take it that way.

MR. KRIS SAXBERG: So Undertaking 30 would be CAC Exhibit 10; Undertaking 31 would be CAC Exhibit 11; Undertaking 32 would be CAC Exhibit 12; and Undertaking 33 would be CAC Exhibit 13.

--- EXHIBIT NO. CAC-10: Response to Undertaking Number 30.

--- EXHIBIT NO. CAC-11: Response to Undertaking Number 31.

--- EXHIBIT NO. CAC-12: Response to Undertaking Number 32.

--- EXHIBIT NO. CAC-13: Response to Undertaking

Number 33.

THE CHAIRPERSON: Very good, thank you.

Now, for ease of simplicity, given that Professor Miller isn't in the back row with the Intervenors there.

Mr. Peters, do you want to enter as an exhibit, the TREE, the letter from the Deputy Minister?

MR. BOB PETERS: Yes. Thank you, Mr. Chairman. There was reference made by Professor Miller last -- last week, respecting a letter that had been sent by the Deputy Minister of Conservation to the President and Chief Executive Officer of Manitoba Hydro. That letter was dated June 26, 2002, and it was sourced and produced by My Friend, Ms. Murphy.

And I suggest that be marked as the next TREE exhibit, which would be TREE -- I'm sorry, RCM/TREE Exhibit 5. And I can make copies at the break and make sure that if parties don't have them, they can have a copy at the break.

--- EXHIBIT NO. RCM/TREE-5: Letter sent by the Deputy Minister of Conservation to the President and Chief Executive Officer of Manitoba

Hydro, dated June 26, 2002

THE CHAIRPERSON: Is that fine with you, Professor Miller?

MR. PETER MILLER: Yes.

THE CHAIRPERSON: Thank you, Mr. Peters. Okay. With those necessary details taken care of, I guess we can get underway, we're not too late.

Mr. Peters...?

FINAL SUBMISSIONS BY MR. BOB PETERS:

MR. BOB PETERS: Yes. Good morning, Mr. Chairman, Members of the Board, Ladies and Gentlemen.

As the Chairman has indicated, we've now completed the evidentiary portion of the Public Hearing in respect of an application by Centra Gas Manitoba Inc., a wholly-owned subsidiary of Manitoba Hydro, and Centra was seeking revised rates to be effective on August 1st, 2005, and also further rates on May the 1st of 2006.

The two (2) year General Rate Application is based on forward-looking test years, ending March 31, 2006, and March 31, 2007.

As Board Counsel, I take no position on the merits of any part of the Application by Centra or any positions taken by any other parties at this Hearing.

Rather, my role is to summarize the matters that this Board Panel may wish to consider in the proceeding, including the confirmation of Order 13 of 05, dated January 21/05, which provided interim ex-parte approval of rates reflecting at 2 1/2 percent increase in overall annual revenue requirement, to be effective with respect to all gas consumed on and after February 1st of 2005.

Those rates were sufficient to generate additional revenues of approximately $3 million in fiscal 2004/05 and $12 million in the current fiscal year of 2005/06.

Associated with this request is a true-up for allocating the increased costs to Centra's various customer classes by way of a reconciliation rate rider to reflect the approved cost allocation methodology. The February 1st, 2005 rates were developed using a proxy for the approved methods because of time constraints.

Centra is also seeking from the Board final approval of the 2004/05 gas costs of $372.9 million. Centra also seeks supplemental gas costs for 2005 totalling $62.7 million to be embedded in the August 1st 2005 rates based on a March 15th, 2005 forward price strip. This could result in a reduction in non-primary gas costs for the '05/'06 fiscal year of approximately $2.6 million, compared to those costs included in the currently approved rates.

Centra also seeks approval of rates to be effective May 1st, 2006 that would reflect an additional increase of approximately 2 1/2 percent of overall revenue to be effective May 1st, 2006. This request is expected to generate additional revenues of $13 million in the fiscal year ending March 31, 2007.

There's a request that a new rate rider by implemented August 1st, 2005 to refund to customers approximately six hundred and sixty-nine thousand seven hundred dollars ($669,700), which is accumulated in the various gas-cost deferral accounts based on actual balances as at March 31st, plus carrying costs and amortization to July 31st of 2005.

The existing rate rider that was approved by this Board to be effective August 1st, 2004 will expire on July 31, 2005. And the Board is no doubt aware of the resulting increase in annual bills, all else being equal, because of the removal of existing rate riders which was intended to refund $16.7 million in gas costs.

The largest component of Centra's gas costs is primary gas, which is recovered through the primary gas rate. Primary gas rates and rate riders are dealt with by the Board as part of the quarterly rate-setting methodology and, as such, they don't form part of the direct portion of this proceedings. But the Board will have to note that the next primary gas rate change is also scheduled to be implemented on August 1st, 2005 to coincide with any rates flowing from this Application.

Centra is also seeking confirmation of interim ex parte orders for primary gas as well as interim ex parte orders related to system expansion and feasibility tests. Centra is seeking approval of the 2005/06 non-gas revenue requirement of approximately $129.5 million and for 2006/07 non-gas revenue requirement of approximately $142 million based on a cost of service methodology that they've included in their filing.

Centra has also responded to various directives and requests made by the Board pursuant to orders related to the last General Rate Application, which was Order 118 of 03, as well as the last Cost of Gas Hearing, which was 131 of 04. And there were also a number of other matters canvassed during the past three (3) weeks that will be dealt with by Centra.

Centra also filed non-gas revenue requirement based on a rate base rate of return methodology which reflects a non-gas revenue requirement of $140.1 million for '05/'06 and $144.5 million for the '06/'07 fiscal year based on the original request of a

$15.1 million corporate allocation.

The corporate allocation was subsequently reduced during the Hearing to $12 million. And the corporate allocation is a new component which the Board must now consider as to the appropriateness.

Information filed indicates Centra's rate base to be $394.9 million for fiscal '04 -- I'm sorry, for fiscal '05/'06 and $407 million for '06/'07. Centra's Application also reflects a return on rate base of 31.3 million for '05/'06 and 32.6 million for the '06/'07 fiscal year, reflecting a return on equity of 9.26 percent for both years.

The Board should note that Centra has indicated that it is not seeking approval of rates on a rate base rate of return basis but filed this information for the Board's benefit and review.

Other key issues which the Board will likely wish to consider would include the regulatory methodology and the merits of the rate base rate of return methodology versus the cost of service methodology, and which methodology the Board should consider in setting rates. Centra has expressed the view that cost of service methodology is the most appropriate rate setting methodology for Centra.

The Board will also want to consider the appropriateness of the corporate allocation that has been recorded since 2002/03 at $15.1 million annually and adjusted to $12 million for the '04/'05 fiscal year as well as the test years '05/'06 and '06/'07, as well as into the future.

In adjusting the corporate -- excuse me -- in adjusting the corporate allocation to $12 million, Centra has indicated that it is not adjusting or changing its Application before the Board related to the requested revenue requirement, which effectively increases the requested net income.

The capital structure of Centra and the appropriate level of Centra's debt equity ratio need also be considered and whether this should be viewed on a stand-alone basis or on an overall consolidated basis when setting the rates.

In this context the Board must consider the methodology used by Centra in determining debt to equity, where, in effect, $121 million in share capital is not considered equity in Centra's determination of its debt equity ratio.

In these matters the Board will deliberate on the position put forward by CAC/MSOS and their expert witness, Mr. Matwichuk.

The Board will also consider the

appropriateness and prudence of Centra's capital expenditure program and system integrity and reliability measures, as well as Centra's operating and emergency procedures and policies geared toward ensuring public safety.

The Board will have to consider the evidence presented by RCM/TREE's Witness, Mr. Steven Weiss, who made nine (9) recommendations to the Board to consider and to introduce an inverted rate schedule for gas customers. This parallels the recommendation made on the electricity side.

Now, Mr. Weiss also urged the Board to review policies to move Centra towards sustainability pursuant to the Sustainable Development Act in Manitoba, the applicability of which the parties may want to address this morning.

Mr. Weiss also suggests customers be provided with marginal price signals to the extent practical and incorporate full cost accounting of those costs into natural gas.

Mr. Weiss recommended the Board incorporate the marginal prices into Centra's policies, including the design and funding levels for the DSM programs, main extension and fuel switching policies. Mr. Weiss's proposals are to implement those policies in a manner that does not raise overall revenue requirement or -- or cause hardship to low income ratepayers.

The Board must also consider information Centra filed relative to cost allocation and rate design, terms and conditions of service, and Centra's responses to various Board directives, including Centra's introduction of a natural gas demand site management program which will see the introduction of a DSM plan with over $13.4 million spent within the two (2) test years. That is part of $100 million in proposed future DSM spending initiatives by 2018.

Centra has identified the benefit to Centra from the programs would be reduced CO2 emissions which represent CO2 credits which Centra could potentially sell.

The Board must consider Centra's proposal to amortize the annual expenditures over a fifteen (15) year period beginning in 2006/07, which is Centra's view of the length of future benefits to be derived from those expenditures.

The Board will consider the results of the derivative hedging program. Those program results are as a result of Centra's derivative hedging policy and program based on a mechanistic hedging approach which does not consider market views in its execution.

The Board will also review the derivative hedging actions and results and determine as to whether they were reasonable and prudent. The derivative hedging results are summarized for the 2004/05 year on Schedule 8.2.0, and for the '05/'06 year they're summarized on Schedule 9.2.1.

The Board will also consider the review of the derivative hedging policy and procedures filed by Centra, which resulted in the policy being updated to incorporate a level of discretion.

The policy was amended to permit Centra to Hedge up to 100 percent of the eligible volumes for the next twelve months, rather than a minimum of 90 percent of eligible volumes.

As a result of the change, if circumstance is warranted, Centra could hedge a lesser amount than the 100 percent of eligible volumes. Centra has also updated the derivative hedging principles and procedures to be consistent with the policy.

Centra will continue to use cashless callers (phonetic) at fifty (50) cents out of the money as a matter of course, but will have the discretion to change the hedge instrument out of the money ban, or percentage hedged, with approval of Centra's Executive Committee.

The Board may consider the information filed on multiple service offerings, fixed price contracts, and the role of Centra in the competitive retail gas supply market. Centra has indicated that at this time, it is not proposing any changes to the current service offerings, nor is it seeking any approvals from the Board arising out of the report it filed, as it represents only a discussion document at this time.

As for customer education, Centra has indicated that discussions are ongoing with consumers and brokers and Centra has shared, with the Board, for its consideration, the integrated natural gas and electricity bills, as well as the status of rural expansions and true-ups.

Mr. Chairman, the impacts of the rate increases by -- proposed by Centra, in this proceeding, would be approximately 3 percent for the SGS residential customers and would range upward for the other customer classes, depending on the volumes of consumption.

Mr. Chairman, Board Members, subject to any questions you would have of me, those conclude my closing comments. I would suggest that you turn to the Intervenors in accordance with the outline of procedures to obtain the closing comments of the Intervenors, all of that to be followed by Centra's closing submissions later today.

Thank you, Mr. Chairman.

THE CHAIRPERSON: Thank you, Mr. Peters. So we will follow the order that we have been following through the Hearing. So to begin with, we will call on CEPU, Mr. Boyd.

FINAL SUBMISSIONS BY MR. SANDY BOYD:

MR. SANDY BOYD: Good morning, Mr. Chairman, Members of the Board. I'm here today to present to you CEP Local 681 Summation on the GRA for 2005/06, 2006/07, Test Years by Centra Gas Manitoba Incorporate.

CEP represents members at Manitoba Hydro who work on the gas side of the business, and as such we are one (1) of the major stakeholders in the natural gas Utility. I will be addressing the following issues:

1. Automated Meter Reading (AMR), Proposed Pilot.

2. Future Regulation of Centra Gas, Rate Based on Rate of Return versus Cost to Service.

1. The AMR Proposed Pilot. CEP Local 681 does not support the Company's request for four hundred thousand (400,000) in plant additions for the 2005/06 test year, to conduct a pilot to validate a

number of key cost assumptions. Nor do we support the Company's request for 3 million in plant additions for 2006/07 test year.

CEP recommends that the PUB deny these requests for plant additions in both test years. In our view Centra is asking the PUB approve, without the business case, or corporate approval, the pilot's cost of four hundred thousand (400,000) and the three -- the 3 million per-year cost to implement AMR for the following three (3) years, as shown in PUB/CENTRA-1, the copy of the current five (5) year capital forecast.

AMR does not make any economic sense when the present cost to read a residential meter, is eighty-eight cents (88) cents per read; PUB/CENTRA 123, page 2 of 3, line 17. They are read six (6) times per year for an annual cost of five dollars and twenty-eight cents ($5.28) per customer. This works out to approximately 1.32 million per year for the two hundred and fifty thousand (250,000) customers.

Centra stated that the 3 million would install approximately fifteen thousand (15,000) units per year; seventy dollars ($70) for the device, and a hundred and thirty dollars ($130) to install.

This would include inside and outside meters as very few routes are a hundred-percent-inside meters for both gas and electric.

The $3 million does not include the cost of the stranded life remaining on the existing meters. Assuming that these routes have meters of all ages, you would strand 50 percent of the life of these meters.

To convert all meter-reading routes that have significant numbers of inside meters, sixty-six thousand (66,000) gas meters, will take significantly more AMR devices. To convert all customers that have both gas and electric, approximately two hundred and fifty thousand (250,000), would cost 100 million, of which half would be assigned to the gas customers.

The 7 percent interest on two hundred dollars ($200) equals fourteen dollars ($14) per year, and there is still the principal on the cost of the device to pay off over a yet-to-be-determined amount of time, eight (8) years or longer; transcript page 1351 and 1352.

50 million would be a low figure due to the stranded life remaining on the existing gas meters, which would have to include the cost as well -- as well as the interest cost to finance this project.

The proposed implementation rate of fifteen thousand (15,000) per year would have to be increased for AMR to be fully installed at all sites. At this rate it would take seventeen (17) years to install them, two (2) years longer than their forecast life, which would mean the newer version of whatever device is available at the time would have to be installed.

This scenario would likely mean running two (2) different systems during a changeover, as the likelihood of the old and new technology using the same system fifteen (15) years apart would be slim, even if you stayed with the same manufacturer.

The forecast life of the AMR device is fifteen (15) years. This is two (2) years less than the seventeen (17) year average for the existing gas meter.

The new average for a gas meter would be less than fifteen (15) years because the Corporation would still have failures for both devices prior to reaching fifteen (15) year forecast for the AMR device. And the failure rate would be additive, failure rate for AMR added to the failure rate for the mechanical meter.

This would increase the annual cost of the meter program, Tab 5.2.4, page 16, line 7, a minimum of 12 percent when it comes time to start replacing the AMR devices. The amount of the existing meter program for the 2005/06 test year is 1.3 million.

AMR will easily triple the existing cost to read a customer's meter. Centra's claim that there is a number of other benefits such as time of use rates, access to those customers who don't want a meter reader in their premises, access to those customers who are hard to reach at home and design and system improvement; transcript pages 1356 to 1359.

Time of use rates will not apply to gas customers. When it's minus thirty-five (35) degrees outside, most of us will not have the luxury of waiting a few hours before we can use gas at a cheaper price, even if this system ever became available.

For those customers who don't want a meter reader in their house, move the meter outside. A hundred and ninety-five dollars ($195) to move the meter outside, from transcript page 1376, line 1, or install an ERT.

For those customers that are not at home during the day, the meter is read in the evening during the long daylight hours of spring and summer by putting on a four (4) hour evening shift of two (2) people. If Centra has a chronic problem reading certain customers, then an ERT should be installed.

This was the justification for the ERT program in the first place. If the Company is willing to spend two hundred dollars ($200) per customer for AMR, then maybe they should consider a program to move the meter outside.

The example Centra gave of a thousand (1,000) customers in excess of twelve (12) months, stretching out to seventy-one (71) months in one (1) case without a read, are example of things falling between the cracks and not indicative of a problem where there are no solutions available other than AMR.

As for system design, it is the drop in the distribution pressure that is the key indicator of when to improve parts of the system. The pressure indicator was one of the benefits of a cathodic protection's remote sensing unit, RSU. Some of these units came equipped with a pressure transducer and are placed in key areas of the system, and are providing info to the system designers.

The SCADA, system control and data acquisition system, also monitors pressure at the larger regulatory sites and the distribution system and has metering at all gate stations throughout the province, which gives Centra all the flow data minute by minute.

Manitoba Hydro's meter readers are trained to do more than read meters. They do a visual inspection of the meter set, call in gas leaks, report excessive piping strain and call in iced over regulators, to name a few.

These examples are all public safety

related issues which will be lost when AMR is installed. Manitoba Hydro's meter readers play a large role in the reliable and safe delivery of natural gas. This is a large negative which should outweigh any of these hypothetical ancillary benefits that Centra has put forward.

There's no economic justification to proceed with the pilot or AMR. There is instead, a large economic reason not to proceed with AMR. The soft benefits that Centra is trying to use to justify proceeding with this program can all be achieved in other less costly ways.

Our customers, the public and Manitoba Hydro, all benefit from having meter readers. CEPU recommends that the PUB of Manitoba not approve Centra's four hundred thousand dollar ($400,000) request for an AMR pilot or the ongoing annual $3 million additional to capital to implement AMR.

2. Rate base rate of return regulation versus cost of service regulation. CEPU believes that the current amount of oversight that the PUB of Manitoba has over the gas utility has ensured that the customers enjoy safe and reliable delivery and use of natural gas in the Province of Manitoba.

Under rate base regulation the judgment of management can be tested as stated by Mr. M.G. Matwichuk, which we believe has the effect of pushing management to make the best decision possible.

Past Board orders have shown that this regulatory model works well for the gas consumers of Manitoba. Under cost of service regulation, no such test is available.

AMR is a good example of why Centra should remain under rate base regulation. If we are under cost of service regulation, Centra could find a good chunk of the money to finance AMR in 2008/09 when the riser rehab program is due to be completed; PUB/CENTRA-1, five (5) year capital forecast.

By the time that Centra came to the PUB -- to a PUB Hearing to ask for a rate increase we could be several years into an AMR program. How could the PUB order the Company to discontinue a program when they may have already spent millions?

Even if there was a way, the natural gas customers of Manitoba would still be left holding the bag for the money already spent. I believe the fact that AMR pilot has not received corporate approval at this time is, in part, due to rate based regulations.

No management group should oppose having public oversight via the PUB, especially when their judgment effects the safe and reliable delivery and use of natural gas for the Province of Manitoba.

CEPU believes that the people of Manitoba and the natural gas customers have been well served under the present regulatory environment and should remain as is. However, if the PUB is considering moving to different model, we believe it would be in the Company's best interest -- customers best interest, sorry, to continue to have PUB oversight in any changes contemplated to terms and conditions of service and the operating practices and procedures of the transmission distribution system.

Thank you for the opportunity to present our closing argument this morning. We respectfully submit it on behalf of all the members of CEPU local 681.

THE CHAIRPERSON: Thank you Mr. Boyd.

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Saxberg from CAC/MSOS.

MR. KRIS SAXBERG: Thank you, Mr. Chairman. And good morning to everybody.

Speaking of safe and reliable service, yesterday we lost power in our office building for a good chunk of the day which disrupted the preparation of my materials, but, thankfully Manitoba Hydro came to the scene and saved the day. So power was restored and I was able to put together a fairly thick closing argument brief, which I propose to hand out right now.

THE CHAIRPERSON: Thank you Mr. Saxberg.

(BRIEF PAUSE)

THE CHAIRPERSON: By the way we're glad to hear that you're not suggesting they shut your power off deliberately.

(BRIEF PAUSE)

THE CHAIRPERSON: I think you just took another couple of acres off the rainforest, Mr. Saxberg.

(BRIEF PAUSE)

FINAL SUBMISSIONS BY MR. KRIS SAXBERG:

MR. KRIS SAXBERG: The closing argument brief contains an outline of my argument that everyone can follow along with or use as a reference afterwards. I just want to indicate at the outset that I've drafted my comments with an intent to not be -- to not duplicate issues covered by the applicant or by other Intervenors in this proceeding.

So, to begin, and briefly on rate impacts. Centra Gas has applied to this Board for final confirmation of a 2.5 percent overall increase in revenue requirement based on an '05/'06 test year, the first test year.

That increase came into effect February 1st, 2005. Centra is also asking for a second 2.5 percent increase in revenue requirement based on a 2006/07 test year, the second test year, to commence May 1st, 2006.

These rate increases are significant. The size of the increase, I would suggest, is so big that Centra has decided to phase it in over two (2) periods. Mr. Rainkie confirmed that these two (2), 2.5 percent overall revenue increases amount to a request to increase non-gas cost matters by 20 percent over the next two (2) years. And that's at transcript page 285.

That would be the largest single non-gas cost increase in the history of this Company. The main drivers of this unprecedented 20 percent increase in non-gas costs are:

Number 1. Centra's inclusion of a

corporate allocation of $12 million, which the Company suggests is Centra's share of the yearly costs incurred by Manitoba Hydro as a result of its purchase of Centra.

Number 2. The request for a net income of approximately $5 million in the first test year and $14 million in the second test year.

Another factor which accounts for this massive 20 percent increase in non-gas costs, is Centra's request to approve a 10 percent increase in O&M for the first year. That's an increase from the last approved O&M of 49.3 million to the requested amount of 54.1 million for the first test year.

I want to stress that there is no other way to look at this Application than as a request for a 20 percent increase in costs. The Board has to call a spade a spade here and cannot and must not intermingle this massive increase in non-gas costs, that is the business costs of Centra, the cost that Centra can control, with a primary gas decrease or a non-primary gas true-up.

The customer bill impact information in the Application doesn't tell the whole story. Centra states that for the typical residential customer, his or her annual bill will increase by 3.1 percent as a result of this Application. That's at tab 3, page 16, which is the update.

But, that of course, is relative to May 1st billed rates, which already include the 2.5 percent revenue requirement increase. Mixing commodity pass through increases and decreases with non-gas costs increases can be deceptive. The February 1st, 2005 implementation of the 10 percent increase in non-gas costs came at a time when gas prices were plummeting. The result was to mask the effect of the application.

This Board has to balance avoiding rate shock with the need to accurately communicate to the public what's going on with their gas company. I would suggest that on February 1st, when rates changed, no one was aware that gas costs -- the non-gas cost of the -- the business cost of Centra had increased so dramatically.

There should be a bright line drawn between rate impacts relating to pass-through items, like the cost of the commodity, and rate impacts associated with Manitoba Hydro's/Centra's management and operational decision.

When -- when the Board puts pen to paper here, it should be clear to communicate that Centra has asked for extraordinary relief. It has come to this Board asking for a 20 percent increase in costs.

For the reasons that follow, CAC/MSOS strongly opposes the amounts Centra is requesting for corporate allocations, net income and cost of operations.

The next topic or point is our view that Centra has not satisfied its onus in this proceeding. The Public Utilities Board Act clearly establishes that the onus resides squarely with the Applicant to justify and prove beyond a balance of probabilities that its rate request would provide for just and reasonable rates.

The burden of proof is not an ephemeral concept, but it is an essential evidentiary requirement of Centra which cannot be discharged merely by anecdotal evidence or cursory statements. There has to be solid support of evidence and proof on the record which must be presented in order for the Board to accede to the position of the utility in whole or in part.

For instance, Centra has not met its burden of proof if its witnesses simply assert judgement without explaining more as the basis for the -- for extraordinary requests such as $14 million in net income to be embedded in rates until changed -- until requested to be changed in the future, or judgement as the key determinant with respect to Centra's appropriate share of the annual 18.5 million in acquisition-related costs.

At transcript page 260 Mr. Warden agreed that the onus on Centra, and the Act, of course, is clear in this regard. I refer the Board to Section 84(2) and Section 123, it makes that clear.

In this case, CAC/MSOS will argue that Centra has not met its burden of proof to establish that the corporate allocations net income and cost of operations amounts requested are necessary and will result in just and reasonable rates.

The next topic is, in my view, the most important topic. It is the question of which form of regulation, cost of service or rate base rate of return.

I want to speak firstly of prior Board Orders. And if I can get everyone to turn to Tab 1 of my closing brief, there is an excerpt from Board Order 146/99. The matter of future regulation first surfaced when Manitoba Hydro purchased the shares of Centra in 1999. In Board Order 146/99 the Board stated:

> "The Board finds that the proposed transaction does not impact on any of the Board's current jurisdiction over Hydro or over Centra. Simply put, the transaction is to facilitate a sharing of common services and functions between the two (2) utilities with costs being properly allocated. The

transaction will not change any
existing statutory requirements, which
include:
A) Centra being regulated on a rate
base rate of return basis;
B) Hydro continuing to set rates on a
cost of service basis;
[and I skip down to]
D) Hydro and Centra remaining separate
entities for the purpose of regulation;
[and]
E) All existing Board Orders,
directives, requirements and practices
continuing to apply to Centra, unless
and until Hydro obtains Board approval
to vary them."

Now, in 2001 Centra Gas filed a General Rate Application, which was later abandoned. It was filed on the basis of cost of service regulation.

In order -- in the order flowing from a pre-hearing procedural motion, the Board gave express consideration to whether it could regulate in any manner other than rate-based rate of return, and it deliberated after lengthy submissions by interested parties on the subject.

And of course, again, all this was in the context of Centra having filed its Application on the basis of cost of service. So at Tab 2, I've included that Board Order, which is 14/01.

Of course, it's noteworthy that Board Member Santos and Board Member Girouard, were sitting on that Panel that issued this Decision. So, I know that the two of you will be very familiar with the Board's conclusions therein.

At page 11, under Board Findings, the Board states, and I quote:

> "The Board is concerned that the information in the current application does not permit the Board to discharge its statutory obligations under Sections 127, sub (1) and 61 of the Public Utilities Board Act."

The Board then goes on to reiterate its comments, from Board Order 146/99, indicating that the acquisition by Manitoba Hydro, doesn't change the regulatory framework, doesn't change the legislation, doesn't change the law.

But most importantly, on page 13, the top of the page, the Board says, and I quote:

> "Accordingly, the Board will require

> Centra to submit additional minimum filing information to fully satisfy the statutory requirements that Centra is regulated on a rate base rate-of-return methodology. Since that regulatory methodology is included in the legislation, only the legislature may change the regulatory methodology. If and until that occurs, Centra, the Board and Intervenors, are bound by the rate base rate-of-return methodology. Therefore, any filing by Centra must conform to the legislation, as must the Board's Decision on that filing."

The most profound statement in that Decision is that the Board's Decision must comply with the legislation. In other words, the Board's determination of rates must include a return and equity amount which is determined by virtue of a calculation of rate base, in accordance with the Act.

The next consideration of future regulation came as a result of the Integration True-up Hearing, which led to Board Order 208/02, and that's at Tab 3 of my Closing Brief.

There, under the heading, 17.10 Functional

Integration, the very last line of that paragraph, the Board states, and I quote:

"However, the Board reiterates that the transaction and the integration does not change any of the Board s current jurisdiction over Hydro and Centra."

End quote.

Now, at the last Cost of Gas Hearing, the Board invited interested parties to comment on future regulation. In that proceeding, I reiterated my clients long-standing position that until there is a legislative amendment, the Board is required to regulate Centra on a rate base rate-of-return methodology.

CAC stated that it would be a useful exercise to compare the two (2) forms of regulation, in order to measure the implications and issues concerning a potential transition. However, our position was that the Board would only do that in order to satisfy itself as to whether it needed to make a recommendation to the legislature to change the Act.

Our position was that the Board ought to be fully aware of the consequences of a change in regulatory treatment before making any recommendation to the Government of Manitoba.

Now, in Board Order 131+04, which is at

Tab4 of my Brief, the Board says, quote:

"The Board is aware that the current legislation allows the Board to review Centra's rates on a rate base rate-of-return basis. However, the legislation may also permit other forms of regulation of the gas Utility. The Board notes that Centra is of the view that for an income tax exempt wholly owned subsidiary of a Crown corporation the appropriate methodology should be revenue requirement and cost of service, as is the case with Manitoba Hydro. The Board encourages Centra to file its next GRA in a timely fashion and on the basis of both rate base rate of return and revenue requirement, cost of service with emphasis on the later."

End quote.

The Board's statement in Board Order 131/04 that the legislation may also permit other forms of regulation of the gas Utility, is impossible to reconcile with the specific wording of the Public Utilities Board Act and the Board's own earlier pronouncements.

I'm going to turn to the legislation now. The Board is a creature of statute. Its powers and jurisdictions to deal with matters brought before it and the manner that it's going to deal with those matters must be found either expressly or impliedly within the statutes that confer jurisdiction on and govern the operations of the Board. Jurisdiction cannot be conferred by consent or otherwise.

In interpreting the Board's roles and responsibilities under the applicable statutory legislation, one must bear in mind that this is governed by the purposive and contextual approach to statutory interpretation, which has been repeatedly endorsed by the Supreme Court of Canada.

And at tab 6 of my brief, I've included a short excerpt from the Bell Express View Limited Partnership case, which is a 2002 decision of the Supreme Court of Canada, in which the Court explains that the purposive approach requires that a Court or a tribunal access the legislation in light of its overall purpose.

Since the legislative intent, the object of the interpretive exercise is directly linked to that legislative purpose. The contextual approach requires that in turn that the words chosen must be assessed in their entire context, in which they have been used, so that you can't look at legislative intent in a vacuum, you have to look at the entire scheme of the Act in interpreting specific provisions within it.

The key sections for the Board to consider in this case are, section 61 of the Public Utilities Board Act, which is found on the first page of tab 6 of my brief.

Section 61 says quote:

"Where rate base is a factor in determining just and reasonable rates or tolls, the Board shall allow a rate of return based on rate base that includes, as basic elements ..." End quote.

And it goes on to state the basic elements being the original or historic cost of the assets used and useful and prudently acquired less depreciation and be a reasonable amount for working capital required to operate the business.

So, the Board keeps that section in mind and then flips ahead to the next page, which is also from the Public Utilities Board Act, Part 4, entitled, Rates and Other Matters Related to Gas. This is the first stop in determining the Board's jurisdiction with respect to setting gas rates.

You'll note that as defined terms we have rate base, which is defined as meaning the amount that a public utility has invested for its purposes as determined by the Board pursuant to the provisions of this Act, which would be pursuant to Section 61.

It also defines rate of return on shareholder equity to mean the net income of a public utility expressed as a percentage of the amount of shareholder equity invested in the business of the public utility.

And flip a few more pages in until you get to section 127(1), which is critical. The Board has to give serious consideration to this section in deciding whether it can stray from the rate base rate of return methodology. Section 127 says, quote:

> "The Board shall determine from time to time, rates, tolls, or other charges to be charged by a public utility or any person for selling, delivering, distributing, storing or transmitting gas within province. Any connection therewith shall determine inter alia [which means among other things] the rate base and rate of return on shareholder equity."

The next section, Section 127(2) states:

"In determining the rate of return on shareholder equity under subsection (1), the Board shall fix a rate of return that it determines to be in compliance with this Act."

Now, with that legislative framework in mind, turn to my analysis of the meaning, using that purposive approach and contextual interpretation, and the first point that needs to be made, is that there is a key word in these sections and, of course, that key word is, shall.

If you turn to tab 7 of my brief, I have included an excerpt of the Manitoba Interpretation Act, which of course is binding on this Board.

Flip two (2) pages in to the third page and there's a heading that reads, Imperative and Permissive Language. It's section 15 and it reads, quote:

"In the English version of an Act or regulation, shall and must, are imperative and may is permissive and empowering."

The Federal Interpretation Act and other provincial interpretation Acts say the same thing. These interpretation Acts suggest that the statutory terms, may and shall, are opposites and create mutually exclusive categories.

In Sullivan and Dreiger, on the construction of statutes, which is -- which I've included an excerpt from at my Tab 8, the learned authors explain why legislative drafters use the term, shall, and what the consequences of the usage are.

And that's at page 60, which is four (4) pages in. It's the second paragraph under mandatory or directory, shall/must, beginning with the word, when. And I quote:

> "When shall and must are used in legislation to impose an obligation or create a prohibition or requirement, they are always imperative. A person who shall or must do something has no discretion to decide whether or not to do it. A person prohibited from doing something is equally devoid of lawful choice. The issues that arise in connection with shall and must is not whether they are imperative, but the consequences that flow from a failure to comply. In some legislation, the

consequences of failing to do what one is obligated to do or not to do, is clearly set out. But in other context, the legislation is silent and its left to the Court to do determine whether non-compliance can be cured."

So, in the legal lexicon, there have been two (2) terms that have arisen with respect to cases involving the interpretation of the word, shall. Those two (2) terms are whether the shall is meant to be directory or mandatory.

(BRIEF PAUSE)

In none of those cases though is the Court suggesting that shall is anything other than imperative and binding. The question is simply, whether or not, the Court can cure the default.

Now is there language is in the Public Utilities Board Act that speaks to what would happen if there is a -- what are the consequences of not following a shall imperative?

Well for persons within the Act the Board has the authority to impose penalties on those that are required to do something by virtue of the word, shall, in the Act, but what about the Board?

What is the Board doesn't do something that the Act says it shall do?

There, the affected person's recourse would be in appeal, under Section 58 of the Act.

Now within this excerpt from Sullivan and Dreiger there's a reference to the Manitoba Language Reference and a decision of Chief Justice Dickson, wherein he says, and I quote:

> "As used in its normal grammatical sense, the word 'shall' is presumptively imperative. It is therefore incumbent upon this Court to conclude that Parliament, when it used the word 'shall' in Section 23 of the Manitoba Act, intended that those sections be construed as mandatory or imperative, in the sense that they must be obeyed, unless such an interpretation of the word 'shall' would be utterly inconsistent with the context in which it has been used and would render the section irrational and meaningless."

So in other words, unless the Board can

conclude that the usage of the word 'shall' in the Act was a drafter's error, it has to be considered to be imperative and obeyed.

Also within this excerpt from Sullivan and Dreiger, the authors indicate that the test in "shall" cases was correctly applied in a case called Baron v. Canada (phonetic), which is referenced in these materials.

And that was a tax case which included a provision requiring a judge to issue a search warrant. In that instance, the language was that the Court, quote:

"Shall issue the warrant." end quote,

if it was satisfied that certain conditions were met.

The government argued that despite the imperative wording of the section the judge retained some residual discretion. This argument failed. And the Supreme Court wrote in Baron v. Canada, quote:

> "Section 231.3(3) provides that a judge shall issue the warrant once satisfied that the three (3) statutory conditions set out therein have been satisfied. The word 'shall' is normally to be construed as imperative unless such an interpretation would be utterly inconsistent with the context in which

it has been used and would render the section irrational or meaningless. Nothing in the context of Section 231.3 renders an imperative interpretation of the word 'shall' inconsistent with the balance of this section or makes it appear irrational or meaningless." End quote.

The overall purpose and objective of the Public Utilities Board Act, in the context of setting gas rates, is well established in law and regulatory principles.

There have been many, many cases, at all levels of court, dealing with what an appropriate return on equity is and interpreting these very provisions of the Public Utilities Board Act, including numerous cases from the Supreme Court of Canada. They all establish privately-held utilities or utilities subject to -- to the Act are entitled to a fair return as a matter of law.

And I've included one of the seminal cases at Tab 9 of my brief. It's the Northwestern Utilities Limited v. Edmonton case from the Supreme Court of Canada, which goes way back to 1929. It's an oldie but a goody. And it says, and I -- I've highlighted the section on page 5 that I'm going to quote from, or at least I've scribbled around it. And it says, second sentence:

"By a fair return is meant that the Company will be allowed as large a return on the capital investment in its enterprise which will be net to the Company as it would receive if it were investing the same amount in other securities possessing and attractiveness, stability and certainty equal to that of the Company's enterprise."

And later:

"The duty of the Board was to fix fair and reasonable rates, rates which, under the circumstances, would be fair to the consumer on the one hand and which, on the other hand, would secure the Company a fair return for capital invested."

Another seminal case is the one at Tab 10 of my brief, which is the Bluefield Waterworks case. There I'm quoting from page 6 of 8, and you -- you get that from the very bottom of the -- of the numbering, the bottom lefthand corner of the page and I've scribbled around the section I intend to quote. And I quote -- and this is the United States Supreme Court, which says, quote:

> "The public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public, equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties." End quote.

Therefore, the Northwestern Utilities case, this Bluefield case, and let me tell you many, many others establish, that as a matter of law, in interpreting these very sections of the Public Utilities Board Act, the Board is obligated to award a certain fair return, as a matter of law.

And the law is that it is to utilize comparable investment, financial integrity and capital attraction standards, all tied to the level of investment that the Utility has or that the owner has in the Utility, as determined by the capital structure and rate base.

In other words, what amount of money has this owner sunk into the Utility that it could otherwise have spent on equally attractive securities such as to obtain a return to that investment?

So the Courts have looked at these sections and made sense of them and implied and restricted what Board's can do, in terms of the return that they award to utilities, whether publically held or privately held, the key question is whether the Utility falls under the jurisdiction of the Act.

Once you've made that determination, the law has been long decided on the type of return that has to be awarded. And you know, it's not -- in many of these cases, it's the utility coming to the Court and saying, you know, that we have not been awarded our fair return, in other cases it can work the opposite, but where the perception is that a too high of an award has been issued.

But, the point is, those sections have been judicially considered and interpreted. More importantly, they've been applied in Manitoba since the very inception of this Board.

The Board has recognized these common law principles and regulatory principles and has recognized that they inform the Board's interpretation of Section 61 and sections 127(1) and 127(2) and has applied these principles consistently in this jurisdiction.

So, the question that I have is, how can those sections, the very same wording, now be interpreted such as to allow the Board to permit a return, a net income of anything less than or anything greater than what the common law says the utility is entitled to?

And yet, that's exactly what Centra has asked for here. In the first test year, they're asking for something lower than what the common law would prescribe and what the Act requires them to receive as a return. They're asking for 5 million, when we know that the proper amount is calculated as approximately 12 million.

In the second test year, they're asking for more than they are entitled to pursuant to the legislation, which is really galling because no privately held utility would be able to come to this Board and obtain a return greater than the amount that the law entitles them to, under the current legislation.

So I want to turn to Centra's position then and test it. The fulcrum of Centra's position, and it would appear the Board's view in order 131/04, is the fact of public Crown ownership versus private investment ownership. And I'm just going to call that split, for ease of reference, public versus private ownership.

At tab 4, and we don't need to turn back to it, but IÆd already quoted this into the record, the Board stated quote:

"The Board notes that Centra is of the view that for an income tax exempt wholly owned subsidiary of a Crown corporation, the appropriate methodology should be revenue requirement and cost of service, as is the case with Manitoba Hydro." End quote.

However, the important thing to note is that this Act does not contemplate two (2) sets of regulation; i.e., one (1) for public and one (1) for private. It does exclude Manitoba Hydro from the application of most of the Act, which may signify an intention of the Legislature to make such a distinction.

However, with respect to the gas operations it's clear, and I think everyone would agree, that the legislative drafters assumed private ownership rather than public ownership of the Utility. But does that have any consequence in terms of what the Board's jurisdiction is? No, it doesn't.

The fact of public ownership cannot alter the language of the Act; it cannot alter our interpretation of that language in this case.

If we're all in agreement that the original intention of the Act was that private owners of gas utilities would be entitled to a fair return on their investment, how can we now read those exact same words differently simply because of a change of ownership.

If there's going to be a change it has to come from the Legislature and not through any tortured interpretation of the plain language of the Act.

Centra has been publicly owned since 1999. And the Board has been regulating Centra in the same manner as it regulated the Company under private ownership, and the method of regulation has worked well.

If the Legislature desired a change over all these years, from 1999 to the present, it would have effected one, because, you know, it has changed the Act since 1999. You'll recall that Section 82(3)(1), which indicates that -- which was added into the Act so that the Board wouldn't have the authority or jurisdiction to review the sale of Winnipeg Hydro to Manitoba Hydro. And that's what Section 82(3).1 indicates, that the revue clause in the Act doesn't apply to that transaction.

But the fact of the matter is the

Legislature has decided, for whatever reason, that it isn't going to make a change to the Act and that it isn't going to effect change to the regulatory -- existing regulatory framework.

