MANITOBA PUBLIC UTILITIES BOARD

Re: CENTRA GAS MANITOBA INC.
2007 COMPETITIVE LANDSCAPE PROCEEDING

Before Board Panel:

Graham Lane - Board Chairman
Len Evans - Board Member
Eric Jorgensen - Board Member

HELD AT:

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

R.F. Peters		)Board Counsel
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Brent Czarnecki		
Paul Kerr	(np)	)Coral Energy
Sandy Boyd	(np)	)Communications, Energy
		)and Paper Workers
		)Local 681
Kris Saxberg	(np)	)CAC/MSOS
Ivan Holloway		)
Eric Hoaken		)Direct Energy
Nola Ruzycki		)Marketing Limited
Karen Melnychuk		)& Energy Savings
		)(Manitoba) L.P.
Dave Hill	(np)	)Koch Fertilizer
Nick Gretner	(np)	)J.R. Simplot

APPEARANCES (CONT)

William Gange	(np)	)TREE and Resource)Conservation Manitoba

TABLE OF CONTENTS

LIST OF EXHIBITS

--- Upon commencing at 10:37 a.m.

THE CHAIRPERSON: Okay. Good morning, ladies and gentlemen. Welcome back to the two (2) days that have been scheduled for the closing submissions in the public hearing that is examining the Manitoba Natural Gas Landscape. Before we turn to hear closing submissions, there are a few answers to undertakings that should be marked as exhibits.

On October the 5th of 2007 Mr. Hoaken wrote the Board and all parties to provide information the Board requested in its ruling on a motion. I suggest this information be marked as Exhibit DEML/ESMLP-22.

--- EXHIBIT NO. DEML/ESMLP-22: Letter from Eric Hoaken providing information on Board's ruling on a motion

THE CHAIRPERSON: On October 12, 2007, Mr. Hoaken wrote the Board and all parties to provide his client's responses to seven (7) undertakings and/or questions. This letter contained the responses and also three (3) appendices. I will suggest that these be marked as Exhibit DEML/ESMLP-23.

--- EXHIBIT NO. DEML/ESMLP-23: Letter from Eric Hoaken containing responses to seven (7) undertakings and/or questions, and three (3) appendices

THE CHAIRPERSON: Now, Mr. Hoaken, if I may, does this complete the responses to undertakings by your client?

MR. ERIC HOAKEN: I believe it does, Mr. Chair. Thank you.

THE CHAIRPERSON: Thank you, sir.

Turning to Centra now, the Board and all parties were provided a copy of an October 10th letter, which attached Centra's response to Undertaking 20, which related to AECO pricing for the various terms. I suggest that letter in response be marked as Exhibit CENTRA-33.

--- EXHIBIT NO. CENTRA-33: A copy of an October 10th, 2007, letter which attached Centra's response to Undertaking 20, which related to AECO pricing for the various terms

THE CHAIRPERSON: Ms. Murphy, does this

complete the responses by Centra to the undertakings?

MS. MARLA MURPHY: Yes, it does, sir.

THE CHAIRPERSON: Thank you. The Board also notes that after we last met, Centra submitted a request on October 10th, 2007, to waive on a trial basis the minimum volume requirements for the WTS agreements, effective November 1st, 2007. While this request was made outside the hearing process, it does relate to a matter in which the Board heard evidence.

Because of the request for a decision to facilitate retailers and brokers before November 1st, 2007, the Board considered the request and accepted Centra's proposal in the Board's October 22nd letter of reply.

For completeness of the record, I suggest that Centra's October 10th letter requesting approval to waive the minimum customer load be marked as Exhibit CENTRA-34 and the Board's October 22nd response be marked as Exhibit PUB-12.

--- EXHIBIT NO. CENTRA-34: Letter from Centra dated October 10, 2007, requesting approval to waive the minimum customer load

--- EXHIBIT NO. PUB-12: October 22nd, 2007 Board response to letter from Centra dated October 10, 2007

THE CHAIRPERSON: Now, unless there are any other concerns with any of my opening comments and markings of exhibits, I will call on Mr. Peters to provide his closing comments, to be followed by CAC/MSOS's Mr. Holloway this morning and Centra this afternoon.

We also expect a written submission from Shell Energy North America (Canada) Inc. And we plan to hear from DML -- EML and ESMLP tomorrow morning.

Mr. Peters...?

CLOSING SUBMISSIONS BY MR. BOB PETERS:

MR. BOB PETERS: Thank you, Mr. Chairman. Good morning, Board members, Dr. Evans, Mr. Jorgensen, ladies and gentlemen. It has been several weeks since we last met, and at that time we concluded the evidence being presented in this Hearing to review Manitoba's natural gas landscape.

The purpose of this proceeding was to evaluate the current Manitoba market structure and determine if any changes were necessary in order to optimally serve the needs of consumers.

As you've indicated, Mr. Chairman, the Board has set today and tomorrow to hear the closing submissions from interested parties, including CAC/MSOS, Centra, and the retailers. And as you noted, Shell Energy has filed a written submission that I'll speak to at the end of my comments.

Before turning to each of the parties, Mr. Chairman, I have a few comments in an effort to summarise some of the issues that the Board may hear from the parties about. So, to illustrate the issues, I propose to briefly cover the list prepared by the Board and published in the original Notice of Hearing.

I should also indicate that as counsel to the Board in this matter, I take no position on the merits of any of the issues or requests that are made, and I'll leave it to the parties to speak to the issues themselves.

The first issue identified by the Board in its notice was the potential abandonment by Centra of hedging for its system gas offering with possible amendments to the rate setting mechanism to mitigate the effect of leaving hedging.

The parties gave their opinions on the merits and drawbacks of Centra's hedging program. The

Board also heard about potentially making changes to the rate setting methodology that included adjusting the period over which the PGVA is disposed and a change to a monthly setting of the primary gas rate.

Issue B is whether to establish the Equal Payment Plan as the default payment option and, further, should all existing customers be placed on the EPP, but given the option to opt out.

The next issue, C, is whether Centra should enter the fixed price, fixed term market in competition with the retailers and whether a code of conduct is required to govern Centra's actions. In addition, concerns about the fairness of this competition were raised.

Issue D involves changes to Centra's supply arrangements, and related to this, some of the terms and conditions of service. There was specific reference to the changes to the Nexen gas supply contract that allow monthly enrollments in direct purchase. There was the discussion about the reduction or elimination of the volumetric threshold for WTS contracts, and there were changes to Centra's process for forecasting and nominating volumes.

Mr. Chairman, I'll note here that you have marked as Exhibit CENTRA-34 and PUB Exhibit 12 the approval of the trial period for the waiver of a minimum volume threshold.

Issue E relates to the allocation of Centra's cost for administering the WTS; incremental bad debts from retailer customers, and additional costs of the Nexen gas supply contract to facilitate monthly enrollments in direct purchase.

With Issue F the Board sought the views of the parties on the implications of changes that are contemplated in this proceeding.

The Board then wished to canvass all parties on Issue G for their views on the nature and extent of competition in the Manitoba natural gas market.

Issue H deals with the terms and conditions of fixed price contracts. Although only the retailers currently offer fixed price contracts, this could apply to the potential offerings being contemplated and requested by Centra.

Marketing practices of the retailers were considered in Issue I. The marketing practices include the existing door-to-door sales, but also the potential for other marketing channels, such as telesales and internet sales.

Issue J relates to the rules for enrolling, terminating, and switching suppliers.

And lastly, Issue K deals with the code of conduct for retailers, and particularly if any changes are required.

In addition to the Board's list from the pre-hearing notice, other issues came forward. The Board heard about the consumer research that Centra conducted, as directed from Board Order 175 of '06. The customer research canvassed customers of both Centra and the retailers on issues such as competition, the EPP, natural gas products, and satisfaction with service levels.

The nature of Centra's default offering was scrutinized with changes to the rate setting methodologies suggested by the retailer. The Board heard about Centra's obligations for backstopping of the retailer's supply and the costs incurred by retailers were discussed. These include costs to acquire customers and the costs of their gas supplies, especially as it relates to the cost that Centra pays for its supplies.

Finally, the Board was given a retrospective review of the costs of expired direct purchase contracts compared with the costs that would have been incurred if the customer remained on system supply. The purpose of this was to determine if customers had historically been better off financially on system supply or direct purchase supply.

With that summary of the issues that I've canvassed this morning, Mr. Chairman, I'll conclude my opening -- my closing comments. I should indicate that the Board has received a letter dated October 24th from Shell Energy North America (Canada) Inc. referred to as "Shell Energy" and for the purposes of continuity of the record, Mr. Chairman, Shell Energy is now the successor company of Coral Energy Canada Inc., one (1) of the registered Intervenors in these proceedings that was monitoring the -- the proceedings before this Board.

The submission is two (2) pages long and discretion was provided as to when it got entered into the record and I will suggest and ask that after my comments that we include the comments from Shell Energy North America (Canada) Inc. in the transcript for the record of the Board.

With that, Mr. Chairman, I suggest you now call upon Mr. Holloway to hear the closing submissions of CAC/MSOS.

THE CHAIRPERSON: Thank you, Mr. Peters. And that's fine about entering the Shell letter.

(WRITTEN CLOSING SUBMISSIONS BY SHELL)

Closing Submissions of Shell Energy North America

(Canada) Ltd.

As information for all stakeholders, and for the record of this proceeding, please note that on October 1, 2007 Coral Energy Canada Inc. changed its corporate name to Shell Energy North America (Canada) Inc. ("Shell Energy").

Shell Energy has monitored this proceeding and files these comments for consideration by the Public Utilities Board ("the Board") in determining what modifications may be made to the competitive natural gas industry in Manitoba. Shell Energy believes the gas market in Manitoba is functioning adequately and meeting the objectives of the PUB and of consumers. Yet, there will always be existing or emerging circumstances in the environment that require action in order to maintain or improve upon the market, for the benefit and protection of consumers. Adequacy does not imply that Shell Energy believes the status quo should prevail, but rather the current state provides the foundation necessary to continue with the competitive market and evolve it over time. The parties to this proceeding have recommended many specific improvements that need to be considered.

A recent example of such an alteration is the volumetric flexibility in the Centra Gas Manitoba

("Centra") primary gas supply contract that helps enable direct purchase customers to be enrolled monthly with brokers. It is difficult to determine at this time how significant this improvement will be for the market and the extent it will benefit consumers, which is why the Board should not judge the landscape based on a static, retroactive view of the last few years. Shell Energy is hopeful that the information, analysis, and opinions provided to the Board throughout this proceeding will have highlighted the areas in need of involvement and direction by the Board.

One of the more significant issues debated in the proceeding has been the appropriate role for a regulated utility to play within a competitive framework. Shell Energy believes that separation between regulated and competitive activities is a fundamental necessity in fostering any competitive framework, as well as protecting the interests of consumers. There must be a "level playing field," without direct or indirect advantage to any party if competition is to survive. Shell Energy supports strong and fair competition from all parties, including arm's-length affiliates of utilities, so objects to any proposal or situation that would have a regulated utility directly provide competitive products or services, such as long-term fixed-priced contracts, while leveraging an advantage from its regulated operations. In addition to the question of unfair cost or administrative subsidization/advantage, the issue of risk assumption must be considered. Independent competitive suppliers assume the risks inherent in selling forward contracts at fixed commodity prices. While a regulated utility should not be placed in a position of taking on such long-term risk, consumers must be protected from having this risk forced upon them through a regulated process that permits retroactive application of the costs for the long-term supply.

Preventing a regulated utility from exercising unfair competitive advantage, and from exposing consumers to unwarranted risk, must be balanced with the practical need and natural exercise of purchasing commodity for default supply customers. Shell Energy supports the continuation of the short-term hedging programs approved by the Board and utilized by Centra. The mechanistic approach taken is appropriate in attempting to mitigate the risks consumers face from potential short-term volatility in the price of natural gas commodity.

Going forward, Shell Energy encourages the Board and all industry participants to view this proceeding as valuable insight to the sorts of incremental improvements can be made to the competitive landscape in Manitoba, rather than as an opportunity to eliminate competition or impose revolutionary changes in policy direction. In deciding on the role of the utility and issuing other decisions and directions on how to move forward, Shell Energy requests that the Board be mindful of the different types of customers within the landscape. Typically differentiated by consumption level, larger consumers do not have the same needs as smaller consumers for protection by the Board, for example. New or changed policies of the Board, regulations, or activities of the utility and the brokers, should be geared towards the customer type they are intended to address so as to not impose unintended requirements or outcomes.

All of which is respectfully submitted, Paul Kerr, Manager, Market Affairs, Shell Energy North America (Canada) Ltd.

(WRITTEN SUBMISSIONS CONCLUDED)

THE CHAIRPERSON: Mr. Holloway, I understand you intend to present a written brief and simply highlight it through your oral comments and that's acceptable to the Board and when you're concluded, we'll enter your full submission into the record.

MR. IVAN HOLLOWAY: Yes. Thank you, Mr. Chair.

CLOSING SUBMISSIONS BY CAC/MSOS:

MR. IVAN HOLLOWAY: As Mr. Chair said I'm not planning on -- on -- everyone should now have the two (2) volumes of a closing submission. Fear not, most of it is actually attachments and not actual written argument. I'm not planning on reading the oral argument but I do want to highlight some of the more significant issues that arise from it and -- and our position thereon.

To start with, Mr. Chair, I think in order to understand what's happened in this -- in this Hearing, in order to understand and -- and provide some kind of perspective on the issues that have arisen, there needs to be an understanding in exactly how the competitive operation of the retailers vis-a-vis the system supply operates.