And I know, and I -- I don't want to give evidence, but anecdotally I know there have been submissions requesting such a change. And all I say is that I haven't seen any change to the Legislation. So, until there is, this Board's hands are tied.

And I want to talk briefly now about the evidence of Greg Matwichuk, wherein he commends the Board to the continued use of the rate base rate of return methodology. Mr. Matwichuk's written evidence and oral testimony provided another compelling reason for the Board to continue to apply this form of regulation.

In his evidence Mr. Matwichuk notes that rates have been consistently determined, before and after the acquisition, on using this methodology. And he states that it is thus essential to continue with the methodology in order to continue to provide a historical consistency and a continuity and transparency.

Mr. Matwichuk states, quote:

> "The Board has an important issue before it regarding sharing of acquisition costs. A change in the

method of regulation can cloud the
issue. If cost to ratepayers were to
be higher simply because of a change in
the method of regulation, then those
ratepayers would suffer harm." End
quote.

And it's an important observation because, surely, change in regulation itself shouldn't result in increased rates.

At transcript page 1542 Mr. Matwichuk indicated, in response to questions from Mr. Peters, that his two (2) main reasons for advocating the continued use of rate base rate of return regulation were:

Number 1. A concern over management judgement in the determination of net income, and;

Number 2. That with rate base rate of return regulation there is a implicit incentive to -- to improve efficiencies and beat financial forecast for the -- to improve the financial integrity of the Utility.

And as -- as CEP stated earlier, it also provides the Board with an opportunity to review capital projects with greater scrutiny and require that they're approved ahead of time and not as a fait accompli after the fact.

Mr. Matwichuk also reiterated that

continuing with rate base right of return methodology improves transparency in that the net income would be determined on an objective basis in accordance with case law, rather than some elusive, subjective judgment, as was advanced in this case.

Using rate base rate of return, is subjective because of the long standing consideration given to the formula which derives the net income.

And with respect to CAC/MSOS recommendation, given the foregoing, my clients assert that the Board must determine Centra's net income in accordance with the legislative revenue requirement and imperative set out in the Public Utilities Board Act.

The Board certainly cannot allow for net income which is greater than the amount a privately held company would be entitled to under the existing legislation.

And as indicated, that's precisely what has been applied for here and which would kick into rates May 1st, 2006 and carry on for as long as Hydro so decided until they brought forward an application.

If the Board so chooses it can recommend to the Government to effect a change in the legislation, but, until then, as I said, your hands are tied. Even if you believe Crown corporations should be regulated in cost of service, and I'm not saying and my clients aren't saying they disagree, but, the law is the law.

And you can't regulate in any other manner until the law permits you to do so. The Board should be very cautious though in any event even in advancing a recommendation to the Government. Because one should step back and consider what benefit there would be other than the fact that Manitoba Hydro and Centra would be regulated on the same basis.

Even that assertion has to be given careful scrutiny because Centra's own evidence is that under the cost of service methodology, a rate base would still have to be calculated. And that would be required in order to properly -- to continue properly allocating costs to various rate classes. And that's at PUB/CENTRA-91.

And it says, that in the future under cost of service Centra would continue to calculate rate base. So let's be clear. If the Board determines Centra rates based on the cost of service approach under the current legislation then it has committed a serious error of law and acted outside its statutorily conferred jurisdiction. That's a conclusion that two (2) of the presiding Board members have already reached.

It is clear as night follows day, that if the Board uses a cost of service approach the inescapable result will be further unnecessary -- a further unnecessary trip to another venue to have the issue resolved.

Another important reason to keep rate base rate of return regulation, something I'll get into later, it's to stay the course with the plan -- stay the course with the plan to ensure transparency with respect to Hydro's acquisition of Centra, to ensure that there is a fair apportionment of the annual acquisition costs which have been set and described in this Hearing as $18.5 million a year.

By holding the calculation of net income to be consistent with it's derivation under previous ownership the Board can assure Centra ratepayers have indeed benefited from the transaction.

Centra's return along with synergies in Manitoba Hydro are more than enough to likewise assure Manitoba Hydro ratepayers they've been held harmless. Therefore, maintaining consistency with respect to regulatory treatment, allows for the assurance that both ratepayers of the utilities are not harmed as a result of the acquisition.

Those are my comments on that section 3, which is method of regulation. I'm going to move on now to the corporate allocation unless the Board is desirous of a break?

THE CHAIRPERSON: Yes, maybe we'll take our break now. Thanks.

We'll come back in fifteen minutes.

--- Upon recessing at 10:24 p.m.
--- Upon resuming at 10:45 a.m.

THE CHAIRPERSON: Welcome back Mr. Saxberg. Your second major topic?

CONTINUED BY MR. KRIS SAXBERG:

MR. KRIS SAXBERG: Thank you, Mr. Chairman. The next topic is the Corporate Allocation which, to me, is the second most important issue in this proceeding. And I had briefly mentioned that the Board's Plan for allocating the costs of the acquisition between Centra ratepayers and Hydro ratepayers.

That Plan is set out at Tab 11 of my Closing Brief, in particular page 2. And it's a section of the Decision that should be familiar to all and was referenced several times during this proceeding, I quote:

"The Board notes that Centra's return

on equity which accrues to Hydro on an annual basis, will be in the range of 14 to 16 million. In additional, the Board has heard that synergies realized by Hydro as a result of the acquisition, exceed 3.2 million. Therefore Hydro will at minimum realize annual benefits in the range of 17 million to 19 million.

The Board further notes that this amount does not include additional synergy benefits that may be realized by Hydro as the integration process continues.

As well, the annual Hydro cost of 20.9 million, includes a component related to purchased goodwill and the write-up of net assets to fair market value, which arguably should not be paid for by Centra ratepayers, but rather paid for by Hydro.

The 20.9 million annual payment also includes a component related to approximately 4 million of acquisition and integration costs which the Board has not yet reviewed."

The Board went on then to say that it had difficulty reconciling the evidence presented at that Hearing, which evidence was Centra requiring a $7 million synergy transfer. Ultimately the Board awarded a $3 million synergy transfer, and indicated that it should only be a temporary measure which should be eliminated by no later than March 31st, 2005, and that's at page 66 of Board Order 118/03.

If you flip to Tab 12 of my Closing Brief, I've included transcripts from the 2003 GRA. The Board's Plan was consistent with the urgings of Mr. Warden at the last GRA, which is to say this plan isn't something that the Board came up with on its own, it was -- it was put forward by Centra itself.

During that proceeding Mr. Warden testified that if Manitoba Hydro had Centra's return on equity, along with a $7 million synergy transfer, this is important, this is the quote, quote:

"Hydro ratepayers would remain whole forever more."

And that's at page 194. So, if you flip forward, I have scribbled around it, that's the second paragraph. So, quote, quote:

"So you'd have to rely on -- so if you

had that plus 7 million, hydro
ratepayers would remain whole forever
more."

Mr. Warden testified in this previous GRA, that there was a requirement for Manitoba Hydro to collect around 20 million per year in order to retire the original acquisition cost over a thirty (30) year term.

And he went on to testify at page 185, which is flipped backwards in this same tab, again I've circled the area, quote:

"So, with this 7 million and an
expected bottom line of around 15,
there will be sufficient dollars in
total to cover the cost, the annual
costs that -- of the acquisition. So
will it change from year to year? In
total the amount required out of Centra
Gas is approximately 20 million, so the
total won't change. Anything over and
above that would stay in retained
earnings of Centra."

So, that was the plan two (2) years ago. And at that time, Mr. Warden wanted to bring closure to all of these acquisition issues, as he indicated in this proceeding he wants to do as well, on behalf of Centra.

That sentiment accorded with the Board's desire to deal with this matter once and for all and put it to bed. At page 193 of this same transcript, there's an exchange between Mr. Peters and Mr. Warden where Mr. Peters asks, quote:

"And when you say, bring closure to those matters, that is you want to have those determined so they don't have to be reviewed at every general rate hearing that the gas company has?"

Answer from Mr. Warden, quote:

"Yes, I think the thought is that, as time goes by, it becomes more and more difficult to speculate on what might have been absent the acquisition so, yes, it's high time I think we did bring closure to that." End quote.

So at the last GRA application Centra stated, number one (1), the annual costs of the acquisition that Hydro bears are between 20 and 21 million. Second, eligible Synergies, in accordance with Board Order 208/02, were 10.3 million, that is 7.1 for Centra and 3.2 for Hydro.

And that's important. At the last GRA Centra wasn't suggesting there were $15.3 million of synergies, they were only suggesting there was 10.3. And at Tab 13, I've included the closing portion, out of the closing submission of Centra, at the GRA.

And delivering this closing argument was Mr. Foren and on the very last page of the transcript, page 2329, Mr. Foren says:

"In Order 208/02, this Board dealt with early retirement program or ERP at page 55 of its decision and concluded that the sixteen (16) vacant positions and the fifty-seven (57) early retirement positions should not be considered synergy savings. It is for this reason that they have been deducted from Centra's calculation of synergy savings and that the resulting amount is 10.3 million. I accordingly submit that it is not appropriate to take these synergies into account for the purpose of reducing the synergy benefit transfer required from Centra to Manitoba Hydro. If they weren't considered synergy benefits in order 208/02, they ought not to be considered synergy benefits in this proceeding.

They should not be considered as
synergy benefits which this Board has
accepted for any purpose."

So, at the last hearing Centra was indicating total synergies of 10.3 million, 3 in Hydro, 7 in Centra. Thirdly, Centra was asking for retained earnings of about -- of between $2 and $3 million as being enough to ensure the financial stability of Centra and to ensure that Centra's subsidiaries do not negatively impact on the financial targets of the parent company.

So, they weren't asking for 5 million and 14 million in net income, they were asking, at that point, for 3 million as the deemed appropriate amount to contribute towards financial targets. And at page 199 back at -- in the transcript I've included at tab 12, so page 199, Mr. Warden says and I quote:

"Well, the forecast that was approved
by the Centra Board, the financial
forecast, and I think it's referenced
in one of the tabs, had a 3 million
transfer to retained earnings. It's
only prudent to have some transfer to
retained earnings of Centra and 3
million was deemed to be the right

amount."

And as I'll discuss later, Mr. Warden went on to indicate that the policy was that as long as subsidiary companies are contributing to the -- positively to the bottom line, then there is no concern with respect to -- in the financial targets.

The fourth piece of evidence that this Board heard at the last GRA was that the return on equity plus only a $7 million synergy transfer would be more than enough to pay for all the costs of the acquisition and leave an appropriate contribution to retained earnings.

Now, at this Hearing, we heard a different story. The annual cost of the acquisition is not between twenty (20) and twenty-one (21) million but is closer to nineteen (19) million. And I would suggest that the board make reference to Undertaking Number 24, which was marked as an exhibit earlier today, it's Centra Exhibit -- actually I have included it at Tab 14 of my -- of my materials.

Undertaking 24 shows the precise amount on a year-over-year basis that needs to be recovered by Manitoba Hydro as a result of the cost of the acquisition. And you'll note that for the first test year -- this is at Tab 14 of my closing brief -- for the first test year the amount to be recovered is 18.5 million.

The second important evidence we heard in this proceeding was the total synergies are now 16 million, which six (6) to 8 million of synergies in Centra and 9 million in Manitoba Hydro.

Thirdly, a position put forward was that Centra requires 5 million net income in the first year and 14 million net income in the second test year in order to achieve financial targets in a timely manner.

And fourthly, Centra ratepayers should pay 12 million per year in perpetuity to pay for its fair share of this $18.5 million in acquisition and integration costs.

So just comparing the -- the stories between the two (2) hearings, it -- it's significance -- significant in what a difference a couple years can make.

And I want to be clear that there can be no distinction drawn between the synergy transfer that was advanced at the last Hearing and the corporate allocation that's being advanced in this Hearing. They are both amounts that are requested to be in revenue requirement for the exact same purpose, they just have different names.

Both are charges to Centra ratepayers,

amounts to be included in revenue requirement, both increase Centra's revenue requirement, and both relate to the appropriate amount of contribution that Centra ratepayers should make, according to Hydro, to pay for the acquisition and integrations costs.

So, Centra says that synergies in Manitoba Hydro are now 9 million, which is an increase of 6 million from the amount that the Board considered in determining this issue at the last GRA. And we also have a -- a decrease in the amount needed to be recovered to pay for acquisition and integrations costs from twenty-one (21) million to eighteen point five (18.5) million.

So, one would think that with those two (2) items, that we shouldn't be looking at a larger synergy transfer, we should be looking at a smaller one.

The Board, in our view, as you heard, must conclude that it should continue to regulate Centra on rate base rate of return. And if that is the case, then Centra would be entitled to a $12 million return on equity in the first test year which, together with the 9 million of synergies in Manitoba Hydro, provides a benefit to Manitoba Hydro in the amount of 21 million annually.

That benefit is more than enough to adequately offset the yearly acquisition and integration costs of 18.5 million, so there is no need for a corporate allocation.

And that's why we say, that under rate base rate of return regulation, the Corporation allocation amount of 12 million is a double counting.

Under the Board's plan, that 12 million dollar corporate allocation is unnecessary, and it's double counting if the Board retains rate base rate-of-return regulation and allows for a 12 million dollar corporate allocation.

And here's why: Consider how that corporate allocation worked historically. Net income was determined and then the corporate allocation was applied, reducing the net income approved. In the past it was by 15 million, so that, in the past, the return on equity and corporate charge were offsetting, they were opposites of one another.

The -- the net income was derived from -- through rates as the -- as the appropriate return on equity and you'd see it in the financial forecasts and financial statements, as a bottom-line number.

And then afterwards there's a charge against it, which is the corporate allocation. So they -- the corporate allocation was never a component of revenue requirement, it was after the fact, so that it is the opposite of the return.

And that's why, in simple -- in simple terms, historically, the return on equity that -- or in net income that was generated within Centra, was always taken out of Centra and applied to Manitoba Hydro Corporate to pay for the costs of acquisition.

So here, to include a return in equity in revenue requirement and then to include a corporate allocation, is a double counting.

And I just want to talk for a moment about quantifying the financial benefits in Centra, because at CAC/CENTRA-157(M), which is at Tab 15, we asked Centra to tell us specifically: What are the financial benefits in Centra?

And the answer provided indicates that the first financial benefit for both ratepayers is the return in equity of 12 million a year. The second financial benefit is the elimination of income taxes, and that we've heard is -- amounts to a net benefit of 4 million, and that 4 million was confirmed at transcript page 1142. It's not something that's an issue here.

The third financial benefit is the synergies. And we heard, in this proceeding, that there are 7 million synergies in Centra's operations, between 6 and 8 million and the number that it's been fastened onto is 7 million.

So if you add up those financial benefits, and the historic treatment of the return on equity which was, for a charge to be made against it, i.e. the corporate allocation charge, that return in equity was therefore going to the benefit of Manitoba Hydro, Manitoba Hydro Corporate.

So that's not a benefit in Centra. That's what happened historically. The benefits in Centra were the elimination of the 4 million dollars in taxes and the 7 million dollars in synergies. That's an 11 million dollar benefit only.

And Centra's asking, in the context of rate base rate-of-return, for a full return and 12 million dollar allocation, in order to -- in order to pay for 11 million dollars in quantifiable benefits.

Now I have to -- to caveat the quantification of those financial benefits by saying that Centra has said there may be other financial benefits, but they haven't quantified them, and that's -- that is part of the answer to the information requests found at Tab 15 of my -- of my Brief.

But I -- in any event, it's indisputable that actual quantified benefits, if you consider the ROE to be a benefit of Manitoba Hydro, which you must, are only 11 million in Centra.

And I -- I challenge Centra to provide any other specific information or evidence as to where those other financial benefits are, without resort to their analysis of the acquisition of -- of Centra, absent the acquisition.

And that's what I want to turn to -- to now, Centra's Response, which is they -- they say, take a look at page 14 of our Rebuttal, we've -- we've shown how terrible and dire things would be if this Utility was run by West Coast.

And to me this is nothing but a straw man argument. They've constructed a utility and made all kinds of assumptions about -- about its expenses and then they measure their own expenses against it and say, Look, here's the benefit.

Well, people have been testifying in these proceedings for years now, that the further out we get the more difficult it is to speculate on what would have happened under West Coast ownership.

And I mean, if you go forward here, Manitoba Hydro committed to purchasing -- to building an office tower, only because it was part of the deal to buy Winnipeg Hydro. And for Hydro to suggest that there isn't going to be an extra cost associated with that office tower for Centra ratepayers is difficult to believe.

There is going to be a -- West Coast would not have built an expensive office tower for its gas operations. So the point in all this is, it is -- we're far -- we're way too far out to speculate on what Centra would have looked like under West Coast.

The most important thing that always gets forgotten is, this Board -- the Board regulated Centra under West Coast ownership with a heavy fist. And you know all those actual cost of operation figures that were bandied about and marked as an Exhibit in these proceedings, those were actuals. Well that's not what was recovered in rates.

This Board was aggressive in terms of setting a limit on O&M and squeezing efficiencies out of the privately held Centra. This Board would have continued to do that and so ratepayers would have benefited from that. And so you can't use actuals in setting this straw utility construct.

More importantly, if you look at Tab 16, the Board's already ruled on and considered the appropriateness of this Centra baseline. They say, at tab 16, under the heading baseline, the Board wrote in Board Order 208/02, quote:

"The Board appreciates the analysis completed by CAC/MSOS regarding the baseline measurement from which synergies could be measured and is of the view that this analysis provides some indication that Hydro and Centra's baseline may be mis-stated." End quote.

Now, that is the exact same baseline that you have before you today, except now we're another three (3) years out, making it even more speculative.

Now Mr. Matwichuk testified, and I won't go over his evidence, but he testified at transcript page 1507, as to his calculation of the errors inherent in that baseline calculation. And he indicated that the O&A figure was likely $3 to $4 million off the mark.

And here, if you turn to tab 17, I've included a transcript from an examination by Mr. Meronek of senior personnel in Centra under West Coast ownership. And at that time, if you flip to the last page in tab 17, there's a quote that I've highlighted on page 727, where Mr. Meronek asks, quote:

"It's not too long ago that you sat before this Board, Mr. Brett and said, Geez, I hope you can reverse the trend, not reverse the trend, but, reduce O&M on a year over year basis."

Mr. Brett answers, quote:

"I think that's probably still our hope Mr. Moronic, I tried to indicate just a few moments ago that our goal remains a flat operating expense per customer, with even a hope to reduce that."

And back then, the operating costs were two hundred dollars ($200) a customer. And if -- if you flip ahead to tab 26, there is an excerpt from evidence of Greg Matwichuk from the last Hearing, which shows the approved amounts on a cost-per-customer basis for O&M, and they're all hovering around two hundred dollars ($200) for five (5) years prior to the acquisition.

And we have this transcript, sworn testimony, that the stated objective at Centra, under West Coast, was to maintain that two hundred dollars ($200) flat. So to suggest that under West Coast ownership O&M would have risen, as Centra suggests, is purely self-serving.

Mr. Matwichuk also commented on the equity component of the analysis and on the rate base number, and I'd commend to the Board to review that testimony and his critique, which I won't repeat, of the -- of this straw utility construct.

Now, flip to Tab 18, because this is an important undertaking and it's very important evidence in this proceeding. Centra Exhibit 24 shows that in the second test year, if this application is approved as submitted, there is, even under Centra's tortured analysis, no benefit.

So let's factor into this a reasonable margin of error. And we know that, even based on the application as it's put forward, there would be harm to ratepayers as a result of the transaction, in that rates could very possibly be higher than what they would have been had there not been a transaction, but more importantly, the breach of the promise made by Centra -- or by Manitoba Hydro at the acquisition that rates would be lower because of the transaction. Centra Exhibit 24 shows rates would not be lower if this application is approved.

So CAC/MSOS's recommendation is that the Board, continuing on with rate base rate of return regulation, should not include a corporate allocation amount of $12 million. And my clients adopt the evidence of Greg Matwichuk in this regard. And so I won't repeat his recommendations but the Board has access to those by reviewing the final page of his recommendation, where he neatly summarized those recommendations.

The next area is the Centra cost of service submission and submission with respect to net income. Centra's request for a net income of approximately 5 million and 14 million in each test year, under a cost of service approach, is not justified.

And we want to stress that it's -- that it's inappropriate to look at cost of service to set rates and that, in that respect, the application is ill-conceived. But being forced to respond to the Application as it is set out and without giving it any credence, these Intervenors argue that the net income applied for, when combined with the corporate allocation, particularly in the second test year, provides for a return that is excessive. It's a $14 million net income plus $12 million in corporation allocations, is $26 million above what it costs to run this gas company. It's $26 million above the breakeven costs.

Now the only grounds -- the only grounds put forward for net incomes in the amount of five (5) million and fourteen (14) million by Centra, is to meet financial targets which have only recently been set.

But if one considers the document that I have included at Tab 20, which is the most recent electric operations projected operating statement you see that Manitoba Hydro is not going to achieve its 75:25 debt equity ratio financial target until the year 2014.

And if you compare that to the next document at tab 21 which indicates that, under the current proposal, the 75:25 debt equity ratio in Centra is projected to be achieved in 2008/09, six (6) years before Manitoba Hydro will get there.

So, the Board needs to -- if it is going down this cost of service path, can seriously consider why we need to speed to a 75/25 debt equity ratio passing Manitoba Hydro along the road.

And I want to reiterate, at Tab 22, comments put on the record beginning at page 1286, where I ask, quote:

> "So the reason why you're saying that -- that you should look to the owner in determining a debt equity ratio in this case is that Centra is integrated -- fully integrated into Manitoba Hydro?"

Mr. Rainkie answers, quote:

> "Yes. The provincial debt guarantee comes from the ownership of Manitoba Hydro. So what I'm saying, that you can't have the benefits of that ownership without the costs. It's only

fair, Mr. Saxberg."

Then I ask, quote:

"So Centra Gas in your view, isn't a stand alone entity, it's intricately caught up in the financial performance of the parent company."

Mr. Warden responds quote:

"We'd rather say the financial structure of the parent company rather than the financial performance of the parent company." End quote.

If Centra Gas is not a stand alone entity from Manitoba Hydro's perspective, then why does it have to have its own specific financial targets, not to mention financial targets that are far more aggressive than the parent company?

And let's contrast that to what Mr. Warden said at the last GRA on this very topic, which is the next tab over, the second page, and I've marked it off, beginning on page 2114, where Mr. Warden says:

"Well really as long as there's -- I should back up and say that the financial targets, as we've talked very briefly about this morning, are set at the corporate level. So we Manitoba

Hydro has a number of subsidiaries and
as long as those subs are contributing
towards the financial targets of the
parent, then we're reasonably happy.
So although we haven't set a specific
target within -- within Centra or -- or
any of the subsidiaries, as long as
they're not negatively impacting the
financial targets of the parent, we
have no concerns. Any positive
contribution, of course, towards
attaining financial targets is good,
good for everybody. So long answer to
your question, there doesn't really
have to be targets at the Centra Gas
level, assuming that we would have, in
the future, some regulatory model that
is similar with the electric regulation
model."

Therefore, Mr. Warden's own evidence in previous Hearings is that financial targets are not necessary for the subsidiaries. Certainly not financial targets more aggressive than the parent.

I want to turn now to the debt equity ratio calculation. Mr. Matwichuk and Centra Gas differ, as you know, on the appropriate method to calculate Centra's debt equity ratio.

Mr. Matwichuk is including a hundred and twenty-one (121) million of share capital in his calculation, which is consistent with previous Centra Gas submissions, including the submission at the last GRA and Centra Gas' current calculation of same under the rate base rate of return methodology.

But in using a cost of service approach, Centra Gas wants to calculate debt equity ratio without consideration of that 121 million share capital.

Now, at Tab 24 I have included a trail of financial statements that show what's happened with Centra Gas, including showing the different financial treatments with respect to the costs of acquisition.

But the important thing to note, is on the first page that when Centra was acquired by Manitoba Hydro, there was approximately $121 million equity of which, and you get this from the second page, retained earnings as of July 30th, 1999, amounted to $82 million.

So, Manitoba Hydro buys Centra, Centra has retained earnings of $82 million, which are -- which then are transferred into share capital. And all of the financial statements thereafter indicate shareholder equity of $121 million.

But what Centra wants to do in this Application, is reset the clock on January 30th -- July 30th, 1999, such that retained earnings are zero, and thereafter they calculate retained earnings.

And the reason they want to do that is because they say you have to look at the consolidated picture that when Manitoba Hydro purchased Centra, they did so with a hundred percent debt and therefore the equity in Centra is illusory.

Now as at March 31st, 2000, shareholder equity is stated in the financial statements, and that's on the first page here on Tab 24, stated to be a $135 million.

And it may be the case that that equity was purchased by debt, however, this is the key regulatory concept; that is the debt of Manitoba Hydro, that is the debt of the owner, it is not the debt of the Utility.

And it is inappropriate and in violation of long-standing regulatory principles to consider the financial circumstances of the owner in determining the level of equity within the Utility.

And you heard a lot of information in evidence on that from Mr. Matwichuk. Mr. Matwichuk testified at length about this so called stand-alone principle which is a seminal regulatory principle.

In very general terms, stand-alone principle is that for rate-setting purposes, the regulator cannot look beyond the specific financial structure of the Utility. The regulator cannot look to the financial circumstances of the parent or -- parent or of a purchaser of the Utility, and in particular, it can't look at how that Utility was purchased.

In all circumstances, a utility is going to be purchased by -- by a large measure of debt by the owner. That's going to happen every time. In this case, Centra wants to abandon this stand-alone principle and Mr. Matwichuk stated that would be absolutely unprecedented.

Mr. Rainkie says that because of the -- it's because of the unique and unprecedented nature of the transaction that -- that we should, you know, not put this box around the -- Centra Gas, which he describes as simply a legal shell.

Mr. Rainkie's contention that this is an extremely unique and unprecedented transaction, is an exaggeration. There is nothing unique about utilities being purchased; nothing unique about a utility being transferred from one owner to another.

In all such circumstances, regulators --

regulators have a task -- common task to ensure that the transfer of ownership doesn't create a harm and that rates are going to be higher than they would have been otherwise. And this Board has acknowledged that that's their fundamental task here.

To allow for this elimination of all those retained earnings that were in Centra and in it -- in the shareholder equity that existed at the time, to allow for that to creep into the determination and setting of rates in this proceeding, would be to abandon that principle to ensure that the transaction is going to hold ratepayers harmless.

And you have to ask, what was unique about this transaction?

The only thing that was unique about it, from my perspective anyway, is that there are two (2) sets of ratepayers that need to be held whole. And that's something that the Board's identified and has worked and done a diligent job of achieving no harm for both ratepayers.

But, beyond that fact, there was nothing extraordinary about the transaction. A Crown corporation purchasing a private company isn't something that has never happened before.

It may be the case that, you know, it

hasn't been a Hydro company purchasing a gas utility, but in terms of nationalizing companies, that's happened before and I know, Mr. Chairman, that you're more than aware of that.

Mr. Matwichuk filed a response to Undertaking 33 and I included it at Tab 25. And the Undertaking was to advise the Board of any examples in which a Crown corporation, a non-taxable organization, acquired a private utility and continued for some time operating that utility as a stand alone regulated on a rate base rate of return methodology.

Mr. Matwichuk has come up with an example and he is citing the situation in BC where a number of electricity -- electric utilities were nationalized by the BC government in the 60's. And the rates did come under the jurisdiction of the regulator in the 1980's and the method of regulation was a akin to rate base rate of return recognizing there was only a debt component at that time.

And he says:

> "Subsequently the Government of BC introduced a special directive and defined and equity component. It was that directive which gave rise to the more common rate base rate of return

approach to regulation which included a return on equity component whereby the allowed return on equity has been calculated to equal on a pre-income tax basis, that of the most comparable investor owned utility."

And he goes on to say:

"Since the nationalization of privately held utilities into this one (1) entity, BC Hydro, it continues to be a Crown owned corporation, is non-taxable and continues to be regulated based on rate base rate of return."

And during his testimony, Mr. Matwichuk gave numerous examples of government owned utilities that are regulated on rate base rate of return. He also provided several examples of companies that are nothing more than allocations of larger organizations, i.e. a corporate shell.

And that's beginning at transcript page 1547, where in Mr. Matwichuk provides examples of these allocation companies that are identical to the situation the Board sees before it, one (1) of which, interestingly enough is Direct Energy in Alberta.

In Alberta, the gas distribution company, ATCO in Calgary, specifically, sold its retail function. It split -- it only distributes gas now. It doesn't purchase gas and supply it to its customers.

The retail function was sold to Direct Energy and Direct Energy is now the regulated default supplier in that jurisdiction. And Direct Energy, as you know, an Intervenor in these proceedings, and well known to the Board as a broker, also is a broker in Alberta, where it has a dual function.

One (1) company, same set of employees and yet one (1) half of it is a broker in the competitive environment, the other half of it is a regulated supplier of the regulated default supplier of gas.

It's nothing but a corporate allocation. The regulated arm of Direct Energy has no employees, doesn't have a different Board of Directors, it is in identical to the circumstances that you have before you with Manitoba Hydro and Centra Gas.

Mr. Matwichuk noted several other examples of the same. He also testified that when West Coast purchased Centra in 1990, he had financed that with 25 percent equity only. However, during the entire period that Centra was under West Coast ownership, the PUB continued to regulate Centra based on its historic financial structure, as a stand alone derivation of shareholder equity.

And certainly in Alberta when the Alberta Energy and Utilities Board is regulating Direct Energy and its default supply function, it is not looking to the parent company, Centrica or -- or other related companies, in terms of determining how those rates are set.

Now, Undertaking number 32 and Number -- and number 30 from Mr. Matwichuk list all of the -- the authorities that he's provided for the -- for the proposition related to stand-alone and it results in a -- a voluminous production of documents which we're prepared to make available to anyone who wants them in hard copy, and we're going to undertake to ensure that everyone's got them electronically at minimum.

But I commend to the Board a review of those authorities because they are as clear as can be that the stand-alone approach is -- is something that cannot be strayed from without there being any extraordinary circumstances. And the reason why I've just reviewed these other similar circumstances is to suggest this is not a case of extraordinary circumstances where one can stray from the stand-alone approach.

I'm going to turn now to cost of operations. I should suggest, just in -- in closing on that section, that CAC/MSOS's recommendation is that the Board not abandon the stand-alone approach and that the proper calculation of the debt equity ratio is the one that has been performed by Mr. Matwichuk.

Cost of operations. In Board Order 118/03 the Board approved a cost of operations figure of approximately 49 million. The Board stated that this was going to be a number that would represent a baseline from which future applications would be measured and which would allow the Board to review costs of operations by activity and function, and that's important.

That the Board could look on a comparative basis with respect to the programs offered to determine whether increases or decreases were appropriate and/or should be considered and embedded in further forecasts of cost of service -- cost of operations rather.

The cost of operations applied for in this application are 54.1 million in the first test year, 55.2 million in the second test year. This amounts to an approximate 10 percent increase in costs between the budget and forecast set for '03/'04 in Board Order 118/03 and the current Application based on a future test year.

And as I alluded to earlier, prior to the acquisition Centra's goal, and it had been achieved by the Board in the five (5) years prior to the sale, was to hold O&M cost per customer flat. Well, the O&M cost per customer approved by this Board in the last General Rate Application was a hundred and ninety-four dollars ($194) a customer. And that's -- that was confirmed in -- in one (1) of the IR's that was marked as an -- one (1) of the undertakings that was marked as an exhibit earlier today.

I don't it's a -- a contentious matter but the $49 million amounts to a hundred and ninety-four dollars ($194) a customer.

The current Application is asking for O&M in the first test year on a cost per customer basis to be two hundred and eleven dollars ($211), which is a large increase from a hundred and ninety-four dollars ($194). And there -- and the request is for it to be two hundred and fourteen dollars ($214) a customer for the second test year.

The cost per customer is an important benchmark that this Board can and -- and has used in the past to determine the reasonableness of O&M being sought.

Now, Mr. Derksen testified that the large increase in cost of operations between that which was approved in the last Board Order and this Application is explained by under-forecasting, which is a convenient response, but one that needs to be scrutinized.

Now, at Tab 27 I have included a document which was an information request asked by CAC/MSOS and what it does is it sets out the explanations as to the differences between the '03/'04 actual and the '03/'04 approved.

Now, one (1) thing to note, firstly, with respect to the approved amount on the second page, the approved amount for '03/'04 includes a synergy transfer of $3 million. That was where the Board's synergy transfer was embedded. And it therefore increases the 49 million to approximately 52 million. That's the first thing to note.

The next thing to note is, and I'm not going to go through every one of them, but the Board needs to look at these explanations. Because they're not -- they're explanations for increases in costs, but, they're not explanations that are going to continue on a go-forward basis. These are one (1) time only events that explain why they didn't achieve their budget.

But, they're not things that are going to continue on and on, year after year, such that the explanations in the increases in the actuals compared to the forecasts, should be embedded in future forecasts.

Line -- line 26, system integrity, there was a 37 percent increase and it was explained by additional work spent in the cathodic protection program. There's no evidence that that's something that that additional work is something that is going to continue on a year over year basis.

If you go up to the banner system, which is line 14, it's delayed commencement of the CIS project resulted in delay in the shift in resources to that capital project, 103 percent increase from the forecast to the actual. But, this isn't going to happen again. That's not going to happen again, so why are we embedding that extra amount into the forecast on a go forward basis?

I mean, the Board needs to look at all of these entries and consider which of these explanations is going to continue to justify an increase from the 49 million previously approved for these programs.

And I would suggest to you that what has happened here is that the $3 million synergy transfer is simply being embedded into the cost of operations. And that the Board should disallow the request for O&M by an approximate figure for 3 million for each of the test years. And that the 49 million should only be inflated by CPI and customer growth as Centra's own analysis between the 2003/04 period and the test years. And that no more should be approved for O&M, certainly not based on the explanations offered in Tab 27 of my brief.

Next topic is the hedging program. These intervenors have been long standing and vocal critics of Centra's hedging program. And we'd like to think that our critique along with the Board's interventions and analysis, has led to modifications and improvements in the program over the years.

And we're very pleased that Centra Gas consulted with CAC/MSOS in terms of updating my clients on the progress of the hedging program review report, and we welcome the opportunity to participate again in any further consultations and to work cooperatively in that regard.

And I'm encouraged by Centra's pro-active approach here. I think that it's helpful to the regulatory process and it's very much appreciated by my clients.

Having said that, my clients still have concerns that the benefits of the Program, what it achieves, are not justified by the costs and risks of the Program, and the Board has to concern itself with how it's going to evaluate the Hedging Program, because there's a lot of dollars at stake here.

Certainly, it's got to ensure itself that the program is administered in accordance with the policy. But I'd stress that the Board must also look at the results in the performance of the Program in terms of two (2) matters:

Number 1. Impact on the cost of gas; and

Number 2. Impact in terms of reduction in volatility.

Now last year I -- I had some concern with one of the transactions and -- and how it unfolded and there was a concern that it wasn't in compliance to policy; this year I see no evidence that the policy wasn't applied properly.

And -- but turning to the results, whenever you hedge to reduce volatility, it means that you're going to affect the price that you pay for gas; it's an automatic. And when you hedge, there is a certainty that you're not going to pay the market price.

And in the last three (3) years, gas costs have been lower than what they would have been otherwise, because of the Hedging Program, and that's been a benefit to consumers. For the 2004/05 year, the reduction is approximately 10 million, the year before that it was 4.6 million, and the year before that 15 million.

But let's turn now to the impact of the Program on natural gas price volatility. The starting point is to acknowledge Centra's own position, that the sole purpose of the Program, the sole purpose, is to reduce price volatility, and Centra has stated that at ad nauseam and suggested that the Program's purpose has nothing to do with reducing gas costs or avoiding higher gas costs.

Centra now measures the performance of its Program based on the percentage of reduction in volatility achieved. And for the '04/'05 year, Centra states that that percentage reduction was 53.4 percent, which sounds like a significant achievement. On its face it sounds like the Program has reduced natural gas volatility by 53 percent, but that is of course not true, it's an exaggeration of the performance of the Program.

At Transcript page 503, Mr. Sanderson confirmed that the much ballyhooed percentage reduction in volatility is actually simply the percentage difference, the percentage difference between two (2) numbers, one (1) being the standard deviation in prices with hedging, one (1) being the standard deviation in prices without hedging.

So if you look at -- for a simple explanation of that, to page 28, or sorry, Tab 28 of my Brief, I've circled this standard deviation number. And as Mr. Sanderson explained, what he's done is calculated a standard deviation through some complex mathematical formula to show deviations with hedging and without hedging.

But then all he does is take those two (2) numbers and he compares them to one another. In other words, he says, he takes the 1955 and he says, versus the twenty-eight (28) dollar figure, that's what produces the reduction of volatility.

So quite simply, the 1955 figure is 30.2 percent less than the twenty-eight (28) dollar figure, producing, in that year, a reduction in volatility of 30.2 percent.

And I -- I think there's -- there's a famous saying that there are -- there are liars or lies -- damn lies and statistics, or something to that effect, and I think this is a classic case of -- of a statistic overstating circumstances.

And -- and if you flip to the next page of my Tab 28, we see what this program actually does accomplish for everyday average gas consumers. We see here the difference in a customer's bill, on a month-over-month basis, as a result of the hedging program. And see for yourself the difference is virtually unnoticeable, it's minimal.

And Mr. Sanderson, at transcript page 494, put it this way, quote:

"I can tell you that in terms of reducing the volatility of the customer's monthly bill hedging will probably have what appears to be a insignificant effect. Because weather by far overshadows any of the effects of managing those monthly bills with derivative hedges."

That's the evidence of Centra. That's my observation, is that this program produces insignificant effects. The bottom line here is, the best way to reduce bill variations is with the equal payment plan.

If you're on the equal payment plan, you're not going to see any of the benefits of the hedging program in terms of reducing your volatility on a month over month basis because the equal payment plan has already taken care of total bill variability.

I mean, that's an obvious. It may be the case that your gas bill at the true-up period will either be higher or lower than it would have been otherwise because of the hedging gas cost implications. But that's got nothing to do with reductions in volatility which, again, is the goal of the program.

One has to consider why are people on the equal payment plan paying for the hedging program when it offers them absolutely no value? And for those people that aren't on the equal payment plan, they may be on -- they may have no concern over volatility and I think it was acknowledged during the testimony that there are indeed those customers that aren't concerned about reductions in price volatility.

So then let's just look at the costs. If those are the benefits and that is the performance of the program, let's look at the costs for a moment. And there are two (2) costs that we hear of that Centra acknowledges and they are, number one (1), the dealer margin or execution costs.

That's the profit costs that involved in implementing these transactions. Someone is running a business and putting these -- these hedges into effect and they want to make some money regardless of what happens to the hedges, those people want to make money. That's the dealer margin or execution costs.

We don't know what they're embedding. We don't know the amount that they're embedding. All we know is that it's a cost. And previously, the Board heard evidence it was between 1 to 2 percent a year, which Mr. Sanderson confirmed in his testimony at transcript 509, was between four (4) million and $8 million a year.

So that's a cost, an automatic cost above the market, regardless of what happens with the hedges, of between four (4) to $8 million a year. We're going to pay that much more in gas costs because of this program. Now, in fairness, Mr. Sanderson says he has uncovered some new research that shows the dealer margins may be significantly less than that.

But we're not going to see it until we see this new report and so I'll wait for the report to see if I'm convinced that that research shows the dealer margins are less than what's previously been put on the record. But in any event, it's only going to be a theory as to what those dealer costs are.

The second cost, of course, is administratively within Centra, but, we've heard that that's a fairly nominal amount, approximately a hundred thousand dollars ($100,000) a year, if the program wasn't in place.

So those costs have to be compared against the performance of this program and I -- I'm just recommending to the Board to give consideration to that matter and to give consideration to whether this program is something that is worthwhile in that context.

But I take it one (1) step further because we've had these great windfall successes in the last three (3) years where gas costs have been lower than they would have been otherwise.

But Centra will be the first to acknowledge it could easily have gone the other way. And I'm setting the record straight here, you know, in Hearings down the road, when the costs are such that gas costs are increased substantially, I'm going to be saying, at that point, the same thing that I'm saying now, which is that the program is too risky and too expensive for the benefits that it offers.

And the risk is that in the short run you could have substantially higher gas costs because of the performance of the market and because of the hedges.

Now one other item, just about the new derivative hedging program policy document that I just want to note. It has transferred all of the power to the executive, in that the executive can stray from the formula and can stray from -- from the mechanistic approach.

And I just wanted to note on the record that in the past this Board determined that the -- that that was a troubling matter since it's not exactly that it maintains the expertise with respect to hedging but rather the gas supply committee.

Now it may be that when we get this new hedging report that there is a different formula that's going to provide better benefits that we can weigh against the costs, and better benefits and lower costs or whatever. And so we eagerly await receipt of that report and we'll deal with it once we receive it.

Turning then to the multiple service offering report which ties in to -- to CAC/MSOS's recommendations, consistent recommendations over the years that Centra should reduce its hedging program to one that only protects against dramatic spikes and it should, at the same time, offer fixed price service offerings to customers who are desirous and have a risk appetite for true mitigation of price volatility.

Because if you -- if you want to mitigate price volatility, it's trite to say it but, a fixed price alternative is the way to go. It's going to mitigate it by 100 percent. That's something, of course, that was acknowledged during the proceeding by Mr. Warden.

Now, with respect to the report as -- on multiple service offerings, quite frankly, these Intervenors are disappointed. The author of the report, Mr. Kuczek, candidly admitted that the report was fairly cursory in terms of its review of the issues; that's at transcript 1933.

And then, thereafter, he goes on to say the report is, and I donÆt mean to use too -- too strong of language but I think it's fair, useless, in that it doesn't provide sufficient information to enable the Centra executive to make a final determination on whether Manitoba Hydro should venture into offering this type of product.

So at the end of the day, this discussion paper doesn't get us any further along. And -- and that's why we're disappointed.

Paradoxically, the report makes one (1) conclusion, and it was confirmed during testimony to be a conclusion, and that is that the competitive market is certainly not robust and that customers have a limited choice. Surely, customers would benefit from Hydro providing a -- a fixed price alternative.

So, as -- as things stand now, Centra has this matter on the back burner and who knows what development would take it from the back burner and move it to the forefront. And from a consumer's perspective, that's a shame.

So perhaps the ball is in the Board's court here to determine what to do on this score. I -- I just throw out the idea that perhaps a trial period with a limited scope fixed price offering may be something that -- that would help move this matter along.

Now in terms of the customer education report, these Intervenors, when put on the record, theyÆre strong support for such initiatives. All parties, I believe, in past proceedings, including at the WTS proceeding, stressed the importance of customer education.

And we heard in this proceeding that Centra plans a fall campaign to provide customer information on the natural gas marketplace. But the development of that campaign appears to be in its infancy. Centra is contemplating newspaper ads and perhaps some pamphlets only; and that's at transcript 1926.

The object of the plan has been determined, and that's fairly obvious, it's to educate customers on their choices and the consequences of those choices. However, a specific strategy hasn't been developed yet. The type of media buy has not been formulated. Budgets haven't been set. Timing hasn't been established.

And Mr. Kuczek testified that Centra hadn't determined whether or not there would be consultations with stakeholders prior to production of advertisements and/or whether the tight timeline set out in the agreement attached to the Appendix B, I believe, of the report would be followed.

The point is, these intervenors are concerned that customers are not aware of their options and the consequences of signing up with the broker and believe me, my clients hear about it on a regular basis in terms of very, very limited understanding of who these people are knocking at their doors offering to sell gas and how it would work.

And the western opinion research survey found that 41 percent of brokers supplied consumers thought that their primary gas supplier was Manitoba Hydro. This level of confusion in the marketplace is not acceptable. And it's something that we heard about a year ago. And it's something that Manitoba Hydro, in the draft minutes, admitted was a major concern and something that needed to be acted upon quickly.

But the fact of the matter is, they haven't acted it on it quickly. And they haven't developed a major appropriate education campaign, but they ought to. And this Board ought to concern itself with ensuring that Manitoba Hydro does, in fact, do that.

These concerns -- these intervenors have some concern with respect to the ability of Manitoba Hydro to put together an appropriate education campaign based on their last kick at the cat, which seemed to be more focussed on promoting their own product than on educating and informing consumers.

So I think it would be appropriate in the circumstances for Centra to use external resources to ensure that this campaign is effective and, as I said, we're asking -- pleading with the Board to push Manitoba Hydro towards greater amount of resources towards education for -- about the gas marketplace.

I'm looking at another 15 to 20 minutes perhaps?

THE CHAIRPERSON: Carry on.

CONTINUED BY MR. KRIS SAXBERG:

MR. KRIS SAXBERG: Thank you Mr. Chairman. The next topic is the DSM plan.

The natural gas DSM program was made available to intervenors in this proceeding only ten (10) days prior to the start of Hearing. My clients and our consultants have not had a fair opportunity to perform a review and meaningful analysis of this program.

My examination of the panel was more a discovery than anything else. And therefore the comments that I have to make today are at a high level, with respect to my client's position on demand side management.

Having said that, we are comforted by the fact that there's only one hundred and sixty-seven thousand dollars ($167,000) of costs associated with this program included in Centra's revenue requirement request.

It's also our understanding that the plan and the budget associated therewith hasn't been presented in this proceeding for Board approval and that that approval of specific programs and additional funding will come at a later point.

Of some concern, however, is the fact that Centra intends to spend approximately thirteen (13) million over the next two (2) test years in connection with this program. And the specifics of how that money are being spent from an administrative perspective remain unclear and certainly weren't put on the record.

I mean the level of incentives and the budget for these programs is included in Appendix A of Volume III of the application. However, theyÆre global numbers and there has been no drilling down in them to establish or justify that they are appropriate administrative costs to administer this program and/or that the incentives are the appropriate amounts with respect to the estimated level of participation, or that the incentives are the right amount of incentives.

So, none of that information has come out in this Hearing and I'm comforted by the fact that the Board isn't approving anything, but they are concerns for these intervenors and in matters that we'll be following up on.

Manitoba Hydro's presented really just a broad framework also for cost allocation relating to these costs and hasn't provided, in our view, appropriate evidence as to how all the material, categories of costs, are going to be allocated between electric and gas.

We have the statement that you can look to appendix A for the costs that are -- that are being borne for gas and then go pick up the -- the Manitoba Hydro PowerSmart DSM plan and look in it for -- for the costs, and put those two (2) together and try to figure out how they're allocated.

That -- that's something that's been stated but is -- it's not something that's been analysed by the Board in this proceeding, and it's something that's obviously important to determine whether or not costs are appropriately being split between electric and gas.

More importantly, there is also some issue in terms of how the benefits should be split in those homes where a particular program is freeing up electricity and reducing gas consumption.

In -- another concern is that the programs all fail to meet the rate impact measure test. And that puts significant upward pressure on rates. And it's not acceptable to have such increases -- such high increases in rates due to DSM when -- when these monies that are spent actually find their way into the revenue requirement in this particular case.

And the reason is because, take a look at Centra Undertaking Number 52, which I believe is Exhibit 51, and it shows you the very, very modest levels of estimated participation for these programs. And I think it's important to look at those and then consider the cost of the program to give yourself a gut check on where we're going here.

The TRC benefit for the electric PowerSmart Program is almost twice that of the TRC benefit for the proposed gas program; that's Centra Exhibit 49 and a -- a concern to us.

So in general, CAC/MSOS does support demand side management and the principles associated therewith. And my clients are encouraged that Centra has used incentives as a means of encouraging participation in the program. Because my clients are against the use of disincentives and -- such as the inverted rate structure which we see as a disincentive to promote DSM.

And besides, CSE -- CSA -- or CAC/MSOS doesn't see a direct correlation between increasing gas costs and reducing usage. And that's particularly in light of the history in this jurisdiction, where gas costs have gone through the roof and there hasn't been a commensurate reduction in usage.

We're also concerned with the use of a somewhat arbitrary monetization of the value of greenhouse gases. And to the extent that the forecast of the value of these greenhouse gas credits is overstated, of course, the TRC benefit calculation is going to be overstated, and it may be the case that some of the programs wouldn't pass the TRC benefit test.

Now we note that the TRC and -- and the rate impact test would be improved through greater level of federal and other funding, and so that's something that we -- we hope that Centra continues to pursue.

The third level of concern with this program is that there are no specific programs developed to date to deal with many of the barriers to participation in the program and, in particular, no low -- new low income programs which would allow for low-income individuals to participate and make -- have DSM savings.

CAC/MSOS would welcome the opportunity to participate in any consultations with the -- that the new employee undertakes with respect to designing of programs. And, in particular, we have a concern about the criteria that would be established with respect to who would qualify for such programs. And -- and our concern also about what type of information would have to be put forward in order to qualify.

At a very high level these Intervenors are concerned that significant dollars are being spent on a program which can and will only be accessed by a few customers. However, I've said that we recognize that the program is in its infancy and that this is only a roadmap for future direction of the Company, and we'll see how -- how the universe unfolds and we'll be there hopefully to view it.

The next topic is the one (1) bill initiative, I just have brief comments here. We're again pleased to be involved in the consultation process. We are pleased that some of our recommendations were incorporated into the final format.

Our concern here in this Hearing is with Centra's reluctance to advise customers that they have an option with respect to allocation of their payments. Notwithstanding the customers are receiving one (1) bill, there are still two (2) completely separate services with different terms and conditions of service being provided.

Each service is separately regulated and must stand alone on a contract basis and otherwise. Customers have a right to determine to which service their payments will apply. Now Centra's not disagreeing with that and the terms conditions of service allow for that, however, Centra doesn't want to advise its customers of this fact.

Now, a customer may choose to pay one (1) service in full and make a partial payment in connection with the other program, rather than being behind in connection with both services. But what good is this right to be able to direct payments if one is not aware that they have it.

CAC/MSOS recommends that Manitoba Hydro/ Centra advise consumers of this right on their natural gas bill, and it would be a simple matter. The most common sense approach would be to provide check-off boxes on the payment return slip, indicating how payment is to be applied.

Centra's assertion that providing information about payment options would be akin to encouraging customers to not pay the full amount of the bill is -- is fairly insulting to consumers, if you think about it.

Most customers pay their bills, I think the number was 85 percent pay them regularly, on time, and would continue to do so whether they had the option or not. Customers are aware of their claimant obligations and to suggest that informing them that they can direct their payments one (1) way or another, would mean that they would decide to become delinquent, really, is beyond the pale.

The next issue I have on my list is Basic Monthly Charge Report and I'm going to skim over that. There -- there's a report coming down the pipe, these Intervenors remain opposed to changing the fixed cost and -- but, however, we will wait to see that Report before we make a final judgment in that regard.

I just want to note to the Board its -- its own acknowledgment that conceptually, a rate design increasing the fixed portion of the bill is contrary to conservation efforts, since customers would not be able to generate bill savings by reducing their consumption levels.

And it's -- it just seems to be running in the opposite direction to all of the suggestions that have been made by other Intervenors in these proceedings.

We also think that when Centra produces

its Report, there should be some consideration given to the demographics of who are in the low-volume group of customers, so that this Board will have an idea, if it does change the rate structure, will have an idea of who it is that's being impacted. And Centra is a wholly-owned subsidiary of the Crown and so there is some social responsibility there with respect to its design of rates.

The next issue I had listed was Broker Issues. And there I -- I just wanted to -- to make the point that during Cross-Examination, Mr. Brown, on behalf of Direct Energy, had -- had put forward a lot of evidence suggesting that it would be unfair for Centra Gas to offer fixed-price offerings, and to compete with brokers, and that in other jurisdictions, most notably Ontario, the regulator had concluded that LDC's shouldn't compete with brokers.

And I just -- I can't but point out the -- the hypocrisy in that position given that Direct Energy is the regulated default supplier in Alberta and they also participate in the competitive market.

So, therefore, they would be -- Manitoba Hydro would be doing nothing more than Direct Energy does in Alberta and certainly if it's not killing competition in Alberta, why would Manitoba Hydro offer any of those fixed price offerings and kill competition in this jurisdiction?

The next topic I had was the Interlake connection fees. I'll just jump to our recommendation which ultimately is that we're not opposed to reducing and eventually eliminating the connection fee, primarily because the amount foregone of two hundred and seventy thousand (270,000) isn't that material.

But, mostly because it does seem perverse that a customer would have to pay a connection fee in one (1) franchise area but not another. However, the Board should be careful not to allow this sort of situation to happen again, so as to undermine the economic feasibility test which it has established for expansions.

The Board should consider changing the economic feasibility principles to no longer allow this concept. And I think that's something that Centra endorses.

Under the heading, in my outline, Gladstone Austin Natural Gas Co-op, here we're simply reiterating our long standing position that the only amount included in rate base should be the net book value of the assets that were purchased and not a premium amount.

We note that the four hundred thousand dollar ($400,000) difference has been paid by the --

through depreciation and by the customers of Gladstone which are now customers of Centra.

Section 16 of my outline is the -- relates to this Undertaking that was provided indicating that there's an additional $1.6 million of integration savings associated with combining the billing systems.

The Undertaking was to quantify additional synergies which Centra claims will result from the one (1) bill initiative. And the Undertaking is number 28, which is marked as Exhibit 39, says that the forecast annual savings are 1.6 million.

Centra testified that it had not already included estimates of synergies from the combined CIS in its -- in it's estimate of the 16 million. But, my reading of past evidence -- of evidence in past proceedings and my recollection, is contrary to that assertion. And I'm going to suggest that at the last -- at the Integration Hearing, Centra had put forward a figure of $13.2 million as synergies achieved as of September 1st, 2001, I believe.

Then they had an end state goal of 16 million, which included two (2) additional items of synergies that they were anticipating achieving. And those two (2) additional items -- two (2) additional items were unassigned early retirement positions, thirty-six (36) of them, and billings system integration which had been identified as being $1.2 million in savings.

And I included a transcript at tab 29 from that proceeding where Mr. Derksen indicates at page 292, quote:

> "The total company wide is in the order of 1.2 million, I believe. "

Mr. Peters asks, quote:

> "And is the full 1.2 million included in what you calculated the synergy savings to be?" End quote.

Mr. Derksen responds:

> "They're included in the projected end state synergy savings."

So, in this proceeding we're told that the $1.2 million of savings associated with the integration of the billing system is included in the $16 million end state. Also, we're told it's 1.2 million, not 1.6 million.

And then later Mr. Warden testifies that the costs of the program, the cost of integrating the billing systems is going to be approximately $15 to $16 million in costs.

That's what it is going to cost the Company to move customers over to the new billing system from Hydro -- Hydro customers onto Banner.

And that's at the next page of transcripts, where Mr. Warden says:

"Yes, I think I gave you a number between fifteen (15) - $16 million earlier."

Now the Board considered all this information and in their Board Order, which is the next page in that tab, indicated that they were going to be -- they would review the costs related to combining the systems once Hydro's plan regarding the CIS system was finalized.

So the costs and the benefits of that integration have not been reviewed and I would suggest netted out. And so I'd just caution the Board with respect to Exhibit 39 and the statement that we've just -- we're going to find ourselves with an additional $1.6 million in synergies because I -- based on the evidence that's been presented before, that doesn't appear to be -- it appears to be a matter that's already been counted.

(BRIEF PAUSE)

And you know one (1) thing I want to say that I think I missed out, Mr. Derksen always says, during cross-examination on -- whenever I ask him about have the actual synergy actions occurred and have those synergies been attained?

He always says, goes to this fallback position, which is, Doesn't matter. We've taken the budgets and we've lopped them, we've reduced them by the sixteen (16) million, so you can rest assured those synergies are there.

And, you know, so it doesn't matter that we had been projecting certain, you know, early retirement schemes to produce synergies or other matters. We've actually achieved the synergies because we've lopped the $16 million off the budget.

Well, the Board has to compare that statement with the performance of Centra in staying under its budget. It hasn't stayed under budget. It surpassed its budget in '03/'04 for cost of operation by more than $3 million.

So, if it's the case that synergies are embedded in cost of operations simply by virtue of lower budgets, if you don't hit the budgets, you haven't accomplished the synergies.

So that, to me, puts a giant question mark on whether or not there are actually $7 million of synergies in Centra Gas.

It takes me to the very last area which the Board simply asked for our -- I believe the Board asked for our opinion on whether or not the Sustainable Development Act would apply.

What I've done is included a couple of case law cases which deal with what's called, in the legal circles, piercing the corporate veil. The Sustainable Development Act binds the Crowns and its agents and it imposes a requirement on Crown corporations to develop guidelines to sustainable development, financial management and procurement.

The SDA defines Crown corporations as a corporation or other body to which the Crown corporation's Public Review and Accountability Act applies. Now, that Act specifically indicates that Manitoba Hydro is under the review of the Crown Corporations review board.

And that, therefore, Manitoba Hydro certainly is subject to the requirements of the Sustainable Development Act. Does Centra Gas agree with Ms. Murphy isn't, through the operation of the Act and the regulations, specifically incorporated into matters and isn't therefore prima facia subject to the Act.

And I want to be clear that I'm -- for regulatory purposes the law is clear and the Public

Utilities Board Act is clear that Manitoba Hydro, Centra Gas have to be stand alone, have to be separately -- rates have to be established separately for each, they can't be cross-subsidization, et cetera, et cetera.

But the reality in this jurisdiction is that Manitoba Hydro is the Company that distributes gas. Manitoba Hydro is the Company that does it. They allocate to the corporate entity, Centra, for the purposes of setting rates. But in terms of if you were to say, Who's doing the work, Who shows up to do the digging, it's a Manitoba Hydro truck and it's Manitoba Hydro.

So if Manitoba Hydro is under the -- you know, the requirement of the Sustainable Development Act, one would -- would suspect that that's the same as saying that Centra is under the -- the requirements of that act.

And the cases that I have included are cases in which the corporate identity between the principle at law of -- of corporate identity and distinction between companies is -- is not always followed.

And there are certain circumstances where courts will pierce the corporate veil to determine that a subsidiary can be considered for a certain particular -- for a particular purpose, i.e., application of a tax act, to be one and the same as the parent. And the test, really, is the level of control that one organization has over the other organization.

And the -- the case that I have included at Tab 30 is Nedco v. Clark. It's a decision of the Saskatchewan Court of Appeal. And I'm going to quote from that, quote:

> "Notwithstanding that since the judgement of the House of Lords in Salomon v. Salomon, the autonomous and independent existence of the corporate entity has generally been accepted as a fundamental feature of both English and Canadian law. There have been occasions when the courts have found it both possible and necessary to pierce the corporate veil. The court has done so when one company is in fact the agent of the other or when one company is being used as a cloak for the actions of the other or for the just and equitable enforcement of tax law."

Here's the important part:

> "The court has also done so when it has concluded that while the Corporations

are separate in law, one may be under the control of the other to such an extent that they together constitute one common unit."

A little later in the decision the court writes, quote:

"Perhaps the strongest statement permitting the court to depart from the principle laid down in Salmon is that of Lord Denning (phonetic) in the Littlewoods (phonetic) case, where he says:

The doctrine laid down in Salmon and Salmon has to be watched very carefully. It has been -- often been supposed to cast a veil over the personality of a limited company through which the courts cannot see, but that is not true. The courts can and often do draw aside the veil. They can and often do pull off the mask. They look to see what really lies behind. The Legislature has shown the way with group accounts and the rest, and the courts should follow suit. I think that we should look at the Company and see it as it really is, the wholly-owned subsidiary of the taxpayers. It is the creature, the puppet of the taxpayers in point of fact, and it should be regarded in point of law."

So, for particular purposes, two (2) legally separate corporations are sometimes viewed as one (1). And I would suggest that if the matter was taken to court with respect to the applicability of the Sustainable Development Act, that, in that circumstance, since it is the case that all control resides with Manitoba Hydro, this is a completely separate matter from allocation of cost but it's a matter of who's controlling the employees and -- and the decisions made.

And since all control resides with Manitoba Hydro, it just seems perverse that a portion of Manitoba Hydro could be sheltered and protected from the provisions of that act by virtue of -- of the legal shell of Centra Gas.

Now the other case that I've attached is a tax case which sets out some criteria that one would look at in terms of the control test. And that's, you can see, it's the very second-last page of the -- of that tab. Submission is that every one of those tests is met in -- in the current situations.

And so, therefore, my conclusion is that -- and I think this has practical, you know, from the practical perspective, that the Legislature surely would intend that Manitoba Hydro be subject to the Act in all regards, including when it's carrying out its function as distributor of gas.

And so those are my -- are my comments, my final comments, subject to any questions. Thanks to everyone for your patience.

THE CHAIRPERSON: Thank you very much, Mr. Saxberg, for a very interesting and extensive review of the issues. Thank you again.

We will break for our lunch now and we'll come back at 1:15.

--- Upon recessing at 12:24 p.m.
--- Upon resuming at 1:20 p.m.

THE CHAIRPERSON: Okay, everyone, welcome back. We've reached Direct Municipal.

Mr. Brown and Ms. Melnychuk?

FINAL SUBMISSIONS BY MR. DAVID BROWN:

MR. DAVID BROWN: Thank you very much, Mr. Chair, Members of the -- Members of the Board.

In these final submissions, Direct Energy Marketing Limited/Municipal Gas proposes to address the following five (5) issues. First of all, the WTS Services Report and Centra's internal review of the ICG Report; secondly, the single bill; third, customer education; fourth, cost allocations, specifically cost allocation relating to primary gas costs; fifth, the issue of utility fixed price offerings.

Before I actually get into the details of the submission, when I deal with cost allocation, I have prepared a -- a chart that summarizes the evidence that's before the Board. I've given Mr. Barron some copies, so perhaps he could provide them to you so you've got them as I'm going through.

THE CHAIRPERSON: Thank you.

CONTINUED BY MR. DAVID BROWN:

MR. DAVID BROWN: Yes. Everyone else should have a -- have a copy.

If I could turn then to the first issue, which is the WTS Services Report and the internal review of the -- the gas supply study. The background to this, as the Board is aware, is that back in the 2003/2004 non-primary gas cost application, the Board heard evidence regarding the -- the so-called blank page analysis that was being done by International Gas Consultant and also heard evidence with respect to Centra's gas supply and storage contracts, and particularly the contract entered into with Nexen Marketing.

In that proceeding my client raised two (2) basic concerns: First, the need for the utility to consult with stakeholders before entering into multi-year primary gas contracts and secondly, the need for the utility to discuss with brokers potential changes to the existing WTS service, specifically with respect to the terms and conditions regarding the nomination of gas and the frequency of customer mobility.

In your Order of last year, the 131/04 Order, you directed Centra to file a report on its internal review of the ICG report and also a report in respect to possible changes to WTS.

As the evidence unfolded in this proceeding, Centra advised that it would not file or could not file the reports for this Hearing but would file them before August the 1st, 2005, which was the -- the end date that this Board had given to them.

Direct Energy is disappointed that Centra didn't file the reports in this Hearing. In fact, as you've seen from the evidence, Centra didn't begin consulting with the broker community on the issues of changes to aspects of the WTS service until May 11th, 2005, right before the -- the commencement of the Hearing.

And the reason Direct Energy is disappointed that Centra didn't file the reports is that those kinds of delays simply increase regulatory costs to everyone, regulatory cost to the brokers, regulatory cost to the Utility.

And certainly it would have been in the interests of all parties to minimize the number of regulatory proceedings by -- by having filed. Nonetheless, that -- that is where we stand right now.

In terms of the substance of the Report, I think it was Mr. Stephens, in his testimony, indicated that Centra's Report on the WTS Service would likely raise a number of what he called, "key philosophical issues," because to change some of the terms of service of WTS of course, opens up the larger questions relating to gas supply and not necessarily the role of the utility and whether they should offer any sort of regulated service, but the terms and conditions upon -- upon which they do that.

Direct Energy agrees that Centra's WTS

Service Report and the internal review, the -- the so called, the internal review of the blank page analysis, likely will raise basic issues about the structure of Manitoba's market for natural gas, and the time probably has come for this Board to engage in a broader review of the marketplace and related issues.

The Board may recall that last year, I think it was in April, April 30th, 2004, the Board sent out a letter to all interested parties in the natural gas community, soliciting their views as to the status of the market and where do we go from here.

Direct Energy responded to that by a letter of June 14th, 2004 which we included, I think, in our Exhibit Number 2 at one of the tabs, indicating that a fair amount of time had lapsed since the Board had last taken a detailed look at the state of the market and the time probably was right for the Board to reconsider, to take a fresh look at things.

Because I think as the evidence that's come out of the last number of cost of gas in GRA Hearings, relating to natural gas before this Board, have indicated the natural gas market in North America is anything but static.

It changes with great frequency, usually for the better, there are greater availability of transportation offerings to purchasers of natural gas than there ever have been, you have new points of liquidity, greater trading, it's developed into a very mature, robust, competitive market.

And of course the -- the retail component of that is only one (1) component, but it is the component that most directly affects the -- the small-volume consumers. And so Direct Energy submits that periodically the Board really does have to stop and take a look at the overall picture and where the retail segment fits in into that.

Mr. Stephens, in his testimony, indicated not only would the Report probably deal with some philosophical issues, but also there would be a strong link between the analysis that Centra undertook in its Report regarding the WTS service and that regarding the IGC internal review.

So against that background, Direct has some concrete recommendations, that respectively wants to make to this Board. Direct submits that once Centra files with you, its WTS Service and its Internal Review Reports, this Board should consider implementing a procedure to review those reports that will contain the following elements:

First of all, the Board should develop a list of issues raised by both Reports.

Secondly, once it's done that, it should provide some opportunity for interested parties to ask Centra questions on the Reports, that is, to develop some sort of evidentiary -- evidentiary base.

Third, the Board should allow interested parties to put forward their version of events, or their view as to where things are going, that is, some opportunity for interested parties to submit positions, statements, or -- or their own evidence on some of the issues raised by Centra, and identified by the Board.

And then fourth and finally, there should be an opportunity for interested parties to make some submissions in some form to the Board on these issues, either by way of an Oral Hearing or a Written Hearing. Direct Energy isn't wedded to -- to one or the other.

But I think as you can glean from my submissions, Direct Energy is of the view that once Centra puts its sort of view of the world forward in these two (2) Reports, the Board should take advantage of that to get others' views of the world and do it in such a way that it's -- it's something more than mere assertion, that you actually have some real concrete evidence and data upon which you can deal with these issues.

Because, as you have heard, certainly with respect to the IGC Report, there is some very significant recommendations at the consultant a consultant made, for example with respect to storage.

And of course, the availability of storage determines the flexibility that the Utility has to accommodate various transportation options, nominations and that sort of thing.

So, there's some big-picture issues and Direct submits that this Board should put together some sort of big-picture process by which to assess Centra's Report.

A related submission is that Direct Energy considers that it's very important that such a review take place in the near future if the Board's Decision or recommendations are to have any practical effect.

And what I mean by that is as follows. Centra indicated that by April the 30th, 2007, it must provide Nexen with notice of any intention to extend the primary gas contract. Of course Centra's corporate decision making must also take into account whether Centra should issue an RFP for primary gas supply or whether it should renew with -- with Nexen.

Given that the Board in your 131/04 Order, directed Centra to consult with stakeholders prior to issuing a new RFP for gas supply, or before entering into an extension of the existing Agreement with Nexen. And to file the proposed RFP with the Board for approval, in direct submission, issues relating to WTS options and portfolio structures must be decided sooner rather than later, even though we're in mid-June of 2005, April 30, 2007 isn't that far away when you look at the regulatory decision making and the corporate decision making TREE.

So, Direct Energy submits that the review process selected by the Board should enable the review to result in a Board Decision and direction to Centra by the middle of 2006. And that Direct considers to be a practical day because by that time that will then provide Centra's management with the opportunity to know what the Board thinks and then they can go through their internal decision making as to whether or not there should be an RFP or an extension, that would also allow other interested parties over the course of the next, well twelve (12) months, to provide the Board with their views or evidence in respect of the issues raised.

So, those are Direct Submissions on the first issue.

Turning to the second issue of the issue of the -- the single bill. You've seen in the evidence that Centra and Manitoba Hydro have filed a mock-up of the single bill that they propose to begin rolling out in November of this year, and that was found at Tab 13, Attachment 3, Section 4 of 5, has the mock-up.

As part of the mock-up, Centra summarized recommendations that the broker community had provided to Centra during the consultation process on the bill, and Centra also indicated what decisions they had made as a result of those consultations.

And Centra has agreed to make some changes. It agreed to add the broker name to the primary gas line in the bill summary page and to add the annual usage to the comparison history table.

So, if one actually looks at the proposed bill, there will be three (3) places now, one (1) on the first page and two (2) on the second page, where the name of the primary gas supplier or the broker will appear.

Direct Energy is very pleased that Centra has adopted these recommendations. The Company thinks that these are moves in the direction of better educating customers as to whom they are getting their primary gas from.

However, Direct Energy remains concerned that these changes do not mark a significant improvement over the format of the current WTS bill, and therefore may not serve to educate and enhance consumers' understanding of their primary gas supplier.

During the course of my Cross-Examination of one of the Panels, and quite frankly I forget which one it was, Centra gave an undertaking, and it may well have been Mr. Warden, gave an undertaking to file a copy of the current WTS bill that is sent out to customers. And that was filed as Exhibit Number 32. It was a Response to Undertaking Number 44.

And if you take a look at the bill, at the bottom of the first half of the bill, there is a reference to the broker supplying the customer's primary gas and that's sort of similar to the -- to the single line that Centra proposes to put at the bottom of the second page of this new integrated bill.

But, the -- the technique that is being proposed for the new bill, that is just sort of a single line identifying the broker name, is essentially the same technique that Centra uses on the current bill, although you'll find it in an additional place.

Against that background, this Board directs, and it has to take into account the -- the evidence that it heard with respect to the -- the market research survey that Centra filed last year, in its 2004/2005 Cost of Gas Application. And that was in one of the interrogatories in that proceeding, PUB/CENTRA-9.

And in Section 4.2 of that survey the research company reported that among households sampled who were registered with an independent broker, only 59 percent were able to correctly report that their primary natural gas supplier was a company other than Manitoba -- Manitoba Hydro, which leads to this 41 percent number that during the course of the evidence here and also during the course of argument, that 41 percent of the customers sampled who purchase their gas from a broker, according to this market research survey, don't seem to know that they're purchasing their gas from a independent broker.

Direct Energy shares the concerns voiced by Centra and this morning by CAC/MSOS that the number of 41 percent is too high, that that simply shouldn't happen. In a market where people know who they are buying from, 41 percent -- the 41 percent who remain in the dark simply isn't acceptable, and that steps do have to be taken in order to improve customers' understanding of who they're buying their gas from.

And, of course, that 41 percent number is against the background of the customer education program that this Board adopted back in -- I think it was 1999 or 2000, when the WTS service was introduced. And you'll recall in that proceeding there was great discussion about a Board-approved generic consumer package that would be left with the customer whenever they signed up for the WTS service.

So there's already a process out there whereby anyone who signs up has to get this Board-approved information. And yet, assuming the -- the survey is right, and it's always possible the survey's wrong, but assuming the survey is right, it seems like a -- a significant number of people don't know who they're dealing with. And so, in Direct Energy's view, that has to change.

And this Board, we submit, can assist in that process of enhancing consumer education through the -- the bill. The bill is a good way to educate consumers. In my cross-examination of Mr. Warden, he agreed that the bill to the consumer provides a very good opportunity or vehicle by which to educate consumers about gas supply and delivery matters.

And that was in -- well, it was at page 1743 of the transcripts that I've been getting but, after some correspondence with My Friend Ms. Murphy, I -- I seem to have perhaps different page numbers than what some other people have. So perhaps it's just the way it's been delivered to me. But that's the reference I have.

Mr. Warden also agreed that it would seem to make common sense that a poorly designed bill may not really get you very far in educating the consumer but a well designed bill might. So there's an opportunity, Direct Energy submits, for this Board to move the customer education process further ahead given Centra's plan and Manitoba Hydro's plan to roll out a new integrated bill in November.

Direct Energy thinks that the broker identification information that Centra proposes to include on the new single bill will not be sufficient to enhance customer education. Although the broker's name will now appear in two (2) additional places, the names will be displayed in a way that is similar to the format of the current bill, that is a single line with -- excuse me -- the broker's name and telephone number.

This presentation format has been in place for a number of years and it doesn't seem to have proven effective in communicating to consumers the name of their supplier. And the bill is critical because the one thing the customer is going to read every month is -- or every two (2) months, when they get their bill, is the bill.

So, it's in the face of the consumer several times every year and, therefore, is a good educational device.

So, it shouldn't come as any surprise that Direct Energy thinks that there are some enhancements that can be made to the bill that would foster consumer education.

The evidence before you is that part of the consultation process that Centra had with the broker community resulted in the broker community suggesting two (2) additional enhancements to the bill.

1. Put the Company's or the broker's logo somewhere on the bill, because, to a certain degree, a picture is worth a thousand words and logos tend to -- to stand out and catch the eye.

And secondly, provide for some broker message space.

Manitoba Hydro, in its evidence, at Tab 13, Attachment 3, said it was not prepared to accept those suggestions. I explored that reason with Mr. Warden in my cross-examination and, as best as I could understand, the -- the evidence, it wasn't really a matter of cost. I remember Mr. Warden consulting with one of his staff in the back row and word came back that the -- the additional cost would be nominal, it wouldn't be significant.

Manitoba -- Manitoba Hydro's reason seems to be a concern that if you put that kind of information on the bill, it would, quote:

"Result in confusion for the customer."

Direct Energy takes a completely different view on this.

Direct Energy submits that if enhancements were made to the integrated bill to allow, particularly at the bottom of page 2 of the proposed bill, where there will be a line saying, Your primary gas is supplied by ABC Gas and here's the telephone number, if a logo was to go down in the bottom corner, a person's eye would be attracted to that and they would read that closely.

They would see that the logo is different from Manitoba Hydro and the penny presumably would drop in more minds as to, Yeah that's who I agreed to sign up with, or, Who is this Direct Energy, or, Who is this Energy Savings Manitoba, haven't heard of them, what's going on here?

Hopefully that wouldn't happen in many cases if the system's working right, but I think that's a tangible way in which customer education can be enhanced.

Similarly, if a message line would be included at the bottom of the bill, a message from your broker together with the logo, again, this would be a device which would reinforce with the customer that they're really dealing with two (2) companies for certain things that they buy, both Manitoba Hydro and a broker.

So in Direct's submission, the planned rollout of the newly-formatted integrated bill provides an ideal opportunity to improve customer education. The broker identification line on the bottom of the second page of the bill provides an ideal location for a broker logo or message line. By linking a logo or message line with the broker's name, consumers are more likely to notice and read the information and thereby become better informed about their natural gas supplier.

Given that the cost of including such information would be nominal, according to Centra's evidence, and also that broker's would be prepared to pay such costs, Direct submits that this Board should direct Centra to make provision for a broker logo or message line on the new integrated bill.

Although CentraÆs not requesting any specific relief from this Board regarding the integrated bill, it's quite clear from the evidence that this Board does have jurisdiction over the bill. Mr. Warden, in his evidence, acknowledged that billing is an integral utility activity, and you have jurisdiction over integral utility activities.

And, also, in your 131/04 Order you directed Centra to file the -- a mockup of the bill with you in this proceeding, along with draft inserts.

So Direct submits that this Board should go further and direct Centra to meet with brokers as soon as possible to discuss the logistics of implementing a broker logo and message line enhancement to the integrated bill so that they can be incorporated on the first integrated bills rolled out in November 2005.

And if that is done and if the Board allows for a year to pass, I think it would be very interesting to see the results of a market survey performed, let's say, in the first quarter of 2007, after a year of consumers receiving bills that have broker logos and message lines on them, and see whether 41 percent is the number that rolls out in terms of people -- the number that they don't know who are dealing with.

I suggest that number would go down significantly. Because although you're always going to have some people who really don't know what they're doing, I suppose is the -- the most direct way to put it, you know, a number more than ten (10) or fifteen (15) percent in the larger scheme of things really isn't acceptable. That should be sort of a target, I think, that we should all be moving for.

So those are the submissions on the integrated bill.

The third area is the area of customer education. In your order of last year you supported Centra's efforts to provide customer education with respect to consumer choice. And in your order, the 131/04 Order, you went on to specify that, and I quote here:

> "Centra should have no financial interest in the gas supply choice made by consumers."

And you directed Centra to consult with brokers.

In the Hearing last year, the 2004/2005 cost of gas hearing, my client made submissions on and expressed concerns about an advertising campaign that Manitoba Hydro was -- was then conducting, and Board staff was copied on correspondence that subsequently went back and forth between Manitoba Hydro and Direct Energy and some constructive things emerged from that.

My client met with senior executives of Manitoba Hydro and had very constructive discussions with them. And you can see from the evidence before you in this proceeding that Centra has met several times with the brokers in January, April and May of this year, to talk about consumer education.

There have been benefits to that process.

And Direct is very pleased that one (1) result of those discussions has been an agreement by the Utility to implement a consultation process regarding primary gas educational initiatives. You saw the details of that process. They're set out in Appendix B to Centra Exhibit 21, which was that discussion paper on customer education.

The process is a fairly detailed one but essentially where there are educational campaigns planned, Centra will consult with the stakeholders, they'll allow sufficient time for consultation. If people have concerns, they'll feed them back to Manitoba Hydro. And if concerns still remain, then there will be a -- a bump-up, so to speak, of those concerns to this Board.

Direct regards this consultation process as a very constructive outcome of the Board-directed discussions between Centra and the broker community. From Mr. Warden's testimony, I believe it was, it appears that Centra may embark upon an educational campaign this fall to natural gas consumers.

And Direct is certainly prepared to work constructively and closely with Centra to make sure that this new consultation process works in practice. So that's been a good step forward out of that Board-directed consultation process.

Of course, as you also heard in the proceeding, there still remains an agreement to disagree as between the broker community and Centra on this issue of whether Centra should be permitted to promote the primary gas product.

In Centra Exhibit 21, at page 1, point number 3, Centra reiterated its position that it had the right to promote its primary natural gas product, although it recognized that the product currently offered by Centra is also a default product which will be provided to those customers not choosing a specific primary gas contract.

Notwithstanding Centra's evidence at this hearing that the cost of a promotional campaign would be allocated to and recovered through the primary gas rate and notwithstanding that Centra, at this point, has not made any decision to undertake any promotional efforts, Direct does remain concerned about Centra's corporate policy, that it has the right to promote the primary gas product.

Such a position, Direct submits, is inconsistent with Centra's role as a default supplier in an unbundled deregulated natural gas retail commodity market such as has characterized this province since the early 90's, when the Board made its first decision.

As was pointed out during the Hearing, one of your sister boards, the Ontario Energy Board, has considered this issue very recently in the context of the natural gas forum. And I put a portion of -- of their report before you, and I think it was Direct Exhibit 2.

And in that decision, which is there for -- for your reference, the OEB did reaffirm that gas utilities have a role to play in providing a regulated supply to consumers. But the OEB turned its mind to this issue of a distinction between promotion and education, and it expressed the view that a utility should certainly educate consumers on their offerings but they shouldn't promote.

And at pages 62 to 63 of the Natural Gas Forum Report that was issued on March 30th of this year, the Board dealt with this. And specifically on this issue of promotion the Board wrote:

> "The Board does not believe it is appropriate for the utilities to promote and/or to market the regulated gas supply option to their customers. The Board does believe, however, that it is appropriate to inform customers of the terms and conditions related to

the regulated gas supply option and in particular of their unilateral right to switch to a competitive supplier."

Direct Energy thinks that this is a sound regulatory proposition and it would encourage its adoption by this Board. At the same time, Direct Energy recognizes that there is really no live issue in this respect before this Board.

Centra has indicated that it has no plans to launch a promotional campaign nor are there any promotional campaign costs included in the 2005/2006 or 2006/2007 costs underpinning the -- the proposed rates.

And so you may well consider at the end of the day that this is all very nice that there's this disagreement in principle, but without some real controversy or issue and therefore, you know, related detailed evidence, why should the Board really do anything.

And that may well be a sound result to reach. But what my client would urge upon the Board is that if Centra decides in the future to move towards implementing a promotional campaign, that it should be required, before doing so, to come back to this Board for approval, because engaging on a promotional campaign is going to bring into play issues about the appropriate scope of the role of the default supplier in an unregulated market.