And it seems to be reasonably well accepted that there are some issues in the competitive landscape. There's approximately 20 percent of the market is -- is competitive retailers and the rest is the system supply utility and that number, though, seems to have changed perhaps in the last couple of years. Over the last number of years since the buy/sell situation there hasn't been the expansion of competitive retailers in the market as was originally hoped for.

And in addition to that and as a part of that, there's other elements of the -- of the retail market that I'd like to highlight that -- that appear to be problematic. There's only two (2) retailers. There doesn't appear to be any more that are knocking on the door to come into this market. The -- the products that are being offered by the retailers are not in direct competition with what Centra is offering, and I would submit are in fact distinguished in a manner so that they are not in direct competition with what Centra is offering.

To a large extent, the competitors are not even competing between themselves as was disclosed in cross-examination of the retailers by CAC/MSOS, and -- and I think is fairly accepted in any event.

Direct Energy has 100 percent of the three (3) year fixed price market in Manitoba. Energy Savings has 100 percent of the four (4) year fixed price market in Manitoba. The only area in which there is actual direct competition, product for product, is in the five (5) year market.

And there's something I think and I would submit inherently troubling about that set of circumstances. There is little evidence, if any evidence, that consumers are benefiting from a price perspective in terms of obtaining prices for natural gas that are lower with competition than would ordinarily be with system supply.

Of course, there's going to be times in which depending upon how the market operates, system supply will be higher than -- than fixed price offerings. But it -- it seems to be that on the long run the competitor -- the retailers are not providing value in the sense of putting downward pressure on price.

So the question arises: If this is all correct, what -- what's the problem? What -- what's happening here? Why is this the way it is? Why are there not more competitors? Why is there not more direct competition? Why is there not more downward pressures on price and more innovation in this market?

And CAC/MSOS has -- has a theory about this, that -- that we propose is essentially describing the reasons why we're seeing what we're seeing today. And it has to do with the systemic structure of the market, vis-a-vis the retailers, and the Utility.

And essentially, I would submit, Mr.

Chair, that what's happening is that, first of all, the retailers and Centra are buying the same gas, same molecules, they're buying it from the same market, the prices overall on the long run are the same prices; they may vary from -- from moment to moment depending upon when the actual gas is bought.

But essentially, and it's admitted on the record by the -- the retailers, it's essentially the same prices. It's the same pipes that travel to Manitoba. It's the same distribution network that distributes it in Manitoba.

It's the same billing and collection agency that's -- that's used for the retailers that's provided by Centra. Basically, the cost involved in all these processes are the same between the retailers and the Utility.

And basically 99/98 percent of what is required to provide natural gas to the Manitoba market is in those processes that I just referred to.

So built into this -- to these constraints, where is there room for the value-added, where is there room for the innovation for the marketers, where is there room for the marketers to be able to put downward pressure on price?

And the submission of CAC/MSOS, and

through no fault of the retailers, is that there isn't much room. There may be almost no room. There is perhaps room to repackage and to provide incentives, to provide products that -- that are not currently allowed to be offered by Centra, but there's no real intrinsic room to provide the value-added components in which we had originally hoped the competitive market would provide.

Now, on cross-examination the retailers said, well, there are some value-added components that we can provide.

Number 1, we can provide choice in the marketplace, not necessarily choice of products, although that may be it too, but nothing beyond what the Utility can do, because of course, if allowed, the Utility can provide various product offerings and choice in that regard itself. But it can provide choice of which company or entity a person or company wants to obtain gas from. That is one (1) value-added component.

Another value-added component was that the retailers, unlike the Utility, assume risk. They assume risks involved with providing a fixed price offering. They assume risks involved with any hedging activities that they engage in, and that if they're right or they're wrong, the Utility bears the financial burden of that.

If Centra is wrong and there's costs -- cost overruns, it's potential that the ratepayers are going to bear that burden. That's a value-added to -- to having retailers.

However, on cross-examination it was conceded that, of course, risk is something that's built into the costs -- into the price of natural gas that's provided to retailer customers. It's -- retailers pay for that risk, so the benefit there may be, but it's also compensated for.

The third thing that I -- I took from what the retailers said, in terms of value-added, was that they provide a check on the Utility. And essentially what I understand from that is that they provide a price check and also an efficiency check in the sense that by providing competing products or products that compete in some way with -- with Centra, they're providing a -- a check on the price that Centra is allowed to charge, and from an efficiency standpoint, to the extent that the retailers can create innovation, management efficiencies, and so on, that that provides a check on Centra's internal operations in that regard.

It was admitted on cross-examination that, of course, when it comes to price, the Public Utilities Board can provide a check on the -- on the Utility. When it comes to efficiency, there may be a point that -- that there is some value-added from the retailer's perspective in the sense that -- that their incentive to provide a better, quicker, less expensive product provides them with incentive to innovate and to create efficiencies.

The extent to which that can have a meaningful impact, I would submit, is limited, simply because we're talking about such a narrow area of cost, that any efficiencies that may be created that don't have anything to do with distribution, with billing, or collection, or anything like that is inherently limited, although acknowledged there.

At the end of the day the core value-added components that we would hope would come from the competitive -- from having retailers in the competitive market competing with Centra, such as downward pressure on price, reliability of gas supply, safety, quality, any of those big picture core value-added components are simply not being provided by the retailers in the competitive market.

And in fact, there's -- the retailers have greater costs. Arguably, a significant -- and we don't know, because we don't -- we didn't have the benefit of -- for commercial sensitivity reasons of being able to open up the door and -- and look inside the financial structure of the retailers' companies and see what kind of profits they're making and see what the allocation of -- of their costs are.

But certainly, I think, Mr. Chair, from an intuitive and a logical standpoint, and -- and from the evidence that's been presented so far that, clearly, retailers have costs that the Utility doesn't have.

They have advertising costs. They have a requirement, in order to be successful, to obtain customers from system supply and put them on marketer supply. They need to pay commissions to sales people to do that. They need to come up with ideas for new packaged products, perhaps incentives in those products.

It seems that a logical and intuitive inference, even though we don't have the benefit of being able to -- to pierce the veil, is that a lot of the expenses, in addition to the -- just the provision of gas, goes towards obtaining customers from Centra. And, of course, those costs must be, to be a viable business, passed on to consumers.

So at the end of the day, when we -- when we boil everything down to its basic components, it seems to be that the -- the value-added left over is -- of -- of having competition -- is the ability of consumers to choose who they want to obtain their gas from and, perhaps, some notional efficiency check upon the Utility for a certain limited area in which the retailers do business. That's contrasted with the additional expenses that it appears that retailers would have to incur in order to maintain viability.

And I think an interesting comparison, which was made by Dr. Cyrenne -- both in his written evidence and was discussed on cross-examination -- is the telecommunications industry. As we all can appreciate, certainly in the wireless aspect of the telecommunications industry, there's been a fairly significant expansion of real competition in that area.

The problem with the comparison between that industry and natural gas is that there has been a fundamental technological change in the telecommunications industry. We can now communicate on telephone without wires, without the wire infrastructure.

Natural gas has had no similar technological change. And essentially, we cannot send gas via satellite or -- or cell. We can't beam it from one place to the other. And I -- I don't mean to be facetious or -- or jocular, but that's a pretty important distinction.

We're -- we're still fundamentally constrained with the -- the basic infrastructure that necessitated a natural monopoly in the first place.

And -- and to a large extent, I would submit that constrains the ability - and as I said before through no fault of their own - of the retailers to be able to provide a real value and competitive advantage.

In -- in addition to -- and so we're in the situation of the retailers, what -- what do you do? I mean, you have limited opportunity to be able to create a brand new form of gas that's some kind of super-efficient, super-extra value-added gas you have limited ability to provide efficiencies and transportation, distribution and so on.

You know, what do you do? Well, it's reasonable and it appears that what's happened is that you -- you try to focus on what you can do. So you focus on a fixed price which is a fixed price, long term offering which currently the Utility cannot provide. You distinguish your product.

What else can you do? Well, you -- you leave an impression in the mind of the consumer that there's a possibility, a real possibility, that you're going to save money if you go with retailers as opposed to whether you go with utility.

There's no real issue from -- from the consumer's and the society's standpoint as to advertising based upon a fixed price element over a term, as long as it's a fair and accurate depiction of what's being provided.

There is an issue though; when products are being put forward -- and -- and especially a product like natural gas which, in Manitoba, I think can fairly be said to be an essential product, a -- a necessity of life for those that have houses heated by natural gas. Something that is as important as that -- that consumers should have the information before them that is accurate, clear and fair, and we don't have that -- and we don't appear to have that right now.

I'm not going to go through some of the -- the materials that were canvassed on cross-examination because I think that the point is simple and -- and was made clearly there and it's also addressed in -- in our materials.

However, I would like to point out that much of what was canvassed in cross-examination were retailer marketing materials that were not current. Undertakings were requested to provide current materials and those were provided. They're in the materials.

I'm not going to go over them in any detail, only to say that there doesn't appear to be that much of a change between prior materials and current materials as to -- or insofar as to the seed being planted in a person's mind that there is a potential, a real potential price advantage, if a customer signs up with retailers.

And to be clear, it's not that our concern is -- is that -- and it's not that we're alleging that the marketers are saying anything that's illegal, it's not that the marketers are saying anything that is -- that is just simply directed at price of gas and not at other values that -- that they may provide such as a fixed rate product and so on. It's simply that it still remains a component of the advertising and it still leads a person to think that, Gee, if I sign up there's a real chance, maybe not a 100 percent chance, but there's a real chance that I'm going to save money on gas.

And -- and some of the statements like, Experts generally agree the prices of gas are going to go up in the future, don't you want to lock-in now, you know what, that may all be true and we're not saying that any of that, per se, is untrue or that it's -- it's illegal in any sense.

But, you know, clearly just -- there's some kind of irony there that may or may not be appreciated by the average customer, that if the retailers truly believe that the prices were going to be increasing like they had in the past, that's been put forward, who would ever offer a product that essentially, on the average, is going to be a money-losing product from the standpoint of the company providing it?

It's -- it's -- there's a logical problem there and -- and it's ironic. And it -- and if this was some other component of the -- of -- of the market -- and I'm saying the market, I'm saying the general market outside of natural gas, the general -- you know, is market for vacuum cleaners or for -- or for gum balls or something like that, the concern isn't there. But we're talking about financial commitments, not insignificant financial commitments; we're talking about long term, three (3) to five (5) years; and we're talking about a product that is a staple product, perhaps even a necessity in this province and that's why it's -- it's more critical.

Now, the -- in -- in fairness to -- to the retailers, they've come forward and they've said, Look, there's problems in the marketplace, there's barriers to entry, there's -- there's built-in issues and this is why we can't provide the value-added -- the -- the competition that we would like to provide.

And the retailers have put forward a number of -- of ideas to change this situation; some of which CAC/MSOS support and some of which we have concerns about. When it comes to monthly enrollments versus quarterly enrollments, we support that, we have no issue with that. Minimum volume requirements, which appears to have been really a nonissue now, we support that, as well.

With respect to WTS nomination procedures, insofar as Centra can cooperate and discuss with the retailers prior to making nominations without incurring any kind of significant costs, CAC/MSOS has no problem with that.

As a whole, we want to encourage the retailers and the Utility to cooperate, both on this issue and on as many issues as they possibly can. In fact, evidence came out during this Hearing that there was some fairly -- or apparently some fairly significant diversions of views and -- and perhaps even some hard feelings related to the relationship.

Without, you know, getting too involved from CAC/MSOS's standpoint, we're of the view that it's in the best interests of consumers that these entities cooperate as much as possible for the benefit of consumers as a whole; they have to, they're interrelated, and they should, to the extent possible, act in good faith, act reasonably and cooperate. The extent to which the Utilities Board can mandate that may be limited, but is it -- is it -- from a principled standpoint, CAC/MSOS supports that.

If -- if -- getting back to -- to WTS -- WTS nominations, which I kind of went on a tangent from, we're of the view that -- that if -- if we're talking about a change that involves a significant outlay of money or -- or some kind of inherent subsidization of -- of retailer customers by system supply customers, on -- on a principle basis, we're not going to support it.

However, the -- this is a situation where it appears to be rather premature to make any kind of assessment, because it was not -- this issue was not provided in the level of detail that was required at the beginning of this Hearing. And there's a bit of a procedural fairness requirement to be able to -- to determine with any kind of degree of accuracy and sense of comfort, what exactly we're talking about and what exactly is at issue.

So fundamentally, CAC/MSOS is not in a position to categorically say that, you know, a change in WTS nomination procedurals is out -- is out of the picture, keeping in mind those caveats that I said before, but essentially if this is a serious -- if this is something that the retailers are seriously putting forward, that it's required in a more detailed application.

With respect to the electronic business transaction system, which we understand to create greater synergies and efficiencies in the communication mechanism between the retailers and Centra, on a high-level principle basis with consumers, seniors, support measures that provide synergies and efficiencies between those two (2) entities.

The real issue here, and -- and unfortunately like, I think the WTS, is it's premature, is that in other jurisdictions, it appears that this system costs significant amounts of money, between six (6) and if I recall correctly, it's in my materials, but I think it's between $6 and around $36 or $39 million dollars.

Significant outlay of money without any sense of what the financial benefits to anybody are, is simply impossible to come up with a -- a detailed position on this particular issue. And that would be something that the retailers would have to undertake perhaps in conjunction with Centra to do a cost benefit analysis and provide us with some sense of what benefit it would be for what cost we'd be paying. We don't have that information. It's simply premature to -- to make any recommendation specific to this issue right now.