And the Board in directs respectful submission to, should consider those -- the implications of that before Centra embarked upon a promotional campaign.

So in terms of the customer education issue, there are really simply two (2) submissions of Direct Energy: The first is great news that everyone is agreed on a way to go forward in terms of reviewing educational campaign materials. And I think when I was before you last summer or last fall, whenever oral argument was in the 2004/2005 gas cost, I made a submission to the effect that the system seemed to be broken, that the communications between the utility and the brokers had broken down.

I think one can point to the discussions over the course of the last half year or so in the area of customer education, to see the positive results that can come from repeated communications amongst the players and I think those beneficial results, in large part, resulted from the fact that this Board decided to direct the utility to engage in those discussions.

And when people talk, things happen, and usually for the better. So there's really not much more at this point to do on the customer education, simply see how it works.

But the second submission is that, should Centra decide to embark upon a promotional product, and this Board should indicate that it would require Centra to first apply to it for approval, so that all of the issues regarding the appropriateness of that could be fully argued and considered.

Turning then to the next area, the area of cost allocation and primary gas costs, in the 2003/2004 General Rate Application by Centra, Direct Energy raised questions about Centra's allocation of gas-procurement cost.

And in your Order 118/03, you approved Centra's allocation of gas procurement and gas accounting costs, but required Centra to more precisely track such costs in the future.

Now in this Proceeding, Centra has filed two (2) Schedules that show the proposed allocation results of cost-of-service elements for the two (2) test years, and those are Schedules 10.1.5 for the 2005/2006 test years, and 10.2.5 for the 2006/2007 test years.

On those Schedules, Item 3(b) on each Schedule, deals with finance and administration costs, and those include gas accounting and gas regulatory and gas supply cost.

And Schedule 10.1.5 indicates that for the forthcoming test year, while 85 percent of the gas accounting costs are allocated to primary gas, only 2 percent of the gas regulatory costs are allocated to primary gas and 20 percent of gas supply costs. The balance of the costs are largely allocated to and collected through distribution rates.

And you may recall from my Cross-Examination, I think it was of Ms. Derksen, that I put those Schedules to her and also the ones that were filed back in 2003 or 2004, and said, well, where is the greater precision in tracking costs, when you look at them they -- the line items are the same.

And I thinks she and also Mr. Rainkie gave some detailed evidence saying, well, you gotta go below that, that's where you really say the details, and they gave an undertaking, and they brought to this Board a Schedule which has been filed in evidence, which shows the -- a more detailed breakdown of the allocation of gas-procurement costs, and that is -- that was marked as, I think, Exhibit 29 in this proceeding.

And at the same time, a similar sort of document that was filed back in 2003/2004 Proceeding, was marked in Exhibit 31 -- as Exhibit 31 in this proceeding.

They -- the current one for the -- for the test year was, as you recall, sort of filed during the course of my cross-examination of the third Panel and it's often difficult at that point of time to compare one against the other.

That having been said, in fairness to Centra, there was, of course, an opportunity during the interrogatory process to try and gleam that from Centra. That question wasn't asked, so I'm not pointing any figures -- any fingers at anyone. We -- we could have asked that question but didn't.

But we've now had an opportunity to compare the detailed breakdown that was in 2003/2004 and the detailed one that was filed for the forthcoming test year. And it is true that Exhibit 29 shows that four (4) new cost categories have been added by Centra, two (2) as analysis, although they only account for 10 percent of the overall gas supply cost.

The remaining categories, which represent 90 percent of the gas supply cost, remain virtually unchanged in their description from those that appeared on the one that was filed in 2003/2004 rate case. And Direct Energy raises the questions whether this really constitutes a more precise tracking of costs as directed by the Board when essentially the descriptions for 90 percent of the costs that remain virtually unchanged from the proceeding of two (2) years ago.

So that's one concern that Direct Energy wants to raise with this Board in the context of cost allocation.

The second concern that Direct wants to raise is that when you actually do the comparison, there are a few features that leap out, and this is where perhaps I could ask you to take a look at the comparison chart that I prepared.

I've taken three (3) of the items that appear from this more detailed schedule, I've given you the numbers that were used in the 2003/2004, those for the proposed test year percentage increase of one over the other, and also how those costs were allocated between the two (2).

And the first point is that you can see that with respect to the cost for capacity management, direct purchase and storage and transportation options, Centra is proposing significant increase in costs over the 2003/2004 year. 29 percent increase forecast for gas management, 85 percent for direct purchase and 39 percent for storage and transportation costs.

Those are significant increases. Didn't have the -- didn't in this proceeding go into a detailed explanation of why but Direct Energy simply wants to red-flag those as significant cost increases by the utility.

In terms of how those costs are allocated, there really is no difference with respect to capacity, management and direct purchase. But you'll see in the storage and transportation options, there is a significant difference.

And that, whereas, in the 2003/2004 year 47 percent of those costs would be allocated to primary gas, it's now being proposed that only 33 percent would be allocated to primary gas and the rest through transportation and supplemental gas. And that is a significant change, Direct submits, in the allocation of costs.

And the third and final point, perhaps to sort of deal a bit closer to home in terms of my client, Centra's on Direct purchase, there is proposed an 85 percent increase in cost over what was in the 2003/2004. During the cross-examination that I did of the third panel, Centra gave an undertaking, it was number 43, and the response has been marked as Exhibit 44, to advise what the full-time equivalent headcount was for the labour costs that underpinned this Direct purchase cost.

Because when you go back to the exhibits and take a look at what those costs are, to my eye, the descriptions indicate that they are simply labour costs. There's nothing else in that category.

The response from Centra has been that the -- that there is four point four (4.4) equivalent full-time positions underpinning those costs. Again, that's from Exhibit 44. Well, if you take those four point four (4.4) equivalent full-time positions and divide -- and divide that into the proposed cost, you come up with an average annual cost per equivalent full-time position of a hundred and sixty-six thousand dollars ($166,000), which strikes me as a tad on the high side, to put it mildly.

Again, I'm at a point now, we're in final argument, we -- we didn't perhaps test the evidence as -- as best as we could have but, nonetheless, when one does the comparison those costs seem very high and unduly high.

So although when one takes a look at the big picture of Centra's primary gas-allocated costs, so called primary gas overhead, it discloses that, directionally the amount of costs allocated to primary gas is increasing, resulting in proposed increases to the primary gas overhead costs in both of the -- the test years, Direct is concerned at the significant increase in costs in major categories allocated to transportation and distribution and the change in allocation of storage and transportation operation costs, as between gas rates and transportation rates.

And of course the concerns that -- the concern motivating that, is that those changes may artificially suppress the price of primary gas that -- that Centra charges to its customers, because the more you allocate to the distribution, the less you allocate to the primary gas, and the question then is: Are true costs been paid?

So in terms of specific recommendations in this Proceeding, Direct submits that the Board should direct Centra to file in its next Cost of Gas Application, and I emphasize, the next Cost of Gas Application, the following information:

First of all, details of the cost described in each item in the column entitled, Order Number, on Exhibit Number 29, filed in this Proceeding, specify the costs per activity and the number and identity of the full-time equivalent employees performing the activities.

Secondly, historical actual costs for each Order Number category from the 2002/03 fiscal year to the present.

Third, for each Order Number category the

Rationale for the Allocation Basis, that is one of the columns on that chart, and fourth, a document similar to Exhibit 29 in this Proceeding, showing updated forecast gas-supply cost for the 2005/2006 and 2006/2007 fiscal year.

Direct submits that by requiring Centra to file this evidence as part of its Application, parties will obtain a more transparent understanding of the composition of primary gas rates, especially the overhead component.

One final comment in this area, during the exchange between myself and Mr. Rainkie, in this Mr. Rainkie relied very heavily on portions of Board Order 19/00, approving the WTS service, suggesting that there was some sort of compact that covered the treatment of these costs.

Specifically Mr. Rainkie pointed to pages 20 to 21 of Board Order 19/00, to suggest that on a clean reading, it would have allowed Centra to leave only the, quote, "pure commodity costs of the primary gas rate," quote, in the primary gas rate, and that the inclusion of an overhead rate technically was not required by Centra.

Since the Cross-Examination, I've had a chance to go back and review those portions of the

Board's Decision and direct tag some issue with Mr. Rainkie's interpretation of them, as to whether they support the broad proposition that he has put forward.

Certainly when one goes back to pages 20 and 21 of Order 19/00, which was Section 10.9.5 to the Board's Order, it dealt with incremental costs associated with implementing the WTS system, and the Board held, at that portion of its Decision, that the ongoing as well as incremental implementation costs of WTS, should be allocated to both Direct and Systems customers.

The Board's focus on the -- in that Decision was on the incremental costs for the process leading up to the implementation of the WTS service.

In direct submission, this is not the same as Centra's assertion that only the pure commodity costs should be included in the primary gas rate. General principles of cost-allocation -- of cost causation and allocation, should be in play in allocating costs for the procurement of primary gas.

And if the Board directs Centra to make the filings that Direct has requested in the next cost-of-gas Hearing, then, you know, perhaps the parties will have an opportunity to take a detailed look at this issue.

The final submi -- the area on which

Direct wants to make submissions, is on this issue of utility fixed-price offerings. The background, of course, flowed from your Board Order last year of 131/04, where you asked Centra to file a pros and cons kind of paper, for this proceeding.

As a result of when the discussion paper was filed, that is after the proceeding was underway, the parties have not been able to fully explore the issue and certainly the normal features of a contested proceeding such as brokers putting in evidence with their positions and all of that, are not before you.

But, you have had some discussion of the issues, as a result of the discussion paper and there's utility in that.

With respect to the specifics of the issue before this Board, to a certain degree the discussion of the issue has been informational. Centra has indicated quite clearly in its evidence that it is not making any recommendation about offering -- a fixed price offering in this proceeding, nor is it seeking any approval in this proceeding to make such an offering.

Mr. Warden also indicated that if and when the Company decided to go down that route it would, of course, come back before this Board for approval. And also Centra is not under any standing direction by this

Board to apply for approval of a fixed price offering.

I think one of the Centra witnesses indicated that really they were under some sort of mandate or direction or invitation, I think was the word from the Board to go ahead and file something on -- on a fixed price offering.

And they gave an Undertaking to point out where in the trans -- or where in that previous decision that invitation actually came from and I think that was Undertaking 40.

They did file it. It was in one (1) of the Exhibits that was marked this morning. And I think perhaps the recollection of the Witness that this Board make an invitation to Centra to file was not fully accurate.

What the Board said is that, if and when Centra decided to make such a filing, the Board would consider it. So I don't think there's any standing Order or invitation by this Board for Centra to go ahead and do it.

And also the Board in some previous decisions and also in your 131/04 decision last year, recognized that if the Utility went down that road, there would be significant implications for the competitive market.

So, in terms of what you do with this issue in this report, Direct submits that the late delivery of the report and sort of the acknowledged cursory nature of the analysis coupled with the lack of opportunity by Intervenors to file any evidence on the issue, really means that this Board lacks any robust evidentiary base which it would really need to weigh the pros and cons of a Utility offering fixed price long term supply contracts.

However, the discussion paper does identify some advantages, it identifies some disadvantages, and I'd like to on behalf of Direct Energy make a few comments on those.

Direct Energy submits that Centra's discussion of the advantages and disadvantages is quite limited in nature and that many other factors would have to be studied and weighed in the event that this Board was called upon to determine whether Centra should be permitted to make a fixed price offering.

One (1) of the first things that would have to happen was that the Utility would have to identify some need for a fixed price offering. The discussion paper is not clear on what the Utility perceives to be the need. It appears that no corporate position has been arrived at by the Utility.

Two (2) reason are advanced at various portions of the discussion paper for why a utility might go down this road. First there are observations by Centra in its report that a robust, competitive market has not developed in the retail sector. That's at page 9 of the report.

And then at page 11 of the report, Centra argues that a multiple service offering would address perceived consumed preference to purchasing primary gas from Manitoba Hydro. Dealing with the last point first, Mr. Kuczek, in his oral testimony, referred back to that market survey report that was filed in the 2004/2005 Cost of Gas Hearing.

And he said it revealed that only 13 percent of Centra's customers would prefer to have a hedged product greater than what is offered by Centra's current offering. So, there doesn't seem to be a strong consumer demand based upon that market survey for Manitoba Hydro to get into the fixed service option business.

In terms of the first factor that was referred to in the report, that is the lack of a robust competitive market, Centra's view of the current state of the market with two (2) brokers is that it's not robust enough.

But, at the same time, Centra made it clear that its objective was not to create a robust competitive market. And at -- what's at page 1764 of the transcript that I got, there was an exchange between myself and Mr. Kuczek, and Mr. Kuczek said:

> "Our objective is not to create a robust competitive market, our objective is to move into the direction of providing customers or the direction of what's best for our customers' interest."

So, I think it's unclear from the evidence, what need the Utility is identifying, that would merit going down that road, and certainly that would have to be one of the primary issues that this Board would grabble with in a Hearing where it was called upon to consider whether the Utility should be allowed to do that.

What -- what is the perceived need for this product?

In any event, with respect to the robustness of the competitive market, during the course of my cross-examination, in Direct Exhibit 3, I extracted some of the Undertaking Responses that Centra has given, which indicated that there had been year over year increases and the migration to WT. service. There appears to be a net migration from WTS to system, rather than the other way around.

And thirdly, there has been a new entrant in the retail market, over the last eighteen (18) months, and my client now has a vigorous competitor in energy savings in Manitoba that's working to gain a share of the market.

So, compared to the 2003/2004 GRA, there's more competition in the market.

Now, it is true that the proportion of small-volume market consumers on direct purchases in Manitoba, is less than in some other jurisdictions, perhaps Ontario being, you know, the one that can be pointed to most directly.

Last April, that is April of 2004, this Board solicited views, as I mentioned, from market participants and asked them to give their comments on market structure.

And Mr. Mondrow, on behalf of Direct Energy, wrote to the Board on June the 14th of 2004, and I included his letter in Direct Exhibit 2, Tab 15. In that letter Mr. Mondrow enumerated certain, what he called, structural and procedural barriers to the further evolution of retail choice.

And I've touched upon some of those in my cross-examination on nominations and greater flexibility in the WTS service.

I guess Direct Services' bottom line in respect of the robust nature of the competitive market, is as follows:

Direct Energy thinks it would make more sense for this Board and for the Utility and for the brokers to work towards removing some of the structural and procedural problems identified by Mr. Mondrow, in order to foster a more competitive retail market than to consider whether the Utility should make fixed-price offerings into that market.

And one (1) of the reasons Direct makes that submission is that it's clear from the materials before this Board, that there is the potential that if the Utility gets into the fixed-price product business, there may be a risk to the competitive nature of the retail market.

Centra, in its Discussion Paper, at page 10, in Observation number 7, said:

> "It's uncertain what impact Centra would have by offering multiple service offerings in Manitoba. Centra's entry could potentially result in brokers

leaving the Manitoba market, it could deter new brokers from entering the Manitoba market, or it could have no net impact on the market other than Centra offering another choice in the market."

And similarly in an extract from the OEB Natural Gas Form Decision, at Direct Exhibit 2, Tab 7, it indicated three (3) risks, or identified three (3) risks that could be associated with the Utility entering into that kind of product offering.

And I also gave you the Decision of California Public Utilities Commission back from 1997, when one of the utilities wanted to go down that road, and it offered that if they did that, it might inadvertently retard the development of competitive options for core customers.

And I simply point to those three (3) pieces of evidence to indicate that there are some rather meaty issues that this Board would have to grabble with and have real evidence on, before it considered whether a Utility -- that the Utility in this Province should be allowed to make that kind of offering.

One (1) final point on this, during my Cross-Examination of Mr. Kuczek, I put to him some of the materials relating to what Tarasen is doing in British Columbia. And Mr. Kuczek said that he has spoken to some of the folks out there to find out about what was going on.

And of course, that is a case where the regulated entity has been permitted to introduce, I think, a one (1) year fixed price option; it's called the stable rate option. But when the Board takes a look at the materials that are in Direct Exhibit 3, you can see that the regulatory lay of the land in British Columbia is radically different than here in Manitoba.

Manitoba has had close to fifteen (15) years of retail unbundling and deregulation. British Columbia still doesn't have it. And indeed, in some of the Terasen materials it appears that although commercial unbundling is taking place in British Columbia, people are looking at November of 2007 and November of 2008 before they get to retail unbundling. So that's a vastly different regulatory climate than what we have here.

So in Direct Energy submission, all of this points to the need for the Board to conduct a full hearing into the potential competitive impacts of the utility's fixed price offering if and when the utility decides to seek approval for such an offering.

Just briefly, to deal with two (2) of the other advantages that Centra described on page 11 of its discussion paper, it talked about the utility being an unbiased supplier of gas and an unbiased provider of information as advantages to the utility getting into this line of business, two (2) simple points.

Once the utility gets into competition with brokers, it's no longer unbiased. It's biased in the sense that it has its own commercial interest or corporate issues that it wants to promote. And indeed, I took the Panel Number 3 to part of Centra's corporate strategic plan, indicating that market share in the natural gas sector was a -- a corporate strategic goal.

Similarly, it wouldn't be an unbiased provider of information, for -- for the same reason. But I also pointed out to the -- to the Panel that there is a service out there, energyshop.com, that provides a third party comparison of utility and retail offerings in all of the -- the jurisdictions in Canada where that is -- where that takes place. And I included some of the materials from that website at Direct Exhibit 3, Tab 11.

What I -- what I didn't include, and if Board Staff goes to the website they will, you know, readily see, is that not only does the Ontario Energy Board website have a link to Energyshop.com but, also, energyshop.com holds special licences from the Ontario

Energy Board enabling it to provide that informational service to customers.

And I don't know who's behind energy -- energyshop.com, they say that they don't have any affiliation with people who provide gas. When you read some of the text, they seem to think choice is good and utility monopoly is bad. But I think the fact that they do hold licences from the OEB, and there is a web link, indicates that, you know, at least one regulator thinks that they're a good source of information.

So there doesn't seem to be any need, any -- any need for Centra to get into this informational business. There's a product already out there.

A final advantage that Centra identified was that if it were to offer multiple service products, customers would have additional and more comparable bench-marking products for the purpose of comparing prices. However, in its discussion paper Centra does not indicate what kind of multiple service products it might offer.

That is to say would they be one (1) year products or would they go greater than one (1) year, to four (4) or five (5) years where the two (2) brokers in Manitoba offer products. Mr. Kuczek's evidence was that Centra had not turned its mind to this point.

I would note that in the materials in Direct Exhibit 3, Terasen indicates that they only offered a one (1) year stable rate option and that they are not contemplating offering a stable rate option greater than one (1) year because the risks inherent in offering a longer term fixed commodity rate, such as the credit risk, are significantly more challenging than that of a one (1) year term.

And just on this point, Mr. Saxberg, in his submissions before you this morning, made a submission on behalf of his client which -- on the hedging program and then on the multiple service offerings, which, I submit, is a bit inconsistent.

On the one hand he pointed to the hedging program that Centra has undertaken, said, High risk, the costs are significant, the benefits are small. And as I heard his submission, essentially saying Centra should ditch the program and where should it go, well, it should go into multiple service offerings.

And I noted that Mr. Saxberg said, Surely -- and I underlined in my notes:

> "Surely, customers would benefit from Manitoba Hydro offering a fixed-price offering."

Well, you have Terasen saying:

"It isn't going to go out more than year as things currently stand; it would never go out more than that. Why? Because of the risks."

So, I find it a bit inconsistent for the Consumer's Group here to say, well, get out of the hedging program because the risks are too high versus the benefit. What are you get into a program that at least one utility, Terasen says, has even greater risks.

I don't think there's any "surely" I guess, is my basic point, in the comparison of costs and benefits. It would be the task of this Board, if and when the Utility came before it, wanting to offer the product, to not start with the presumption of, surely there must be a benefit, but to take a look and say, okay, what are the costs, what are the benefits, and do they merit the Utility going down that road?

So, in -- in some, in Direct Energy's submission, when you take a look at the advantages that are outlined in the Discussion Paper, Centra has not offered a set of persuasive advantages to the Utility making a fixed price offering.

And of course, that was only the first part of what you asked them to do. The second part of what you asked them to do was, how are you going to deliver this? And there really isn't much of anything in the report on that.

Mr. Stephens and Ms. Stewart in their evidence said there were a number of options you could essentially, you know, underpin it by hedged products; Mr. Stephens said you can underpin it by a long-term gas supply contract, and Mr. Kuczek, as I recall, offered a -- a third alternative, yes, they -- Centra could just go out into the marketplace and purchase what they needed.

But, in any event, there's little discussion of the how in the discussion paper and more would be needed.

So, Direct submits that the discussion paper does not contain the level of detail perhaps contemplated by the Board in its Decision that -- last year, and that may result from the fact that Centra has not made any corporate decision to offer such products and is not seeking any approvals from this Board to do so.

And so, you know, I don't quarrel with the discussion paper. If Centra doesn't have a great appetite to do this to a certain degree, why spend the resources to -- to do a fulsome review.

So, Direct submits that it's clear that much further thought, evidence and consideration would be required before the Utility is allowed to offer fixed-price products in competition with brokers. That is not an issue that this Panel need decide in this proceeding, since Centra has not decided whether it would offer a fixed-price product.

In the event Centra makes such a request, Direct submits that this Board should ensure that the request is subject to a full hearing process with ample opportunity afforded to Intervenors to file their own evidence and test Centra's.

So, those are the submissions on the fixed-price offering. But, before I stop, there is one (1) final matter that I would like to address, because it came up in this context. And if I can get the information -- there we go.

In his Cross-examination of the third Panel, Mr. Saxberg stated that in Alberta, Direct Energy was the default supplier and quote:

"That they themselves are also in the competitive market." Closed quote.

And then this morning, you heard Mr. Saxberg use extremely strong language in describing Direct Energy's position on whether Centra should be allowed to go down this road. He used language such that it was hypocritical for Direct Energy to take this position and he then went on to purport to describe what was happening in Alberta.

Suffice it to say that Mr. Saxberg's description of what is happening in Alberta is not an accurate description of what is happening. It is true that back in 2003, ATCO Gas, which was one of the gas utilities operating in Alberta, with the approval of the AEUB out there, entered into an arrangement with Direct Energy regulated services, under which Direct Energy regulated services would perform the default supply provider function for gas consumers within the ATCO franchise area.

Under that agreement, Direct Energy regulated services offers one (1) regulated gas supply product to consumers. It does not offer a fixed price multiple-year product. It offers the basic product as most utilities in this country do; one (1) regulated option with -- approved by the Board.

An affiliated, unregulated company, Direct Energy essential services is what you would call a broker. It offers competitive three (3) and five (5) year fixed-price products to consumers in Alberta.

It is true that both companies are affiliates of Direct Energy Marketing Limited. Indeed, the regulated services company is a unit of Direct Energy

Marketing Limited. The unregulated affiliate is part of a limited partnership but it is, by any account, an affiliate.

However, there are a few things that Mr. Saxberg was not accurate in. And I've asked over the course of the morning, and you may have seen me typing away on my Blackberry for clarification on some of these things. So I've gotten some preliminary information and -- which I'd like to advise the Board.

And it may well be that, you know, that Direct will file a letter with this Board to clear up this matter because it's unfair on the state of what's actually going on in Alberta for one of the Intervenors to accuse Direct Energy of being hypocritical in this proceeding.

But in terms of what's going on out there, apparently there -- the regulator doesn't require either the regulated or the unregulated entity to have a dedicated board of directors, and I think Mr. Saxberg said something to that effect. However, Mr. Saxberg suggested, as I heard it, that there were no employees in the -- the regulated entity, it was all the unregulated entity's employees that did the work.

My inquiries indicate that there is a mix of dedicated employees, that is there are employees dedicated to the activities of the regulated entity, there are employees dedicated to the activities of the unregulated entity, and there are employees who provide some services to both.

That latter group is typically either support functions, human resources, finance, regulatory or operations, or those who provide a governance role, I think corporate services would be the -- the typical way of describing them.

There is a strict code of conduct governing the relationship between the regulated entity and all affiliates. And, indeed, the AEUB has held several hearings in respect of the compliance plan of Direct Energy which had to be put in place.

There have been external audits, I believe, on the natural gas side as to whether the regulated entity is complying or fulfilling that compliance plan. And there are plans to have an external audit on the electricity side.

And, in addition, there are strict rules surrounding the information that can and cannot pass from the regulated entity to the competitive entity.

And, essentially, it boils down in practice to both entities have to have their own call centres. And if somebody phones up the regulated entity call centre, they can't say, Well gees we know a great deal for you, why don't you give our brethren over at the unregulated affiliate a call and they'll sign you up to a sweet deal. The code of conduct is against that. And, also, there are separate -- physically separate entities.

So, the impression that My Friend Mr. Saxberg left, and perhaps it's simply because either he or his client haven't looked at detail in what's going on in Alberta, in my respectful submission, is not an accurate lay of the land as to what's going on out there.

First, you've got affiliates but operating under very strict affiliate rules. But secondly, which is the critical point with respect to this fixed price offering issue, the regulating entity doesn't offer a fixed price offering. So, it's -- it's just not the same comparison.

But, I wanted to take the opportunity to at least begin to set the record straight on this particular point. Certainly, if the Board has any questions on what's happening, Direct is more than pleased to file the appropriate information with the Board.

But, given that the matter rose with the vigour it did this morning, I think I'm going to go back and speak to my instructing solicitor at Direct Energy and it may well be that Direct on its own sends a letter to the Board providing you with the materials that the AEUB has released over the years.

So, those are my submissions on behalf of Direct Energy, and I appreciate the Board taking the time to -- to listen to them.

I also appreciate the accommodations that have taken place over the course of the Hearing by the Board and the Applicant and other Intervenors for my schedule. It's always appreciated and it always, therefore, makes it a pleasure to come out to -- out to Manitoba to appear before this Board.

THE CHAIRPERSON: Thank you, Mr. Brown. Ms. Ruzycki, you're up next. I'm just wondering, do you have an idea about how long it will be? I'm just trying to sort out the break business.

MS. NOLA RUZYCKI: I'll probably be about fifteen (15) minutes.

THE CHAIRPERSON: Then I think we should do it now, please.

FINAL SUBMISSIONS BY MS. NOLA RUZYCKI:

MS. NOLA RUZYCKI: Okay. Good afternoon, Mr. Chairman, Members of the Board, ladies and gentlemen.

This oral submission constitutes the views and recommendations of Energy Savings Manitoba Corp. regarding Centra Gas Manitoba's 2005/06 and 2006/07 general rate application.

This submission will focus on the following four (4) areas; the western transportation service, consultations and the current internal portfolio review, the integrated natural gas and electricity 1-bill initiative, Centra's consultation results on consumer education, promotional efforts and the proposed collaborative consumer education plan and, finally, the discussion paper on the advantages and disadvantages of Centra offering multiple service products.

To begin, the WTS and portfolio review reports. As directed in Board Order 131/04 pages 37 and 39 Centra is to review possible changes to the WTS service and file a report by no later than August 1st, 2005.

The report is include the benefits and costs of implementing four (4) changes, which are; alternatives to Centra establishing the maximum daily quantity, alternatives to Centra controlling daily nomination, alternatives to Centra controlling the reduction of daily nominations of direct purchased gas and, finally, the ability to move the enrolment of WTS customers to more frequent basis than quarterly.

The first three (3) issues are interrelated and focus on changing the way that Centra sets and nominates the maximum daily quantity. Currently, Centra can change the nomination frequently within each month and, in fact, daily with the requested flow volume fluctuating between zero and 100 percent on any given day.

Energy Savings Manitoba is looking for a solution that allows it to have greater control over the nomination process along with a more stable MDQ. Ideally, ESMC would like to see a stable nomination volume that would run flat for the entire year, but would -- would be willing to accept a consistent monthly nomination in the interim.

The second issue relates to customer mobility. ESMC requests the ability to move customers to a monthly enrolment process.

Currently, a customer can experience a wait time of up to four (4) months before it begins receiving its commodity service from a broker. This long wait period acts as an impediment to customer mobility and causes confusion and concern for customers. A concern that many customers express with respect to retail offerings is that the product would be more appealing to them if the service could be offered --

could be provided to them on a timelier basis.

Customers are confused that the service they are enrolling for will be unavailable to them for up to four (4) months. How many products or services do you know that parties have to wait for four (4) months for and how many parties are willing to sign up for those types of services?

Customers experience consternation with respect to signing a contract for a service that they are potentially not going to receive for that period of four (4) months. If the enrolment window were monthly, ESMC believes that less confusion would exist as to whom is supplying the customer's commodity.

The MDQ nomination and customer mobility issues are tied directly to the terms and conditions of the primary gas supply contract that Centra entered into with Nexen and to Centra's supply portfolio, including the storage and transportation assets and, therefore, the ICG consultation recommendations.

As part of the IGC recommendations, Centra is analysing the development of saltwater cavern storage facilities, but do not anticipate this project would be in service before 2012.

During the hearing, Centra indicated that the next steps will be to prepare a report by August 1st, 2005 on the benefits and costs of implementing the requested changes to the WTS service. Centra will also file a report on the portfolio review and its implications by August 1st, 2005.

Once the reports are filed, ESMC submits that the findings need to be bedded by all parties -- all interested parties, as limited information was provided prior to and during the GRA hearing. Interested parties should also be encouraged to make submissions to the Board on this issue.

Moving on to the integrated natural gas and electricity 1-bill initiative. On May 12, 2005, Manitoba Hydro filed a draft integrated electric/gas invoice, including sample invoices with the Public Utilities Board.

Beginning in November, 2005, Manitoba Hydro will start to combine electricity, natural gas and other services into a one (1) customer system resulting in one (1) invoice per service address with some exceptions.

Manitoba Hydro first consulted with the brokers during a conference call held on January 7th, 2005. Although Energy Savings Manitoba participated in the conference call we were disappointed that many of our suggestions were not incorporated into the one 1-bill document.

ESNC believes that it is important to have our company's name and logo displayed prominently on the invoice although with the dedicated messaging section, which would allow brokers to communicate with their customers.

ESNC acknowledges that Manitoba Hydro has included the broker name on the summary page and on the primary gas line of the invoice.

During the Hearing Centra indicated that it was not the cost that prohibited the broker's logo and messaging from being included on the bill, but was instead a matter of corporate policy. And, in fact, Centra indicated that it expected the cost of adding a logo and messaging would be somewhat nominal. That was at transcript 1804 and 1805.

Although the brokers were willing to pay for this service, Centra felt it could confuse customers about who was providing the services. ESNC submits that displaying the Company name, logo and message would, in fact, provide clarity to the customers that were purchasing their natural gas from their chosen energy broker.

ESNC would also like equal access to the bill in service which Centra current enjoys exclusive access to. We are of the belief that the bill is the primary communication vehicle to the consumer and allowing brokers access to it is good for the consumers and it serves as another means of education.

Centra's customer research indicated that 41 percent of the customers currently supplied by an independent broker erroneously reported their primary natural gas provided. ESMC submits that the customer confusion can be attributed to the fact that the billing continues to be sent by Manitoba Hydro and the lack of broker visibility on the invoice.

Energy Savings Manitoba is seeking clarification from the Board as to whether the invoice falls under the -- under its jurisdiction or if Centra has the unilateral right to decide what goes on the invoice and how it looks to the consumer.

ESNC contends that the bill should be subject to regulatory oversight. We would also like to express concern and request assurance from the Board that in the event that a fixed price natural gas retail offering has been signed by one (1) signatory and the integrated invoice appears under the name of someone other than the original signatory, that the natural gas contract will not be considered void.

Turning then to customer education. The

PUB directed Centra in Order 131/04 page 85 to consult with brokers and CAC/MSOS regarding the content and focus of the customer education material, as it relates to gas purchasing options.

Centra filed a consultation on consumer education Exhibit 21, with the PUB on June 13th, 2005. Centra reported that all parties involved in the customer education initiative were in general agreement with the importance of consumer awareness and education.

Centra indicated that the educating consumers was in the Utilities responsibility, but it is supportive of a collaborative process which would allow for input from the broker community and CAC/MSOS. Parties came to an agreement on a process that will be used for the next educational campaign which Centra indicated would be in the summer or fall of 2005.

ESMC contends that it is important to educate customers in an unbiased fashion on the option and products which are available to them in the natural gas marketplace in Manitoba.

A well informed consumer is better able to assess the risks and benefits associated with the products and choose the option they feel is most appropriate. For these reasons, Energy Savings Manitoba is of the belief that the joint consultation process for educational efforts should be an ongoing one and not a one (1) time pilot as suggested by Centra Manitoba.

Now, on the promotional efforts Centra believes that the Utility has the right to promote any product offered by the Corporation. And that was transcript page 1780. However, Centra indicated during the Hearing that it felt the Company has not undertaken promotional campaigns of its product to date.

ESMC disagrees with Centra on both counts. First on its belief that it has the authority to promote the regulated Utility default supply service, ESMC strongly contends that a regulated Crown utility should be unbiased and financially indifferent with respect to who supplies the consumers natural gas.

Manitoba Hydro is a Crown corporation that enjoys significant brand recognition as the provincial distribution company for both natural gas and electricity. This brand recognition, their financial strength and existing customer relations with the distribution customers provides them with an unfair advantage over retail marketers.

Second, ESMC and Municipal both filed complaints with the PUB stemming from Centra's fall 2004 advertising campaign. In this regard, ESMC felt the advertising campaign portrayed the brokers' product as inferior and more costly, and was not educational but in fact promotional in nature. Yet, Centra recovered the cost for this campaign through the distribution rate from all customers.

Centra, at page 1784 of the transcript, stated that should it occur that someday we are promoting our product, that it would be appropriate to recover those costs through the primary gas rate. ESMC requests that the Board make a determination with respect to whether Centra has the right to promote its regulated default supply service.

And finally, multiple service offerings. Exchanges have taken place during the course of this Hearing regarding the discussion paper on advantages and disadvantages of Centra offering multiple service offerings. At this point, the report appears to be cursory in terms of review, conclusions, implementations, logistics, obstacles and service options, to name a few.

No conclusion has been reached as to whether the utility wishes to undertake such an initiative in the future. At this time, Centra is not proposing any changes to the current service offerings, nor is it seeking any approval in this application arising out of this report.

It is, however, ESMC's strongly held view that if Centra or the Board wishes to proceed with the implementation of a multiple service offering, that it be subject to a public application process before the Public Utilities Board. The discussion within this proceeding -- the discussions within this proceeding have been preliminary and a more fulsome discussion would be required to determine the merits of the proposal should an application be brought forward by Centra.

And this morning Mr. Saxberg indicated that the report, along with being cursory, perhaps could be characterized as useless in its present state, yet asked the Board to determine what to do, for example, setting up a trial offering with limited enrolment. ESMC believes that there are a number of considerations which are not addressed in the report and must be addressed prior to Centra or the Board making a decision to pursue multiple service offerings.

ESMC strongly submits that Centra should only be mandated to offer a standard regulated default supply service which is reflective of current market pricing. Centra would enjoy an unfair competitive advantage over retailers as it has access to a captive customer base and would enjoy the benefit of the distribution service relationship with that customer base.

ESMC believes that allowing Centra to offer this service would not be in the public good and would impede price and rate transparency, and increase the likelihood of cross-subsidization, thereby affecting the competition in the natural gas marketplace. Customers wanting fixed price services currently have those offers available to them in the marketplace from natural gas retailers.

Centra proposed four (4) options in the discussion paper: The status quo; the provider of multiple service offerings integrated; the provider of multiple service offerings subsidiary, and; sole provider of multiple service offerings third party products.

In some jurisdictions where the utility wishes to offer fixed price products, they are required to do so through a unregulated affiliate. In Manitoba, the risk associated with a fixed price offering would be borne by the shareholder or the ratepayer. And in the case of a crown corporation or a utility, the shareholder is ultimately the taxpayer or consumer. ESMC would submit the risks around hedging should not be borne by the taxpayer.

It's also important to note that in Ontario the attempts by both Enbridge and Union's regulated affiliate to compete in the direct purchase marketplace in the past have been unsuccessful.

In Centra's own opinion, providing this service through an affiliate would increase Centra's cost to providing multiple service offerings and may result in the utility being uncompetitive. That was at Exhibit 9, page 12.

Centra notes, on page 11 of Exhibit 9:

> " That one of the disadvantages of them offering multiple service products is that it may not be able to compete effectively if its multiple service offerings are subject to regulatory oversight and associated costs."

Yet, they expect retailers to compete with these offerings. When it is suggested they have to compete by the same rules as any other competitor, Centra contends that they might not be able to compete effectively.

Of the four (4) options put forward by Centra, ESMC submits that the status quo option be adopted. And in closing, if Centra wishes to pursue a fixed price offering in the future, it must be subject to a public hearing or application process before the Public Utilities Board.

This concludes the submission of ESMC.

Thank you.

THE CHAIRPERSON: Thank you very much. Just before we have the break and come back with Professor Miller, Mr. Brown I'm thinking over your question. I think probably it would be appropriate to have Direct submit a letter explaining the situation a little bit better given that we had the comments from Mr. Saxberg and your response, although we have that in the transcript as well.

But anything that can help us understand the situation better is probably preferable over nothing.

MR. DAVID BROWN: Very well, we will do that. Thank you.

THE CHAIRPERSON: We will have our break and then we'll come back with Professor Miller. So keep well, Mr. Miller.

--- Upon recessing at 2:45 p.m.

--- Upon resuming at 2:58 p.m.

THE CHAIRPERSON: Professor Miller, we've reached that stage of the action that we're -- we've reached you at long length. You've been very patient.

FINAL SUBMISSIONS BY MR. PETER MILLER:

MR. PETER MILLER: Thanks, I was about to doze off at certain points there. I didn't get much sleep last night.

Thank you all. I'm -- because you have the written document and because Mr. Peters said that will be part of the record, perhaps I can abbreviate certain things. But, what I'm going to do is talk about the applicability of the Sustainable Development Act and a few of the principles and then -- as an introduction, and then get into recommendations, primarily derived from Mr. Weiss' testimony and -- and submissions.

These have to do with policy, overall policy direction at the Corporation, full cost accounting DSM and low income programming.

Looking after rate incentives.

Okay, RCM and TREE have two (2) principles that underlie what we're doing here, sustainability and justice and, as was observed earlier, these are somewhat broad and may be vague.

But in particular, looking at justice, inter-generational equity and the -- what might be called a social justice principle, the recognition that a limited amount of energy is a basic need and that a just society addresses the basic needs of its citizens.

Those would be the -- the concepts of

justice that are prominent in what we're doing.

In considering and trying my hand as a lawyer here, considering the applicability of the Act, I -- I first of all want to thank Ms. Murphy for foreshadowing their position and -- and thus creating an issue for research, and Mr. Saxberg earlier for filling in some of the gaps that I covered by rhetoric in my brief and also I'd like to acknowledge our -- our lawyer in 2002, Markus Buchart some of the points I took from his closing brief there.

And -- and my conversations with the Manitoba Conservation officials cited here plus the president of the Crown Corporations Council, they all helped to fill in here.

There are -- there is a certain incompleteness to the Sustainable Development Act, in particular the -- Section 3 has not been proclaimed and the comments of Ms. Murphy a couple of weeks ago now had me wondering how -- how limp a document is it and so I appreciate the opportunity to have a -- have a look.

And despite not proclaiming the -- the section which gives really comprehensive -- completely comprehensive coverage to everything that government does, reflecting sustainability, still there are a quite a number of -- of specific measures that are in there and that are, it seems to me, binding on various entities, including Crown Corporations and -- and in particular, the matters that were the subject of the letter that Ms. Murphy kindly provided, of preparing and implementing a sustainable development code of practice, procurement guidelines and financial management guidelines.

The question then is whether the Act is binding on Centra Gas. I think it's clear from the points that Mr. Saxberg made that it's binding, directly binding on Manitoba Hydro in a couple of ways. It's answerable to the Crown Corporations, Public Review and Accountability Act.

And also it is an agent of the Crown as found in the Manitoba Hydro Act. So under those -- two (2) of those qualifiers for being subject to the Act, Manitoba Hydro clearly seems to be in there.