With respect to the suggestion put forward by the retailers that there'd be some loosening of the code of conduct, insofar as wet signatures are required to formalize a contract between a customer and a retailer, the CAC/MSOS is open to the idea of e-signatures, and I'll speak about that in a second.

We're not open at this point to the idea of voice signatures. The concern is -- is that there's not material being put -- physical material being put in front of the customer at the time of signing, in which the customer can review and can think about.

And that, going back to the concerns before, there's a general overall concern that we're talking about a very important commodity for a significant period of time in which a person enters to contract. And those concerns also come into play, insofar as the Seniors and the Consumers' Association want to ensure that any decisions being made by customers are not off-hand decisions, and are made with the utmost of -- of seriousness and thoughtful as possible.

With respect to e-signatures and concluding the contract by the internet, CAC/MSOS is cautiously accepting of that if there are proper and adequate safeguards to ensure that the person signing up is, in fact, the person who has the authority to do so.

If -- if this can be accomplished by using a gas number in, perhaps, conjunction with some other safeguards that could be put forward in a more detailed and articulated proposal -- at least on a principle basis, assuming that those basic safeguards can be met, the consumers and the seniors are not on a -- on a principle basis, opposed to that.

With respect to automatic renewals in -- in contracts, the ninety (90) day Evergreen provisions that were canvassed at some length in the Hearing, CAC/MSOS does not support this. We have a principled -- on a principle basis, we -- we feel this is a negative form of renewing a contract that requires inaction and that -- that inaction on the part of the consumer -- and that this is, given that there are -- there is a one hundred and twenty (120) day renewal period prior to the end of the contract as mandated now, that there's simply no necessity to change the code of conduct to what it was before.

I'd like to turn now to the issue of whether Centra should be allowed to make an application for any type of fixed price offerings.

CAC/MSOS does not have any principled objection to Centra being allowed to make an application, certainly for the one (1) year and two (2) year fixed price market -- which is currently not being serviced by anyone in this province -- on a trial basis, at least.

With respect to longer period contract terms, while CAC/MSOS has no principled objection to that, it is not something that we are actively pushing at this point in time. We're of the view that such an offering should be regulated by the Utilities Board, that it should be provided by Centra, the Utility as it stands, and not via an affiliate.

We are of the view that -- that such an opening in the landscape of the market right now will provide -- or hopefully will provide a price comparison between what the Utility is supplying and what the retailers are supplying, or at least the better price comparison.

We hope that this would -- and we -- we are of the view that this would have the effect of providing a check on prices of utilities -- of retailers, rather.

We expect that this would provide better information to consumers, in terms of their options and choices and relative costs and benefits and disbenefits thereof.

Ultimately, we're of the view that this is a benefit to consumers, or at least it holds out the potential to be a benefit to consumers.

It goes without saying that there are a lot of details to be worked out, and we are not beyond the details in which I referred to before. We're not taking any particular position on more minute details this point in time. But we would look forward to commenting on any potential application that Centra might bring if Centra is allowed to do so.

The bottom line, from CAC/MSOS's perspective - which is echoed, I would submit, throughout Mr. Stauft's evidence and throughout Dr. Van Audenrode's evidence - is that what we're fundamentally striving for here is not to artificially maintain competition for competition's sake, but to strive at the hoped benefits of competition, to strive at obtaining a situation where gas is being provided to consumers for the least possible price, where there's choice, and all or most of the other benefits that we would -- we had hoped the comp -- competition would provide.

But let me make it clear that we don't have any -- any interest or any desire to see the retailers being pushed out of the market. If that happens, it happens, and to a large extent, that's really core to the competitive process, ironically.

At the end of the day we want consumers to be protected and to have the benefit of the best prices. And if that comes in a competitive environment, that's fine. And if it doesn't, that's the reality of the situation.

I'd like to speak about hedging. There's been a number of hearings and -- and there's been a significant amount of discussion and debate about hedging, both at this Hearing and at, as I understand, previous hearings.

As I understand it, the Board is very familiar with these arguments and the issues. And I'm not going to stand here and -- and repeat them.

However, we would submit that there is some new information that's come out at this Hearing that merits revisiting the issue of whether Centra should be using hedges for its default supply.

And one of the new pieces of evidence is the Consumer Research Report of 2007 that Centra had conducted.

Another new piece of information is that the empirical evidence of the impact of hedging compared with a unhedged product indicates that there is no significant difference between the two (2).

And thirdly, we're now in a situation where, on a projected basis and based upon the hedges of the last year and a half or so, we're in a situation where the Utility will be incurring a net loss of potentially over $100 million.

Now, the -- with respect to the Customer Research Report, unfortunately, it seems to be inescapable that the results of the report on this area appear to be contradictory, at least superficially contradictory.

We have -- and I'm going to actually direct the Chair and the panel to Tab 94 of my materials. This is page 36 from the Customer Research Report. It's table 14 I'm referring to.

And the question being asked is:

"Are you prepared to pay a premium to eliminate the up and downs in the price for gas?"

And there's a number of -- of different time intervals for a fixed offering, ranging from three (3) months to five (5) years.

In -- in the first category, residential Manitoba Hydro customers, 79 percent are saying "no." In all the other categories, there is a majority saying "no" under -- that is under residential hydro, and these are generally significant majorities.

At the same time, we have, at Tab 98,

another question. And this is page 38 of the Customer Research Report's table 17. And the question being asked is:

"Currently Manitoba Hydro operates a price management program on behalf of its customers to reduce the rate volatility of natural gas. Do you support or oppose this program?"

And then the hedging program is described in a very lengthy footnote below. The results of that in summary are that 68 percent of residential hydro customers supported it and 22 percent opposed.

If we also look at Tab 99, we have another question that seems to, in some way, touch upon issues of volatility and that is -- the question's being asked -- this is page 41 of the Research Report, table 20 -- question's being asked:

"Would you support or oppose Manitoba Hydro offering natural gas at a fixed rate plan ranging from one (1) to five (5) years which guarantees a set rate usually at a premium?"

And then a total support for that from residential hydro customers is 56 percent.

This was canvassed in cross-examination

with the retailers and they're reticent. In fact, I don't think we're prepared to concede that there's a contradiction -- an inherent contradiction between one (1) set of results at table 14, which seems to indicate that people are not prepared to pay a premium for -- to eliminate the ups and downs of the price of gas, and yet a majority are prepared to pay -- a majority are prepared to want something that's -- that's fixed, usually at a premium, for one (1) to five (5) years.

If the person's not prepared to pay a premium to eliminate the ups and downs, why would a person be prepared to pay a premium for a fixed-rate product. There seems to be something inherently contradictory there.

We submit that there may be no way to resolve this apparent contradiction, however -- and therefore the -- the survey on this point is -- is simply not of any assistance to us. However, we submit that the -- if there is a way to resolve it, we submit that table 14 is a clear, more straightforward simpler question and that the results of it are more reliable as to what consumers are thinking, and that in contrast, the responses in table 17 and table 20 are not accurate, or at least there's a -- by the way the questions are designed, there's a real potential that they're --

they're tainted.

And although this was cross-examined on to some extent, I just quickly want -- and this is also addressed in my material, but I -- I want -- I want to graphically demonstrate what we're referring to.

If we look at Tab 98, and in particular, if we -- if we look at the -- the footnote, which was the description of the hedging program provided to potential res -- provided to respondents in this survey:

Number 1. We have a significant amount of material, certainly a lot longer than a very simple question of whether you're prepared to premium -- prepared to pay a premium to eliminate the ups and downs price.

Secondly, it's -- there's a certain complication and I think it's been written generally, maybe as -- as simply as it can, but -- but it's inherently -- there's -- there's -- it's a complicated subject that's been put forward to respondent. But more importantly, there's some real significant problems in -- in the wording of the question, and as Mr. Enns admitted in cross-examination, both I think from Board counsel and from CAC/MSOS cross, and I think also from the retailers' cross, is that the value of a response is directly related to the quality of the question asked.

And these are not questions that were scribbled on the back of a napkin, these are questions that were carefully designed to the evidence demonstrates, I submit, through a process of a number of drafts, six (6) drafts, through a number of different eyes, and as a result of hiring a consultant for, I believe the number was fifty-five thousand dollars ($55,000), who should be an expert in this area.

So, to focus in on the details of the question is not an unreasonable activity to engage in for the purposes of -- of this Hearing, I would submit, and for the purpose of determining whether, in fact, the results that were achieved have any significant bearing on -- on what the actual sentiments of consumers are.

I'd like to, in particular, direct the Board's attention to the second last line of the question in the -- or the explanation of hedging in the footnote at page 90 -- or Tab 98, which says:

> "Like all insurance products there is a cost."

And before this it was referring -- it was making an analogy of hedging to -- to insurance products.

And I submit, what is the point of -- of adding "like all insurance"? The only point that I can see is that somehow it -- it provides a certain excuse or justification for the fact there's a cost; it adds nothing to the explanation of hedging, except possibly to minimise the fact that there is a cost.

With respect to the next line, which states over the long term, twenty (20) years, the theory is the cost will be very small, less than 1 percent to your overall gas costs.

The issue there is very small. What value does very small have? It doesn't add any new factual component to the description. What it does, is it -- is it provides an opinion, from a certain perspective, that what we're referring to is very small.

What's very small to one person, maybe trite to say, may be very large to someone else. In any event, it provides no value whatsoever, but it does serve to diminish and to, in some way, dismiss the fact that there is a cost for this activity.

The third thing, which is -- which is missed, is that there are significant risks, in the sense that -- that there's significant swings of what the Utility has to pay or the benefits that the Utility receives as a result of implementing hedges. And these are in the tens of millions of dollars per year which, admittedly, could swing up to be a benefit for the Utility or could swing the other way and be a liability.

This was in -- in cross-examination this was canvassed. It was pointed out that this was a particular issue of concern to the MSOS and CAC that, in our view, was not adequately addressed. And as a result, on the whole, we submit that, essentially, this question is slanted in -- slanted in favour of -- of respondents agreeing with the implementation of hedging and therefore it provides very little value in terms of -- of any kind of truth tracking.

With respect to the -- the next question that I refer to you on -- on Tab 99, the problems here are more subtle, but they're still problems. I've gone over this in a certain amount of detail in my -- in my brief. Maybe I won't go over it in the same amount of detail except to say that there's a number of things being asked in this question that are all bundled together.

What are people saying yes to? Are they saying yes to the fact that Manitoba Hydro is offering this -- or potentially offering this? Are they saying yes to the fixed plan part of it? Are they -- are they supportive of -- of the lower end, one (1) year fixed rate offerings? Are they more supportive of the five (5) year and against the one (1) year?

And then finally -- so there's a number of things being bundled into this question. We're not sure what's being -- what's being answered.

And then finally, it's usually -- the word "usually" at a premium, is it in the mind of some people that there would be times that there would be no premium and, therefore, it would be gratis and for free?

It's more detailed in my -- in my written submission. I encourage the Board to review that. But at the end of the day, there's problems with the question that question the results of what arose from it.

And at the end of the day, we submit that the results of the problems with these questions is that the only real value you can get is from the question on table 14. If there's any real value. It may be that the Board will find that there is no value, just simply contradicts one another and cancels one another out.

But if there is, it's from the simple, clear, straightforward question on -- on -- at Tab 94, table 14, which indicates that, essentially, people aren't interested in paying a premium to eliminate the ups and downs of gas.

If that in fact is the mind of the consumer, we look at what is hedging accomplishing? Well, the -- the empirical evidence demonstrates that although it appears to be accomplishing a reduction in volatility of rates -- and off the top of my head I believe, it's -- it's in my materials, but it's between 30 and 53 percent reduction of volatility of rates. It appears to be having, from what the evidence we have so far, no impact whatsoever on bill volatility.

And by the retailers' own admission, it's the bottom line of the bill that people are concerned about. It's not some embedded rate that may or may not affect what they have to pay at the end of the day. And by Centra's own admission, the Equal Payment Plan is the best product to address bill volatility.

Given the fact that there is a cost to hedging, which according to the evidence was about half a million a dollars a year regardless of what the swings are -- and there may be more if -- if it doesn't -- if it doesn't, in theory, balance out in the long term.

But whatever the costs are -- whether they're five dollars ($5) or half a million or fifty (50) million -- if -- if empirically it's not doing anything for what people want and there's another product that can do it, address exactly what is wanting to be addressed, why are we still continuing to hedge for the default product?

It just simply -- it -- it doesn't seem to make the most prudent -- it doesn't seem to make sense.

It doesn't seem to be the most prudent use of resources.

And to alleviate anybody's suspense, CAC/MSOS is against hedging for defaults, bi-products.

Subject to any questions that you have, Mr. Chair, that concludes my submission. Like I said, I -- I only touched upon certain highlighted points that I wanted to touch upon. The materials go through what I've said in much more detail and they provide references to the evidence on -- in the tabs for the ease of reference for the Board.

With that, if there's -- subject to questions from the panel, that ends my closing submission. Thank you.

(WRITTEN CLOSING SUBMISSIONS BY CAC/MSOS)

MANITOBA PUBLIC UTILITIES BOARD
COMPETITIVE LANDSCAPE PROCEEDING
ARGUMENT OF CAC/MSOS

I. INTRODUCTION, OVERVIEW, AND ORGANIZATION OF ARGUMENT

A. Introduction

The Public Utilities Board ("Board") convened this

Competitive Landscape proceeding for the purpose of reviewing a variety of issues concerning retail competition in the Manitoba natural gas market. Evidence and responses to Information Requests were filed in this proceeding by Centra Gas Manitoba ("Centra"), jointly by the Consumers Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors ("CAC/MSOS"), and jointly by Direct Energy Marketing Limited and Energy Savings (Manitoba) L.P. ("Direct/ESM" or the "Retailers"). An oral hearing to further examine the various issues was held from September 4 through September 28, 2007. This Argument sets out the submissions of CAC/MSOS on the issues that the Board has identified for this proceeding.

B. Overview of Argument

There is no dispute amongst the parties in this case about the theoretical benefits of competition. It is important, however, for the purposes of this proceeding, for the Board to have a realistic appreciation of what competition at the retail level can and cannot do for consumers in Manitoba at a practical level.

In his evidence (Exhibit CAC/MSOS-1 ("Stauft Evidence")) Mr. Stauft examined that question in some detail. His conclusion, in summary, is that from a financial perspective those benefits, on average over the long term, will be essentially non-existent. Indeed from a cost perspective the net result of competition is likely to be higher average costs for consumers, relative to a pure monopoly situation in which all customers are served by Centra's sales service. From a purely financial perspective, therefore, it is unreasonable to believe that competition as it exists today, or even as it may be improved or furthered as a result of the determinations made in this case, has brought or will bring financial windfalls to consumers. Similarly, if for some reason unregulated competitors were to disappear from the Manitoba market that would not imply a meaningful financial loss for consumers.

Where Mr. Stauft did agree that competition might bring benefits to consumers, albeit at some cost, is in the area of risk or volatility management. By driving the creation of retail gas services that fix prices for varying terms, competition can give customers the ability to customize the pattern and timing of their exposure to short run changes in the market price of gas, even though in the long run all customers will pay some version of the market price.

Saying that the benefits of competition are limited in this way is not to suggest that these are unimportant issues, or that it would not be worthwhile to take whatever steps can be taken to improve the competitive landscape for the benefit of consumers. At the same time, however, it is important to remember that the focus, ultimately, should be on enhancing consumer welfare from the perspective of providing consumers with options that give them these types of risk management tools at fair, competitive, cost-driven prices.

It also seems to be agreed amongst the parties in this case that the current state of the competitive market in Manitoba is not satisfactory. In fact there are only two firms competing with Centra, and they offer only long-term, fixed-price services at prices that appear to be relatively high. The parties, however, appear to offer different explanations of this phenomenon, and as a result they propose different responses to it.

Direct/ESM take the position that the deficiencies in the current market are wholly attributable to a series of "barriers to entry" that they identify, and that they urge the Board to remove. Their claim is that if those barriers to entry are removed more competitive firms will be attracted to Manitoba, more and more varied products will be offered to consumers, and the cost to consumers of unregulated competitive services will be reduced. In addition, Direct/ESM take the position that it would be unnecessary and indeed harmful to competition and to consumers to attempt to enhance competition by encouraging Centra to provide alternative products that customers may value at regulated cost-based prices.

CAC/MSOS has a different view. First, while we agree that unnecessary barriers to entry should be removed, only a few of the barriers that Direct/ESM identify are genuinely "unnecessary" from a public interest perspective, and our understanding is that Centra has already agreed to eliminate those. The other measures that the Retailers propose as ways to enhance competition would do so only at the cost of eroding consumer protection or indirectly providing a subsidy to the Retailers, and should be rejected.

Second, given the circumstances that exist in the Manitoba market, and the limitations on the value of competition in that market that have been discussed, CAC/MSOS do not accept that there is anything fundamentally wrong, from a consumer and public interest perspective, with allowing Centra to create additional risk management options and tools for consumers by offering alternative fixed price products at regulated rates. We understand that doing that would be a departure from the existing practice in Manitoba and elsewhere, and that there are issues to be resolved and pitfalls to be avoided in connection with that proposal, but those are all practical problems that can be overcome. Our view is that when all of the evidence is considered it is clear that there is little to lose from such an approach, and that there are potentially some genuine consumer benefits to be gained.

Another set of issues that has arisen in this case concerns Centra’s hedging program and the design of Centra’s "default" or system supply Primary Gas rates. On these issues CAC/MSOS and Direct/ESM appear to have similar views as to the appropriate result, although the reasoning of the two parties may be somewhat different. Our position is that it would be appropriate to eliminate the hedging program. With respect to monthly Primary Gas default rates, CAC/MSOS does not object to that proposal in principle, provided that our recommendation with respect to the provision of alternative fixed-price services by Centra is accepted.

Another issue that falls into this general category is that of whether the Equal Payment Program ("EPP") should be made the default option for small-volume consumers. This is to some extent a stand-alone issue but we will address it in the same section as the hedging and Primary Gas rate design issues.

C. Organization of Argument

This Argument is divided into six Parts. In order to establish the context and background for CAC/MSOS's submissions on the specific issues identified in the Board's January 23, 2007 Notice and list of issues ("Issues List") and during the course of the proceeding, Part II, entitled "Factual Background and Market Realities", summarizes the evidence with respect to the state of the competitive retail natural gas market in Manitoba and explains in detail the conclusions described above in relation to the value of competition to small volume consumers. Part II addresses primarily issue (g) in the Issues List.

Part III addresses in detail the issues identified above related to alleged barriers to competition in Manitoba and the proposals that have been advanced, for the most part by Direct/ESM, for removing or reducing those barriers. This will include discussion of the timing of direct purchase customer enrollments, minimum volume requirements for aggregated groups of new direct purchase customers, automatic renewals of direct purchase contracts, electronic data transfer systems, telemarketing and the validity of electronic signatures and recorded agreements, and issues around nominations for the WTS service. This Part addresses matters that are included in issues (h), (j), and (k) in the Issues List.

Part IV discusses various issues concerning cost allocation and rate design for services provided by Centra to the Retailers and their customers. Like the "barriers to entry" issues addressed in Part III, these issues relate to the fairness and effectiveness of competition in the Manitoba retail market. The matters considered in this Part are included in issues (d) and (e) in the Issues List.

Part V addresses in detail the issue of whether, and on what terms, Centra should be allowed or required to offer, on a regulated basis, alternative or additional services to small volume retail gas customers, in particular services that would involve a price fixed for some agreed-upon term. This is issue (c) in the Issues List.

Finally, Part VI discusses certain issues around the management of price risk by Centra and its customers, including the advisability of continuing Centra’s existing hedging program, the design of Centra’s standard or "default" regulated Primary Gas sales rates, and the issue of whether, or on what terms, the existing Equal Payment Program ("EPP") should be made the default option for Centra's retail customers. This Part addresses issues (a) and (b) in the Issues List.

II. FACTUAL BACKGROUND AND MARKET REALITIES

A. Description of Current Market

The history and current state of the Manitoba market have been described in evidence by Centra and by Mr. Stauft on behalf of CAC/MSOS. There are three competitors in the market supplying Primary Gas to small-volume customers: Centra, Direct, and ESM. Centra sells a single product, which for convenience we will sometimes refer to as "system supply". System supply is priced on a variable basis, with rates typically adjusted on a quarterly basis. Centra's prices are regulated on a conventional cost basis, and reflect a pure pass-through of prices paid at the wholesale level by Centra. Those wholesale prices themselves reflect a combination of monthly and daily market prices in Alberta. Centra's actual sales rates in each quarter reflect forecast gas purchase costs, with adjustments to recover or refund deferral balances and to reflect the effects of Centra's hedging program. (Tab 1 - Stauft Evidence at pages 6-7). Note as well that Centra's Primary Gas rates also include a small non-gas component designed to recover certain operating costs)

Direct and ESM, on the other hand, only sell gas under long term fixed-price contracts. Although there is some variation in the term and the exact nature of the pricing, those arrangements typically involve prices that are fixed for a four or five year term. In order to deliver gas to their customers Direct and ESM are required to utilize Centra's Western Transportation Service, or "WTS". They also utilize Centra's Agency Billing and Collection ("ABC") service, under which Centra bills and collects from the Retailers' customers. The WTS and ABC services, and thus the current overall market structure, have been in place since 2000. (Tab 2 - Stauft Evidence at pages 7-9)

Between them the Retailers have approximately 20 percent of the small-volume market in Manitoba, although we do not know the two companies' respective market shares. Centra serves the remainder of the small-volume market using the regulated system supply service.

What is noteworthy is how stable, or one might say "stagnant", this market structure has been. The approximate 20 percent market share for unregulated competitors to Centra has been reasonably stable since the introduction of WTS. (Tab 3 - Centra Evidence at Tab 1, page 4) Similarly, the range of products available to consumers has remained largely the same over that period, and over that whole period the only change in market participants has been that ESM commenced operations in Manitoba in 2004. Prior to that, only Direct competed in the small volume market.

What is also noteworthy about this stagnant market configuration is how markedly it differs from the dynamic and highly competitive retail market that was envisioned, at least by some, when the current WTS-based structure was introduced in 2001 pursuant to the Board's findings in its 1996 generic enquiry into competition in the Manitoba market. Mr. Stauft described that expected (or perhaps "hoped for") market as involving multiple unregulated sellers offering a wide variety of products, and those sellers eventually overwhelming and rendering redundant the "default", one-size-fits-all regulated Centra service. (Tab 4 - See Mr. Stauft's comments at transcript 111-115)

B. Economics of the Competitive Market

There is no dispute in this case about the theoretical benefits of competition, nor is anyone suggesting that competition be restricted or eliminated. At the same time, this review of the competitive landscape in Manitoba is the first since the existing competitive structure was established through the implementation of WTS service, and one of the purposes of this review must be to consider how that market structure has functioned in practice. Real markets seldom function in the idealized way that is described in undergraduate economics texts, and in the real world specific market outcomes are not easily predictable on the basis of high-level economic theory. The Board should avoid reliance on broad economic or policy slogans that no one disputes, and be prepared to consider the actual facts surrounding the actual functioning of the Manitoba retail gas market.

In CAC/MSOS's view one of the major questions this proceeding should attempt to answer is that of why the WTS-based market structure has been so ineffective at generating a significant level of actual competitive activity, where that is measured in terms of the number of market participants, the number of customers purchasing unregulated services, and the diversity of products that are available in the market.

CAC/MSOS believe that a very significant contributor to that phenomenon, and probably the most important contributor, is simply that, given the actual, real-world circumstances of the market in Manitoba and its major participants, the expected benefits to consumers of unleashing competitive forces against Centra are very limited.

Mr. Stauft devoted a considerable part of his written direct evidence to explaining and supporting his opinion that this is the case. No party contradicted Mr. Stauft on these points in reply evidence, and in fact he was not seriously cross-examined on those sections of his evidence.

Mr. Stauft identified two things that competition does to create benefits for consumers. First, it leads to market prices that are as low as possible, and that essentially reflect the cost of providing the good or service in question in the most efficient way possible. Second, competition creates benefits for consumers by promoting the development of new products that customers value.(Tab 5 - Stauft Evidence at pages 9-10)

With respect to the first point, related to the overall price benefits of competition in the real-world Manitoba gas market, Mr. Stauft explained why, on a long run average basis, it is unreasonable to think that unregulated retailers will be able to sell gas at prices that are lower than those charged by Centra. His analysis of this point is essentially an analysis of the costs of providing retail gas sales service. Centra's services are priced at a cost level simply because of regulation. Under ideally competitive conditions, the market prices of unregulated products should also reflect the cost of production. (Tab 6 - Stauft Evidence at page 9)

If we look at the costs faced by Centra, on the one hand, and by the Retailers, on the other, they are essentially the same (Tab 7 - See generally CAC / MSOS cross-examination of Retailers on pages 2233 – 2235), and in fact it is reasonable to think that the Retailers face somewhat higher costs than Centra. Centra and the Retailers purchase their gas supply in the same highly competitive and transparent wholesale Alberta gas market. (Tab 8 - CAC / MSOS cross-examination of Retailers at page 2233, line 25 and page 2235, lines 1 – 5). Both utilize the same transportation, storage, and distribution assets to transport gas from the wholesale market to Manitoba consumers, and both use the same Centra billing system. (Tab 9 - CAC / MSOS cross-examination of Retailers at page 2234, lines 6 – 25 and page 2235, lines 1 – 22) The only difference between their respective situations appears to be that the retailers incur more transaction and capital-related costs. (Tab 10 - See discussion in Stauft Evidence at pages 12-14, and at 17-19 in relation to Retailer costs) Stauft also explained why this general results not affected by the terms for which gas is either bought or sold. To be clear, Mr. Stauft was not suggesting that in particular cases unregulated sellers would never be able to sell gas for some period at a lower price than Centra, under long term contracts or otherwise. In the long run, however, on average, given Centra's actual gas purchasing practices and the design and operation of the WTS and ABC services, unregulated sellers cannot have a systematic cost or price advantage over Centra. (Tab 11 - Stauft Evidence at pages 14- 17)

In his written direct evidence Mr. Stauft also explained that this cost equivalence between Centra and its unregulated competitors is a relatively recent development, and that in the early days after the deregulation of domestic natural gas prices in Canada unregulated sellers did for many years enjoy a systematic cost advantage over Centra and other domestic gas utilities. In that situation and under those market conditions, it is clear that the introduction of competition at the retail level in Manitoba and elsewhere created meaningful price benefits for consumers and thereby created competitive pressure on Centra and its suppliers that ultimately benefited all consumers. There is no doubt that in those days competition at the retail level had exactly the predicted beneficial effects for consumers. (Tab 12 - Stauft Evidence at pages 2 7-31) (Tab 13 - see also transcript 115- 116)

The extent that retailers are able to create meaningful benefits for consumers in the current environment is limited. When asked on cross-examination what "value added" component the Retailers could contribute beyond which the Utility could contribute, the Retailers identified:

1. choice of company from which the customer wishes to purchase gas;
2. assumption of risk;
3. a competition can serve as a "check" on the Utility. (Tab 14 - CAC / MSOS cross-examination of Retailers at page 2236, lines 5 – 25 and page 2237, lines 1 – 19).