So this leaves as the residual question, well if Manitoba Hydro is subject to the Act, wouldn't it as a matter of course as I assumed and as the government officials I talked to assumed, wouldn't Centra be bound?

And -- and so the question is it has to do with corporate structure and corporate law and I give up there. And that's why I wanted to circulate my comments last Friday so to -- to invite people with a legal background to try to answer that.

And then I -- again, I appreciate Mr. Saxberg's efforts in -- in doing that. So I -- my rhetorical statement of the problem and the residual legal question is where there's sufficient distance of Centra from Manitoba Hydro perhaps to a subsidiarity that would permit Centra to occupy the position of a rogue Crown that can enjoy the benefits of removal of Federal and provincial income taxes and federal large corporations tax while standing free from the public accountability and core principles of sustain- ability prescribed for its parent.

If -- if that were the case, there would be a huge loophole in the Act as far as I'm concerned. I'd say it'd be outrageous. But anyhow that's not legal analysis and that's why I appreciate what Mr. Saxberg had to say earlier.

And the gap might be closed in another direction. Not -- not through the legal club but through the voluntary commitments or maybe -- maybe not voluntary, I don't know, of -- of Centra and the principles that Mr. Warden articulated that indeed Hydro policies are Centra policies.

And Centra employees are Hydro employees. So for all intents and purposes, you have presented yourselves as -- as a single corporation and -- and bound by the same policies. And so the only other question is, why not the same laws?

So I'm going to assume that the sustainable development Acts applies to Centra one way or another and in -- in what I say. Now the claim was also made that the PUB is not subject to the Act.

And I look at the Section 20 which says:

"The Crown and agents of the Crown are bound by this Act."

To my lay ears an agent of the Act sounds like the courts and the judicial bodies and so on.

So, but again, I'll leave it to the lawyers to identify where the -- whether or not the PUB is an agent of the Crown. What really matters though is not whether the PUB has to develop its own procurement policies for recycled paper, that -- that's not really relevant.

The question is whether the PUB should hold Hydro and Centra responsible for obligations under the Sustainable Development Act. That's the relevant sense it seems in this proceeding.

And 78.1(a) in the Public Utilities Board Act says:

"The Board may require every owner of a Public Utility to comply with the laws of the Province."

So, that seems to answer that question, to my letting the law speak to me.

The Sustainable Development Act is the law of the province binding on Crown Corporations.

There's more. The Crown Corporation's Public Review and Accountability Act gives the PUB broad discretion to consider a wide range of factors when reviewing a Corporation's charges.

And, in particular listed in 26.4(a), the Public Utilities Board may take into consideration any compelling policy considerations that the Board considers relevant to the matter and any other factors that the Board considers relevant to the matter.

So, you have terribly broad discretion there, I think.

And we submit that the principles and guidelines of sustainable development found in Schedules A and B at the end of the Sustainable Development Act, and provision for the basic energy needs, including conservation, of Manitoba citizens as distinct from excess requirements of more energy-intensive or wasteful lifestyles, are, as a matter of social justice, compelling policy considerations that should guide the Board in determining for Centra Gas, just and reasonable rates but also charges, standards, classifications, regulations, practices, measurements or service to be furnished under Section 77(a) and (b) of the Public Utilities Board Act.

And then the Manitoba Hydro Act defines "customer" to include any user or purchaser of power or any potential user or purchaser of power and so, under that one, let's include future generations and we get inter-generational equity out of that one, I think.

Now, in the next section, I look at applicable principles and guidelines of sustainable development. Stewardship, which may be another name for inter-generational equity, and conservation and enhancement.

These principles remind us to adopt the perspective of seven (7) and more generations and consider whether we are taking for ourselves at their expense, the cheapest and most accessible non-renewable resources, like natural gas and expanding our footprint on the planet in doing so, through its discovery, extraction, processing, transportation and consumption to the detriment of living systems and the opportunities of future generations.

Two (2) other principles are global responsibility and efficient use of resources. When you review what Mr. Weiss had to say about the tragedy of commons and his solution to that by creating the right incentives within a jurisdiction that not specially harmful to the citizens of that jurisdiction but at least alters their behaviour in a way that is likely to promote the best results say, in North America, or on the planet, then it seems to me that this principle of global responsibility provides a -- a -- a -- a basis in the Act for that kind of an approach.

And finally, the efficient use of resources which is where we get the employing full cost accounting and subcategory the -- the B part, employing full cost accounting to provide better information for decision-makers and -- and then under our intervention, we would use that to develop systems for proper resource pricing, demand management and incentives.

So, those are the principles which I've selected out as the most relevant to guide you in reviewing our submission.

And just in case Centra isn't bound by the Act, it's also in the '93 Sustainable Development principles found on pages 67 and 8 of the voluntary challenge and registry update that was in -- in the -- one (1) of the IR's.

So we -- our specific recommendations are meant to be driven by, if you will, those values and their legal foundation in the Sustainable Development Act and the principles and guidelines of sustainability.

Now, we have a series of recommendations and I'll spend more time on the ones that have perhaps been less -- less discussed. And Mr. Weiss summarized his succinctly at a number of places, so you have those.

Manitoba Hydro was an early adopter of sustainable development policy and it was in the appendix of the VCR update. Showed the policy and principles adopted back in '93 and the commitment to greenhouse gas emission reduction, 6 percent below 1990 levels for 1991 to 2012.

Especially prior to the acquisition of Centra Gas by the Hydro utility, which already was comparatively low in this respect. These, I think are impressive commitments, as well as the growing investment in DSM.

So, in many ways, Hydro has been driven by principles of sustainability. On the other hand, there are indications that maybe some of these commitments if not growing stale, at least, have not fully penetrated all Departments and operations of the Corporation.

And frankly, I take the pre-hearing opposition to our intervention to explore full cost accounting and its relevance to resource pricing and demand management, which seems pretty directly related to Guideline 1, as one (1) of those indications.

And then the surprising conclusion that Centra was not bound by the Act, suggested that they might not see themselves as subject to those principles. In any case, I think its time for Centra and Hydro to review, refresh, update their policies, commitments, implementation goals, targets and strategies and reporting requirements for sustainable development.

And then I look at a few things in the '93 sustainable development policy, maybe it's time twelve (12) years later to update that and include the gas side in it. And insert the appropriate demand side management targets in the corporate strategic plan.

I can understand until you got your plan developed, you may not have been able to do that, but, now it's there and so it probably is in your plans to include some of those in the corporate strategic plan.

There is a strategy that's listed there, promoted transition to a rate structure that delivers more transparent price signals to encourage efficient use of energy. Well, that's been a central point of our brief and I, like it, understood that that applies to both sides of the business, but, that is a matter for further deliberation and judgment I guess.

There is the goal 9. Pro-actively support agencies responsible for business development in Manitoba. And I suggest why just support agencies.

Why not directly and again efficiency and conservation investments, as your new DSM plan points out are a great strategy to maximize wealth and jobs in Manitoba, not just the one (1), the goal that's based on increasing trying to get the most economic benefits and jobs out of increased Hydro electric blow.

So there are a few of these points and they're listed here and you have it in written form so I don't need to -- to belabour that debt. I think would be appropriate in undertaking a -- a corporate refreshment of sustainability commitments and goals and strategic planning and so on.

Now the -- the letter that Ms. Murphy provided spells out the -- the corporate obligations to develop these financial management guidelines and code of practice and procurement guidelines. And there is an indication in the -- the VCR report that the procurement part of that was there.

But when I asked Mr. Warden about the -- the other part just to refer to the -- and these guidelines are to be integrated into financial management and procurement manuals and procedures and integrated into annual reporting and so on, I asked are you familiar with any of these?

The financial management or code of practice guidelines or have you had any discussions within the Corporation about the financial management guidelines and the codes of practice that implement sustain ability and Mr. Warden replied:

" Dr. Miller, I'm not personally familiar with those.
There is an area within the Corporation however, that has had some direct involvement and that that I'm aware of.
But I don't have an intimate knowledge of that personally."

And if this is coming from the Chief Financial Officer of the Corporation, it suggests that that's not a prominent framework in the financial analysis of the -- of the Corporation. It seems to me that that particular undertaking would have been sent to -- to his department rather than someone else's.

And so if it hasn't already occurred, the integration of sustainable development financial management guidelines and annual reporting should be initiated. And include it in future PUB filings as a component of cost of service or an adjunct to it.

It should appear in various schedules which might indicate the cost impacts of the volumes of gas that are distributed to customers and, you know, to make it graphic and visible, what some of these externalities are that are associated with the operation of the Company and its customers.

The -- the guideline says that this is information that should be prepared for the guidance of decision makers. And this is a decision making deliberative process and -- and so that information should be I submit, explicit and pervasive.

Okay. Now into full cost accounting which is perhaps the most controversial part of what we have to say. Mr. Weiss' evidence took the conclusions of the Pembina report on greenhouse gas costs, land impacts and depletion and rolled them into -- with transmission and distribution estimates of -- of the cost of those.

And what he called pecuniary benefits which combined a couple of things. One is the economic stimulus of -- of conservation, that is mentioned in the DSM report both in the doing of it. I mean that, you know, retrofit jobs and so on but also once the energy is saved money not sent to Alberta for gas can be spent on other things.

And then the price elasticity of demand, that's also found in the so-called E3 report that the California utilities use, the notion that if enough customers or consumers of gas engage in serious conservation efforts, that reduces a North American demand which is somewhat confined until more liquid gas facilities are developed, and in -- in reducing the demand, should lower the cost.

And this is something that's been put forward by a number of prominent analysts. And so taking that in combination with the economic stimulus of conservation activities in Manitoba, this constitutes the pecuniary element of Mr. Weiss's proposal.

In its -- in one (1) of its IR's, RCM/CENTRA -- RCM/TREE-2(B), Centra asked whether we acknowledge that maybe some of those costs that were identified might not be covered though land lease costs, royalties, taxes, supplies, gasoline premiums and so on. And I just want to read the reply of Pembina folks, Amy Taylor and Matthew McMulloch, they agree that elements of land impact costs would be reflected in the market price for those areas of disturbance where land lease costs are incurred, for example, on certain agricultural or forestry land.

Royalties are a means of capturing some

of the value of resource depletion but they do not reflect the total value of that depletion.

Taxes, royalties et cetera are costs that would not be considered specifically associated with land impacts attributed to natural gas development. These are costs that account more for broader societal impacts and needs, economic, environmental, social. As well, these costs must be taken into consideration alongside the government public expenditures that benefit the natural gas industry's productivity.

So, in other words, it -- they're essentially taxes for getting economic rent from the -- the resource. But that doesn't necessarily mean covering off the depletion.

My belief is that there is required some further analysis of -- of what goes into this. But the -- I don't think we can assume that economic rent resource is the same as the internalization of the cost of impacts and depletion.

The Pembina report gives two (2) guides as to how you might differentiate depletion, a depletion component from, you know, taxes or public services, or -- or to help administer the gas industry or whatever. They attributed a formula -- a formulation to Statistics Canada, non-renewable resources may be used but only in cases where renewable substitutes are available and are produced at a rate equal to the rate of non-renewable resource depletion.

And in looking through the PUB Act in -- in response to our earlier part of this brief, I came across Section 78 which deals with the concept of depreciation. And the PUB has jurisdictions in setting rates of depreciation, contributions to reserves, expenditures from reserves.

And with this rule depreciation rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep the property in a state of efficiency corresponding to the progress of the industry.

In other words, the depletion portion is what is to be reinvested in capital maintenance and enhancement. So if -- if the taxes, the economic rent gathered from the resource is used for health care, that's great, but if there isn't a portion that goes into dealing with the shift from non-renewables to renewables, in our perspective, then -- then it's not really the -- maintaining and enhancing the -- the -- the natural capital that your industry is based on.

Goodlin and Daly is the other one they quote there. They recognize that it's not just a question of buying new plant but there may be research and development investments that are required to make renewable substitutes feasible and economic with their -- they express this in the input rule for non-renewables:

"Depletion rates of non-renewable resource inputs should be set below the rate at which renewable substitutes are developed by human invention and investment.

A portion of the proceeds from liquidating non-renewables should be allocated to research in pursuit of sustainable substitutes."

So, this is, if you will, the intellectual capital that's needed to provide the physical capital to keep an energy supply flowing.

And -- and -- and to make it economic; that is so that future generations don't just get energy at a far higher price than -- than we do because that would not reflect inter-generational equity.

So, these questions have to be investigated. I certainly acknowledge along with everyone else who's commented on this that there are -- there's -- there's work to be done and so on.

But my comment is, well, let's do it.

Let's not put off doing it.

On the land impacts, they took a fairly readily calculable value, namely the -- the timber resource that would be blocked by natural gas exploration and -- and drilling rigs and so on and -- and estimated how much land is impacted in this way and how much of the timber resource is blocked and -- and what that value might be and then distributing it over the gigajoules or whatever.

But they also said and -- and they scoped out, first of all, a whole range of impacts. There were a series of tables there that covered a number of pages and they said, I quote:

> "It is important to note that the land change costs presented here are not actual externality estimates. To reach a more accurate estimation of the real external costs of land change, many additional land impacts would need to be considered, such as habitat, fragmentation, loss of bio-diversity, loss of aesthetic recreational value and so on."

And they -- they presented some schematics to illustrate the kind of fragmentation and -- that --

that might occur on the land, just as sort of a qualitative recognition of those, without any attempt to -- to quantify it what -- what those values might add up to.

So, even if the component of alternative use, that is for timber, were fully compensated and reflected in the price of gas, which, by the way, has not been established, many other costs remain.

With respect to the value of greenhouse gas emissions, this an area where there seems to be a fair amount of convergence.

The -- Mr. Weiss used the lowest figure presented by Pembina which is ten dollars ($10) a tonne. Their initial estimate was twenty-two dollars ($22) a tonne and that was based on a low estimate of the damages that greenhouse gases do and, you know, weather changes -- swamping the lands, the fact that farmers -- if the rain cycle is such they -- the farmers may not be able to get a crop off and so on.

And -- anyhow, but it is recognized that although that's what the damage is given a partial attempt to globally to deal with it, you may be able to spend less than that and get an equivalent result say if you take a coal fire plant out of production and -- and can -- that can be done more cheaply perhaps.

Anyhow, ten dollars ($10) a ton. Mr. Kuczek gave a figure of one point eight (1.8) cents per cubic metre of gas consumed as, I think, a levelized cost of greenhouse gas attributed to that quantity of gas. Well that comes out using -- using Pembina's factoring in the upstream impacts of that.

That is you consider not only the -- the gas that's burned in Manitoba, but the gas that's burned to get it to Manitoba as well. And -- and that makes it more greenhouse intensive. That came out at seven thirty-six (7.36) a ton.

I think Mr. Kuczek was talking about six dollars ($6) and something for his figure which would exclude that upstream component.

But anyhow, we're in the same ballpark. And then the California Public Utilities Commission, the E3 report as -- in our submission, used eight dollars ($8) US for an American ton which is less than our ton.

And by the time you make the dollar conversation and the ton conversion, I think that comes out to about eleven dollars ($11) Canadian a metric ton. So we've got seven thirty-six (7.36), ten (10) and eleven ($11) dollars.

Anyhow the -- the point is there's not a wild divergence of -- of values. Perhaps less than the divergence in values between Mr. Matwichuk et cetera. I revert -- we're used to wild divergencies and -- and values in -- in other aspects of these proceedings, why not here.

So we recommend that Centra be directed to initiate a full cost accounting program of -- there was that reference to work already begun in connection with the procurement policy. Well, extend that to the procurement of natural gas and the result should be recorded as part of the next cost of service study or whatever you call the study that goes with the great base.

Anyhow the very statements of costs. And this should be out there and a regular feature of these hearings so that may for various estimates and so on can be part of our consciousness at a minimum and part of our debate as well. And for further analysis.

There are several ways in which this could be done. Perhaps the easiest is my number 3. You've already got your greenhouse gas values, throw in another 10 percent for everything else and there you've got the -- a very quick and dirty figure that you could use as an adder to the internalized costs to recognize full cost accounting.

Or you could adopt Mr. Weiss' analysis.

Or you could adopt Mr. Weiss' categories but do enough research to modify the values in his categories. Or you could use the results of the California E-3 methodology. They apparently invested six hundred thousand bucks ($600,000) to -- to obtain down there.

Well, let's -- let's take advantage of that kind of investment and they've got it all out in spreadsheets and the idea is that the Utilities Commission personnel could update the -- the input figures but the calculations and so on are all there.

So there are a number of ways, first of all it's being done in -- in other jurisdictions. Secondly, there -- we -- we in our jurisdiction have an Act that says this is the kind of thing that should be done. And so I think that we should expect to see that at the -- the next rate hearing.

Just a comment on the uncertainties. Those are -- those are not foreign to this body and I'm sure you would love another set of them to deal with. And, to my mind, on -- on issues that are even more important than some of the ones that are debated here already, not to -- not to belittle them, but I mean, just in terms of a relative magnitude.

There's a question of whether you can even start if you don't have consensus. Well, I've pointed to certain areas where there is some degree of convergence. The E3 study had a consultant and -- but also workshopped it with the Public Utilities and stakeholders down there in California.

And, essentially, by the end of the process, at least for the use of -- of calculating avoided cost for DSM, everyone was on board; they -- they agreed. There may have been a minor dispute about one (1) or two (2) of the factors, but in general, the -- if you read the appendices, the attachments that we have, they -- they achieved agreement.

So, it's a question of maybe this forum is not the best one in which to develop these values. I mean, one (1) way would be for the PUB to take it under their wing and initiate a process like the rule making that occurs in California and, you know, commission their research and so on.

On the other hand, the California situation's more -- much more complicated than ours; there are multiple utilities and so on whereas here we have a monopoly. And so, Centra couldn't engage in a similar process and -- and workshop it with -- with some -- some experts who could help to, you know, make -- make proposals that could then be refined.

So, we need full cost accounting even if no other measure is adopted just so the decision makers know the environmental costs and benefits of the activities of the Corporation and its customer base.

DSM. Is Mr. Kuczek here? I -- I just wanted to commend him for the -- the work that he has done in the -- the last year. I -- I know that he's -- he's worked very hard on the various studies and the potential study and the -- the new electric plan and the new gas plan and, frankly, you know, I'm -- I'm quite impressed with the -- with the general principles.

We're all waiting, you know, for the fine points of -- of program development and costing and -- and so on, but I -- I think the right directions have been set in that document.

I have a minor reservation that there should have been a -- a further linkage to the economic development in -- in Manitoba and the corporate plan and so on. But it is linked up to, I think, five (5) different goals, and I'm just suggesting six (6), in the corporate plan. And so I -- I certainly want to commend him in the effort that's been undertaken and -- and the progress that has been made.

Now, beyond that, essentially I have Mr. Weiss' points with a little bit of commentary associated and -- and I know we're -- we're running late and so if you all promise to read my written brief, I -- I think I can -- let me just read in one (1) -- one (1) item that extracted from, again, one (1) of our appendices and this has to do with how you allocate the cost of DSM programs.

And, as you know, Mr. Weiss is saying, Well, these are not just private best benefits, not just benefits to a customer's segment. They are public benefits. They are environmental benefits. They help to reduce the cost of gas to all, including industry. They help to create a -- a healthier society and so on.

And, for this reason, the utilities out West view these as public benefit charges. And this is where that social justice principle comes in. And there's some worry, well does this violate the cost responsibility thing that so drives this process. And so you'll -- you'll have to weigh that.

Of course Mr. Weiss makes the observation that if it's a charge that's volumetric, the large volume users will pay more and may have the greatest potential to make use of -- of conservation services, other things being equal.

So when one of the utilities was proposing maybe reducing the -- the weight of this industry for -- now, this is a care program which is low income assistance program, I think, lower rates and -- and perhaps low income conservation assistance, this was the response of the CPUC Board:

"As a threshold matter, we are sympathetic to concerns over the costs incurred by California businesses, especially during this difficult economic period. On the other hand, we are equally concerned of the plight of families and individuals, many of whom have seen their salaries fall while the cost of living increases. No party has presented any evidence to suggest that the care rate component has caused businesses to fail or relocate. To the contrary, in turn, shows that California businesses failed prior to the increase and the care rate, when gas rates spiked and the economy slid into a recession in 2001. We are not convinced by PG&E's claim that care program benefits -- and youÆre entirely to residential customers. We believe that all businesses and individuals benefit from the economic welfare of the greater community. Moreover, we

would not assume that all residential
customers are potentially care
customers, any more than we would
assume that all business customers may
potentially fail in the near future."

So they -- this provides some of the flavour of the reasoning that occurs in these other jurisdictions where these -- some of these charges for DSM, for low income programs, are public benefits and -- and from the overhead to the Corporation and to the -- to the customer base in proportion to their consumption of gas.

So we've got, you know, his other -- other recommendations in there with which I hope you're familiar with and which you will refresh yourselves on and you may read in this brief.

Thank you very much. IÆll -- I'll leave it at that.

(TYPED FINAL ARGUMENT INSERTED BELOW)

"Final Argument for the Centra Gas GRA, June 27, 2005 submitted by Peter Miller on behalf of Resource Conservation Manitoba (RCM) and Time to Respect Earth's Ecosystems (TREE).

Introduction: Time to Respect Earth's

Ecosystems (TREE) and Resource Conservation Manitoba (RCM) are non-government organizations committed to the advancement of a more sustainable society in which our planet's natural endowments of living and non-living systems and resources are valued, respected and conserved.

Recognizing that this natural legacy is finite and subject to degradation and depletion, we promote eco-efficiency - improving the ratio of social benefits to environmental harms and resource depletion as an essential pillar of a sustainable society.

RCM and TREE have partnered in two (2) previous PUB interventions on the electric side in 2002 and 2004, as well as the Wuskwatim hearings in 2003/2004. This is our first full intervention in the gas side of the business.

Our objectives in these interventions have been to explore and urge the implementation of measures to make the production and use of energy in Manitoba more sustainable and just.

The notion of justice has a variety of dimensions, several of which are relevant to these proceedings. One is the idea of assessing revenues proportional to cost-responsibility for various customer classes.

A second is the notion of inter-generational equity to apportion costs and revenue requirements over time. A third, which is more prominent in some other jurisdictions than in Manitoba, is the recognition that a limited amount of energy is a basic need and that a just society addresses the basic needs of its citizens. We have made some proposals to address the needs of low-income customers.

Applicability of the Sustainable Development Act: The concept of sustainability has legal force in Manitoba through the Sustainable Development Act, which includes a number of principles, guidelines and definitions. The Act articulates the following purpose in Section 2:

> "The purpose of this Act is to create a framework through which sustainable development will be implemented in the provincial public sector and promoted in private industry and society generally."

The Act was assented to June 23, 1997 and proclaimed in force July 1, 1998, except for Section 3. The unproclaimed section 3 places government under a comprehensive obligation:

> "3(1): The government shall have

regard in all of its activities to sustainable development and the principles and guidelines set out in Schedules A and B."

Although this most comprehensive obligation has not been proclaimed, government has, nonetheless, created a number of specific obligations for itself and related entities, including government departments, the Manitoba Round Table for Sustainable Development, cabinet, public sector organizations designated by regulation, crown corporations, local authorities, the Crown Corporations Council and agents of the Crown.

Some of the obligations created include review and advice, preparation of sustainability strategies, creating sustainability indicators and reports, administering a sustainable development innovations fund, and preparing and implementing a sustainable development Code of Practice, procurement guidelines, and financial management guidelines.

Although the Act is intended to create a framework for implementing sustainable development in the provincial public sector generally and promoting it beyond, the definition of a:

provincial public sector organization"

refers to government departments and to organizations which are, or which are governed by, boards, commissions, associations, and the like appointed by government:

"in which this Act has been made applicable by regulation."

Regarding this last clause, Ms. Murphy noted on June 15 (1742, lines 2-24) that there is no regulation that states that the Act applies specifically to Centra Gas. Surprisingly, she said that Centra doesn't meet the definition even without the regulatory clause (lines 13-14).

Since the only other condition in clause (b) under the definition of "provincial public sector organization" is that of being governed by a board appointed by government, her claim must be that Centra Gas has some other form of governance, left undefined.

Since the Manitoba Hydro Act clearly states in Section 5(1) that a government appointed board shall administer the affairs of Manitoba Hydro, the implication appears to be that Ms. Murphy does not regard the Manitoba Hydro board to be the governing board for Centra Gas.

Be that as it may, the application of the Sustainable Development Act to Centra Gas does not depend on the definition of a "provincial public sector organization". Rather, the relevant definition is the following:

> "'Crown Corporation' means a corporation or other body to which The Crown Corporations Public Review and Accountability Act applies."

Section 2(1) of the Crown Corporations Public Review and Accountability Act indicates that the Act applies to Manitoba Hydro. Section 2 and the Schedule attached to the Act indicate there are other crown corporations besides Manitoba Hydro, but Centra Gas is not explicitly mentioned among them.

Moreover, Section 20 of the Sustainable Development Act says:

> "The Crown and agents of the Crown are bound by this Act."

Section 4(2) of the Manitoba Hydro Act indicates that Hydro is an agent of the Crown. Thus, since Crown Corporations Public Review and Accountability Act and therefore The Sustainable Development both apply to Manitoba Hydro and since Manitoba Hydro is an agent of the Crown and thus bound by the SD Act, the residual legal question is whether there is sufficient distance of Centra from Manitoba Hydro (perhaps through subsidiarity) that would permit Centra to occupy the position of a rogue crown that can enjoy the benefits of removal of federal and provincial income taxes and the federal Large Corporations Tax (RCM/TREE/Centra-7(b)) while standing free from the public accountability and core principles of sustainability prescribed for its parent.

It would surprise me if that were the case and would, to my mind, constitute a legal loophole that needed to be plugged, but that is as far as I can carry my legal analysis. I would hope that legal counsel for the other parties more familiar with the law and with the corporate structure of Manitoba Hydro and Centra Gas can resolve the issue.

In any case, Centra Gas has presented itself throughout the hearings as fully integrated with Manitoba Hydro, even though they maintain two (2) sets of books. Mr. Warden testified that Centra employees are Manitoba Hydro employees and Manitoba Hydro policies are also Centra policies including, specifically, MH's Sustainable Development Police and Principles found at pages 68 of the VCR 2003 Update (RCM/TREE/Centra-22, Attachment 1) and the Environmentally Responsible Procurement Policy mentioned on page 64 (1874 lines 16ff).

Implementation activities associated with these policies (such as life cycle analysis for procurement) are supposed to apply equally to Centra Gas, although there is some question about how it applies to the gas commodity.

Thus in the remainder of this brief I will assume that Centra Gas does not in principle see itself as a rogue crown somehow free of the central obligations and core sustainability policies of the provincial government even if some of those obligations may have come as a surprise to their panel.

The Chair also asked Intervenors and PUB counsel to comment on the applicability of The Sustainable Development Act to the PUB. The previously cited Section 20 of The Sustainable Development Act says:

"The Crown and agents of the Crown are bound by this Act."

I would assume that the PUB is an agent of the Crown, but I'll leave it to the lawyers to determine if that is the case.

However, it doesn't really matter if the SDA applies to the PUB in the same sense that it would apply to a Crown corporation, for example, by requiring the PUB to establish sustainable development financial management and procurement guidelines for itself.

What matters is whether the PUB should

apply the SDA to the operations of Manitoba Hydro and Centra Gas and hold them responsible for fulfilling the Act's provisions in financial records, rates, filings and other matters that might fall under PUB jurisdiction.

In this regard, Section 78(1) of The Public Utilities Board Act seems definitive:

> "78(1): The board may by order in writing and notice to, and hearing of the parties interested, require every owner of a public utility (a) to comply with the laws of the province and any municipal bylaw affecting the public utility or its owner and to conform to the duties imposed thereby, or by the provisions of its own charter, or by any agreement with any municipality or other owner."

The Sustainable Development Act is a law of the province binding on Crown corporations.

In addition, The Crown Corporations Public Review and Accountability Act gives the Public Utilities Board broad discretion to consider a wide range of factors when reviewing Crown corporations' charges. Section 26(1) of the Act states:

> "Factors to be considered, hearings

> 26(4): In reaching a decision pursuant to this Part [Public Utilities Board Review of Rates], the Public Utilities Board may (a) take into consideration... (viii) any compelling policy considerations that the board considers relevant to the matter, [and] (ix) any other factors that the board considers relevant to the matter."

RCM and TREE submit that the principles and guidelines of sustainable development found in Schedules A and B at the end of the SDA and provision for the basic energy needs (including conservation) of Manitoba citizens (as distinct from the excess requirements of more energy-intensive or wasteful lifestyles) are, as a matter of social justice, compelling policy considerations that should guide the Board in determining for Centra Gas:

> "just and reasonable rates, charges, standards, classifications, regulations, practices, measurements, or service to be furnished..."

Under 77(a) and (B) of the Public Utilities Board Act.

Finally, the Manitoba Hydro Act defines

"customer" in Section 1 as:

"'customer' includes any user or purchaser of power or any potential user or purchaser of power."

This definition is broad enough to contemplate non-users or conservers of power. It is also broad enough to encompass the "future generations" referred to in the definition of "sustainable development" in Section 2 of the Sustainable Development Act.

Thus, insofar as the Manitoba Hydro Act applies derivatively to Centra Gas, the principles of inter-generational equity should be relevant to determinations by the PUB of Hydro's obligations independently of the SDA.

Applicable Principles and Guidelines of Sustainable Development: Schedules A and B of the Sustainable Development Act contain thirteen (13) principles and guidelines. All of these are relevant to the operations of Centra Gas and thus are appended to this brief, but four (4) in particular underlie the special emphasis that we have sought to bring to these proceedings.

These are principle 2, "stewardship" which speaks of inter-generational equity, Principle 5, "conservation and enhancement" which says, among other things, that:

> "Manitobans should (a) maintain the ecological processes, biological diversity and life-support systems of the environment."

And:

> "(c) make wise and efficient use of renewable and non-renewable resources."

Principles 2 and 5 remind us to adopt the perspective of seven (7) (and more) generations and consider whether we are taking for ourselves at their expense the cheapest and most accessible non-renewable resources like natural gas and expanding our footprint on the planet in doing so through its discovery, extraction, processing, transportation and consumption to the detriment of living systems and the opportunities of future generations.

Principle 7, "global responsibility" which says:

> "Manitobans should think globally when acting locally, recognizing that there is economic, ecological and social inter-dependence among provinces and nations, and working cooperatively,

within Canada and internationally, to integrate economic, environmental human health and social factors in decision making while developing comprehensive and equitable solutions to problems."

And Guideline 1, "efficient use of resources" which means:

"(a) encouraging and facilitating development and application of systems for proper resource pricing, demand management and resource allocation together with incentives to encourage efficient use of resources; and (b) employing full-cost accounting to provide better information for decision makers."

Note: "full-cost accounting" means accounting for the economic, environmental, land use, human health, social and heritage costs and benefits of a particular decision or action to ensure no costs associated with the decision or action, including externalized costs, are left unaccounted for (SDA Section 1).

Principle 7 and Guideline 1 remind us to consider our inter-dependence with other jurisdictions and devise comprehensive and equitable solutions that include proper resource pricing, demand management, and full cost accounting.

Note that the substance of these principles from the SD Act also appears in Principles 1, 3, 5, 7 and 10 of Manitoba Hydro's 1993 SD Principles found on pages 67-68 of their VCR 2003 Update, previously cited.

RCM/TREE's intervention has been designed to illustrate and recommend approaches and practical measures by which Centra Gas can fulfil these obligations under the SD Act and the corporate commitments represented by Manitoba Hydro's SD Policy and Principles. Accordingly, we recommend that the PUB direct Centra to implement the measures that follow.

Recommendations - Policy, strategic planning and reporting updates: Manitoba Hydro was an early adopter of sustainable development policy and principles in Manitoba, as the 1993 statement in Appendix 1 of the Voluntary Challenge and Registry Program 2003 Update demonstrates (RCM/TREE/Centra-22, Attachment 1, page 67).

The corporate commitment to reducing their own GHG emissions to 6 percent below 1990 levels for 1991-2012, given the already relatively low starting point, is admirable, as are the environmental research and education that the corporation support and the growing investments in DSM.

On the other hand, there are a number of indications that earlier sustainable development commitments, if not growing stale, at least have not fully penetrated all departments and operations of the corporation.

Prominent among these indications were the pre-hearing opposition of Centra Gas to an intervention to explore full cost accounting and its relevance to resource pricing and demand management as prescribed in Guideline 1 of the Sustainable Development Act and the denial twelve (12) days ago that Centra was even subject to the Act.

This opposition was presumably initiated or at least endorsed by senior financial management and regulatory affairs officers of the corporation. Thus, it is time for Centra Gas and Manitoba Hydro to review, refresh and update their policies, commitments, implementation goals, targets, strategies and reporting requirements for sustainable development.

For example, the 1993 SD policy statement needs to be updated to include references to the gas business. And the Corporate Strategic Plan needs to further reference the gas business and economic benefits of DSM in the targets.

CSP Goal X (page 12):

"be a leader in implementing cost-effective energy conservation and alternative energy programs."

Should be updated to include targets and strategies for the gas side of the business. In particular, the strategy:

"Promote a transition to a rate structure that delivers more transparent price signals to encourage the efficient use of energy."

Should be applied to both sides of the business. CSP Goal IX (page 12):

"Proactively support agencies responsible for business development in Manitoba."

Could be reformulated to support business development in Manitoba direction (in addition to supporting other agencies engaged in that task).

Under this goal should be added a further strategy to maximize wealth and jobs in Manitoba from efficiency and conservation investments without focussing exclusively on economic stimulus through growth in industrial electrical demand.

Which, under the current rate structure, also provides a counter-stimulus by imposing net costs on the system and on other users (RCM/TREE/Centra 35(b).

Goal IX could also be referenced in the new PowerSmart plan on page 3 as a sixth corporate strategic goal that is supported by the PowerSmart program, instead of relegating the point to bullet status on page 4 (fourth bullet):

> "Economic growth through new employment opportunities within Manitoba for manufacturers, distributors, retailers, trade allies and installers of energy-efficient products and services."

The Sustainable Development Act prescribes that Crown corporations shall adopt a corporate sustainable development code of practice, financial management guidelines, and procurement guidelines, each within two (2) years of the Province doing the same (Sections 13 and 14).

Thus, these documents were to have been completed by 2002 for the procurement guidelines and 2003 for the code of practice and financial management guidelines, as indicated in the letter from Manitoba Conservation to the Crowns sent in June 2002 (reported at

2130, line 2 to 2131 line 9 of the transcript.

Note: The transcript reports that I said:

"... they [i.e., Manitoba Conservation] may have operated wrongly under the law..."

in issuing the letter, if Centra's legal opinion was correct and implied that Manitoba Hydro did not fall under the SD Act. However, as argued earlier, I believe it is clear that MH does fall under the Act as does Centra by virtue of its integration with MH and that Manitoba Conservation did not err.

Moreover, Section 14 of the Act directs that each Crown shall, among other things:

"(b) integrate these guidelines into its financial management and procurement manuals and procedures; (c) integrate into its annual reporting process and requirements information respecting progress made in implementing sustainable development practices in its activities and operation."

However, the June 15th transcript reports the following exchange with the Chief Financial Officer of the corporation.

"MR. PETER MILLER: The Province has promulgated not only procurement principles, but also financial management and code of practice guidelines related to sustainable development implementation. Are you familiar with any of these or have you had any discussions within the Corporation about financial management guidelines or codes of practice that implement sustainability?

(BRIEF PAUSE)

MR. VINCE WARDEN: Dr. Miller, I'm not personally familiar with those. There is an area within the Corporation, however, that has had some direct involvement in that that I'm aware of. But I don't have an intimate knowledge of that personally.

It seems evidence from this response that sustainable development financial management guidelines and code of practice do not occupy a prominent place within the financial analysis and reporting of the corporation.

The integration of sustainable development financial management guidelines and annual reporting should be initiated, if not currently being done, and included within future PUB filings as a component or adjunct of the cost of service report and schedules and other relevant sections.

The filing and reporting should make clear how the financial statements and rate filings reflect relevant principles and guidelines of sustainable development including resource pricing, incentives, demand management, and full cost accounting.

These measures should also be reflected in the company's ISC corporate registration and management systems. First strategy under CSP Goal VII:

"Be proactive in protecting the environment and be the leading utility in promoting sustainable energy supply and service."

Page 10.

Recommendations - Full-cost accounting: The Pembina Institute report prepared for this hearing calculated a range of values for GHG costs, land impacts, and depletion externalities associated with the consumption of natural gas in Manitoba.

Mr. Weiss, in his evidence, took the lowest of these values and combined them with his estimates of T&D costs and pecuniary opportunity costs (based on price elasticity of demand and foregone economic benefits to Manitoba from conservation initiatives) for incremental gas consumption to yield an adder of two dollars and fifty cents ($2.50) per gigajoule of nine point three (9.3) cents per m3 of gas.

When this adder is combined with the internalized costs now included in Centra's revenue requirement, it yields what Mr. Weiss calls the Marginal Value of Gas to Consumers (MVGC). This calculation is offered as an illustration of the methods and values of full-cost accounting to fulfil Sustainable Development Guideline 1(b):

> "employing full-cost accounting to provide better information for decision makers."

Mr. Weiss' other proposals regarding rates and charges and DSM show how MVGC can be used to fulfil Guideline 1(a):

> "encouraging and facilitating development and application of systems for proper resource pricing, demand management and resource allocation together with incentives to encourage efficient use of resources."

Both the Pembina Institute in its report and Mr. Weiss on the stand indicated that there are uncertainties associated with these calculations, but Mr. Weiss also indicated that he is certain that the values for these factors are not zero (2073 line 13 to 2075 line 17).

Mr. Wiens seemed to concur when he said on June 15 (1890) lines 15-19):

> "I don't think that anybody can question whether or not these externalities exist. I think there is the potential that they exist. But do they need to be reflected over and above the market price of gas is something that we have a little bit of trouble with."

Centra Gas, in its rebuttal evidence and oral testimony and questions, identified grounds for some of the uncertainties, such as problems assigning values to impacts, lack of consensus on appropriate methods and values and the belief that:

> "most, if not all, of the resource scarcity and land costs are built into the market price of natural gas in the form of land rental fees and resource

royalty fees and taxes."

Rebuttal page 25, lines 1-13. In their IR response to Centra/RCM/Tree-2(b):

"Do you agree that the market price for natural gas already includes components of land impact costs and resource depletion costs through land lease costs, royalties, taxes, supply scarcity premiums, et cetera? Please explain?"

Amy Taylor and Matthew McCulloch replied:

Elements of land impact costs would be reflected in the market price for those areas of disturbance where land lease costs are incurred. For example, on certain agricultural or forestry land. Royalties are a means of capturing some of the value of resource depletion but they do not reflect the total value of that depletion. Taxes, royalties, et cetera are costs that would not be considered specifically associated with land impacts attributed to natural gas development. These are costs that account more for broader social impacts and needs (economic, environmental, social). As well, these costs must be taken into consideration alongside government public expenditures that benefit the natural gas industry's productivity."

Thus we cannot assume that economic rent on a resource is equivalent to an internalization of the costs of environmental impacts and depletion. On the other hand, there is a need for further discussion and investigation as to the extent and manner in which impacts and depletion are taken into account in accordance with principles of sustainability.

With respect to depletion, the Pembina Institute report presents two (2) guides to this determination from Statistics Canada and Goodland and Daly (pages 6-7). The formulation attributed to Statistics Canada is:

"Non-renewable resources may be used, but only in cases where renewable substitutes are available and are produced at a rate equal to the rate of non-renewable resource depletion."

The Stats-Can treatment of natural capital is analogous to the depreciation provisions for built capital in section 78 of the Public Utilities Board Act, which gives the PUB jurisdiction in setting rates of depreciation, contributions to reserves, and expenditures from reserves.

Depreciation rates:

> "shall be sufficient to provide the amounts required, over and above the expenses of maintenance, to keep the property in a state of efficiency corresponding to the progress of the industry."

(18(2)). These rates shall be taken out of earnings and carried in a depreciation fund for capital maintenance and enhancement and debt retirement (78(3) and (4)). Taking depleting natural capital into account means that the "state of efficiency" maintained requires creating the conditions whereby renewables can progressively displace the depleting non-renewables.