Each of these "benefits" or "value-added components" were canvassed in some detail with the

Retailers.

With respect to choice, the Retailers acknowledge the ability of the Utility offer various products as a form of choice. (Tab 15 - CAC / MSOS Costs of Retailers, page 2237, lines 20 – 25 and page 2238). The only remaining choice that the Utility cannot offer, by itself, then is choice of companies from whom to purchase gas. In essence then, the value of choice of companies simply boils down to the benefit of the Retailers simply being someone other than the Utility.

With respect to risk, Retailers argue that they add value in the sense that they absorb and assume hedging risk costs and "risk events that happen because of fixed price products", whereas under their System Supply, such risks are passed on to taxpayers and ratepayers. (Tab 16 - CAC / MSOS cross-examination of Retailers at page 2239, lines 9 – 16) However, Mr. Newcombe admitted on cross-examination that the Retailers charge a premium in their bill to compensate themselves for the assumption of that risk. (Tab 17 - CAC / MSOS cross-examination of Retailers at page 2239, line 17 – 25) In any event, regardless of whether consumers pay for Retailers to assume risk or not, the ultimate risk and burden to supply natural gas is on the Utility. Under their backstopping obligations, Utility must provide gas to customers regardless of whether Retailers honour their commitments, go bankrupt, or leave the market. From this perspective, it is hard to say that the Retailers are providing any added value benefit and, if they are, consumers are paying extra to compensate the Retailers for it.

With respect to the value-added benefit Retailers providing a "check" on the Utility, the Retailers explained that they can serve as both a price check and a efficiency check on the Utility. (Tab 18 - CAC / MSOS cross-examination of Retailers at page 2243, lines 3 – 18) However, the Retailers also admitted on cross-examination that the Public Utilities Board provides a check on the Utility. (Tab 19 - CAC / MSOS cross-examination of Retailers at page 2243, lines 19 – 23). Clearly, regulators can provide a price check on Utility. Whether or not regulators can provide an efficiency check on Utility may be matter of some debate. Even if they did, however, such a check would only impact the very narrow areas of service that Retailers actually provide.

What the foregoing boils down to is that the only really value-added components that Retailers can provide is choice of companies and perhaps an efficiency check on certain limited aspects of the business of the

Utility. While these "value-added" benefits may be held in high esteem in some circles, they certainly are far from such core benefits as better prices, more reliable service, safer products and higher quality products.

The freedom the Retailers have to innovate is limited, and in practice comes down to the single dimension of the term over which the price of the product is set. The retailers' products are not truly different "products" in the sense that they smell better than Centra's, or are safer or more reliable, but simply in the sense that they give customers different options with respect to their exposure to fluctuations in the market price of gas at the wholesale level. Potential differences with respect to that exposure are sometimes referred to as offering customers different ways of managing "volatility" in gas prices.

C. Effectiveness of Competition in the Current Environment

In his written direct evidence Mr. Stauft also considered and analyzed the question of whether, in the actual circumstances of the Manitoba market, the competition that does exist in Manitoba is actually effective in generating market prices for unregulated products that are fair and reasonable, in the sense that they reasonably reflect cost-driven competitive outcomes. As Mr. Stauft discussed, even if it were the case that unregulated competitors could as a practical matter provide service at lower cost than Centra, that would only create benefits for consumers if competition and the market mechanisms that are in place are effective at forcing those competitors' prices to a genuinely competitive level. (Tab 20 - Stauft Evidence at page 11)

CAC/MSOS have significant concerns in this area, based on Mr. Stauft's analysis and other evidence in this proceeding. In our view Mr. Stauft was cautious in the way he expressed his concerns in this area, and he did not claim to have conclusive evidence that something is amiss in the market in terms of the adequacy and effectiveness of competition. Nevertheless, we believe that there are reasons to be concerned about the fairness to consumers of the competitive structure that exists today, and that those concerns should inform the Board's decisions with respect to certain of the issues in this case.

In general terms these concerns revolve around two sets of issues that were discussed in this proceeding. The first is the very small number of competitors in the market, particularly in the long-term segment of the market, and the potential for that market concentration to lead to prices that exceed what would be seen under more robust competitive conditions. The second area of concern is, in broad terms, the adequacy of the information that is available to consumers when they make choices about where to purchase their gas requirements. Mr. Stauft discussed this in the particular context of the standard door-to-door marketing model used by Direct and ESM, but the problem can be more generally described as involving the adequacy and correctness of consumer information.

1. Market Concentration and Market Power

In his written direct evidence Mr. Stauft developed a quantitative analysis of retailer costs and prices that suggested that the margins embedded in current retailer prices appear to be high relative to costs, which would suggest a lack of competitive discipline on retailer prices. At the same time, Mr. Stauft also acknowledged that his analysis was not precise or conclusive, for a number of reasons. First, he acknowledged that there is uncertainty about the cost of providing retail service, in particular the cost of gas and associated hedging costs, although his analysis indicated that the margin between the Retailers’ prices and their gas-related costs appears to be substantial. Second, he acknowledged that he does not have reliable information about the other costs faced by the Retailers, e.g. customer acquisition, administrative, and capital or return-related costs, that would have to be accounted for in order to evaluate the reasonableness of the returns earned by the Retailers. (Tab 21 - Stauft Evidence at pages 3 7-43. Mr. Stauft also discussed this point at various points in the cross-examination of the CA C/MSOS panel)

When he testified at the hearing Dr. Van Audenrode expressed concern over what he described as the potential for the Retailers to be "segmenting" the market, by which we understood him to mean that the Retailers may be able to take advantage of a predisposition amongst some customers to enter into long term contracts by charging higher prices for such services than would be seen under truly competitive conditions, essentially because there are only two unregulated competitors serving that segment.(Tab 22 - transcript at 120-121)

In his discussion of that topic, however, Dr. Van Audenrode was careful to say that it is difficult to tell whether the Retailers are successful at segmenting the market, and moreover if there are only two competitors in a market segment whether that is sufficient competition to ensure that prices are reasonable. In our submission, however, simply as a matter of common sense, the presence of only two competitors in a market must raise concerns about the ability of competition to generate reasonable prices. These concerns are augmented by the fact that, by the Retailers’ own admission, Direct Energy has 100 percent share of the three year fixed price market and Energy Savings has 100 percent share of the four year fixed price market. (Tab 23 - CAC / MSOS cross-examination of Retailers at page 2343, lines 2 – 25)

In fairness to the Retailers, certain points were raised that might suggest that these concerns are misplaced. Mr. Peters asked, for example, why more competitors have not entered the market if Direct and ESM are actually earning monopoly profits. Dr. Van Audenrode’s hypothesis, which seems reasonable to CAC/MSOS, was that the Manitoba market may simply be too small to support more competitors, given the fixed costs associated with entering the market. (Tab 24 - transcript at 229 and discussion that follows) However, the lack of competitors might also be wholly or partly attributable to returns in the business being modest.

The Retailers in fact claimed that their operations in Manitoba are not terribly profitable, and that they might not enter the Manitoba market if they had to make that decision today.(Tab 25 - See discussion with Board counsel transcript 1993-9 5) While that may be so, we have no information about how profitable they are, what their costs are, or whether their idea of an adequate level of profit is consistent with what others might think, and it is therefore impossible to reliably determine what the actual situation is.

While we therefore do not believe that there is clear evidence of monopolistic pricing in the competitive market the existence of that possibility should inform the Board's analysis of all the issues in this case.

2. Adequacy of Consumer Information

The other serious concern that CAC/MSOS has in relation to the adequacy of competition in the Manitoba market relates to the question of whether consumers are being provided with adequate and correct information on which to base their purchasing decisions.

With most products that people buy and sell this is not a complicated issue. Consumers of gasoline, haircuts, and pasta are typically presented, in some form of "market" setting, with products from alternative suppliers that are similar and whose prices are easily determined. Where there are minor differences between the competing products, those differences are easy to detect and evaluate. Moreover, all of the competitors are free to make truthful representations to consumers through advertising about the merits of their own products.

The difficulty here is that, if we think of Centra as being in competition with the Retailers, the relative merits of the products, in terms of their likely cost to the consumer over the long run, are very difficult to evaluate. Moreover, at this time Centra is prohibited from saying anything to potential customers about the merits of its product.

In his written direct evidence Mr. Stauft described the proper comparison between Centra’s service and long term fixed price contracts, from a cost perspective, as being between (a) the fixed price on offer and (b) the expected average of Centra’s variable price over the term of the fixed-price offer. He went on to say that it is doubtful if "more than a handful of people in all of Manitoba" are in a good position to make that comparison. As he also pointed out, under the door-to-door marketing mechanism that the Retailers use, the only source of information that consumers have is the Retailer marketing representative, who will be paid a commission if he or she makes a sale.(Tab 26 - Stauft Evidence at pages 34-35; See also transcript 286 and transcript 423-42 7)

There is some evidence that retail sales agents are misrepresenting who they work for and the consumers will save money if they buy their product. (Tab 27 – PUB / Centra IR 33) However, whether these incidents are isolated, or more widespread, is not known. On one hand, the evidence demonstrated that the Retailers were putting a reasonable amount of effort into training and monitoring their sales staff. On the other hand, customer research reports provide cause for concern as to the nature of the information customers are receiving.Table 29 (at page 48 - Tab 28) of the Customer Research Report indicates that the most popular reason among marketer customers to sign up with a Retailers was to save money (50 percent), followed by smoothing out price fluctuations (27 percent) and salesmen / marketing pitch sounded good" (11 percent). Moreover, Table 7 (at page 29 – Tab 29) of the Customer Research Report indicates a significant lack of knowledge among both residential Hydro and residential marketer customers as to who supplies natural gas.

As discussed earlier, Mr. Stauft's analysis is that it is simply not true that consumers should expect to save money by entering into long term fixed-price contracts. They might, but more likely they will not, and on average over the long term they almost certainly will not. What can be said about long term contracts is that they will reduce volatility in Primary Gas rates, although not necessarily in customers' actual bills.

We see again and again, however, that consumers, or at least some of them, seem to be under the impression that they will save money if they sign up for long term fixed-price service. After noting this, Mr. Stauft observed: "But the question is, where did these people get that idea? They didn't get it from Centra and they didn't get it from CAC. They had to have gotten it from the guys that were at their door selling them these products". (Tab 30 - transcript at 133-3 4)

In fact it seems clear that, even apart from representations that may be made orally by the Retailers' marketing representatives a significant portion of the promotional material provided by the Retailers leads potential customers to believe that, while there is no guarantee, it is reasonable for them to expect that they will benefit from a total cost perspective from buying the long term fixed price product. To illustrate, some of the statements the Retailers promotional material are quoted as follows:

> "Natural gas prices, do you think they will go up or down?" (Tab 31 - CAC / MSOS cross-examination of Retailers at page 2346, lines 20 - 21). The question is asked in the context of a chart demonstrating an average annual historical increase in gas prices of 13 percent. (Tab 32 - CAC / MSOS cross-examination of Retailers at page 2349, lines 5 - 10).
>
> $505.00 is the average household savings for Energy Savings group natural gas customers in another jurisdiction that completed their five year programs in 2005" (Tab 33 - CAC / MSOS cross-examination of Retailers at page 2367, lines 20 - 25)
>
> We had registered with Energy Savings and through this program we were paying

substantially less for natural gas." (Tab 34 - CAC / MSOS cross-examination of Retailers at page 2368, lines 24 – 25 and page 2369, lines 1 – 2)

"An example of how customers can potentially save money". (Tab 35 - CAC / MSOS cross-examination of Retailers at page 2368, lines 4 – 5)

There is some suggestion by the Retailers that the emphasis on price in marketing materials may have changed over the years. (Tab 36 - CAC / MSOS cross-examination of Retailers at page 2358, lines 20 – 25 and page 2359, lines 1 – 13) However, in response to an undertaking requested by CAC / MSOS in cross-examination, the Retailers provided copies of current promotional material which tend to indicate little (if any) change in how potential price benefits are communicated to customers. For instance, in DEML / ESML Exhibit no. 13 (Tab 37) is a piece of "sales collateral" which, on the first page after the cover page, devotes a whole page to the issue of potential price savings. Its says: "Stop the climb. Avoid fluctuations, set your price. Prices have been continuing to trend up. Most experts agree that it will continue. Do you? Don’t you wish you could have captured costs at 2002 levels? Don’t miss out over the next five years." Beneath these statements is a graphical representation of the price of gas generally going up between 2002 and 2005 and then beginning to decrease in 2006.

As another example, DEML / ESML Exhibit 15 (Tab 38) (another piece of current sales collateral) states on the cover "Lock you price in now for guaranteed protection against future increases". Just above this is a depiction of a moneybag. On the inside of the brochure, it says, among other things, "By locking in your primary gas price as a fixed rate you protect yourself from any future price increases for the agreed term" and "Both Canadian and US prices are in an upward trend that will likely continue. Lock in now and protect yourself against future increases".

In fairness to the Retailers, is their marketing material dedicated solely to promoting potential price savings? No, but that is not the point. The point is that the notion of potential price savings is a prominent aspect of Retailers marketing plan, both in the past and in the present.

While none of this is intended to suggest that the Retailers are making false representations or doing anything else that would be illegal, it points up the potential for customers to be misled or confused, and to make purchasing decisions on the basis of what is, in our submission, a fundamentally wrong understanding of the nature of the product that is being offered and its true value.

We acknowledge that none of this is a justification for eliminating Retailers from the market, or for suggesting that the managers of the Retailers are conducting themselves improperly. The point that we think emerges from these considerations is simply that there is a rational basis for the Board to be concerned about whether competition, and in particular the marketing mechanisms that are used today by Centra's competitors, are operating in a way that is fair and that is giving consumers adequate and correct information about their options.

III. BARRIERS TO ENTRY

A. Introduction

In their written and oral direct evidence Direct and ESM devoted considerable time to a discussion of various specific barriers to entry that they believe exist in the current Manitoba market. (Tab 39 -

Direct/ESM Evidence at paragraphs 52-71). These sections address "barriers to entry" related to the WTS service and contracting concerns.) Their view appears to be that the observed shortcomings in the development of the market, in terms of the small number of competitive firms, the relatively low and stable level of competitive market penetration, and the lack of diversity in competitive product offerings, are primarily the result of these entry barriers rather than of some deeper problem with the structure of the market. Their position appears to be that if those barriers are removed the Board can expect to see new competitors entering the market and new and more diverse products being offered by themselves and others. Essentially the claim is that eliminating the competitive obstacles that they identify will address the main concerns that all parties appear to have with the structure and function of the current market. This analysis supports both their specific recommendations in relation to the various barriers to entry that they identify, and the proposition that taking any further steps to enhance competition, including allowing Centra to offer fixed-price products, is unnecessary.

The evidence put forward by the Retailers in relation to these various barriers to entry thus raises two questions. The first is the appropriateness of the measures that the Retailers suggest as a means of eliminating the alleged barriers to entry. The difficulty in this area is that one person's "arbitrary barrier to entry" may be another person's reasonable and necessary consumer protection provision" or "reasonable operational requirement". Restrictions that are in some sense "barriers to entry" may nevertheless be acceptable or indeed required on operational, fairness, or consumer protection grounds. CAC/MSOS believe that most of the suggestions that the Retailers have in this area are misconceived in this sense.

The second question that arises, especially if some of the Retailers' suggestions are rejected, is whether it is reasonable for them to say that the perceived inadequacies in the market can be fully addressed by addressing "barriers to entry".

B. Reasonableness of Retailer Proposals Concerning Barriers to Entry

The barriers to entry that have been identified by the Retailers in relation to WTS service and Contracting Procedures in their written direct evidence are essentially as follows:

Monthly versus quarterly enrollments

(Tab 40 - Direct/ESM Evidence para. 60)

Minimum volume requirements (Tab 41 - Direct/ESM Evidence para. 52)

WTS nomination procedures (Tab 42 - Direct/ESM Evidence paras. 53-60)

Electronic Business Transactions systems (Tab 43 - Direct/ESM Evidence paras 64-66)

Telemarketing and related contract verification issues (Tab 44 - Direct/ESM Evidence paras. 63, 67-68)

Availability of automatic renewals (Tab 45 - Direct/ESM Evidence para. 62)

We deal with each of these in the following subsections.

1. Monthly versus Quarterly Enrollments

On this issue there does not appear to be any serious dispute. CAC/MSOS supports the efforts that

Centra has made to accommodate the Retailers' activities by implementing monthly enrollments.

2. Minimum Volume Requirements

On this issue as well there does not seem to be any serious dispute, except perhaps around the timing of the implementation of a lower minimum volume threshold for aggregations of WTS customers. CAC/MSOS supports Centra's efforts to accommodate the Retailers in this respect.

3. WTS Nomination Procedures

The operating parameters of the WTS service appear to be a significant issue for Direct/ESM in this case.

Our high-level understanding of the issue is as follows. From a retailer perspective the ideal design of a "bundled T" service like WTS is one under which nominations to the Retailers at the Alberta border are essentially "flat" or constant throughout the year, subject perhaps to relatively infrequent true-ups to account for weather-related variances between forecast and actual volumes over the year. This is how the bundled

T services offered by the Ontario utilities operate, and CAC/MSOS appreciate fully the advantages of such a mechanism for brokers and their customers. (Tab 46 - See transcript at 310 et seq.)

Unfortunately, WTS is not like the Ontario bundled T services in this respect, simply because of the weather patterns in Manitoba and because Centra has relatively less storage available to it than the Ontario utilities do. The result is that Centra's own gas purchases, as well as it nominations to Retailers, vary over the year and from day to day, especially during the summer period. Our understanding of Centra's practice, as reflected in its WTS tariff, is that its nominations to WTS shippers follow essentially the same pattern as Centra's own purchases of system gas and thus its use of TransCanada Mainline FT capacity. (Tab 47 - Stauft evidence at page 8)

The problem that creates for Retailers, which they claim is a "barrier to entry", is that the variability in their nominations creates risks and costs for them in relation to their gas supply arrangements and hedging strategies. (Tab 48 - Direct/ESM Evidence at paras. 53-55) (Tab 49 - See also, e.g., the discussion at transcript 2111-1 2)

The first issue to be considered in this area is that of what exactly the Retailers want. In their written direct evidence they describe what they want, at least as we understood it, as basically more and better information about how WTS nominations are determined, essentially so that they would be better able to predict what the nomination levels will be and govern themselves accordingly. (Tab 50 - See the discussion at Direct/ESM Evidence paras. 53-60.) From CAC/MSOS's perspective, issues about information flow between Centra and the Retailers are largely a matter between those parties. However, if Centra can make life simpler or more predictable for the Retailers without incurring significant costs that will be borne by customers as a whole, that would seem to be reasonable. Whether Centra can do that we do not know, but if they can, they should.

On the other hand, during the hearing it became clear that what Direct/ESM want is not simply more information, but a change in the WTS service that would provide them with "flat" or constant nominations at the Alberta border over as long a period as possible. Ideally that would be for an entire year, but in descending order of preference the Direct/ESM witnesses indicated that they would at least like flat nominations over seasonal, quarterly, or monthly periods. (Tab 51 - See, e.g., discussion at transcript 2110-2115 and at transcript

2808-2814)

It is unfortunate that Direct/ESM did not make that proposal in their written direct evidence, or explain in that evidence why such an approach to operating the WTS service would be fair and reasonable. In his written direct evidence Mr. Stauft anticipated this proposal by the Retailers and addressed it. He recommended against any change to the existing practice under which Retailer nominations are changed more or less pro-rata with Centra’s own purchases at Empress, basically on the ground that, as he expressed it,any such change would involve giving the Retailers free storage capacity at the expense of Centra’s own system sales customers. (Tab 52 - Stauft Evidence at page 57)

In order for Centra to balance its system it must rely to some extent on variations in receipts under its TransCanada FT contracts at Empress. If the Retailers are given relief from some or all of that variability in the nomination pattern, that will mean that Centra’ s system purchases must be made more variable, and variability in nominations has a cost associated with it for Centra, and ultimately its system sales customers, just as it does for the Retailers. The example provided by Mr. Stauft is that with a flat nomination to the Retailers Centra would be obliged to purchase more "swing" supply under its Nexen contract, and consequently incur the additional costs associated with swing supply, although he made it clear that the cost impact on system supply would arise in some form regardless of the precise form of Centra’s upstream purchase arrangements. (Tab 53 - Stauft Evidence at page 57)

Although they must have been aware of that analysis, Direct/ESM made no attempt to respond to it in rebuttal evidence, or to indicate to the Board and the other parties what their real objective is. Direct/ESM made no effort to challenge Mr. Stauft’s analysis in cross-examination, or to respond to it in their oral direct evidence. We only heard this issue directly addressed by Direct/ESM during the cross-examination of the Direct/ESM panel.

As an example, (Tab 54 - transcript 2808 et seq) suggested that the proper approach would be for Centra to "balance" the entire system for the benefit of all customers, essentially as part of the distribution service, and then allocate the costs associated with providing that balancing equally to all customers. He did not provide, however, any explanation of how that could be done.

The Board, however, is familiar with how

Centra actually balances its receipts with its deliveries. The reality is that one of the tools Centra uses to balance its system is its ability to vary its nominations at Empress from time to time, for both its own supply and
Retailer supply. The WTS nomination pattern that the Retailers complain about is the result of Centra using that balancing tool equitably as between Retailer supply and supply that is ultimately paid for by system customers. Given Centra's current portfolio of transportation and storage assets, that variable nomination pattern is simply part of the cost of providing retail supply to Manitoba customers, and any departure from a pro-rata allocation of that variability requirement for the benefit of the Retailers will create a cost for Centra's own system customers, and therefore a subsidy from those customers to the Retailers.

If in some future proceeding the Retailers want to propose a reconfiguration of Centra's upstream transportation and storage infrastructure that would allow all nominations at Empress to be held constant at some level over some extended periods, and they are able to demonstrate the feasibility and cost effectiveness of that reconfiguration, they are free to do that. Alternatively, if they want to propose a redesign of the

WTS service that would enable Centra to flatten only Retailer nominations, e.g. as Mr. Stauft suggested through an allocation of additional storage capacity to Retailer volumes, (Tab 55 - Stauft Evidence at page 58) they should be free to do that if they are willing to pay the costs of the additional resources that would be dedicated to giving them that preferential treatment. The apparent suggestion, however, that the Retailers should be given preferential treatment at no cost, and therefore at the expense of Centra's system customers, should be rejected by the Board.

4. Electronic Business Transaction Systems

In their evidence the Retailers proposed that Centra be required to implement an Electronic Business Transactions system. (Tab 56 - Direct/ESM Evidence at paras. 64- 66) Their basis for that is that such a system would increase the efficiency of the overall process, and they say that utilities in other jurisdictions have adopted this approach.

In principle, CAC/MSOS support measures that would increase efficiency and reduce costs that are ultimately passed through to consumers in gas prices. However, we have no details as to what exactly this system would cost and what financial / other benefits it would generate. What we do know, however, is that we are talking about a price tag that is in the millions of dollars, if not the tens of millions of dollars. (Tab 57 - CAC / MSOS cross-examination of Retailers at page 2304, lines 2 – 7) We also know that the cost of implementing the EBT system in Ontario is approximately $39 million for Enbridge, $18,200,000.00 for Union Gas, and $6.1 million for Terasen Gas in British Columbia (in addition to $1.4 million that was incurred prior to these expenditures to scope out the technical solution and to determine that $6.1 million was needed to implement the actual system changes), (Tab 58 - See DEML / ESMLP IR response to CAC / MSOS 10) Moreover, the Retailers are suggesting that any such cost be borne by all customers of the distribution system, and not just Utility alone. (Tab 59 - DEML / ESMLP IR response to CAC / MSOS 10(b))

As of yet, we have no idea of an estimate of what this would cost in Manitoba and what benefits would be obtained. As admitted by Ms Nola Ruzycki in cross-examination by CAC / MSOS, a cost analysis would have to be done. (Tab 60 - page 2305, lines 10 – 11)

At this point a consideration of this proposal appears to be premature. We have no details of what systems are being proposed, what they would cost, or whether they would be appropriate or feasible for implementation in the Manitoba market. This is not something to be ruled out, necessarily, but at this stage our suggestion is that it should be up to the Retailers and Centra to further examine the possibilities and report at some future date.

5. Contracting and Contract Administration Issues

In their evidence the Retailers expressed concern about a number of issues related to contracting practices and contract administration. Essentially the claim is that the mechanisms and requirements that have been established by Centra and by the Board create significant and unnecessary costs for them in relation to their normal "marketing channel" of door-to-door sales, and moreover prevent them from effectively utilizing other marketing channels that may be more cost effective than door-to-door sales. (Tab 61 - Direct/ESM Evidence at paras 63, 67-68)

Our understanding of the current situation is as follows. In order for Centra to process a new customer it is necessary for the Retailer to obtain the customer’s physical signature on a hard or paper copy of the contract. The Retailers referred to this as a "wet signature", and they are required to provide a copy of each contract, with its wet signature, to Centra. One suggestion that they made with respect to this requirement is that they should not be required to provide Centra with a copy of each contract, so long as they retain copies for examination or verification if necessary. (Tab 62 - Direct/ESM Evidence at para. 63) Our understanding is that the requirement to provide Centra with copies of every contract can now be satisfied with electronic copies of scanned contracts. (Tab 63 - transcript at 2145-4 6)

The more important and difficult proposals advanced by the Retailers involve the elimination of the requirement for a wet signature on a contract. While that would still be an option under their proposal, they say that customers should also be able to evidence their agreement to a long term fixed-price gas sales arrangement through a "voice signature", which we understand to be a recording of the person agreeing to the arrangement over the telephone. As a further alternative to a wet signature, the Retailers support the use of "electronic signatures" on contracts or arrangements agreed to and entered into over the internet. Note that there does not appear to be any current prohibition on the Retailers communicating with potential customers over the telephone or internet, and in fact it appears that they do that. The problem, from their perspective, is that even if they are able to sell a service via the telephone or internet they must still arrange for the customer to physically sign a paper contract. The effect of the proposed relaxations of the existing rule would be to allow the Retailers to utilize the telemarketing and internet "channels" to complete an entire transaction, which they cannot do now.

While CAC/MSOS appreciate that these proposals could reduce the costs faced by the Retailers, and thus ultimately the prices charged to customers, the fact is that the requirement for a "wet signature" was put in place for a reason, and we do not see any basis for saying that that reason is no longer applicable. The effect of requiring an actual signature on a contractual document is to ensure, or at least ensure as far as possible, that there has been genuine agreement by the customer to all of the terms of the arrangement, since it must be presumed that the customer read and understood the document and turned his or her mind to the question of whether to sign it. In our view this type of assurance is especially important in the context of long term fixed price gas purchase contracts simply because those involve significant, complex, and long term commitments.