Goodland and Daly, on the other hand, recognize that R&D investments may be required to make renewable substitutes feasible and economic, as expressed in their Input Rule:

> "(b): Non-renewables depletion rates of non-renewable resource inputs should be set below the rate at which

renewable substitutes are developed by human invention and investment. A portion of the proceeds from liquidating non-renewables should be allocated in research in pursuit of sustainable substitutes."

Thus one question for investigation with respect to the element of resource depletion is the extent to which economic rents extracted from the natural gas resource are reinvested in R&D and capital expenditures to create economic, efficient and reliable renewable substitutes.

Regarding the value of land impacts, it should be noted that they are manifold, as listed in the Pembina report's tables scoping life-cycle negative externalities for current gas supply and future alternatives (pages 12-21).

Pembina selected the value of impacted land in its alternative use as a timber resource to provide a readily calculable partial estimate of this class of externalities, but added:

"It is important to note that the land change costs presented here are not actual externality estimates. To reach a more accurate estimation of the real external costs of land change, many additional land impacts would need to be considered such as habitat fragmentation, loss of bio-diversity, and loss of aesthetic recreational value. Although addressing these issues comprehensively was beyond the scope of this report two (2) qualitative analyses have been included to begin a discussion on this topic. Figure 3 illustrates patterns of land impact for NG consumption, i.e., how changed areas would be situated within surrounding land."

(Pages 25-26).

Thus, even if the component of alternative use were fully compensated and reflected in the price of gas (which has not been established), many other costs remain.

With respect to the value of GHG emissions, there is a much greater convergence of views. Mr. Weiss used the low end of the Pembina range of values of ten dollars ($10) per CO2e of emissions or sixty-six (66) cents per gigajoule of gas consumed in Manitoba (which incorporates emissions both upstream and downstream of Centra).

Mr. Kuczek reports that Centra is using a value of one point eight (1.8) cents per M3 of gas consumed, which is equivalent to forty-eight point six (48.6) cents per gigajoule or a value of seven dollars, thirty-six cents ($7.36) per tonne if upstream emissions costs are included, which Centra has not done.

The E3 avoided costs methodology adopted by the California Public Utilities Commission uses a figure that is slightly higher than Mr. Weiss', a levelized cost of eight dollars US ($8 USD) per ton, which is about eleven dollars Canadian ($11 CAD) per metric tonne.

Note, that Mr. Kuczek's levelized cost is based on a horizon of only twelve (12) or thirteen (13) years, whereas the E3 horizon is twenty (20) years, which may explain some of the difference.

Note, as well, however, that the effective period for new house construction with varying levels of efficiency in the shell may be a century or more which could justify a higher figure.

In conclusion, we recommend that Centra Gas be directed to initiate a full-cost accounting program. This could be done as an extension of work already begun in connection with Manitoba Hydro's

Environmentally Responsible Procurement Policy (reported on page 64 of Attachment 1 of RCM/TREE/Centra-22).

The results should be reported as part of, or an adjunct to, the next Cost of Service Study and filed with the PUB so that the corporation, Intervenors and the PUB have the information in a perspicuous form to guide their decision making, as intended by the Sustainable Development Guideline 1 on the efficient use of resources.

The above undertaking could be accomplished in one (1) or a combination of several ways. 1(a), Centra could adopt Mr. Weiss' Marginal Value of Gas to Consumers as a basis for its reporting.

1(b), Centra could engage in the necessary research to revise Mr. Weiss' values for the components he identified and report on that research as well.

Two, Centra could adopt the E3 methodology approved by the California Public Utilities Commission, which includes the marginal costs of future gas supply, transmission and distribution, environmental externalities including GHGs and price elasticity of demand. Centra could adjust the values to fit Manitoba and report on the basis for the adjustments as well.

Three, Centra could adopt the GHG values that it is employing in its TRC calculations for DSM and add another 10 percent of the commodity value as a surrogate for other externalities and pecuniary opportunities.

It would be wrong to point to uncertainties and lack of consensus as reasons to further postpone the task of full-cost accounting. Disagreement and uncertainties are the bread and butter of the PUB.

They have not prevented Centra from trying to estimate and allocate synergies, benefits and costs between the electric business and the gas business nor CAC/MSOS from challenging these leaving the PUB to exercise its judgment.

We believe that it is all the more important to engage in the challenge of implementing the practices and measures for sustainable energy production and use in Manitoba.

On the other hand, Centra could attempt to develop understanding, at least, and possibly consensus in the course of developing an approved method of full-cost accounting by having a consultant develop proposals to present and discuss at workshops with PUB staff and other interested parties and stakeholders, much as the E3 avoided cost methodology was developed.

Alternatively, the PUB and PUB staff could take responsibility for this process to cerate an approved method for cull-cost accounting, which could be refined over time as the California Public Utilities Commission (CPUC) has done.

The recommendations on DSM and Rates that follow make use of the Marginal Value of Gas to Consumers (MVGC) derived from full-cost accounting.

Recommendations - DSM. We will be briefer in our recommendations regarding DSM. I want first to commend Mr. Kuczek and his staff for the major improvements manifest in the 2005 to 2017 PowerSmart Plan over the previous 2001 plan (RCM/Tree/Centra-9, Attachment).

In philosophy and approach it addresses many of the concerns we have expressed in previous interventions about adopting too narrow a set of objectives and strategies, although, as mentioned earlier in this brief, it still underplays the potential for economic stimulus and job creation of DSM programming (in the Corporate Strategic Plan) and the links to community development and social services have yet to reach their potential.

We also recognize that the program is only beginning to ramp up on the gas side. We urge the Board to direct and Centra to adopt the following recommendations of Mr. Weiss.

One (1): The utility should use MVGC in its planning and evaluation of DSM program choices and investment level. This means that Centra should switch from the TRC of Total Resource Cost tet involving only the utility and customers to a Societal Cost Test as befits the Sustainable Development principle of global responsibility, which says:

> "Manitobans should think globally when acting locally, recognizing that there is economic, ecological and social interdependence among provinces and nations and working cooperatively within Canada and internationally to integrate economic, environmental, human health and social factors in decision making while developing comprehensive and equitable solutions to problems."

In fact, Mr. Weiss' MVGC combines both a global and Manitoba perspective by encouraging a level of DSM that could pay off in lower rates for all if repeated in other jurisdictions.

In any case, it stimulates economic activity and jobs through conservation initiatives and reduced bills through saved gas while promoting behaviour in Manitoba that can contribute to a solution to the Tragedy of the Commons.

Centra's initial DSM budget estimate is a good start as the program ramps up. However, limits its program to target conservation at only thirteen (13) cents per m3 is leaving cost-effective opportunities on the table.

Two (2): Centra should design a fuel switching program to provide its customers with information and perhaps incentives to choose the most cost effective (on a TSC basis) energy source.

Such a program should be done in conjunction with appropriately inverted gas an electric rates reflecting marginal costs. Attention to rates can address the concern that Manitoba Hydro customers might be harmed by a reduction in export sales when a customer switches from gas to geothermal heating or acquires a plug-in hybrid-electric vehicle (PIHV).

If, unlike at present, the marginal cost of electricity to the Manitoba customer is equal to or greater than the export price, the system loses no net revenue from the switch.

Three (3): Centra should use MVGC in designing its main extension and connection policies. We recommend using the model contained in Mr. Lazar's previous testimony as a basis for designing a policy that would encourage the construction of energy efficient housing and understand that this is under study.

Mr. Lazar's proposal was revenue neutral, collecting large connection fees for inefficient buildings and rebating to builders of more efficient buildings. An alternative model could pay out in incentives more than was taken in.

If done in a relatively short concerted campaign to achieve market transformation capped by building code amendments to a higher standard, Centra could afford to pay out more than the cost-effective level on a single home basis because the new code is Centra's exit strategy and efficiency savings continue for further construction without Centra paying a cent. Mr. Weiss gave an example of such a transformation for mobile home construction in Oregon (2048 line 19 to 2050 line 13).

Four (4): Costs of DSM programs are resource costs similar to wholesale gas purchases and should be allocated accordingly, on a volumetric basis rather than as a customer service.

This recommendation reflects the social perspective that we advocate which is common in west coast utilities and perhaps elsewhere. It pertains both to general DSM programming and to programs targeted at the poor.

In this regard, the reasoning of the CPUC found in Attachment Centra/RCM/TREE 98, pages 17-18 regarding the rate surcharge on all customers' bills for the CARE program for low income customers is instructive:

"As a threshold matter, we are sympathetic to concerns over the costs incurred by California businesses especially during this difficult economic period. On the other hand, we are equally concerned with the plight of families and individuals, many of whom have seen their salaries fall while the cost of living increases. No party has presented any evidence to suggest that the CARE rate component has caused businesses to fail or relocate. To the contrary, TURN shows that California businesses failed prior to the increase in the CARE rate, when gas rates spiked and the economy slid into recession in 2001. We are not convinced by PG&E's claim that CARE program benefits inure entirely to residential customers. We believe that all businesses and individuals benefit from the economic welfare of the greater community. Moreover, we would not assume that all residential customers are potentially CARE customers any more than we would assume that all business customers may potentially fail in the near term."

Five (5): I urge industrial and commercial customers should be allowed the opportunity to "self-direct" a portion of DSM funds. These customers posses the most technical expertise related to their facilities, and can best invest these funds.

Moreover, as Mr. Weiss pointed out, with a "use it or lose it" policy, they will be strongly motivated to make efficiency investments. Mr. Kuczek makes the point that PowerSmart personnel are respected for their expertise by industrial and commercial customers and that providing them DSM programming is an aspect of customer relations.

Yet, surprisingly, Centra has taken the position that, despite these cultivated relationships, industrial customers will not be included in the gas DSM ramp up or allocated DSM costs. Self-direction, including the option to bank DSM entitlements for several years, provides a pool of funds that an industry can invest in efficiency measures that a PowerSmart representative may have helped them to identify.

Recommendations - Rates: Six (6), institute tiered rates using MVGC as the marginal rate. (A), for residential rates, Mr. Weiss recommended the base volume should be equal to about 80 percent of the average use of a gas heated R-2000 home.

The rate for the base volume should be calculated to provide the Company's revenue requirement as otherwise determined in this rate case for that class.

We accept Mr. Weiss' observations that the appropriate break points need to be established through an assessment of customer impacts and urge that Centra undertake such a study.

It may be that a three (3) tier rate could address Mr. Wiens' concerns about sending the wrong price signals from inframarginal rates.

(B) for non-residential customers, the base volume should be the average rolling three (3) year historic usage as described in Mr. Lazar's testimony. Inverted rates for C & I gas customers should be added to the study of inverted electrical rates.

Seven (7), consider implementation of a

decoupling mechanism to increase stability of customer costs and Centra's revenues. Tiered rates will most likely result in an immediate reduction in consumption due to price elasticity, and overall increase revenue volatility.

Centra has said that a decoupling mechanism isn't that important to them because they have adequate reserves to cover revenue fluctuations, but they should also consider the potential benefits to their customers, who overpay in the coldest years when they spend the most money and underpay in the warmer years.

Eight (8), a further recommendation for future consideration: keep the basic monthly charge for SGS customers at ten dollars ($10) so as to provide maximum incentive to conserve in volumetric rates.

This measure in conjunction with a lower first block also reflects the recognition that a basic amount of energy is a necessity, while excess amounts may be a luxury.

Recommendations - low income programming. Nine (9), Centra should immediately commit to provide by next year an adequate bill payment assistance program and a robust DSM program targeted to low income customers.

Centra should immediately conduct a collaborative process with the PUB, social agencies and stakeholders, including the hiring of a consultant experienced in low income issues, to design these programs to they can be implemented as quickly as possible."

THE CHAIRPERSON: Thank you, Professor Miller. And fear not, we have the full report and all of the material from before. We'll take it under careful consideration; no concern there.

Yes, that time has come. Ms. Murphy...?

Would you like to take a five (5) minute break before you start?

MS. MARLA MURPHY: I think we're fine to proceed. Thank you though.

FINAL SUBMISSIONS BY MS. MARLA MURPHY:

MS. MARLA MURPHY: Good afternoon, Mr. Chairman and Members of the Board. I want to begin by summarizing Centra's application.

On December 9th, 2004, Centra applied to the Public Utilities Board pursuant to Section 45 of the Public Utilities Board Act for an interim ex parte order seeking approval of an interim rate increase of approximately 2.5 percent of overall revenue effective February 1st, 2005, sufficient to generate additional revenue of $3 million in 2004/05 and $12 million in 2005/06.

Centra applied for this interim increase in recognition of the loss incurred in 2003/04 and required immediate rate relief in order to generate additional revenue so as to reduce the losses that were otherwise projected to be incurred in 2004/05 and 2005/06 fiscal years.

Without this additional revenue, it was projected that Centra would incur losses of $8 million for 2004/05, $10 million for 2005/06 and $15 million in 2006/07. These losses would have reduced Centra's retained earnings to a deficit of $8 million as at March 31st, 2007.

In Centra's view, interim relief was necessary to preserve the financial integrity of the Utility. The Public Utilities Board approved Centra's request for interim relief in Order 13/05 and indicated that a final approval of the interim rate increase would be considered at the then-upcoming GRA.

Centra filed its 2005/06 and 2006/07 General Rate Application on January 10th, 2005. As part of this Application, Centra is seeking final approval of interim Order 13/05 and approval of a further rate increase on May 1st, 2006 of approximately 2.5 percent of overall revenue, sufficient to generate additional revenue of $13 million for the 2005/06 test year.

I should indicate, in preparing for this argument we have prepared a book of documents which we should circulate at this point. Perhaps we could have -- have those distributed.

Because of the -- the lengthy submissions that we find it necessary to make to wrap this up, we've also included a portion of our argument in writing which I hope will assist the Board and perhaps speed us along a little bit today.

So, I'll ask that that be distributed at this time as well.

Just while that's being distributed, Mr. Warden points out to me that the May 1st, 2006 increase that I just referenced of 2 1/2 percent is to generate additional revenue of $13 million for the '06/'07 test year. I believe I may have said '05/'06, but it is in fact the '06/'07 test year.

(BRIEF PAUSE)

MS. MARLA MURPHY: Just to run through some of the approvals that Centra is seeking arising out of the Application, I might indicate that they are summarized for your ease of reference at Tab 1 of our book.

Centra is seeking approval of adjustments to rates to reflect changes in its supplemental gas, transportation and unaccounted for gas or UFG cost to be effective August 1st of 2005.

We are seeking final approval of April 1st, 2004 to March 31st, 2005 gas costs; final approval of the balances and disposition of the various non-primary gas PGVA and gas cost deferral accounts as at March 31st, 2005; final approval of the supplemental gas, transportation to Centra and distribution to customer sales rates effective November 1st, 2004, which were approved on an interim basis in Orders 131/04, 132/04 and 146/04.

We are also seeking final approval of interim Orders 73/03, 129/04, 12/05 and 57/05 related to the approval of interim primary gas sales rates, effective May 1st, 2003, November 1st, 2004, February 1st, 2005 and May 1st, 2005, respectively.

Centra is seeking final approval of interim Order 54/05 which approved the amended franchise agreement and feasibility test for the extension of gas service to one (1) commercial customer in the Royal Municipality of Rosser and approval to change the connection fee schedules associated with the Inter-lake and Bi-frost Woodlands expansion projects, to gradually reduce and eliminate these connection fees by December 31st of 2006.

Finally, Centra is seeking approval of changes to our terms and conditions of service to incorporate a schedule of labour rates for the provision of miscellaneous services to customers, and to implement the allocation of partial payments from customers between natural gas and electricity bills.

As I've indicated, Mr. Chairman, a portion of this argument has been filed in writing. We'll also provide a copy of that to the Court Reporter, and would request that all portions, included those portions provided in writing form part of the transcript.

THE CHAIRPERSON: So be it.

CONTINUED BY MS. MARLA MURPHY:

MS. MARLA MURPHY: Thank you. With respect to gas supply, storage and transportation arrangements, the Board is aware new arrangements for primary gas supply were put into place in November of 2004.

There have been no changes to the gas storage arrangements or to the gas transportation arrangements other than those reviewed at the 2004/05 cost of gas hearing.

With respect to the cost of gas, Centra is requesting changes to its supplemental gas, transportation to Centra, and the unaccounted for gas portion of the distribution to Centra rates to be effective August 1st, 2005.

Centra Exhibit 7, which is contained at Tab 2 of the material, shows a final gas cost in the amount of $380.4 million for the period April 1st 2004, to March 31st, 2005.

Centra is seeking final approval of this amount. This includes a reduction in gas costs of approximately $10 million as a result of Centra's derivative hedging activities for the 2004/05 fiscal year.

Centra is also requesting final approval of all non-primary gas PGVA and gas cost deferral balances as set out in Centra Exhibit 8 which is contained at Tab 3.

There are non primary and other gas cost deferral balances as at March 31st, 2005 in the amount of $3.9 million owing to customers. Centra is seeking final approval of this amount.

Centra is seeking approval to refund to

customers $0.7 million accumulated in various non primary gas cost deferral accounts based on balances as at March 31st, 2005 with carrying costs and rate rider amortizationÆs to July 31st of 2005.

The refund rider that is currently refunding $16.6 million of non primary gas PGVA and other gas cost deferral balances will expire on July 31st, of 2005. On April 29th of 2005, Centra filed an update of its forecast -- forecast gas costs for 2005/06 based on the forward price drip as of March 15th, 2005.

The resulting gas cost forecast for the 2005/06 year is $428.5 million as per updated schedules 9.1.3(A) and (B). Those are contained at Tab 4 of the material.

This includes an expected reduction of $9 million in gas costs as a result of Centra's derivative hedging activities for the 2005/06 gas year, IÆm sorry, fiscal year. Of the $428.5 million, gas cost forecast for '05/'06, approximately $62.8 million is non-primary gas costs.

This amount represents a decrease of approximately $2.6 million from the non primary gas costs, included in existing base rates, as are shown on the updated Schedule 9.1.4. That's also at Tab 4.

Centra is seeking approval of rates which include the non primary gas costs of $62.8 million as at August 1st, 2005. You will recall that primary gas rates will not be affected by this application as those rates are set quarterly in accordance with the PUB approved rate setting methodology.

Centra is presently preparing to file its next quarterly rate application to be effective on August 1st, 2005.

One of the most significant issues to be considered in this application is the most appropriate methodology to apply in determining the non gas portion of Centra's revenue requirement.

This issue has been under consideration since the acquisition of the shares of Centra Gas by Manitoba Hydro in 1999. The Board, in approving the sale of the shares of Centra by West Coast to Manitoba Hydro, commented that the sale in and of itself did not result in a change in regulatory methodology.

However, it did not preclude consideration of such a change in the future. The Board said that was an issue for another day. CAC/MSOS through their counsel today have introduced some aspects of a discussion which followed Order 146/99.

I think it's important to follow that thread all the way through to the most recent findings of the Board and to the consideration of the issue in today's reality.

Picking up from where My Friend, Mr. Saxberg left off, the Board in Order 118/03 made a determination based on the rate base rate of return filing put forward by Centra.

However, during the course of that hearing, some of the difficulties associated with approving rates based on the methodology different than the one used by management became apparent.

In the next appearance before the PUB at the pre-hearing conference for the 2004/'05 cost of gas application and in subsequent correspondence in late April of 2004, the Board invited comments as to the appropriate rate setting methodology for a non taxable Crown owned corporation such as Centra.

In fact, the Board in its reminder notice for the 2004/'05 cost of gas hearing held in September of 2004 indicated that consideration would be given to the most appropriate rate setting methodology.

Following the hearing of that matter, the Board issued Order 131-04 which included the following findings at page 84. And I've included that page at Tab 5 of Centra's material.

I just want to quote from that middle

section.

"The Board is aware that the current legislation allows the Board to review Centra's rates on a rate base rate of return basis.

However, the legislation may also permit other forms of regulation of the gas utility. The Board notes that Centra is of the view that for an income tax exempt wholly owned subsidiary of a Crown corporation, the appropriate methodology should be a revenue requirement and cost of service as is the case with MH or Manitoba Hydro."

The Board encourages Centra to file its next GRA in a timely fashion and on a basis both -- on the basis of both rate base rate of return and revenue requirement cost of service with emphasis on the latter.

This will enable the Board to reach its determination taking into account revenue requirement cost of service and comparing such approach with the current rate base rate of return methodology.

As a result of that direction, Centra prepared and filed the Application which you have before you for consideration; one (1) with it's rate proposals based on cost of service methodology and which also includes the calculations for rate base rate of return.

The cost of service methodology is the most appropriate rate setting methodology for a Crown-owned utility such as Centra. It is Centra's preference that the Board determine Centra's rates based on the cost of service methodology and continue to do so for the future.

The rate-based rate of return methodology was applicable to Centra's former status as an investor-owned utility that needed to earn a fair rate of return each year to compensate investors for the risk in their investment.

The cost of service methodology is more applicable to Centra's current status as a subsidiary of a Crown-owned corporation that has a mandate to recover its costs of providing service and ensure that there are sufficient financial reserves or retained earnings to provide for stability of rates in the future.

The cost of service methodology is more flexible in that it inherently allows for a review of the progress in attaining financial targets since the last GRA and the expected progress over the forecast period, rather than focussing solely on return on equity in a specific test year.

The cost of service methodology allows for rate smoothing in terms of the gradual attainment of financial targets. The cost of service methodology is also more efficient in that it focusses directly on the financial and operational forecasts of Centra rather than the calculation of a return on equity, which is not a factor in the decision making process of management or in the Company's determination of an appropriate rate change.

As noted by Mr. Rainkie at pages 596, 603 and 604 of the transcript, in Centra's view the best information the PUB can use in making its rate determination is the same information that's used by senior management and the Company's board of directors in terms of their financial forecast and the rate proposals derived from it.

We'd been invited to address in final argument, the provisions of Section 127 and Section 61 of the PUB Act. Before looking at specific provisions, I think it's helpful to consider the overall intent of the legislation as this intent will provide guidance in the interpretation of the legislation.

Mr. Saxberg and I agree on that point that the Bell Vu Express (phonetic) case does indicate that --

that type of guidance in determining the legislation.

The overriding principle in the Act and the mandate of this Board is clearly acknowledged as ensuring just and reasonable rates. As such, the provisions of the Statute should be considered in light of achieving that objective.

Mr. Saxberg spent a good deal of time addressing the use of the word, "shall" and I'll refer you to the quote at Tab 8 of his material, page 64.

(BRIEF PAUSE)

Mr. Saxberg quoted from the Manitoba Language Reference Decision and it -- it discusses the proviso that the use of the word, 'shall' is mandatory, but it goes on to say unless it is utterly consistent with the context in which it has been used and would render this section irrational or meaningless.

So the Board's hands are not tied. The overriding consideration is the intent of the legislature, which we all agree is just and reasonable rates.

In discussions regarding the Sustainable Development Act, Mr. Saxberg suggested today that it was perverse to have different legislative provisions apply to Manitoba Hydro and to Centra Gas, however, I noted he didn't have the same concerns when it came to the issue of recognizing legislation for the purposes of rate setting.

When considering how to determine whether rates are just and reasonable, the Board has given broad discretion to -- to consider any number of factors that it determines important. For example, Section 126 of 1 sets out a number of criteria, which the Board may consider in making its order, including whether the rates are just and reasonable in Part A, the financial stability of the Company in Part C and in Part E, it specifies that the Board, in its discretion, may consider any other criteria that the Board deems appropriate.

In determining just and reasonable rates, the Board must also take guidance from Section 127 Sub 1, which provides that the Board shall determine, from time to time, rates and tolls or other charges to be charged by a public utility or any person for selling, delivering, distributing, storing or transmitting gas within the province and in connection therewith, shall determine inter alia, the rate base and rate of return on shareholder equity.

Although the wording of that section makes determination of rate base and rate of return on shareholder equity mandatory by use of the word, 'shall' there are still a number of matters within the Board's discretion.

I should also note that the reference to inter alia, meaning among other things, suggests that the Board is not limited to rate base and rate of return on shareholder equity. The Board is certainly empowered to consider cost of service as one (1) of those other or inter alia items.

In terms of areas of discretion, first there are no criteria which govern how the Board must determine rate base and return on equity. Certainly, there's been a practice which has been followed in the past number of years, however, it is not enshrined in the legislation and it is within the Board's discretion to establish a more simplified means of determining rate base and return on equity.

I not that Section 127(2) indicates that:

> "In determining the rate of return under Subsection 1, the Board is directed to fix a rate of return which it determines to be in compliance with the Act. There is no specific determination or direction on to how the Board should determine the rate of

return. It is also completely within the Board's discretion provided that it meets the overarching consideration of producing just and reasonable rates. Secondly, the Legislation may require the Board to turn its mind to rate base and rate of return on shareholder equity. However, it does not require the Board to set rates on that basis. It is within the Board's power to establish rates on another methodology and to take into account factors other than rate base and rate of return. In particular, Section 77(A) sets out the overriding consideration of just and reasonable rates.

I should note that in reviewing the statute we also looked at Section 107 which provides that the Board may perform duties assigned to it by the Act or by Legislation, which may also suggest that the Board has the ability to determine whether it ought to follow the specific criteria referred to in the Act or whether it ought to exercise discretion in light of the particular circumstances before it.

The overriding consideration for the Board must be whether rates are just and reasonable. And in that regard, the Board may take into account any factors it deems relevant. I should note that many discussions have been predicated on whether rates under cost of service methodology are lower than the rates under rate base rate of return methodology. However, the consideration of criteria does not restrict the Board to approving rates as generated under the rate base rate of return methodology.

The Board may approve rates which are either lower or higher than the amounts generated by the rate base rate of return methodology. Consideration of factors such as moving more quickly to establish appropriate levels of retained earnings may lead the Board to approve rates other than those generated by the rate base rate of

return methodology.
I've also been asked to address Section 61 of the PUB Act, which provides that where rate base is a factor in determining just and reasonable rates or tolls, the Board shall allow a rate of return based on a rate base that includes as basic elements the historic cost of the assets and reasonable amount for working capital.
Section 61 appears to support considerations other than rate base, as it indicates that it applies only where rate base is a factor."

And I would draw your attention to that preamble in looking at the Legislation.

As I've indicated, Centra is of the view that the Board has discretion to determine whether it wishes to set rates based on this methodology. And, as such, it is only in circumstances where the Board accepts that this is the appropriate methodology that this section applies.

Further, this section is not an exhaustive list of considerations in the calculation of rate base rate of return. The Board may wish to take guidance from this section in turning its mind to the depreciated value of planting service and working capital requirements in considering rate base and rate of return on equity, but it is certainly free to consider other items such as financing expense and a reasonable level of net income in establishing rates.

I should note that there is support for these views in the case law surrounding the determination of just and reasonable rates by Public Utility Tribunals. By way of example, I would refer you to the British Columbia Hydro and Power Authority versus West Coast Transmission case, in which the courts commented on the application of the National Energy Board Act to the NEB's functions.

At paragraphs 53 through 55, which I've included at Tab 6 of Centra's material, the court concludes that:

> "There is nothing in the NEB Act which requires the Board to fix a rate base in any particular way or to approve the amount of every item to be added to rate base before it is so added."

The same principles apply here. Although it would be simplified if the Legislature had substituted the word 'may' for the word 'shall' in Section 127 when referring to the Board's considerations, there are no specific criteria by which the Board must make these determinations and no requirements that rates be set solely based on them.

In this application Centra is seeking approval of a 2005/06 non-gas revenue requirement of approximately $129.5 million and a 2006/07 non-gas revenue requirement of approximately $142.7 million. These amounts have been calculated based on the cost of service methodology.

I should note for clarity of the record that the $12 million increase awarded by the Board on February 1st, 2005 does not relate solely to increases in non-gas costs. As Mr. Rainkie noted in his testimony, at pages 327 and 328 of the transcript, $3 million of the requested $12 million increase is entirely attributable to reductions in volume between the 2003/04 test year and the 2005/06 test year.

One quarter (1/4) of the required rated increase is attributable to volume loss. And it's important to note that this is a natural consequence of DSM programs, which Mr. Czarnecki will address shortly.

At the time of the filing of the interim application and the general rate application, Centra had incurred net losses of $2 million in 2002/03 and $8 million in 2003/04.

Those losses reduced Centra's retained earnings to $27 million as at March 31st, 2004.

Centra's integrated financial forecast or IFF is prepared each fall with revenues, operating costs and capital expenditures as key forecast components.

The IFF projects Centra's financial positions, net income levels, revenue requirements and financing needs. Centra's IFF for the 2004/05 to 2014/15 period which is CGM/04-1 was approved by Centra's Board of directors on October 21st of 2004.

Centra has projected its revenue requirement for the 04/05 fiscal year and the 05/06 and 06/07 test years based on its IFF.

The IFF contemplated certain rate increases which are, in the opinion of management and Centra's Board of Directors, reasonable for the Corporation.

In the absence of the requested rate increases, Centra projected additional losses of $8 million, $10 million and $15 million in 2004/05, 05/06, and 06/07 respectively, which would further reduce its retained earnings to a deficit of $8 million by March 31st of 2007.

As part of the IFF process, Centra's Board of Directors approved the recommendation to apply to the PUB for an interim rate increase of approximately 2.5 percent of overall revenue, effective February 1st, 2005 and a further increase of 2.5 percent of overall revenue, effective May 1st, 2006.

For years subsequent to 06/07, Centra's IFF assumes rate increases of 1 percent in 2008/09, 2010/11, 2012/13 and 2014/15 respectively.

These rate increases are provided to the Board of directors as context for the current rate proposals. Each years revision to the IFF is based upon updated forecasts of revenues, operating costs, volumes and capital expenditures.

Actual rate applications, if any, made for those future years, will be dependent on the conditions of the day.

The February 1st, 2005 increase was projected to generate additional revenues of $3 million in 2004/05 and $12 million in '05/'06.

It was expected that this would reduce the projected loss for 04/05 to $5 million and result in a small net income of $2 million in '05/'06.

Centra also requested a further rate increase of approximately 2.5 percent on overall revenues effective May 1st, 2006 to coincide with the primary gas rate change on that date.

Combined with the interim rate increases, Centra's retained earnings were projected to increase to $35 million by March 31st of 2007.

With the proposed increases of 2.5 percent effective February 1st, 2005 and 2.5 percent effective May 1st, 2006 together with projected rate increases of 1 percent each second year thereafter, commencing April 1st of 2008, Centra's debt equity ratio is projected to improve from 84:16 at March 31st, 2005 to the range of 75:25 by 2009/10.

The target debt equity ratio for Manitoba Hydro at the corporate level is 75:25.

The Board of Directors of Centra has approved the same financial targets for Centra.

I'll address the Corporate allocation in a few minutes, but I first would like to discuss the implication of the change in the corporate allocation that was made by Centra during the preparation of the 04/05 audited financial statements.

The reduction in -- of the corporate allocation for '04/'05 forward from $15.1 million to $12 million will result in a corresponding increase to the net income and retained earnings of Centra.

With the projected rate increases and the adjustment to the corporate allocation, Centra is still projecting a loss in 2004/05 of $2 million and a net income of $5 million in '05/'06 and $14 million in 06/07.

This is projected to result in retained earnings as at March 31st, 2007 of $44 million.

The 75:25 debt equity ratio target set for Centra is, under this proposal, projected to be achieved in 2008/09 as was set out in the response to Undertaking Number 26, filed as Centra Exhibit 37.

The Board acknowledged the importance of a financially sound utility and the need for financial targets and a reasonable means of achieving them in Order 13/05.

There are several significant findings in that Order and I think it's important to review and address each one of them.

In granting Centra's requested rate relief at that time, the Board found at page 11 that, and I'll quote:

> "It is generally accepted that a financially healthy utility is in the public interest. The Board has been consistent in its support of a 75:25 debt equity ratio for Manitoba Hydro and Centra is part of the Manitoba

Hydro consolidation."

Carrying on, as indicated, Centra was acquired by Manitoba Hydro through debt and Centra's current retained earnings balance arose in the absence of corporate allocations by Manitoba Hydro against Centra in the early years following acquisition.

In short, as matters now stand and from an overall economic perspective, Centra's operations are funded solely or virtually all by debt. To transition to a more acceptable debt equity ratio will take many years and can only be done by rates and levies on Centra's customers to avoid burdening Manitoba Hydro electricity customers with gas-related costs.

I have included, for your reference, the findings from Order 13/05 at Tab 7.

(BRIEF PAUSE)

MS. MARLA MURPHY: Further, at page 12 of that Order:

"The Board also found financial targets should be established for a debt equity ratio, interest coverage and capital coverage similar to the targets established for Manitoba Hydro overall

and its electric operations.
The Board is interested in and anticipates a significant discussion with Centra at the spring 2005 GRA towards understanding Centra's long-term plans with respect to building equity without unduly burdening current and future gas customers." End of quote.

The Board, in Order 13/05 recognized the reality of the world in which Centra now lives. The Board recognized that Centra needs appropriate financial targets and it recognized the substance over the form.

Indeed, it is the case that Centra's equity is funded by debt on the books of Manitoba Hydro. The Board recognized that the only reason that Centra has any retained earnings at all at this point is that the corporate allocation was not charged in the early years of the acquisition.

In setting just and reasonable rates and ensuring a financially stable utility, the Board has recognized that it must do more than simply follow an old construct. This is a world in which Centra is a Crown-owned utility. Issues such as an appropriate debt equity ratio and interest coverage are significant in determining the necessary rate changes.

Centra encourages the Board to stay the course it charted in Orders 131/04 and 13/05 and look to the future, not the past. Centra's cost of service application meets the Board's requirements and delivers on the plan the Board started in Order 13/05.

That order and the plan, if you will, that's in it, recognized the need for long-term financial targets for Centra. This Application represents the first step toward achieving those targets, moving towards an appropriate level of retained earnings, as an acceptable debt equity ratio.

The overall corporate target of a 75:25 debt equity ratio has been accepted as appropriate for Manitoba Hydro. As noted by Mr. Warden, Centra is the largest subsidiary of Manitoba Hydro and it's appropriate that they should contribute to that target. This was also recognized by the Board in Order 13/05.

So, the question becomes: How do we get there? What's the appropriate time frame over which to achieve the target and what are the acceptable rate increases for customers to get there?

As Mr. Warden testified, Centra's Board of Directors, having regard for the fact that there's only been one (1) increase of 0.4 percent to distribution rates since the date of acquisition was of the view that customers could tolerate rate increases of 2 1/2 percent in each of the two(2) test years.

The Board, in Order 13/05, approved Centra's request for an interim rate increase recognizing the projected losses that would otherwise be incurred in '04/'05 and '05/'06. It is critical that that Order be confirmed so that Centra's financial integrity can be maintained.

Clearly Centra required and continues to require the rate relief that was granted in Order 13/05. This is the only means by which Centra can reduce its loss in 2004/05 and avoid a loss in 2005/06.

If the Board accepts that Centra ought to build a reasonable level of retained earnings, then it ought to also grant Centra's request for a second test year increase. In the absence of that increase, Centra will essentially just break even in 2005 -- 2006/07 with the first increase.

Centra's Board of Directors views 2.5 percent as the appropriate rate increase to make meaningful progress towards attainment of financial targets.

Mr. Saxberg suggested today that Centra was racing towards that target more quickly than Manitoba

Hydro and ought to slow down, however, I'd invite you to consider Tab 20 of Mr. Saxberg's book of documents. He made reference to that today as Manitoba Hydro's IFF and I'd like to draw your attention to the percent increase line at the bottom of that chart.

You'll note that that IFF projects rate increases of 2 1/2 percent, excuse me, per year in every year in order to achieve that target. These are, in fact, higher rate increases than what's been proposed for Centra and having regard for customer sensitivity, Manitoba Hydro is working to meet those targets on both the Hydro and the Centra side as is set out in those IFF's.

I'd like to turn, now, to the issue of the corporate allocation. CAC/MSOS referred many times in the course of its evidence and in its argument to the Board's plan in Order 118/03. What was overlooked by CAC/MSOS is that Order 118/03 was clearly transitional in its application.

For example, Order 118/03 contemplated that the synergy benefit transfer approved in that Order would be eliminated by no later than March 31st of 2005. The transitional period has passed and it's now essential that we have a clear and transparent means of sharing acquisition costs between electricity and gas segments, a method that will endure from this day forward.

The corporate allocation, as reflected in the audited financial statements of Manitoba Hydro, is the best method to clearly demonstrate the costs borne by each of the gas and electric ratepayers. The need for a corporate allocation was recognized at page 10 of Order 13/05 and I quote:

> "The Board understands and appreciates the rationale for the corporate allocations to be reasonable assurance that Manitoba Hydro's electricity customers do not bear costs related to Manitoba Hydro's acquisition of Centra."

And, in that case, the Board referred to Order 118/03, that the no harm principle is paramount.

The corporate allocation is easy to understand and communicate. It is simply an apportionment of the costs incurred to buy Centra gas between electricity and gas ratepayers. Manitoba Hydro has always sought the fairest and most equitable way of making that apportionment.

As outlined on pages 5 to 10 of Centra's rebuttal evidence, the corporate allocation is the only allocation to Centra ratepayers related to the costs incurred by Hydro to acquire and integrate the natural gas utility. There is no double counting.

Absent the corporate allocation, all acquisition and integration costs would be borne by electricity ratepayers and, as such, they would not held harmless.

Centra believes that the formalization of the corporate allocation in Centra's revenue requirement will enhance transparency as it will be clear to both the readers of the financial statements and participants to the regulatory process, the exact amount that has been allocated to Centra to pay for Centra's share of the acquisition and integration costs.

Adoption of the cost of service methodology for the setting of gas rates will further enhance transparency in that the PUB will be using a consistent methodology to that which is used to set electricity rates. Both of these measures will facilitate comparability and understandability of the revenue requirements and the financial statements of Centra and Hydro.

Centra Exhibit 12, contained at Tab 8 of our material, clearly demonstrates the appropriateness of this allocation. The $19 million of costs are recorded in the corporate segment and you'll find that in the note attached. They're recorded in the corporate segment and they're allocated to gas and electricity ratepayers and you may wish to refer to Centra Exhibit 35 for a calculation of the amount.

There are no other amounts of money flowing to the electricity operation relating to the acquisition of Centra. The corporate allocation is the only transfer. Again, there's no double counting. Any retained earnings which accrue in Centra remain for the benefit of gas customers. They are not transferred to electricity ratepayers or distributed to shareholders as they were in the past under West Coast ownership.

This type of recording clearly demonstrates the cost and how much each segment is contributing to those costs of acquisition. It is Centra's view that it is appropriate to align the regulatory and accounting treatment with the common goal of equity and transparency. Centra's proposal does that.

The corporate allocation is the only allocation of costs between Centra and Manitoba Hydro related to the acquisition. There is $19 million in acquisition costs to be allocated between gas and electric ratepayers. The apportionment commencing in fiscal year 2004/05 will be $12 million to gas ratepayers and $7 million to electric ratepayers.

The reduction in the corporate allocation from 15.1 million to $12 million does not prevent a net loss from being incurred in 2004/05, but it does reduce the amount of the loss that would otherwise be incurred. Most importantly, the principles of fairness and no harm for both electricity and gas ratepayers are preserved.

In the course of finalizing the details of the audited financial statements, the financial statement note pertaining to the corporate allocation was reviewed by management. For the two (2) previous fiscal years, that's 2002/03 and 2003/04, the total cost of acquiring Centra of $19 million per year have been allocated $15 million to gas ratepayers, $4 million to electric ratepayers.

This apportionment was based on an estimate of benefits to be achieved in each of the utilities and was intended to preserve the no harm principle advocated by Manitoba Hydro since the date of acquisition.

Recognizing that more of the synergies than originally estimated are being realized on the electric side of the business, Manitoba Hydro determined that the electricity business should receive a somewhat higher allocation than the allocation of the past two (2) years.

Centra's operating and administrative costs for the 2005/06 test year are forecast to be $54.1 million and for the 2006/07 test year are forecast to be $55.2 million.

Centra Exhibit 16 and the underlying data filed in response to Undertaking 29 indicates that the actual and forecast growth in Centra's O&A costs are substantially less than the growth and inflation and customer growth since 1993. That material is included for your reference at Tab 9. These exhibits and examples clearly indicate that Centra's O&A expenses are well controlled and well below inflationary levels.