Moreover, we view the supply of natural gas in Manitoba as a basic need and even a necessity of life. We want to ensure that customers are well informed and take seriously any contract entered into for such a vital commodity.

With e-signatures the concern about whether the customer has a reasonable opportunity to read and understand the entire deal may be less, as may the concern about the lack of a written record of the deal, but depending on the exact mechanics of the e-signature program there may be concerns about verifying the identify of the person who is supposedly entering into the deal and his or her understanding of the overall transaction. However, it is understood that the Retailers are suggesting that this concern may be largely addressed by requiring e-signatories to submit their gas account number.

For these reasons, above, CAC / MSOS does not support recorded "voice-signatures". However, regarding e-signatures, if proper and appropriate safe-guards are built-in, such as at minimum requiring e-signatories to provide their gas account numbers, CAC / MSOS will not actively oppose such a proposal.

6. Automatic Renewals

Prior to 2004 the Code of Conduct for Direct Purchase Transactions allowed Retailers to "automatically renew" customers' long term contracts for a period of 90 days, if provision for that was made in the original contract. Under an automatic renewal mechanism the customer will be sent a notice proposing a renewal for a specified period, at a specified price. The customer can decline to accept the proposed renewal by signing the appropriate notice and returning it to the Retailer, but if he or she fails to do that the contract will be automatically, and without any active indication of consent on the part of the customer, renewed or extended for the proposed renewal period at the price set out in the renewal notice.

In Order No. 8 1/04 the Board changed the rule that allowed such transactions for 90 day renewal periods, but apparently only on a prospective basis. The Retailers complain about that change in this case, and urge the Board to reinstate the earlier practice of allowing automatic renewals for terms up to 90 days. (Tab 64 - Direct/ESM Evidence at para. 62)

CAC/MSOS strongly oppose that suggestion. As a matter of principle, we do not believe that this type of "negative option" marketing should be allowed, simply because of the obvious potential for customers to find themselves irrevocably committed to significant obligations.

What the Retailers would presumably actually like is the ability to automatically renew customers in this fashion for much longer terms, e.g. a further five-year term, so in one sense it could be argued that the relatively modest 90 day proposal may be a reasonable accommodation. Our understanding, in fact, is that the Board has never considered that it would be appropriate to allow automatic renewals for a period of five years, for example, on a negative option basis, and our review of Order No. 8 1/04 suggests that the 90 day renewal option was initially allowed on the theory that such a provision would give the affected retailer a reasonable opportunity to convince the customer to give his or her actual consent to a longer renewal, without creating a risk of an unwanted or unintended long-term commitment for the customers. When the Board eliminated the 90-day renewal option it also extended the renewal period, i.e. the period prior to the expiry of the original contract during which the Retailer may send a renewal notice, from 90 to 120 days. The effect of this is that Retailers now have effectively four months prior to the expiry of long term contracts in which to convince the customers to positively elect to renew on the terms offered by the Retailer.

In our submission, given the 120 day renewal period, there is simply no need to give the Retailers an additional three months in which to convince the customer to renew, especially if that extra marketing opportunity may arise simply because the customer forgets to send a notice and thereby inadvertently buys three months worth of gas supply that he or she never intended to buy. If the Retailers cannot extract a positive agreement to a renewal offer in four months, that is probably because the customer genuinely does not want to renew. The Retailers' proposal to re-instate the 90-day automatic renewal provision under the Code of Conduct should be rejected.

C. Effect on the Market of Removing Barriers To Entry

As discussed above, the Retailers' overall argument in relation to barriers to entry is that the perceived deficiencies in the market as it exists today can be remedied by removing the barriers to entry that they have identified and criticized.

In light of the foregoing analysis of their various suggestions for removing barriers to entry, the question arises of whether that claim is plausible.

In our view it is not. As we have demonstrated, most of the "barriers" that the Retailers identify are perfectly reasonable from the perspective of cost, fairness, or consumer protection. The end result is that, from CAC/MSOS's perspective at least, the only "barriers to entry" that it is reasonable to remove are those related to quarterly enrollments and minimum contract volumes, both of which Centra has already agreed to address in the way the Retailers suggest.

In our submission it is unlikely that revising the rules around enrollments and minimum volumes will have any measurable effect on the attractiveness of the Manitoba market tonew competitors, on the range of products that the existing Retailers are prepared to offer, or on the prices at which they are able to offer any of their services.

In the course of their appearance, the Direct/ESM witnesses admitted that, considered in isolation, none of the barriers to entry that they discuss is "a big deal" in terms of the overall operation of the market, but repeatedly said that in combination they would make a significant difference. (Tab 65 - See, e.g. Mr. Roeder's discussion in transcript at 2483) (Tab 66 - Mr. Newcombe at transcript at 2 781-2 782) In fact, as we have argued, only a couple of those suggestions are reasonable, so the "combination" of reforms that the Retailers suggest should not, in our submission, be implemented.

Moreover, the two reforms that Centra has already agreed to cannot reasonably be expected to have any measurable effect on the size or structure of the market as a whole. Both have the general effect of making it easier for the Retailers to aggregate in a timely fashion what are almost by definition small groups of customers. While that presumably helps the Retailers in terms of generating cash flow more quickly than would otherwise be the case, we do not see why it would affect, in the long run, the number of customers they are able to attract or their overall costs of serving those customers.

The conclusion, then, in our submission, should be that there is no reason to expect that dealing appropriately with the alleged barriers to entry that the Retailers have identified will have any positive effect on the overall structure and operation of the market.

IV. COST ALLOCATION ISSUES

One of the Board’s objectives in its analysis of the competitive market in Manitoba should be to create as far as possible, consistent with the practical realities of the situation, the proverbial "level playing field" for market participants. Manitoba consumers can only realize the benefits of competition, whatever they are, if competitors uniformly face a reasonable approximation of the costs that are involved in serving them and if there are no artificial barriers to competitive activity. In this connection a number of issues have been discussed in this proceeding that revolve around the proper allocation of Centra’s costs to Retailers and as between Retailer customers and Centra’s system customers.

In his evidence Mr. Stauft discussed some of these issues, in particular the allocation of the half-cent premium that Nexen extracted from Centra as the price of monthly flexibility in the setting of base volumes under the Nexen contract, the development of a WTS fee to recover from Retailers costs that are incurred for the purpose of serving Retailer customers, and the design of the fee for ABC service. Mr. Stauft’s general thesis in all of that discussion was that it is appropriate to allocate to Retailer customers an appropriate share of any costs Centra incurs for the purpose of providing WTS and ABC services, including the Nexen premium. However, Mr. Stauft’s evidence did not make any attempt to develop specific proposals in that regard, on the ground that doing so will require a fairly detailed examination of certain components of Centra’s costs and the required information was not on the record at the time his evidence was prepared. (Tab 67 - See Stauft Evidence at pages 55-56)

In its evidence Centra made various suggestions on essentially the same cost allocation issues that Mr. Stauft discussed. At the end of the day, however, Centra’s proposal was that these issues not be dealt with in any detailed or final way in this proceeding, but that they instead be addressed in Centra’s next GRA. While CAC/MSOS does not object to that procedure, the fact is that it leaves us with very little to discuss in this area in this proceeding.

Directionally, at least, on the basis of Mr. Stauft’s fairly high level analysis, CAC/MSOS agrees with Centra’s proposal to allocate the Nexen premium costs to the users of WTS service, somehow. In the same "directional" way CAC/MSOS agrees with Centra’s proposal to develop a WTS fee, but believes that the exact nature of the costs to be recovered, the form in which they will be recovered, the treatment of those costs and revenues for deferral purposes and their ultimate disposition, and probably many otherissues, can only be sensibly discussed and decided in the context of an actual application, which we do not have here.

In relation to the ABC service we are in a similar position, although in that case there is, if anything, even more uncertainty about how the details of the pricing of the ABC service should be resolved. Although Centra identified an alleged disproportionate incurrence of bad debt for Retailer customers as an issue that it wishes to address in the context of ABC rates, CAC/MSOS's view is that the entire pricing scheme for the ABC service should be reviewed with the benefit of some actual facts, which we have very few of in this case. (Tab 68 - See discussion with Mr. Stauft at transcript 131)

Our recommendation to the Board in relation to these issues, is therefore simply that it encourage Centra to make the applications that it discussed in its direct evidence in its next GRA, on the understanding that in that future proceeding all of the interested parties, including CAC/MSOS and the Retailers, will be free to consider and make submissions on the matter in light of whatever factual material Centra is able to provide at that time.

V. CENTRA FIXED-PRICE PRODUCT OFFERINGS

A. Introduction

Perhaps the most important and contentious issue in this proceeding is that of whether, and on what terms, Centra should be allowed or required to develop and offer, on a regulated basis, long term fixed price service offerings. In its evidence Centra supported that general proposal, and in their evidence both Mr. Stauft and Dr. Van Audenrode supported it as well. CAC/MSOS has supported that proposal in the past, and continues to do so in this proceeding.

In this proceeding neither CAC/MSOS's witnesses nor Centra have made specific proposals about what services Centra would offer or how they would be designed orpriced. In our view that is appropriate, and it is reasonable to obtain in this case, before undertaking the considerable work that will be involved in finalizing any alternative product offering, the Board's considered views on the appropriateness of the program at a conceptual level. If the concept is approved, we would expect Centra to make an application, as part of a future proceeding, for approval of specific services and the associated prices and terms and conditions of service. At that time parties will have an opportunity to make whatever submissions they think appropriate concerning the nature of the services offered and the methodology for pricing them.

In this connection, one point that should be emphasized is that what is being proposed here are regulated fixed-price offerings, priced on some cost-of-service basis to be determined in a future proceeding, rather than unregulated products offered by, for example, an affiliate of Centra. The latter option would involve relatively little change to the current market – essentially simply the addition of one unregulated competitor – and it is not clear that doing that would have any meaningful effect on the market, or that it would effectively address the underlying problems that the proposal to have Centra enter the market on a regulated basis would address. (Tab 69 - See discussion between Dr. Van Audenrode and Board counsel at transcript 278-281)

B. Benefits of Utility Fixed-Price Services

CAC/MSOS believe that the utility fixed-price product proposal could create meaningful benefits for Manitoba consumers. Our reasons for holding that view can be summarized as follows.

First, it appears from the customer survey and focus group work that was done for Centra that significant numbers of customers would value one and two year fixed-price options, which are not available in the market now. The customer research also indicates that significant numbers of customers would approve of Centra offering fixed-price products, even if that meant a reduction in competition. (Tab 70 - See transcript 257 and NRG Focus Group Report at page 18); (Tab 71 - See also NRG Customer Research Report at page 42.) It may be that there are significant numbers of customers who value price certainty, but who have been uncomfortable with the idea of contracting with one of the Retailers.

The entry of Centra into the market, especially for shorter term (i.e. one and two year) fixed price arrangements, would broaden customers' options in terms of both products and service providers, relative to the choices that customers have now. One and two-year fixed-price products, if they were offered by Centra, would fill a gap that exists in the market today. As explained above, it is doubtful that unregulated retailers will fill that gap.

Fixed-price services offered by Centra would create competitive discipline for the unregulated Retailers that would help to address the concerns that CAC/MSOS has in relation to the pricing of unregulated fixed-price products and the effects of inadequate or inaccurate information being conveyed to customers. Because these products would be price-regulated, consumers could be more comfortable than they would otherwise be that they are paying a fair and reasonable price for a product that they want.

Although this is not certain, the provision of these services by Centra could result in lower prices to consumers, relative to what could be obtained from unregulated providers.

The process of designing and pricing these services would provide the Board and consumers with increased insight into the costs of providing fixed-price service, and improve price transparency in the market as a whole.

C. Reconciliation With Past Practice and Practice in Other Jurisdictions

While CAC/MSOS sees benefits for consumers from the introduction of utility fixed-price products, we acknowledge that this is not a standard practice in other jurisdictions in Canada, and that similar proposals have been rejected in other jurisdictions and by this Board in the 1996 generic proceeding. It is therefore necessary to consider the rationale for the past reluctance to allow programs of this kind to be developed, and consider as well whether that rationale is still applicable in the context of the Manitoba market as it exists today.

While these issues have been debated extensively in Manitoba and elsewhere, it appears that the fundamental objection to allowing utilities to provide fixed-price services is that doing so might interfere with the development of a competitive market. (Tab 72 - See, e.g., quoted passages in Direct/ESM Evidence at paras 16 and 24.) The fear seems to be that in offering such services on a regulated basis the utility will have significant advantages over its unregulated competitors, and that it will therefore be able to offer better products than its unregulated competitors, at better prices, with the result that in the end no unregulated competitors will even bother to participate in the market.

As an initial observation, we note that there is something odd about this reasoning if the overall regulatory objective is to promote the interests of consumers in obtaining products that they want at the lowest possible prices. Essentially the argument seems to be that we should keep attractive, low-cost products created by the utility off the market so that other parties will enter the market to provide attractive, low-cost products, even though by hypothesis the products offered by those other parties will not be as attractive or as low-cost as the utility's.

Even the Retailers accept that part of the competitive process entails the risk that any given company may not be able to compete and therefore goes bankrupt, leaves the market, or sells its business. (Tab 73 - See CAC / MSOS cross-examination of Retailers at page 2221, lines 3 – 22; page 2224, lines 17 – 25; page 2225, lines 1 – 7)

In spite of that potential logical difficulty, CAC/MSOS can understand how this general type of argument, based essentially on a fear of the utilities' success, would make sense in certain circumstances. That is particularly so where regulators have limited experience with competition, where it is clear that the competitive market is not fully developed, and where there is a reasonable hope that it will become fully developed, but also a realization that it will only do so over some extended period. In such a case, it would be reasonable for regulators to believe that in the long run the competitive market will be better for consumers than regulated services, and that it would therefore be a mistake to run the risk of aborting the development of that market by allowing the utility to compete at the outset, when it may have a natural competitive advantage because of its brand recognition or its cost structure.