There are no synergy transfer amounts embedded in the applied-for O&A component of revenue requirement. The amount of applied-for O&A expense represents only the anticipated expenditures required to operate the gas utility. The synergy benefit amount of $3 million that was previously approved is not contained in the applied-for revenue requirement for either test year.

Mr. Saxberg has made various representations regarding what costs would otherwise have been absent acquisition. He relies upon transcripts and testimony from the past and suggests that these references are a more reliable indication of what would have happened than the real circumstances and events that have occurred over the last ten (10) years.

These real circumstances that have given rise to cost increases include major increases in bad debt costs, pension and benefit costs, costs relating to implementing a new year 2000 compliant customer information system, costs related to implementing mandatory new services and requirements such as WTS, costs relating to enhancing the system's integrity and safety, and costs related to -- sorry, cost increases associated with foregone wage increases during the 1990's, when the Manitoba economy was exceptionally slow.

These costs are conservatively estimated in Centra's absent acquisition scenario placed in evidence at this proceeding. Questions have been asked and answered, and there is no evidence to suggest there's any overstatement of the absent acquisition scenario.

In fact, the absent acquisition scenario is conservative -- excuse me -- it does not include further differences relating to lower facilities costs due to EFT reductions, those relating to lower material costs due to enhanced economies of scales, or those relating to access to lower financing costs.

In the end, all we have from Mr. Saxberg are some quotes from the 1990's and an unsupported comment by Mr. Matwichuk that suggests the costs are overstated.

Further, Mr. Saxberg has then taken his flawed conclusion about the cost of providing service and suggested that Manitoba Hydro's application for O&A costs, which is $8 million lower than the conservative estimate of what otherwise would have happened, is still at least $3 million too high.

He suggests that Centra has somehow buried the $3 million synergy transfer allowed at the last rate case into the details of its forecast cost of operations to provide a cost level that's higher than necessary to provide safe and reliable service to gas customers.

To support this allegation, Mr. Saxberg indicated this morning that because he feels that some of the variances shown between actual and forecast costs in 2003/04 represent non-recurring events, the forecast must be overstated. In that assertion he's conveniently left out the non-recurring savings items that are also indicated.

More importantly, what he should be looking at is the evidence and explanations that support the forecasted O&A expense. This is the information that illustrates the forecasted cost of operations. These forecasts are based on actual experience and plans for operating in the test years.

These plans and forecasts, by their nature, leave out non-recurring items, savings or costs, and what remains is only the expected operating cost for the utility. There is no provision for allowing forecast for costs which are not expected to occur.

There's absolutely no evidence to support the contention that Hydro has buried the $3 million synergy transfer in its operating and administrative forecast, and there's absolutely no reason that Centra could possibly have to artificially inflate its forecast of O&A expense.

Hydro and Centra do not benefit from overstated forecast. There's no shareholder or third party that would profit from this. The graphs provided in Exhibit 16 and the data provided in Undertaking 29 show that the costs being forecast by Centra in this Application are consistent with its actual past experience of cost levels and are lower than the increases that were actually experienced by Centra under private ownership in the 1990's.

Having reviewed the cost of gas, net income, O&A and the corporate allocation, Centra's material also includes information with respect to other non-gas components of its revenue requirement.

These components are depreciation and amortization, capital and other taxes, finance expense and other income. There appears to be no issue with respect to these amounts, which are for your ease of reference, provided at the application at Tab 4 and are summarized in schedule 3.0.0, a copy of which can be found at Tab 10, of Centra's Book of Documents and Authorities.

THE CHAIRPERSON: Ms. Murphy...?

MS. MARLA MURPHY: Yes?

THE CHAIRPERSON: Do you want to take a short break?

MS. MARLA MURPHY: I think I'm fine. Thank you.

THE CHAIRPERSON: Okay. I wasn't actually thinking of you to be honest.

MS. MARLA MURPHY: I'm sorry, then that would be great.

THE CHAIRPERSON: Just ten (10) minutes. I want to be transparent.

--- Upon recessing at 4:28 p.m.
--- Upon resuming at 4:38 p.m.

THE CHAIRPERSON: Thank you Ms. Murphy.

MS. MARLA MURPHY: Carrying on, in Tab 5 of Centra's application a detailed calculation of rate base and rate of return on equity were provided for the 2005/06 and 2006/07 test years.

With the exception of the return on rate base component of these calculations, the remaining items of revenue requirement are the same under both cost of service and rate base rate of return methodologies.

Given the detailed nature of these calculations and the number of issues address in final argument, we have as I indicated, filed a portion of this in written form.

This is the material that was provided to you earlier and we'd ask that it be taken as read and included in the transcript.

THE CHAIRPERSON: Sobeit.

(APPENDIX A TO 2005/06 AND 2006/07 GRA FINAL ARGUMENT TYPED IN BELOW)

"Rate Base and rate of Return:

While Centra has filed its application based on a Cost of Service methodology, in accordance with the direction of the PUB in Order 131/04, it has also prepared supporting material on a Rate Base Rate of Return methodology for the 2005/06 and 2006/07 test years. These detailed calculations are found at Tab 5 of Centra's Application.

The purpose of this written appendix to Centra's final argument is to summarize these calculations for the PUB and to respond to any concerns which were expressed during the hearing.

Rate Base: Centra has calculated a rate base amount of $395.0 million for the 2005/06 Test Year, and $407.5 million for the 2006/07 Test Year, which are summarized on Schedule 5.0.0 (which is attached to this document for ease of reference). Rate base consists of gross plant, less accumulated depreciation, less contributions in aid of construction, plus working capital allowance.

Additions to Rate Base: It is appropriate to consider some of the capital expenditures which have been undertaken since the last General Rate Application. Schedules 5.2.0, 5.2.1, 5.2.2., and 5.2.3 summarize the major capital projects that have been undertaken since 2003/04 or are planned for 2005/06 and 2006/07. This argument will address those projects which have been discussed at the hearing, or are otherwise significant projects.

System Load Growth: The attachment of customers in existing franchise areas, which is referred to as system load growth, is usually Centra's largest capital expenditure on an annual basis. For the 2004/05 year, Centra anticipates capital expenditures of approximately $9.5 million. For the 2005/06 test year, Centra anticipates capital expenditures of approximately $9.7 million, and for the 2006/07 test year, Centra anticipates capital expenditures of approximately $9.6 million (transcript page 581). These capital expenditures are, in Centra's view, justified by the associated load addition to the system.

Riser Rehabilitation Program: Another project which was discussed during the course of the hearing was the Riser Rehabilitation program. The evidence of Mr. Aziz described this program, which commenced in 2000/01 with the inspection of approximately sixty-six thousand (66,000) residential service riser assemblies with inside meters. Soil settlements around foundations have, over time, placed stress upon the risers, and in some cases, have resulted in failures of the riser assemblies.

This presents a safety concern to the Company. Centra has prioritized its replacement work, and continues to replace riser assemblies. From the commencement of the program in 2000/01 to the end of 2004/05, approximately ten thousand (10,000) riser rehabilitations have been completed.

It is anticipated that this project will continue until 2007/08, for a total of approximately nineteen thousand, five hundred (19,500) to twenty thousand (20,000) riser rehabilitations being replaced over the life of the program (transcript page 934).

Plant additions with respect to this project are set out in Tab 5, page 8 and total $8.2 million from 2003/04 through to the 2006/07 test year.

Outside Meterset Rehabilitation: Related to the Riser Rehabilitation Program is the Outside Meterset Rehabilitation Project. This project is being initiated to address piping failures that have occurred to residential service riser assemblies with outside metersets due to soil settlement.

The analyses of these failures indicate that most failures were associated with older metersets where the piping downstream of the meter had limited movement capability due to auxiliary customer piping.

During 2004/05 and 2005/06 Centra will be identifying and inspecting these services to define the scope of the rehabilitation program and prioritize those sites requiring rehabilitation. Commencement of rehabilitation work is planned to begin in 2006/07.

To further address this issue, Centra has raised the issue of how customer-owner piping is attached to the Centra piping with both the Manitoba Department of Labour and Mechanical Contractors Association.

A standard is currently being developed to specify requirements for the customer connection point downstream of the meter to ensure a pivot point is provided (transcript pages 941 and 942).

South Loop Capacity Upgrade: Centra also adduced evidence in this hearing regarding Centra's project to construct a 5.7 kilometre of NPS 8 and 16.5 kilometres of NPS 6 transmission pipeline looping from the Town of Carman heading south.

This project was required due to continual load growth in the Winkler District and is a continuation of the 2000/01 looping project that was installed from Elm Creek to the Town of Carman. Centra plans to spend $2.3 million between 2003/04 and 2004/05.

Southwest Transmission Pipeline Investigation and Repairs: With respect to the Southwest Transmission Investigation and Repair project, Centra experienced five (5) isolated underground gas leaks from the NPS 6 transmission pipeline between Souris Junction and Boissevain.

In order to mitigate the risk associated with the corrosion leaks, Centra undertook in 2002/03 to identify and repair all coating damages on the transmission pipeline system.

Centra also retained an external consultant to perform a risk assessment. As a result of this work, the reliability of this pipeline has been substantially increased and is safe to operate up to its maximum rated operating pressure (transcript page 960).

The capital expenditures for these corrective actions from 2002/03 to 2004/05 is seven hundred and sixty-six thousand dollars ($766,000). This expenditure is considered by the Company to be necessary because it ensures the safety and reliability of the Southwest Transmission Pipeline System.

Hanover/LaBroquerie Transmission Pipeline: The Hanover/LaBroquerie transmission pipeline has experienced six (6) pinhole leaks on the welds since the installation of this line in 1999. To address this, Centra retained an outside consultant to perform an engineering assessment of the welds and risk analysis and conducted some additional weld inspections on this pipeline.

The capital expenditure for these corrective actions from 1999/00 to 2004/05 is seventy-six thousand dollars ($76,000). Based on this work and risk assessment findings, the pipeline is considered to be safe to operate at its maximum rated operating pressure (transcript page 956).

Centra notes that both the expenditures related to Southwest Transmission Pipeline investigation and repairs and the Hanover/LaBroquerie Transmission Pipeline repairs were placed in Construction Work in Progress by the Board in Order 118/03.

Centra is of the view that these expenditures were prudent and based on the corrective actions taken to date, has placed them back in Gross Plant in 2004/05 for the purpose of rate base calculations.

Some of the actions taken by Centra pertaining to pipeline welding subsequent to these leaks include development of new welding procedures and increased training on weld inspection to Centra's construction staff and certified two (2) of its personnel to be Level 1 welding inspectors through the Canadian Welding Bureau. (Transcript page 955).

Ste. Agathe: In 1999, Centra completed the extension of natural gas service to the community of Ste. Agathe which is located in the RM of Ritchot. The project was designed with sufficient transmission line capacity to serve the canola crushing plant located in the Manitoba Interlinke Industrial Park which is adjacent to Ste. Agathe.

The canola crushing plant never became functional and as such, no dedicated facilities had been built to service the needs of the plant specifically. These expenditures were placed in CWIP by the PUB in Order 89/97 until such time as Centra could demonstrate the prudence of the expenditures.

As noted during the course of the hearing, Centra is now in a position where it is preparing to proceed with construction for a new operator in the facility (transcript pages 1119, 1120). As such, Centra has included the expenditures of $1.428 million in Gross Plant in 2004/05 for the purpose of rate base calculations.

Polyethylene Butt Fusion Remediation Project: Another project which was discussed during the course of the hearing was the Polyethylene Butt Fusion Remediation Project. This project comments in 1999 with the replacement of three (3) distribution mains subsequent to several polyethylene butt fusion joint failures that were associated with single fuser who originally installed the mains in 1988 and 1989.

Since 1999 the investigation into the integrity of all the remaining mains installed by this specific fuser has continued through random butt fusion joint testing. When a testing failure is experienced, all the butt fusions on the specific project are replaced. (Tab 5, page 12). This project is forecast to continue to 2006/07. Expenditures for this project are included under the Integrity Management Projects set out in Tab 5.

Remote Telemetry Units: Another project which was discussed during the course of the hearing was program to replace obsolete and unreliable Remote Telemetry Units (RTU) with Programmable Logic Controller (PLC).

PLCs are more reliable, efficient and provide the necessary field computer functionality at sites monitored by SCADA. Plant additions with respect to this project are included under Regulator Station Upgrades set out in Tab 5.

Inkster Boulevard 8" Main Project: Another capital project undertaken in the 2004/05 fiscal year is Inkster Boulevard 8" Main Project. The existing distribution system in the Inkster Industrial Park reached its operating capacity in 2000/01 due to significant industrial load growth.

The King Edward and Kinver station was installed in 2000/01 to provide an additional medium pressure natural gas supply to reinforce supply. The Inkster Boulevard 8" Main Project was necessary to connect to the King Edward and Kinver station and provide the necessary distribution mains to meet the increasing capacity requirements of the customers in this area.

The total additions to rate base for this project for 2004/05 are five hundred and fifty-eight thousand dollars ($558,000). This cost is an updated estimate compared to the original forecast in the 2003/04 GRA (page 1054).

As Centra discussed during the hearing the initial cost estimate was completed at a time prior to the detailed investigative work. The estimate was done to accommodate financial forecasting needs.

As the project proceeded in its development a new updated cost estimate was prepared that included information gathered from the field. The final pre-construction estimate was five hundred and fifty-eight thousand dollars ($558,000). The actual cost of the project was six hundred and fifteen thousand dollars ($615,000).

Gladstone-Austin Natural Gas Co-op Acquisitions: Centra acquired the assets of the Gladstone Austin Natural Gas Co-op on March 1, 2004. Centra has integrated the assets and operations of the Co-op with those of Centra.

The PUB approved the sale and merger of the assets and operations of the Co-op with Centra in Order 20/04, dated February 6th, 2004.

The plant additions for 2003/04 are $1.758 million. In addition, Centra spent seventy-seven thousand dollars ($77,000) integrating these assets into its existing asset base.

The cost of the transaction and of integrating the operations of GANG into Centra are outlined in the response to PUB/Centra 8 and Undertaking 19, Centra Exhibit 34 (transcript pages 1009 - 1113).

Mr. Rainkie testified at pages 1359-1360 of the transcript that the original cost of the assets acquired was approximately $3.5 million, and that the estimated depreciated replacement cost of the assets at the date of acquisition was approximately $5.0 million.

Four Party Trench Installation Process:

During the course of this hearing, Centra gave evidence regarding the four party trench installation process. You will recall that the four (4) party trench installation process recently developed integrates Centra's gas installation into the former three (3) party (electric, telephone and cable TV) trench process.

Prior to proceeding with the four (4) party trench initiative, Centra evaluated the current processes for installing the gas and three (3) party installations separately, compared to installing all four (4) utilities at once.

The results of the evaluation indicated that there would be an approximate 25 percent overall saving associated with the four (4) party trench installation process. These savings were exclusively associated with the installation of the plant and associated activities.

Other qualitative benefits associated with this process include, gas main locations will always be known relative to the electric cables as they are installed in the same trench, improving safety; damage to plant during installation is eliminated as all plant is installed at the same time; new service installations will be more efficient as no services will need to be pushed across the roads, improving waiting times; meter reading efficiency will be improved as gas and electric meters will be installed on the same side of the house; and, less impact to gas services during future street maintenance activities such as road reconstruction. (Transcript pages 585 and 1034).

The method to apportion costs is based on alloting each of the four (4) parties an equal share for common activities such as trenching, backfilling and surveying. Each of the utilities is then responsible for the cost to install its exclusive plant which includes cables, pipes or conduits, service drops and equipment.

The portion of total cost allocated to each of the four (4) parties changes from project to project based on the amount of plant installed on their behalf. Therefore, costs are allotted based on the equitable division of the common costs plus each party's exclusive cost for each of the participants rather than allotting a set portion of the total costs on a per project basis (PUB/Centra 105).

During the 2004/05 construction season, Centra's activities were focussed on developing clear, safe, efficient standards for the design and installation of the plant under the four (4) party process. During this period projects were completed in various areas of the Province allowing staff to gain experience with the new designs and provide feedback (PUB/Centra 7).

Currently, Centra is undertaking an initiative to optimize the process for four (4) party trenching including the evaluation of the method of installation including the use of Manitoba Hydro internal crews, tendered contracts or a combination of both.

This initiative to optimize the four (4) party installation process is scheduled to be completed by December 2005 with the process being continually monitored and refined during this time. Implementation of the optimized process is scheduled for January 2006 (PUB/Centra 105).

Although the costs of the four (4) party trench initiative to date have been higher than the costs in the former single trench scenario, Centra expects that this can attributed in part to the process development which is occurring in the initial stages of this project.

Centra will consider the costs of the four (4) party trench initiative and weigh these costs which are anticipated to be reduced once standards have been developed, and the potential benefits noted above to determine whether this program is in the best interest of ratepayers.

Centra has also provided calculations of the overall rate of return for information purposes in Tab 5 of the Application. For the 2005/06 test year Centra has calculated an overall rate of return of 7.68 percent as set out in Schedule 5.7.2 and for the 2006/07 test year, an overall rate of return of 7.75 percent as set out in Schedule

5.7.3 (Schedules 5.7.2 and 5.7.3 are attached for ease of reference).

Centra bases its calculations on a capital structure for rate setting purposes of 56.3 percent long-term debt, 11.4 percent short-term debt, and 32.3 percent equity for 2005/06, and 50.2 percent long-term debt, 16.4 percent short-term debt, and 33.4 percent equity for 2006/07.

The capital structure calculation is based upon the PUB approved methodology. A cost of equity financing or return on equity ("ROE") of 9.26 percent is calculated using the ROE formula as was approved by the PUB in Order 49/95, based on the November 2004 Consensus Forecast and long-Canada bond yield data for the last six (6) trading days in November 2004. (A copy of Attachment 1, Tab 5 is attached for ease of reference).

The cost of long-term debt of 7.45 percent for 2005/06 and 7.66 percent for 2006/07 is based on a thirteen (13) month average embedded cost of debt calculation. Centra's forecast cost of short-term debt is 4.35 percent for 2005/06 and 4.95 percent for 2006/07.

Return on rate base: The total return on rate base for the 2005/06 test year is $31.3 million, which includes the amounts referred to on Schedule 5.9.2 plus the interest on common assets and interest on inventory as shown on Schedule 4.12.0.

The total return on rate base for the 2006/07 test year is $32.6 million, which includes the amounts referred to on Schedule 5.9.3 plus the interest on common assets and interest on inventory as shown on Schedule 4.12.0."

CONTINUED BY MS. MARLA MURPHY:

MS. MARLA MURPHY: In response to the evidence of CAC/MSOS and the assertion that gas customers may be harmed by the proposed rate increases, Centra prepared a calculation of what has been referred to as the no-harm or absent acquisition scenario.

The proper basis of the no-harm calculation for Centra customers is based on what would have otherwise happened absent the acquisition.

This calculation would be based on rate base rate of return methodology assuming West Coast Energy Inc. ownership. Revenue requirement under rate base rate of return under Manitoba Hydro ownership, is not relevant to the no-harm issue.

The appropriate measurement for no-harm is the non-gas portion of revenue requirement which includes consideration of operational savings, income tax reductions and other identifiable savings and service enhancements which arise from the transaction.

Centra's calculation of no-harm for the 2005/06 test year was presented on page 14 its rebuttal evidence. It should be noted that the absent acquisition scenario does not include the cost incurred to enhance customer service delivery, nor does it include all of the increased costs associated with other program initiatives introduced by Centra since the date of acquisition, which are of benefits as well to Centra's ratepayers.

Page 14 of Centra's rebuttal evidence has been reproduced at Tab 11 of Centra's Book of Documents. For 2005/06 was provided as Centra Exhibit 27 -- 24, excuse me, which is also included in Tab 11 of Centra's Book of Documents.

Mr. Saxberg referred to the 2005/06 calculation as a breech of Hydro's promise of lower rates. There is no breech of Hydro's promise in delivering benefits to Centra's ratepayers.

Centra's customers have benefited from lower rate increases than would otherwise have been, in fact there has been only one rate increase of 0.04 percent since 1999, and the rate proposals in this application are far lower than the cumulative impact would have been under West Coast ownership.

Secondly, the money accumulated in Centra is for the benefit of Centra ratepayers. There are no shareholders to whom that money will be dividended out.

In Centra's view, a comparison of the existing circumstances with the absent acquisition scenario can be summarized as follows; with respect to the 2005/06 test year, Centra's ratepayers are a minimum of $9 million dollars better off than they otherwise would have been.

For the 2006/07 test year, they are a minimum of $232 thousand dollars better off than they otherwise would have been.

Over the two (2) test years, Centra's customers are a minimum of $9.2 million dollars better off than they would have been, even after the corporate allocation.

This represents a net benefit to Centra ratepayers, and clearly demonstrate that -- demonstrates that there is no harm to Centra ratepayers arising out of the requested revenue requirement in this application.

I'd like to turn now to the evidence provided on behalf of CAC/MSOS. CAC/MSOS recommends the use of rate based rate of return methodology be continued.

The rationale for this recommendation appears to be that Centra is a stand alone utility and that rate based rate of return is preferable because it provides an objective way to establish allowed net income for Centra.

The existence of a separate legal entity and a separate set of financial circumstances do not, in and of itself make a stand alone utility.

The gas and electric operations are fully integrated, and the costs associated with these operations are allocated to each of their respective operations.

Centra relies on Manitoba Hydro for management and operational purposes, and on the Provincial guarantee obtained through Manitoba Hydro to obtain its financing.

If the debate is to be between form and substance, clearly the substance of this structure does not support the contention that Centra is a stand alone utility.

It is hypocritical for CAC to suggest on one hand that Centra's debt to equity ratio is less important because of the parental guarantee that Centra now enjoys by virtue of Manitoba Hydro ownership, and in the same breath argue that Centra should be treated as a stand alone entity for rate setting purposes.

They can not ignore the debt on Hydro's balance sheet for the purposes of determining the level of equity in Centra.

Further, with respect to the suggestion that rate based rate of return should be continued because that's the precedent which has been set, Centra simply notes that the precedent for setting rates under Manitoba Hydro ownership is, in fact, the cost of service methodology.

Indeed, Centra submits that the historic rationale for the different methodologies arose from the different ownership structures of the gas and electric utilities.

Now that the element of investor ownership is gone, it is indeed appropriate to consider a change in the rate setting methodology.

It is short sighted to ignore that reality and blindly suggest a regulatory methodology which no longer applies to the reality of the world in which the gas utility is operated as an integrated part of Manitoba Hydro.

And I note that at page 1484 of the transcript, Mr. Matwichuk in fact agreed that Centra could be regulated on a cost of service methodology.

Finally, CAC/MSOS suggests that the rate based rate of return formula is more objective than the cost of service methodology.

There appears to be some issue with the application of management judgement. This ignores the fact that rates for the much larger electric utility are set on the cost of service and management judgement.

There can be no merit to an argument that the Board can successfully test the application of management judgement in the context of setting electric rates, but for some reason can not apply the same test to the setting of gas rates.

Finally, when Mr. Matwichuk calculated Centra's debt equity ratio based on the previously approved methodology, he arrives at a 67:33 debt to equity split.

This is a simple arithmetical calculation which includes share capital as a component of equity. The reality is that the acquisition is backed by debt, and the share capital shown on Centra's balance sheet is eliminated on consolidation.

While Mr. Matwichuk fails to recognize this, it was acknowledged by the Board in order 13/05 at page 11, quoting:

> "In short, as matters now stand and from an overall economic perspective, Centra's operations are funded solely or virtually all by debt." Close quote.

This drives the need to build equity. This is the fundamental distinction between the positions of CAC/MSOS and Centra.

In conjunction with the recommendation that the Board should continue to set rates based on rate base rate of return, CAC/MSOS recommends that the PUB continue to allow Centra a return on equity in the order of $12 million, and that $10 million of that amount could be used to pay Centra's share of the acquisition and integration costs and the remaining $2 million, be net income to retain in Centra.

Mr. Matwichuk's recommendation is based on his belief that a $2 million net income will result in interest coverage of approximately one point one (1.1) and that this is sufficient for Centra's needs.

Let me deal first with the assertion that $10 million is enough to allocate to Centra to pay Centra's portion of acquisition and integration costs.

Recognizing the difference between CAC/MSOS's recommendation of a $10 million dollar allocation, and Hydro's $12 million corporate allocation is $2 million, the question becomes: Should the amount allocated to Centra be $10 million or $12 million?

Both members recognize synergy benefits realized by electric ratepayers which will partly pay the $19 million in costs of acquisition.

The $10 million allocation to Centra would leave $9 million to be allocated to electric ratepayers, remembering that there's no one other than gas and electric ratepayers to pay these costs.

Given that there are approximately $9 million of synergies in Hydro, then at best there would be no acquisition benefits left in Hydro for the benefit of electric ratepayers.

Because the estimate of synergy benefits necessarily involves a number of assumptions, the risk of harm to electric ratepayers under that scenario is very real.

We know for certain that there are enough synergies and other benefits to pay all of the acquisition costs and leave some of the benefits in each company.

This is accomplished with a $12 million corporate allocation to Centra, and a $7 million corporate allocation to the electricity segment.

Centra's no-harm calculation indicates that including a $12 million corporate allocation and the requested rate increases leaves at least $9.2 million of benefits to Centra ratepayers over the two (2) test years.

This completely supports the view that an allocation of $12 million is appropriate and ensures that risk of harm to either the gas or electric ratepayers is avoided.

Turning to the $2 million net income proposed by Mr. Matwichuk, this level of income will do little or nothing to improve the debt equity ratio of Centra.

Mr. Matwichuk fails to acknowledge the reality recognized by the Board in Order 13/05 that the equity in Centra is backed by debt, and as such, he recommends only a minimal amount of net income and a minimal level of interest coverage.

Following the logic of the Board in Order

13/05, and Centra in the reality of the current ownership and equity structure, this level of income is insufficient to meet relatively modest financial targets.

I would like to address the concerns raised by CAC/MSOS with respect to Centra's no-harm calculation.

First, they question, although without offering any evidence, the quantum of synergies. Second, they question the calculation of the debt equity structure under West Coast ownership.

With respect to the quantum of synergies, I find it curious to say the least, that CAC is readily prepared to accept the calculation of $9 million of synergies in Hydro to offset the cost of acquisition and integration, and yet are quite prepared to suggest to the Board that there are no synergies, or at best, minimal synergies in Centra.

Centra's evidence is uncontroverted; that it reviewed and determined synergies both from a top down and bottom up perspective, and through both reviews arrives at a number of $16 million.

Certainly, this isn't a hard and fast calculation as it's a determination of costs that didn't occur, but as Mr. Warden indicated, we are confident $16 million in synergies have been achieved, and you'll find that at transcript page 701.

Part of Centra's confidence in this number is derived from the baseline calculation contained in attachment 1 to Centra's Rebuttal evidence.

This calculation represents the realities of Centra's operations. It considers major program changes which have occurred since acquisition, accounting changes that have occurred, and bills in cost increases for inflation, and increases in the number of customers.

With respect to inflation, it's important to recall Mr. Derksen's testimony regarding the artificially restrained wages under West Coast ownership.

Wages in recent years have increased more than the rate of inflation in response to the earlier ways -- wage freeze by West Coast and as a result of merit and progression increases as noted by Mr. Warden, at transcript pages 1192, 1320 and 1321.

In making the calculation and limiting the increases to inflation, this inherently includes a 1.8 percent productivity factor in the calculation.

CAC's second concern is with Centra's assumption of a 40 percent equity ratio under the WEI ownership absent acquisition.

As Mr. Derksen testified, WEI maintained very close to 40 percent debt equity structure throughout its ownership. While CAC refers to a loss in 1998, Mr. Derksen has testified that WEI was on the verge of making an equity injection at the time of acquisition which would have restored Centra's equity ratio to 40 percent.

I can refer you, in that regard, to transcript pages 1250. CAC also suggests that it's appropriate to use the current equity structure as they calculate it of 33 percent in making the no-harm calculation.

This ignores the purpose of that calculation entirely. Mr. Matwichuk by his own admission acknowledges that a stand-alone private company that issues its own debt, would have to maintain a higher debt equity ratio than this. I take that from transcript pages 1559 and 60.

Indeed, as you review the previous approved Board Orders from 1991 through 1998, which I've included a number of at Tab 12 of the Centra's Book of Documents, the average equity ratio approved by the Board under West Coast ownership is 39.9 percent.

Tab 12 of Centra's Book of Documents contains excerpts from Orders 156/91, 10/93, 8/94, 49/95, 8/97 and 79/98, which will permit you to calculate the average as we have done.

(BRIEF PAUSE)

MS. MARLA MURPHY: In that same tab, we've also for the Board's convenience, included pages 42, 43 and

51 of Board Order 8/94 which was the last full Hearing with respect to the return on equity and capital structure.

It was the Board's determinations in Order 894 that were used to set the parameters of the current return on equity formula in 1995. These determinations were not revisited at that time.

Pages 42 and 43 of Order 894 demonstrate the Board's endorsement of the appropriateness of the 40 percent equity structure and specifically rejects the notion that Centra should have a lower equity ratio as was espoused by Mr. Matwichuk at this Hearing.

In fact, the Board recognized in that Order that Centra generally had a higher equity ratio than other Canadian gas LDC's and accordingly, it reduced Centra's ROE by 25 basis points to account for this. You'll find that at page 51 of that Order 894, Mr. Chairman.

To conclude, the purchase transaction has resulted in significant benefits that flow directly to the ratepayers in the form of synergy savings and other cost savings.

The cost to Manitoba Hydro of generating these savings is the full financing cost related to the purchase of the shares of Centra, including the purchase premium and integration costs.

The fundamental regulatory principle of

fairness would dictate that if customers are to enjoy the benefits of the transaction, they must bear the cost as well.

Mr. Matwichuk admitted during questioning from you, Mr. Chairman, that regulatory precedent is subject to overriding concerns such as fairness and just and reasonable rates, at pages 1554 and 1555 of the transcript.

I'll turn now to cost allocation and rate design matters. Centra is not proposing any substantial changes in its approach to cost allocation in this Application. Centra has adapted its cost allocation study as previously approved to conform to the cost of service methodology in determining its revenue requirement.

While the appearance of the cost allocation study has changed, no substantial changes have been made in the allocation of costs. Previously, Centra's return on rate base, which included both a debt and equity component, was allocated on the basis of rate base.

The move to a cost of service methodology replaces return on rate base with net income and finance expense, both of which have been allocated on the basis of rate base.

The corporate allocation is primarily finance costs of the acquisition of the shares of Centra Gas. Therefore, it's appropriate to allocate the corporate allocation on the basis of rate base consistent with the allocation of net income and finance expense.

Order 131/04 approved a change in the allocation of unaccounted for gas or UFG. Previously, Centra allocated UFG volumetrically to each customer class with the SGS and LGS's classes allocation weighted by two (2) times their annual volume.

In Order 131/04 the PUB approved Centra's proposed UFG percentages, except for the special contract class. The PUB directed that the special contract classes allocation of 5.7 percent UFG be reduced to 2.8 percent and the residuals to be split between the SGS and LGS classes.

Centra has implemented the Board's directions and has allocated UFG consistent with the UFG percentages approved in Order 132 of 04. With respect to DSM cost, Centra proposes to amortize the program costs over a fifteen (15) year period beginning April 1st, 2006.

Due to the deferred nature of the cost treatment, there is no recovery of DSM costs included in Centra's base rates for the 2005/06 year, even though the program will be introduced at that time. Centra's rate proposal for the 2006/07 test year includes a hundred and sixty-seven thousand dollars ($167,000) of amortization costs for that year.

The DSM program is directed to specific target markets. Not all customer classes will participate in an equivalent manner in the early stages of the program. In the 2005/06 and 2006/07 test periods, it's expected that 50 percent of the program budget will be directed toward residential customers and 50 percent of the program budget will be targeted towards commercial end use applications. As such, Centra intended that the DSM costs for 2006/07 be allocated only to the SGS and LGS customer classes.

In Order 131/04 the Board directed Centra to consider the rate treatment with respect to its forecast capacity management revenues. Centra believes that it's appropriate to include the best forecast -- best estimate of the forecast capacity management revenues in the calculation of rates in order to provide those benefits to customer coincident with the related costs.

Centra recognized the Board's concern with including the forecast amounts in an account otherwise comprised of historic PGBA balances and has thus included the forecast amounts of the 2005/06 capacity management revenues of $3.8 million as part of the calculation of base rates and has allocated these revenues to the various customer classes through the cost allocation model.

Centra will maintain a deferral account to capture the difference between the forecast amount and the actual amount which we disposed of as part of the rate rider calculations. This ensures that the treatment of forecast capacity management revenues is consistent with the treatment of forecast gas costs, and that the treatment of capacity management deferral accounts is the same as all other gas deferral accounts.

I'd like to address the issue of the allocation of primary gas costs. As you've heard, the base rate for primary gas is comprised largely of the cost of the commodity itself. This cost component is dealt with quarterly through the primary gas applications.

For the purposes of cost allocation in this application, Centra has included an estimate of its cost which is used to derive the allocations within the cost allocation study, but not to establish rates.

The second component of the primary gas base rates includes some non-gas costs. This component of primary gas base rate is known as the primary gas overhead rate, cost related to procuring natural gas, gas accounting, regulatory and other operating and administrative costs are allocated to the primary gas rate.

In this application, Centra is seeking to increase the non-gas cost component of the primary gas base rate from a dollar forty-five ($1.45) per ten (10) three (3) M-3 to a dollar seventy-three ($1.73) per ten (10) three (3) M-3 on August 1st, 2005, and a dollar eighty-four ($1.84) per ten (10) three (3) M-3 on May 1st, 2006.

Municipal Gas and Energy Savings Manitoba Inc. suggests that the overhead rate should be higher. In their view, more of the costs related to primary gas service should be included in the primary gas rate. However, this position does not accord with the positions taken at the time of the establishment of the WTS service offering and the unbundling of Centra's rates.

When the WTS service was initiated it was accepted that all customers of natural gas, or consumers of natural gas in Manitoba benefited from having the choice of natural gas suppliers. Flowing from that view, it was accepted that the majority of costs of providing primary gas service and all of the costs of administering WTS service should be collected from all customers through distribution rates. This is noted in Order 19/00 at pages 20 and 21, which you'll find at Tab 18 of Centra's book of documents.

This is the reason that there's no WTS fee in Manitoba. In Order 19/00 the PUB approved Centra's proposed treatment of costs of providing primary gas service and administering the WTS service.

The PUB also accepted Centra's proposal not to have a WTS fee but directed that a nominal ABC fee, which was ultimately sent -- set a twenty-five cents ($0.25) per customer per month, be instituted to cover some of the costs of billing on behalf of brokers.

It is as a result of the decisions made in Order 19/00 that most of the indirect costs related to the provision of primary gas service are recovered in the distribution rate and only some of the direct costs are included in the primary gas rate.

Mr. Brown has argued that Centra failed to comply with the Board's direction in Order 118/03. That order indicated that the PUB accepted Centra's allocation of costs to the primary gas rate and requested that Centra more precisely track such costs in the future.

Mr. Brown suggests that you should look at the current undertaking and the undertaking from the previous hearing and conclude that Centra doesn't have an appropriate breakdown of costs, solely because the two (2) undertakings have similar captions.

However, as Mr. Rainkie indicated, the devil's in the details on this one. The details have been carefully considered by Centra in determining the appropriate allocations. It is not necessary to change the headings to do this.

The gas supply program is divided into thirteen (13) different sub-categories. You'll find Centra Exhibit 29 at Tab 13 of Centra's Book of Documents.

Some of those sub-categories are as small as three thousand dollars ($3000). It's clear from that

Undertaking that gas supply costs are not all related to the procurement of primary gas.

This program includes costs related to transportation of gas, storage issues, administration of the capacity management programs, dealing with FERC and the NEB and it also includes costs of providing WTS service.

In fact, approximately eight hundred thousand dollars ($800,000) of the costs shown on that Undertaking relate solely to the WTS service and have nothing to do with the procurement of primary gas. That's 27 percent of the total cost of that program.

As shown in the details of Exhibit 29, Centra already has a precise tracking of the costs in this program. While municipal gas may wish there to be more cost allocated to the primary gas rate, the details of Exhibit 29 do not support doing this.

Brokers have a direct interest in having as many costs as possible allocated to the primary gas rate to make marketing their fixed price offerings easier. They also enjoy the benefit of not paying a fee for the cost of administering the WTS program.

In the vernacular, they want to have their cake and eat it too. Centra does not think it's desirable to have a WTS fee, but, rather that it's appropriate that all customers share in both the indirect costs of system supply and the administration of WTS through the distribution rate.

Either everybody pays a pro-rata share of all the costs associated with having choice, or everybody pays only the cost associated with the supply option that they choose. Anything in between would be unfair.

Turning to the issue of rate design, as stated in direct examination, Centra is not proposing any changes to its rate design in this application. Centra is aware that the Board is interested in the level of the basic monthly charge as was discussed at the hearing.

As the Board is aware, Centra is presently undertaking an analysis of its basic monthly charge, including reviewing of the levels of the basic monthly charges in other jurisdictions.

Centra expects to be in a position to file its report with the PUB in August of 2005. Until such time as Centra has had an opportunity to review the results of that analysis, we're not proposing any changes to the basic monthly charge for the SGS or LGS classes.

In this application, Centra is proposing to implement three (3) types of rate riders in conjunction with the '05/'06 and '06/'07 test years. The first set of rate riders disposes of balances in all non-primary gas PGVA's and gas cost deferral accounts as at March 31st, 2005, including carrying costs and rate rider amortizationÆs to July 31st of

2005.

These balances were updated as part of Centra's April 29th, 2005 filing and reflect actual information to the end of February 2005 and forecast information for March 2005.

The result of the update was to refund to customers approximately six hundred and seventy thousand dollars ($670,000) as summarized in schedule 11.4.1. The non-primary gas rate riders are proposed to be implemented on August 1st, 2005 and will be disposed of over a twelve (12) month period to expire on July 31st, of 2006.

The second rate rider termed a reconciliation rider, has been established to reconcile the differences on a class by class basis, between the non-gas cost portion of the interim base rates that were implemented on February 1st, 2005 and the non-gas cost portion of the base rates that are proposed for August 1st, 2005.

The interim rates that were put in place on February 1st, 2005 were not based on the full cost allocation study. Rather the required $12 million increase in non-gas revenues was apportioned between the rate classes on the basis of the 2003/04 approved revenue requirement for each class, excluding primary and supplemental gas.

Centra intended that -- stated that it intended on reconciling the differences between the non-gas costs embedded in the February 1st, 2005 rates and what ultimately flowed from the cost allocation study, which proposal was endorsed by the Board in Order 13/05.

Centra has calculated this rate rider by determining the difference in expected revenues generated by the non-gas cost portion of each base rate established on February 1st, 2005 and the non-gas portion of each base rate that flows out of the full cost allocation study.

Given that non-gas costs are embedded in each rate component, including primary and supplemental gas and the basic monthly charge, if approved, all rate components will be impacted by the reconciliation rider.

The reconciliation rider has been calculated to be disposed of over a nine (9) month period beginning August 1st, 2005 and ending April 30th of 2006, to coincide with the change in non-gas costs proposed to be implemented May 1st, 2006, arising out of the 2006/07 test year.

Centra has proposed to dispose of the reconciliation rider attributable to supplemental gas through the distribution to customer charge consistent with the treatment of the supplemental PGVA for all customer classes, except the interruptible class.

Centra is proposing a separate line item on the bill for interruptible class, that includes the supplemental PGVA, as well as the supplemental gas reconciliation rider.

A third rate rider, called a rate delay rider, is also proposed with respect to the 2006/07 fiscal year. Rather than implementing new rates effective April 1st of 2006 to coincide with the beginning of Centra's 2006/07 fiscal year, Centra is proposing to delay implementation until May 1st, 2006. This will avoid an additional rate change between the planned primary gas rate changes on February 1st and May 1st of 2006.

The difference in revenues, as a result of this one (1) month delay, is approximately nine hundred and seventy thousand dollars ($970,000) owing to Centra.

It is Centra's preference to recover the rate delay rider over fifteen (15) months, rather than the remaining eleven (11) months of the 2006/07 test year, to synchronize it with the expected expiration of non-primary gas rate riders on July 31st, 2007, which would flow from a 2006/07 Cost of Gas Application.

With respect to the terms and conditions of service, Centra is seeking two (2) changes. First, in Order 131/04, the Board approved Centra's Application to make provision for partial account payments, and directed Centra to make certain changes to the wording related to the allocation of partial account payments.

Centra's also requesting approval of

corresponding changes to the terms and conditions of billing and collection service, most recently approved in Order 105/97, which are necessary as a result of the changes respecting partial account payments.

The proposed changes are included in attachments 1 and 2 to Tab 12 of Centra's Application, and do not appear to be contested by any parties to this Proceeding. One (1) issue which has been raised is whether Centra ought to provide check boxes to customers to suggest the availability of an election, as to which account monies are to be applied.

As Centra has noted, approximately 95 percent of customers pay their bills in full, either on time or within thirty (30) days of the due date. As such, the availability of an election is of interest to only a small number of customers.

However, if the remaining 5 percent of customers were to opt to pay the accounts in a proportion other than what was prescribed by the terms and conditions of service, this would require expensive and time consuming manual processing of some twelve thousand five hundred (12,500) bills each month.

Centra will certainly make this option available to customers who inquire, but cannot encourage customers to take this option, or clutter an already information laden bill with this option. This is not in the interests of the majority of Centra's ratepayers, as all will bear the costs associated with processing manual bill payments.

With respect to company labour rates, Centra requested in a Cost of Gas Hearing in 2004, that the PUB replace the current approved miscellaneous service rate of fifty-five dollars ($55), with a reference to activity charges to properly reflect the costs incurred by the Company in providing these services.

The Board, in Order 131/04, expressed the view that it must approve all rates. Centra has therefore provided the PUB with a schedule of rates as requested in Order 131/04 for consideration and approval, which has been marked as Exhibit 28 in this Proceeding, and which you'll find at Tab 14.

Centra will review the need for changes to these rates on an annual basis, and apply to the Board when modification is necessary.

If approved by the Board, Centra will incorporate these rates into a schedule in the terms and conditions of service, and request implementation on August 1st of 2005.

Centra is requesting that the PUB grant approval with respect to the Interlake and Bifrost Woodlands

Connection Fee Schedules, that those connection fees be gradually reduced and then eliminated after December 31st, 2006. These connection fees were approved in Orders 95/00 and 172/01, respectively.

In July of 2004, the Interlake Natural Gas Co-op advised Centra that a motion had been passed to request that Centra discontinue collection of connection fees effective January 1st, 2004.

Centra supports the Co-op's request to have the connection fees eliminated in these areas. In the current environment of higher gas costs, the collection of connection fees is a deterrent for future conversions, and it's hoped that phasing out these fees will enhance natural gas conversions and, in turn, the long term viability of these projects.

It is Centra's proposal to have the connection fee schedules eliminated by way of gradually reducing the fees over the next two (2) years starting January 1st, 2005, rather than all at one (1) time, to ensure that current and future customers are treated as fairly and equitably as possible.

Centra has filed its proposed connection fee schedules for the Interlake and the Bifrost Woodlands Projects, as pages 4 and 5 of Attachment 2 to Tab 13, and they have been reproduced at Tab 15 of Centra's Book of

Documents.

Mr. Chairman, I'll now turn the mic over to My Colleague to address the other issues that were raised during the Hearing.

THE CHAIRPERSON: Mr. Czarnecki...?

FINAL SUBMISSIONS BY MR. BRENT CZARNECKI:

MR. BRENT CZARNECKI: Thank you, Mr. Chairman. Good afternoon, Mr. Chairman, Members of the Board.

The first issue that I'd like to turn your attention to is that of demand side management.

The objective of Manitoba Hydro's 2005 natural gas plan is to provide a roadmap for the future direction of the Corporation's natural gas conservation program designs. The plan sets targets for achieving energy efficiencies through various technologies and customer service initiatives.

This plan replaces the preliminary natural gas plan that was included in Hydro's 2004 PowerSmart plan and builds on the activities that have already taken place to integrate natural gas DSM, into Hydro's PowerSmart DSM efforts. In aggregate, Hydro's 2004 PowerSmart plan represents the Corporation's first formally integrated PowerSmart Plan.

The implementation of the natural gas plan is already ongoing and is an integral part of implementing Manitoba Hydro's overall plan. Implementing the plan involves taking steps to achieve those targets identified in the PowerSmart plan which involves efforts and activities on many fronts.

It was noted by RCM Tree that Centra's DSM plan, as set out in the documents, represents approximately 2 percent of Centra's overall revenue.

This puts the program in the top tier of the industry. As Mr. Kuczek testified, Centra intends to spend in the order of 4.8 million in 2005/06 and 8.6 million 2005/07 test years.

This is an increase over the amounts included in the IFF being $2.5 million in '05/'06 and $5 million in the '06/'07 test years respectively. As indicated during the Hearing, Centra is not seeking approval of the DSM plan, but rather, the amortization amounts that were forecast at the time of preparation of the IFF and which will be included in the rates in the '06/'07 test year.

Centra is not adjusting its application to include the updated amounts I just noted. I'll turn my attention to the low income section.

Hydro has successfully implemented assistance to loan consumers in Manitoba with a number of initiatives.

Although these programs are not labelled low income, they are certainly available to low or fixed income consumers and indeed are targeted to providing assistance to these consumers.

For example, a financing program is designed for those consumers in financial need. The initiatives that have been successful in providing assistance include the residential loan program, which has provided financing of over $65 million to over nineteen thousand (19,000) consumers in need of financial assistance.

During the most recent fiscal year, approximately 98 percent of this financing has been directed towards measures that have reduced natural gas bills. Manitoba Hydro has also implemented the wise program, the Winnipeg core area in-fill housing construction assistance, has assisted with the building of a northern model house in Thompson, participated in Habitat for Humanity, the Healthy Housing on West Broadway project and the PowerSmart for business programs.

The particulars of these projects can be found in the response to RCM Tree Centra 12. Manitoba Hydro has also implemented the neighbours helping neighbours program in conjunction with the Salvation Army.

Many of the referrals to this bill payment assistance program come from Manitoba Hydro staff working with customers on collection issues.

The program helps customers who are in financial need that may have had a critical event such as a loss of job, death of an income earner, inability to work due to disability or critical expenses such as medical, which prevents them from keeping up with their bills.

One of the greatest benefits of the program and our partnership with the Salvation Army is that as customers go through the intake application process, the program social worker is able to assist the customers in getting additional help, including both financial assistance and referrals to other community groups.

The program targets people on a fixed income, people who are unemployed, under employed and the working poor. The Corporation funds the administration of the program so that all donations to the program go directly to helping customers experiencing a financial crisis.

In addition to the activities undertaken to date, Manitoba Hydro has hired a dedicated staff person to focus on this market sector and is currently researching best practices specifically in low income programs.

Hydro has also recently attended a national conference focussed on low income assistance programs and recently participated in a limited income housing progress through partnerships workshop sponsored by the Winnipeg housing and homelessness initiative.

Centra notes that RCM/TREE suggests that it is necessary to engage a consultant to enhance Centra's current low income initiatives.

However, given the recent hiring of an employee, Centra suggests that this would be premature. It is appropriate for us to permit these programs to be developed with internal resources.

Professor Miller, on behalf of RCM/TREE, asserted that all Manitobans are bound by the provisions of the Sustainable Development Act.

He went on to suggest that Centra is required by virtue of the Act to employ full cost accounting. However, as noted earlier, Centra is of the view that the Sustainable Development Act does not apply to it or to the PUB.

The Sustainable Development Act applies to Crown Corporations and to provincial public sector organizations which are expressly made applicable to them by regulation.

Provincial public sector organization is defined as:

> "A department and a Board commission, association or similar body, whether incorporated or unincorporated, all the

members of the Board of management, Board of directors or other governing Boards of which are appointed by an act of legislature or by the Lieutenant Governor in Council to which this Act has made -- has been made applicable by regulation."

No regulation to date has been passed designating either Centra or the PUB as such as an organization and therefore making the Act applicable to them.

The only regulation enacted to date is number 4-2004 which sets forth general guidelines for local governments, school divisions, universities, colleges and regional health authorities.

Accordingly, Centra submits that the Sustainable Development Act has no application to it, or to the PUB.

RCM/TREE appears to have taken the position that this Sustainable Development Act is applicable to Centra by virtue of it being a Crown corporation.

However, Crown corporation is defined within the Act as a corporation to which the Crown corporation's Public Review and Accountability Act applies.

That Act has no application to Centra or the PUB and, accordingly, Centra is not a Crown corporation as defined in the Sustainable Development Act.

My Friend Mr. Saxberg, I think, has now taken the position as well that by lifting the corporate veil of Manitoba Hydro, that it is essentially a Crown corporation.

I mean it -- he intends to rely upon two (2) sources and those can be found at pages 30 and 31 of his brief documents where, in fact, it appears that the Court, for very special circumstances, one being lawful right to strike and the other one for tax purposes, where they did, in fact, lift the corporate veil.

But I would like to draw the attention to the Board in the Nedco case which is found at Tab 30 of his brief, in the very last page which is page 7, where the Chief Justice of the Saskatchewan Court of Appeal cautioned, when he went on to say:

> "I want to make it perfectly clear that in reaching this conclusion..."

And that was the conclusion that he made to lift the veil,

> "...I have not attempted to lay down any general principle. It is only because of the special circumstances prevalent in this case that I have reached the conclusion which I have."

And I'll leave it to the Board and the Board Counsel to review that case, but I would submit the cases that CAC/MSOS has put forth and intends to rely upon in advancing the argument that we -- the PUB should lift the veil, are of very limited probative value in this instance.

Notwithstanding Centra's position that there's no legal requirement compelling it's compliance with the provisions of the Sustainable Development Act, it is important to note that:

1. Centra is mindful of the purpose and the intent of the Act;

2. Centra is generally supportive of the purpose and intent of the Act and, in fact, Centra's DSM program -- programs are clear evidence of its commitment to sustainability; and

3. Centra has, and will continue to consider the principles of the Act, including the fact there's a full cost accounting to the extent that it is possible and practical in its decision making processes as well as to the extent to which it's operations are integrated with those of Manitoba Hydro.

I would now like to specifically turn to the evidence of RCM/TREE.

RCM/TREE presented evidence from Mr. Stephen Weiss and from the the Pembina Institute, which evidence made a series of recommendations with respect to inclusion of conservation and environmental concerns, in price signals for natural gas and other policy areas. I will address the conclusions and recommendations in each of these areas raised by RCM/TREE.

Firstly, the concept of marginal value of gas to consumers, or MVGC. Mr. Weiss has defined MVGC to include all of the normal costs of procuring, transporting and distributing natural gas that are included in Centra's rates, plus a notional value for environmental externalities, avoided transmission and distribution for T&D expansion costs and pecuniary opportunities, and recommends that Centra use this information in setting rates and in a number of other policy areas such as DSM evaluation, main extension policies and fuel switching.

Centra does not agree that MVGC, as defined in the evidence of Mr. Weiss, is currently an appropriate consideration for determination of rates. Mr. Weiss is making recommendations which will increase cost to Centra's customers.

In various places in his direct testimony, for example at transcript pages 2019 and 2020, Mr. Weiss characterizes his proposals as being revenue neutral and attempts to dismiss Centra's concerns about increasing cost to its customers.

This characterization, however, does not change the fact that he finds in the alleged externalities and other factors a basis for raising marginal rates which will affect a substantial portion of Centra's customers.

Overall, revenue neutrality is achieved by reducing the rates on infra-marginal uses, which has the potential to send misleading price signals to another substantial proportion of Centra's customers. In making a recommendation to increase cost to customers or to transfer cost from one group of customers to another, an adequate justification must be provided.

The evidence on behalf of RCM/TREE is insufficient justification for supporting Mr. Weiss's proposals.

The second issue of his evidence is the externalities of natural gas use. Centra believes that at least some of the externalities identified in Mr. Weiss's evidence, particularly land costs and resource depletion, are already incorporated, at least to some extent, into the market price of natural gas through lease payments, resource royalty fees and taxes.

The Pembina evidence, in response to CENTRA/RCM/TREE-2(B), itself acknowledges that elements of land impact costs would be reflected in the market price where land lease costs are incurred.

Manitoba Hydro already incorporates consideration of greenhouse gases into its resource planning and reporting and in its DSM evaluation. Additional policy treatment of GHG's, such as carbon taxes or emissions charges should occur in the context of federal Kyoto initiatives and should not be taken in isolation of compliance in other Canadian jurisdictions, or in isolation of the treatment of other fossil fuels in Canada.

Again, the Pembina evidence recognizes that major Canadian sources of GHG's such as large facilities undertaking extraction, processing, transmission, distribution and combustion of natural gas are very likely to be subject to regulatory constraints on their GHG emissions in the Kyoto 2008/2012 and post-Kyoto periods. And that's found at Response to CENTRA/RCM/TREE-2(A).

Finally, with regard to externalities, both the Pembina evidence and Mr. Weiss agree that it is very difficult to quantify externalities related to natural gas production, transmission and use. This is acknowledged at various places in pages 2073 to 2076 of the transcript.

Neither Centra nor RCM/TREE have been able to identify a single utility or utility jurisdiction in North America that incorporates externalities into its pricing.

Even where inverted rates are employed, as in California, Mr. Weiss has acknowledged, at page 2004 of the transcript, that the rate is inverted for reasons other than externalities.

The third topic is -- of Mr. Weiss's evidence is pecuniary benefits. The concept and measurement of those benefits is, if anything, even more ephemeral than of externalities. The existence of quantity of pecuniary benefits as described in the evidence of Mr. Weiss are insufficiently substantiated, extremely difficult to quantify and certainly non-existent unless provision is made for this factor all across North America.

In particular, Centra does not believe it is appropriate to forecast in advance the benefits of demand reduction related to price, or demand side management, and to factor those into an incre -- into an increase in price today.

Mr. Weiss has noted in his direct evidence that Centra and he agree on the price elasticity on -- of demand, and that's found at page 2034 of the transcript. However, that is about the only aspect of the issue where we have agreement.

The extent to which higher price induces lesser demand, and ultimately leads to lower prices in the future, cannot be predicted today, as it does not involve simply the price elasticity of today's demand.

More important is the extent to which price change induces permanent changes in demand parameters, and as well in reaction to supplies. The former, changes in demand through shifting leftward of the entire demand curve, cannot be predicted as to quantity or -- or timing. The latter, are not affected by Mr. Weiss' proposal, because the increase in marginal price brought about by this proposal does not affect the price that suppliers receive.

Moreover, if the major increases in gas prices since the '90's do not bring about the demand reductions and supply increases needed to restore lower prices, it is highly unlikely that inclusion of his -- of this factor, in marginal price to customers in Manitoba will.

With respect to the inclusion of avoided costs of T&D expansion, Mr. Weiss's evidence does not provide any clear justification for requiring Manitobans to pay incremental costs which might occur in another jurisdiction, in addition to the delivery to them.

It is difficult to conceive of any jurisdiction that would require ratepayers to pay both the full embedded, and the full incremental cost of any utility service. It is noted that the incremental costs of transportation and delivery, are incorporated into Centra's demand side management evaluation of programs targeted at natural gas customers.

Moreover, in Manitoba the incremental costs of transportation and delivery of natural gas, are less than the embedded costs for these services, which are already incorporated into the rates paid by Centra's consumers.

In summary, and with regard to the alleged additional costs identified by RCM/TREE, Centra takes the position that there's no compelling case to incorporate additional externalities, pecuniary benefits, and T&D marginal costs into the rates it charges its consumers today.

Greenhouse gas related externalities should be incorporated as part of an overall Kyoto compliance regime, which addresses all sources of GHG's.

The remaining alleged additional costs are likely addressed in current market prices. Incremental T&D costs are currently estimated to be less than the embedded cost, and hence are more than recovered in the existing rate structure.

In fact, that portion of the SGS rate, being the residential and small commercial customers, requested in the current Application as volumetric charges for commodity, transportation and distribution, totals to forty-one point four (41.4) cents per cubic metre.

This is thirteen (13) cents higher than the current estimate avoided cost of twenty-eight point four (28.4) cents, which includes one point eight (1.8) cents for GHG related cost.

That is to say the difference between the embedded cost based rate already exceeds the current marginal costs by more than nine point three (9.3) cents per cubic metre that RCM/TREE want to incorporate into natural gas rates.

Centra and Manitoba Hydro are not opposed to the concept of inverted rates in principle, and where justified. However, inverted rates are currently neither justified, nor necessary in the case of Manitoba's natural gas prices.

Unlike the current electricity price structure, the price of natural gas commodity fully reflects its value in mature functioning markets. The market price of gas embedded in rates and which is adjusted quarterly, reflects marginal costs included, at least some externalities, and therefore is a good price signal in -- in itself, and without requiring inverted rates.

Further, the marginal costs with extending the distribution system is either captured in Centra's feasibility testing and contribution requirements, or is less than the average cost of distribution, which is recovered in a non-commodity portion at the rate structure.

There is simply no cost basis for concluding that a tiered rate for natural gas is either desirable or necessary at this time. Finally, even if it could be shown to be appropriate, it could only be introduced into the Manitoba market with some difficulty, as customers would not find it easy to compare the benefits of a tiered price system supplied with a single price offering -- offerings to marketers -- of marketers.

To avoid confusion in comparing primary gas offerings, the tier rate would have to be applied through -- through a distribution charge or a separate externalities charge. Either of which would likely require a negative billed rate on the first block of the rate structure.

Fortunately, it is not necessary to address or to mitigate confusion since there is currently no evident case for inverted natural gas rates in Manitoba.

Mr. Weiss recommends that Centra should use MPGC in its planning and evaluation of its DSM program choices and investment level. Centra believes it is appropriate to use the total resource cost test, or TRC as its -- as its primary economic indicator for evaluating the effect -- effectiveness of natural gas incentive based programs.

As pointed out earlier in this argument, Centra believes that some of the externalities identified in Mr. Weiss' evidence are already incorporated into the market price for gas, and others are best dealt with as part of the national Kyoto compliance or provincial resource management measures.

To the extent that they are already included in market price, those costs are included in Centra's TRC calculation. Mr. Weiss recommends, as a judgement call, that Centra add 10 percent to the commodity cost to account for issues that are very difficult to estimate, if not impossible to measure.

Such a price elasticity of demand, and indirect economic benefits to Manitoba. Centra recognizes that in some regions a factor in the range of 10 percent has been used to account for all external -- external factors, including environmental considerations.

These regions use a test referred to as a societal test, which is simply a modified version of the TRC test with a 10 percent adder included in the benefits component of the calculation.

Centra is proposing to include the value of greenhouse gas emission reductions and the use of the TRC test for evaluating natural gas efficiency programs. This value is more than half of the 10 percent used by a few other regions that do in fact use a societal test.

Centra anticipates that the marginal differential between the two (2) test results will have virtually no impact on the economic potential of energy efficiency opportunities, as most of these opportunities are not on the margin in terms of being economic.

Further, Centra intends to promote these opportunities even if they are on the margin. Mr. Weiss recommends that large industrial and commercial customers should be allowed the opportunity to self direct a portion of DSM funds.

Centra is of the view that a self directed approach to DSM for industrial customers in Manitoba would not be the most effective or efficient option for promoting natural gas conservation in Manitoba, nor would it be in the customer's best interests.

It is of note that there has been no suggestion by customers that this is a desired option. Manitoba Hydro's strategy is to design an integrated electric and natural gas power smart plan which involves promoting and offering customers assistance from a system and an eco efficiency approach.

Unlike most other jurisdictions, Manitoba Hydro has developed internal technical expertise in the areas of -- of industrial energy efficiency. This technical advisory service is integrated into Manitoba Hydro's customer relationship management philosophy.

The combined effort provides Manitoba Hydro and its industrial customers with many opportunities to identify and pursue energy efficient opportunities. This, in Centra's view, is preferable to having self directed DSM for larger customers.

Centra's proposal is to allocate DSM costs directly to the classes which benefit from the programs. Mr. Weiss has criticized this approach by stating:

> "By allocating DSM costs to an entire class, then customers in the class who don't participate have to pay the bill."

And that's found at transcript page 2056.

Mr. Weiss instead proposes an across the board percentage adder to rates to all customers as being more fair. However, this approach not only adds cost to customers within each class who don't participate, it has the potential to require entire classes of service to pay the costs even if no specific DSM programs have been identified for that particular class.

Centra's proposal is clearly preferable on the basis of fairness, and is also more consistent with the long standing principle of basing rates on embedded costs espoused by Centra, and endorsed by the PUB over the past twenty (20) or more years in this jurisdiction.

Mr. Weiss recommends a system of standard hookup charges and credits based on the efficiency that the customer plans in terms of gas usage. As indicated in the Corporation's 2004 PowerSmart plan, Manitoba Hydro is currently assessing the merits of using service hookup fees to encourage conservation efforts.

Manitoba Hydro's DSM efforts are focussed on promoting the efficient use of energy. It is the Corporation's view that fuel choice is primarily driven by the customer's view of long-term energy prices, reliability, and availability. As such, fuel choice is a customer's decision.

Manitoba Hydro's role in this regard is to provide customers with information which will assist them in making a decision on fuel choice. Manitoba Hydro does recognize that there may be opportunities for the Corporation to include other considerations into the customer's decision-making process, and is discussing the merits associated with these types of initiatives.

These considerations include some of the specific suggestions offered by Mr. Weiss, as well as the more general assessment of the benefits which may be realized through increased export electricity sales when customers choose to use natural gas rather than electricity.

Assessing the opportunities available with such initiatives is a natural progression following the development of the Corporation's PowerSmart Plan. Concurrent with the PowerSmart Plan being implemented, Manitoba Hydro is now in the process of assessing these opportunities, and expects to have this completed during the current fiscal year.

I'd now like to turn to some of the other issues that were discussed during the hearing. Firstly, the internal response to the IGC report.

With respect to Centra's response to the IGC report, Centra is currently in the process of conducting its internal review of the costs and benefits of salt cavern storage. Although the analysis is not yet complete, preliminary conclusions indicate that the main benefit of salt cavern storage is to firm up Centra's gas supply rather than resulting in significant monetary benefits.

Centra is on track to file the requested internal review with the PUB on August 1st, 2005, as directed in Order 131/04. Although Intervenors are anxious to establish a future process for review of this report, we are putting the cart before the horse, so to speak. There's no merit in establishing a process until such time as Centra's recommendations have been filed. As such, it is premature to consider the next steps in regulatory proceedings until such time as that report has been completed and filed with the PUB.

With respect to the WTS report, the PUB, in Order 131/04, directed Centra to review the possible changes to the WTS service, and file a report including the benefits and costs of implementing changes to the WTS service, such as alternatives to Centra establishing the MBQ, controlling daily nomination, controlling the reduction of daily nominations of direct purchase gas, and the ability to move the enrolment of WTS customers to a more frequent basis than the existing quarters.

Centra held a teleconference with interested members of the broker community on May 11th, 2005, and the minutes of that meeting have been filed as Centra Exhibit Number 26. Centra will consider the input from the broker community, and prepare the requested report to be filed in August of 2005.

I should note, Mr. Chairman, that the comments I have just made with regard to the process surrounding the IGC report also apply to the WTS report. It would be premature to establish a process for the review of this report prior to it being filed with the PUB.

Next I'll turn to the topic of derivatives hedging policy and procedures. In keeping with comments made by the PUB in Order 131/04, the derivates hedging policy was amended to permit Centra to hedge up to 100 percent of eligible -- eligible volumes for the next twelve (12) months, rather than a minimum of 90 percent of eligible volumes.

In conjunction with this amendment, Centra also updated the derivatives hedging operating principles and procedures to be consistent with this policy. As the operating principles and procedures indicate, 100 percent of eligible -- eligible volumes will be hedged as a matter of course. Hedging less than a 100 percent will be an exception.

Centra will continue to use cashless collars of fifty (50) cents out of the money, as a matter of course, but will have the discretion to change the hedge instrument, or the out of the money band and the percentage hedge with approval of the Executive Committee.

The revised policy and procedures were filed as Attachment 4 to Tab 13, and are included as Tab 16 in Centra's book of documents.

Centra is of a view that these updates incorporate a level of discretion without sacrificing the benefits of the mechanistic approach.

As directed by the PUB in Order 131/04, Centra is undertaking a review of alternatives to the mechanistic hedging approach, with respect to achieving and/or maintaining reductions and volatility in cost, and is testing alternative approaches on a retrospective basis.

In connection with this research, Centra has met with representatives of both CAC and MSOS on four (4) occasions since the '04/'05 Cost of Gas Proceeding.

Most recently on May 24th, 2005, to seek customer perspectives as to their views on gas cost volatility. The results of Centra's retrospective analysis and these consultations will be provided in a report to the PUB by August 1st, 2005.

CAC/MSOS suggested in their argument this morning that weather has a larger impact on a customer's bill than the impact of hedging, and that the equal payment plan is a more effective tool to mitigate volatility.

Centra agrees that both of these assertions are correct. However, this is not to suggest that there should not be additional tools in the rate management tool box, which can be applied to assist customers in diminishing bill volatility.

As Ms. -- Ms. Stewart testified, the percentage reduction in primary gas rate volatility achieved during the '04/'05 fiscal year, as a direct result of the derivatives hedging program for primary gas, was 53 percent.

It is also of -- of note, that experts on behalf of CAC have suggested in past Proceedings, that Centra was an unwilling hedger. Notwithstanding consultation with the organizations and the customer market research, which suggests that two thirds of customers want Centra to maintain, or enhance the existing hedging program, counsel for CAC/MSOS once again finds fault with the Centra program.

Before I turn to a discussion of fixed price offerings and customer education, I should address some of the comments made by My Friend, Mr. Brown. The brokers have put a significant amount of information on the record regarding developments in other jurisdictions, and I think it is important to step back and put that information in perspective, before dealing with the specific items.

The last time the Board considered these types of competitive issues, it established some basic principles, which were set out in Order 15/98. I think it is worthwhile to review some of those principles as they continue to be relevant today.

In Order 15/98 at page 60, the Board recognized the uniqueness of the Manitoba market, which includes a high number of residential space heating customers with a resulting low load factor. It also cited factors such as storage and related transportation, located physically downstream of the distribution system, TCPL transportation arrangements, and relatively small volumes to other markets as unique factors of the Manitoba market.

The Board also noted that competition is not a goal in and of itself. It should be encouraged only if it will advance the interests of the natural gas end user, not the interests of the individual market participants. And that's included in our book of documents at Tab 17, page 64, and page 17 of that Order.

It is fair to say that in numerous jurisdictions in Canada and the US, there are many different competitive structures. However, ultimately, both Centra and the Board should be guided, not by what might or might not have been done in other jurisdictions, but by what is best -- what is in the best interests of the Manitoba consumer.

In that vein and as requested by the Board in Order 131/04, Centra has considered some of the advantages and disadvantages of Centra offering fixed price offerings, and the means of implementing such proposals. A copy of Centra's report of the advantages and disadvantages -- disadvantages of fixed price offerings was filed as Exhibit 9 in this Proceeding.

The Corporation has not reached a conclusion on whether it wishes to undertake such an initiative at this time. Based on the market research during 2004, Centra recognizes that a number of Manitoba consumers would prefer to purchase fixed term products from the utility rather than from brokers, and these consumers provided a number of reasons for this preference.

These reasons included being more comfortable with the utility, trusting the utility and not trusting brokers.

Evidence provided during the hearing clearly indicated that residential consumers have limited choice and the prices for the same pricing product can be substantially different.

Centra is presently prohibited from offering multiple service offerings by PUB Order 15/98. Centra is not proposing any changes to its current service offerings or seeking any approvals in this application arising out of this report.

However, if the Public Utilities Board removed the restriction preventing Centra from offering these products, it would provide the Corporation with the flexibility it needs to respond, if and when required, to changes in the marketplace which may be impacting customer value and choice.

In Board Order 131/04, the Public Utilities Board directed Centra to consult with brokers and CAC/MSOS with respect to the content and focus of customer education on primary gas and other related issues.

Centra held a number of informal discussions with CAC/MSOS and organized an initial conference call with the broker community.

All parties were invited to participate in subsequent conference calls to discuss the natural gas educational issues. The outcome of those discussions is summarized in Centra's report which is filed as Centra exhibit 21 for this proceeding.

Upon consulting with interested stakeholders on primary gas education, both Centra and the stakeholders agreed on a process which will be used in the next educational campaign.

Provided the process proves successful, Centra will use the process in subsequent advertising campaigns.

Centra notes several important considerations when addressing the question of customer education and promotion of primary gas products.

Firstly, Centra has a primary natural gas product which is available for consumers as a choice to purchase in Manitoba.

Secondly, the utility has the right to promote this product, or any other product offered by the Corporation as was contemplated by the Board in Order 19/00, and that can be found at page 52 of that Order, which is included as tab 18 of our Book of Documents.

Thirdly, the primary natural gas product currently offered by Centra is also a default product which will be provided to those customers not choosing a specific primary gas product.

Centra also intends to continue using a branding strategy to help educate consumers and maintain consumer's awareness of the nature of the primary gas product offered by the utility.

It is anticipated that by using the brand, the balanced rate initiative, consumers will gain a better understanding for the nature of this particular product.

While an educational campaign will increase consumer's awareness of primary gas issues, the marketplace will always contain a portion of consumers that will not be well informed of their primary gas choices, and the consequences of those choices.

Centra's educational campaign will be focussed on increasing consumer's awareness of their choices in the market, the consequences -- consequences of those choices and on other choices consumers have in managing their energy bills; for example, the equal payment plan and the various PowerSmart programs.

Centra has been clear in its views that it should continue to engage in customer education because ultimately it is in the best interest of customers for it to do so.

The strategies outlined are a means to that very important end.

In Order 131/04, at page 73, the PUB directed Centra to file with it -- with its next GRA a draft integrated electric gas bill along with draft inserts and other customer communication explaining the changes.

The PUB also requested Centra to consult with brokers and CAC/MSOS in advance of the final determination of the bill amendments and provide a summary result of those --

of these consultations.

Centra did meet with representatives of CAC/MSOS on October 2, 2004, and provided a presentation outlining the new bill format. Comments provided by CAC/MSOS have been filed in this proceeding, and their response to Direct Municipal Centra 5(a).

Centra also held a conference call with broker representatives on January 7, 2005. The minutes of this meeting are also included in the materials at Direct Municipal Centra 5(b).

Centra provided updated material in attachment 3 to tab 13 of the Application which included the customer communication plan, delinquency messages and notices, sample letters and notices, the status of the new bill format and sample bills and provided the consultant's review of the bill format and the response to Undertaking 53 filed to Centra Exhibit 52.

Brokers have requested that the PUB consider acquiring Centra to include their logo on the bill. Centra's of the view that this will cause customer confusion as brokers provide only one (1) component of one (1) service to customers.

Centra is of the view that customer awareness of their natural gas supplier has a better -- is better achieved through educational campaigns and notes that the broker name will now appear three (3) times on the bill as opposed to once under the current format.

In addition, if the Board were to accept that the brokers ought to be permitted to include their logo, then surely that same option would have to be extended to other service providers whose services are billed on the bill. Imagine what your Visa bill might look like if every supplier included their logo on that statement.

The brokers have neglected to consider that they have other options to reach their customers. There's nothing which prevents them from communicating directly with their own customers independent of Centra's bill.

If communication with customers is very important to the brokers, they can send a letter, make a phone call or employ such other means as they deem appropriate to reach them and follow up that they are in fact the primary gas supplier.

On an administrative note, as discussed during the course of the hearing, the move to one (1) bill has necessitated some minor wording changes to the disconnection bill messages approved by the Board in Order 13/04.

As noted, these do not change the intent of the notices. However, the Board may wish to address the minor adjustments to Order 13-04 in its Order in this particular matter. If the Board requires additional material to be filed by Centra, we can undertake to do so prior to the issuing of the first combined bills on November 1st, 2005.

I would like to now turn to the issue of automated meter readings or AMR's. As discussed during this hearing and found at page 984 of the transcript, Centra wishes to proceed with a pilot AMR project including the installation of two thousand (2000) AMR units at an initial cost of four hundred thousand dollars ($400,000).

The pilot project will be targeted at existing meter reading routes where we have continuous problems gaining access to read the natural gas meters. While there will be real, immediate and long term benefits realized from the pilot project, the main objective is to gain experience with the cost of installation, the technology and operating issues that arise from the installation of AMR.

The learning gain from the pilot will be used to assist us in developing a business case to determine if it is feasible or desirable to proceed with the expansion of AMR service.

Centra believes that AMR will be necessary in the future to help address utility operating and infrastructure needs and to satisfy customer expectations. Mr. Warden indicated in his evidence that Centra would not proceed with the major AMR project unless the business case justifies it. And that reference can be found at page 1004 of the transcript.

But as it was also noted, there's a current need for the pilot project which will have benefits not only in establishing an accurate business case but will serve to address existing difficulties within the utility.

During the course of the hearing there was some discussion with respect to the most appropriate term of Centra's construction contracts. It is Centra's intention, consistent with the industry trend, to extend general mains and service contracts for a longer period of time.

Centra's of the view that longer term contracts deliver lower costs, improved safety and improved quality. Discussions with external contractors has also suggested that this is the contract of preference in order that they may plan equipment purchases and the appropriate work flows.

During this Hearing the Board has raised questions, particularly at page 829 of the transcript, as to whether the safety of the gas utility has been in any way affected as a result of Manitoba Hydro's acquisition of Centra's shares.

Mr. Case has testified at page 830 that since the acquisition in 1999, many new initiatives have been directed towards improving the safety of the gas utility. Public safety was a priority for the previous ownership of

Centra and remains a priority for Manitoba Hydro.

Centra is committed to providing the public with safe and reliable natural gas service. To fulfill and demonstrate this -- demonstrate this commitment to public safety, Centra continually undertakes and maintains initiatives that help to assure the natural gas distribution system it operates are designed, constructed, maintained and operated in accordance with applicable legislation, codes, standards and sound engineering practices.

As outlined in the evidence during this hearing, particularly at page 831 of the transcript, Centra has undertaken to develop and document standards and operating procedures which provide guidance and direction for material selection and work task completion. These standards and operating procedures will continuously reviewed and updated to assure that we remain current with applicable safety, code, technological and legislative changes.

To assure the standards and operating procedures are being followed by employees and contractors performing Centra's work, a comprehensive quality assessment process, which is mentioned at page 1068 of the transcript, is being developed. This process will include routine assessments of material selection and work task performance to assure materials used and work tasks carried out are in accordance with the approved standards and operating procedures.

The quality assessment process will identify continuous improvement opportunities for employee and contractor training programs, material standards, inspection services and, again, standard operating practices.

During the Hearing the Board had questions regarding cathodic protection levels on Centra's buried steel pipeline facilities. Centra performs regular monitoring of cathodic protection as part of its ongoing management of system integrity and also to comply with company standards.

The cathodic protection target that Centra is working towards is 90 percent or better. That's -- that goal can be found at page 1063 of the transcript.

To allow for improved planning and more effective corrosion protection, Centra has installed remote sensing units which provide information on corrosion protection levels on a daily basis. And that reference can be found at page 859 of the transcript.

In addition, Centra installs new sacrificial anodes, ground beds and rectifiers in different areas of the system to improve the overall cathodic protection levels where required.

Mr. Chairman, Members of the Board, I would like to conclude by offering some comments in the spirit of those offered by Mr. Weiss with respect to process.

Certainly, I think we can all agree that this has been a very long day. The Applicant in this process is left to respond to many issues, only some of which can be anticipated by the cross-examination on behalf of Intervenors.

Settlement discussions and other mechanisms to encourage Intervenors to state their positions prior to final argument can only enhance the process and the ability of all parties to focus on issues of concern.

The ultimate purpose of these hearings is to better inform the Board of the relevant facts and issues and the positions of the parties with respect to those issues. This can be better achieved by having disclosure of those positions at the earliest opportunity.

Preferably, that would come before final argument. However, at a minimum, it would be an improvement to the process to have Intervenors argue one day and then Centra argue the following day. This would provide Centra with the time to adequately respond to the issues raised by Intervenors in their closing submissions.

Courts have recognized that full disclosure is a means to ensure a better end result and, to that end, have done away with the concept of trial by ambush. The same could be said of this process, that is full disclosure of positions earlier rather than later will allow all parties to fully consider their positions and provide better assistance and information to the Board.

It may also facilitate streamlining of the issues and better agreement and understanding of common interests. Centra would certainly welcome the opportunity to consider process improvements in consultation with the Board and other stakeholders.

To sum up, this has been a long process, certainly for all of us here in this room but also for a number of staff who started working on the application back in the fall of 2004. The issues to be determined are significant and varied. The financial implications are of utmost importance to the utility.

As the Board recognized in Order 13/05 this is the time to look to the future, rather than the past. It has been six (6) years since the acquisition of Centra by Manitoba Hydro. The time has come to accept that the transaction was and is in the best interests of the ratepayers. There is no merit in reviewing time and again the acquisition.

All parties agree that calculating what might otherwise have happened is becoming increasingly more difficult with each passing year. Let's all turn our focus to the future.

An integrated customer focussed utility with one (1) bill and an aggressive DSM plan are the way of the future. Recognition of the reality of today is in the best interests of customers and consumers. The interests of customers lies in determining just and reasonable rates in the most logical fashion, recognizing the current realities of the utility.

The Board started down this road in Order 131/04, and carried on that course in Order 13/05. The principles enunciated by cost of service are the logical ones on which to base your decision. Matters such as the appropriate sharing of the cost of the acquisition and the appropriate level of retained earnings in Centra are the most appropriate ways to judge the reasonableness of the rates.

And you can take comfort in recognizing that the rate increases required to accomplish these goals are still manageable for customers, in light of the fact there has only been one (1) non gas cost increase of only .4 percent since the date of acquisition six (6) years ago.

Centra has demonstrated the financial need for the rate increase approved on an interim basis in Order 13/05. It is appropriate for the Board to now, following the public process, confirm that order as final.

Centra has also demonstrated the need for an additional rate increase in 2006/07, in order to move towards a more -- a more financially stable utility.

Centra wishes to advise the Board that in order to implement your directions on August 1st, 2005, it will be necessary to receive the Board's Order in respect to this matter no later than July 26th, 2005, in order to confirm final rate schedules in advance of the first billing run on August 3rd, 2005.

Thank you, Mr. Chairman, and Board Members, for your attention and patience throughout this process. Subject to any questions you may have of myself or Ms. Murphy, that concludes Centra's remarks.

THE CHAIRPERSON: Thank you, Mr. Czarnecki, and thank you, Ms. Murphy.

This brings to an end the public phase of this Hearing. We will take all of the matters, including the strongly held positions that were raised by presentation and other informational means into account, as we move to sequester and deliberate.

Our decisions carefully considered, will have both a fairly immediate application as well as longer term effects, and we will keep this in mind. The matters before us are both straight forward and complex. Financial/legal competition, environment, accounting, operating, low income and social responsibilities.

Much has been placed on our plates, as it has been on the Corporation's and the Intervenors'.

Coming up in the very immediate future is the August 1st quarterly primary gas setting. The time in which rate riders will be added and deleted and market price changes will be taken into account. Quite a complex exercise, testing consumer understanding. I think we'll all agree.

We certainly and sincerely appreciate the significant effort put forward in this Hearing by Centra and the witnesses and counsels. Also, by the Intervenors, from the Board Advisors and Board Staff, and we note that Centra's openness has always been very helpful, as has been the diligence of the Intervenors.

The matters are important and the efforts of all reflect that fact.

We are fortunate to have had the help of all in assisting the Board in determining the public interest. Finally, we appreciate the comments and suggestions on process. The Board is also very interested in that particular topic. You will hear from us in due course.

And thank you again to Digi-Tran, the transcriptions are a necessary part of the process, and provide an historical context for the future at the same time.

We stand adjourned.

--- Upon concluding at 6:05 p.m.

Certified Correct,

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Carol Wilkinson, Ms.