While that reasoning may make sense, our submission is that it is not applicable in the circumstances that exist in Manitoba today. The fact is that in Manitoba the experiment with a bundled-T-based competitive market has been going on for six or seven years, and the results have been neither satisfactory nor consistent with the optimism that prevailed when the current model was first devised.

The market now is not meaningfully different from what it was when the experiment started. What we have is an extremely limited number of competitors, limited customer choice in terms of available products, prices for the limited number of competitive products that are available that appear to be high, and on-going concerns about the adequacy and accuracy of the information that customers have on which to base their gas purchasing decisions.

As we have discussed, the Retailers' explanation of those facts is that they are the result of the barriers to entry that they have criticized as being inappropriate. As we have explained, however, we do not believe that genuine barriers to entry explain much, if any, of the current sad state of the market. Most of the "barriers" that the Retailers identify are reasonable and necessary features of the market that cannot, or should not, be changed.

In our view the most plausible explanation for the current state of the market is simply that, given the actual facts and circumstances that exist in relation to the Manitoba market, the actual benefits of competition for Manitoba consumers are so modest that they are largely overcome by the real-world costs and inefficiencies that are part of any actual market. The reality is that, with the WTS-based competitive structure and Centra’s Board-approved gas purchasing practices in place, probably for the foreseeable future, the only reasonable expectation is that unregulated competitive supply will be more expensive on average than Centra-supplied gas, not less expensive as theory might predict. In the real world as well, unregulated competitors face issues around the small size of the Manitoba market, transaction and return-related costs, and their ability to manage the risks that are unavoidably associated with the WTS service, that Centra simply does not face to the same extent.

In that kind of situation, whatever concerns the Board might initially have about the potential for utility entry into the fixed-price market to undermine or interfere with the proper development of the competitive market should be significantly reduced, if not eliminated. The benefits of allowing the utility to compete by providing services that customers want, at prices that are determined to be just and reasonable, are clear. The fear that allowing Centra to do that will potentially deprive consumers of a brighter future in a more fully developed competitive environment is unfounded, because there is no brighter future. The unregulated competitive market in Manitoba is probably as good now as it will ever be, and if the Board can improve on that by allowing Centra to provide services that people want at attractive prices, it should do so.

C. Other Issues

In the course of this proceeding various other issues have been discussed that have been, or may be, argued to suggest that allowing Centra to compete in the fixed-price market would be inappropriate. In this section we will discuss some of those issues.

1. Administrative and Regulatory Burden

One objection that might be raised to the proposed program is that undertaking it would create an unacceptable administrative and regulatory burden. If the program is approved it will obviously be necessary for the Board to determine, in future proceedings, how to design and price alternative utility services, while under the status quo it will not have to do that. It is true that this will represent an additional administrative and regulatory burden, and perhaps an unwelcome one, but given the scale of the economic interests that are at stake this should be seen as a trivial consideration.

2. Issues With the Design and Pricing of Alternative Services

As we have indicated, our understanding is that the detailed design and pricing of alternative utility services would be determined in future proceedings, presumably where those proceedings are triggered by Centra filing an application for approval of certain proposed services. We do not dispute that the Board would have a number of potentially difficult issues to deal with in such a proceeding, but as a general principle we do not believe that the potential for that, or disagreements now about which approach Centra should take in designing its alternative services, should affect the conclusion that it is appropriate for Centra to at least try to develop alternative services that will be acceptable to the Board and interested parties. Nevertheless, there are a few topics that will be fully discussed in more detail in those future proceedings that CAC/MSOS wishes to comment on in general terms here.

a) Term of Alternative Services

One obvious design issue for alternative services is the term for which Centra would offer fixed-price gas supply. In his written direct evidence Mr. Stauft suggested that at a minimum one and two year terms would be appropriate, basically on the ground that there are no broker products with such limited terms in the market now. Mr. Stauft went on to say that, while some different considerations may arise in relation to longer term, e.g. four and five year, utility offerings, he saw no fundamental objection to them. (Tab 74 - Stauft Evidence at pages 60-61) For these purposes, and subject to further consideration and discussion with Centra, the Board, and others if the overall approach is approved, CAC/MSOS would be content for an initial or trial period with only one and two year utility fixed-price services. At the same time we do not rule out, or have any fundamental objection to, longer term offerings that would compete more directly with the products offered by the Retailers.

b) Cross Subsidization

Another set of considerations that has been raised, in light of the regulated nature of the proposed alternative utility services, is the potential for inappropriate cross-subsidies within the overall regulated structure if these services are allowed.

Dr. Cyrenne’s Reply Evidence on behalf of Direct/ESM expressed concerns about cross-subsidization in the context of the relationship between Centra and Manitoba Hydro and the public ownership of Manitoba Hydro. (Tab 75 - Cyrenne Evidence at pages 5-6) In response to that Dr. Van Audenrode pointed out that, while cross-subsidization is possible, and undesirable, the expectation should be that the Board will deal appropriately with those issues. (Tab 76 - Van Audenrode Evidence at pages 3-4); (Tab 77 - transcript at 144-145) When Mr. Stauft testified, he emphasized the need to ensure that, however rates for alternative services are developed, there is no cross-subsidization, in either direction, between Centra’s standard or system service and its alternative services. (Tab 78 - See transcript 159) In any event, there is no evidence of cross-subsidization. (Tab 79 - Board counsel cross-examination of Dr. Cyrenne at page 2574, lines 22 – 25 and page 2575, lines 1 – 8) It does not even appear that the Retailers are making a serious allegation that there is cross-subsidization. It appears as though that all the Retailers are saying, in this regard, is that there is a possibility of cross-subsidization and a possibility that the Public Utilities Board will not be able to catch it.

Obviously cross-subsidies should be avoided, and obviously doing that may be difficult and contentious. It is possible, in fact, that the Board will make mistakes in this area. The fact is, however, that there is no reason to expect the Board to make such mistakes, and every reason to believe that it will not. If mistakes are made, there is no reason to believe that they cannot be fixed. The relevant point, for the purposes of this proceeding, is that it is impossible to plausibly argue that inappropriate cross-subsidies are inevitable or unavoidable, and that as a consequence the entire enterprise is doomed to failure. Whatever issues arise, we are confident that the Board will deal with them appropriately.

c) Centra’s Cost Structure and Return Requirements

Another issue that may come up in future proceedings is the possibility, which seemed to be suggested by some of Board counsel’s cross examination of Mr. Stauft, (Tab 80 - transcript at 150-155) that it would be appropriate to somehow inflate the rates charged for alternative utility services in order to make them comparable on a cost basis to retailer products, even if the utility would not actually incur those costs. This issue was addressed, for example, in the context of possibly including a return component in Centra’s alternative service rates, even though there is no such component in its system rates.

If, in the end result, Centra’s alternative services are designed in a way that, on normal rate-making principles, would suggest that Centra actually faces some risk-related "cost" over and above it normal allowed return, then of course it would be appropriate to allowit to recover those costs from its alternative service customers. On the other hand, if the suggestion were that some return component be included in Centra’s alternative service rates not because Centra actually has some additional cost that it has to recover, but simply because including that component will "level the playing field" with Direct and ESM, we do not believe that would be appropriate. Centra’s costs will be whatever they are, and its rates should reflect those costs. In competitive markets, if some competitors have a cost advantage over others, they or their customers get the benefit of that. There is no reason in this situation not to give Centra's customers the benefit of any cost advantages that Centra may have.

d) Design Issues and Risk Allocation for Alternative Services

In his written direct evidence Mr. Stauft included a lengthy discussion of various possible approaches to designing alternative utility services, particularly in relation to issues around how, and to whom, volume risk associated with long-term fixed-price contracts would ultimately be allocated. (Tab 81 - Stauft Evidence at pages 61-73) When the CAC/MSOS panel appeared there was considerable cross-examination about those issues, (Tab 82 - transcript at 156); (Tab 83 - transcript at 445 et seq) even though it is clear that Mr. Stauft was not expressing any opinion at this time on how those issues should be dealt with.

While that was all very interesting, CAC/MSOS's view, given that Centra itself has not ventured any opinions on the issues that Mr. Stauft addressed, is that those considerations are largely irrelevant for the purposes of this proceeding. Mr.Stauft acknowledged that designing these services might be trickier than it might first look, and that ultimately trade-offs between competing objectives might have to be made. That, however, is not a reason to say now, in this case, that the entire concept should be rejected. (Tab 84 - transcript at 472-473)

3. The Threat of Exit by Competitive Retailers

It is clear from the totality of their evidence that the Retailers see the possible entry of Centra into the fixed-price market in Manitoba as a potential disaster scenario, and that they strongly oppose it. At the same time, the evidence that they have put forward in opposition to that proposal is, in our submission, completely unpersuasive.

In their written direct evidence Direct/ESM addressed the issue of Centra offering fixed-price services entirely by quoting various sections from decisions of the Ontario Energy Board, the Alberta Energy and Utilities Board, and the British Columbia Utilities Commission in which those tribunals rejected the notion of utilities under their jurisdiction offering such services. That information may not be helpful to the Board in this case. The fact that in Canada utilities do not currently offer such products is well known. The issue is one of why that is the case, and why that result is or is not appropriate in the circumstances that exist in Manitoba. Conclusory statements by other regulators, made in contexts that may or may not be factually or legally similar to the context in Manitoba, on the basis of evidence and argument that is not known or explained, are not helpful at all for the purposes of assisting the Board with analyzing this issue.

In their written direct evidence both Centra and Mr. Stauft discussed in considerable detail the factual background that is relevant to this issue and their reasoning in arriving at the conclusion that the offering of alternative products by Centra would now be appropriate. Given the opportunity to respond to Centra and Mr. Stauft through rebuttal evidence, Direct/ESM said essentially nothing. The Retailers filed no company evidence in rebuttal, on this or any other issue. Instead, they filed evidence from Dr. Cyrenne that was styled as being responsive to Mr. Stauft’s evidence, but in fact was not. At no point in that rebuttal evidence did Dr. Cyrenne take issue with any factual claim that Mr. Stauft made, or with his reasoning. In fact it is clear that Dr. Cyrenne knows virtually nothing about the gas industry in general or the Manitoba retail energy market in particular, and his evidence amounted to a series of speculative theoretical claims that, while perhapsreasonable as a matter of economic theory and well within his expertise, had nothing to do with anything Mr. Stauft said or, in our submission, the issues the Board has to decide here. (Tab 85 - See direct examination of Dr. Cyrenne at page 2523, line 25 and page 2524, lines 1 – 9 and more generally, cross-examination by all parties of Dr. Cyrenne)

Where we did hear from the Direct/ESM witnesses on this issue was cross-examination of the Retailer panel. While the witnesses discussed various points, we think their essential message and argument on this issue is simply that if Centra is allowed to offer alternative fixed-price products they will likely be forced to leave the jurisdiction. It is that possibility that CAC/MSOS would like to discuss as a way of concluding our submissions on this topic.

The first issue to be considered in this connection is whether it is a reasonable prediction. While we do not deny that an exit by the existing unregulated competitors is a possible outcome of the suggested program, we do not believe that it is a certain outcome, for a number of reasons.

First, if Centra's alternative products are limited, at least initially, to one and two year products that Direct and ESM do not provide, it is not obvious that there will be significant competition between Centra and those parties. A Centra one-year product might compete with Direct's five-year product, in the sense that at least some customers might be inclined to purchase either one, but it is not at all clear how many customers might have that inclination. The competitive overlap could be significant, or it could be trivial.

The second point to be made is that the Retailer argument seems to assume that, to the extent they are in direct competition with the Retailers' products, Centra's products will necessarily be less expensive or otherwise more attractive to customers than the Retailers' products are. While that is possible, we cannot be certain that it will be the case. There are a number of possible approaches to designing and pricing Centra's proposed services, and it cannot be said with confidence now that all or any of them will result in prices that are any more favorable than the prices offered by the Retailers. CAC/MSOS hope they do, but only experience will tell us that.

The second broad issue that needs to be considered, assuming for this purpose that it is reasonable to think that the offering of alternative services by Centra would force the existing unregulated competitors out of the market, is whether that would be an unacceptable outcome.

CAC/MSOS's position on this question is that, while a market exit by Direct and ESM would be disappointing, and might represent a modest loss for consumers in terms of product diversity, fear of that consequence should not deter the Board from approving the proposed alternative arrangements.

What must be remembered here is the point of the exercise represented by this proceeding. That point, from CAC/MSOS's perspective at least, is to do whatever can be done to encourage the development of products that consumers want at the lowest possible price. It is customers who will tell us, through their contracting behavior, which competitor has the best products. If the market result is that customers like the utility's products more than the products offered by Direct and ESM, and as a result those companies exit the market, that is a reasonable outcome (Tab 86 - Stauft Evidence at page 26) (Tab 87 - See also e.g. Dr. Van Audenrode at transcript 270), and an outcome that involves consumers being made better off than they were before. That kind of thing happens in competitive markets all the time; it is simply part of the competitive process that, all parties seem to agree, makes consumers better off in the long run.

VI. HEDGING AND DEFAULT PRIMARY GAS RATE DESIGN

A. Elimination of Centra's Hedging Program

For sometime, Centra has been employing financial instruments to protect System Supply customers from the effects of significant and relatively sudden primary gas rate increases. In order for such a mechanism to be "revenue neutral" the quid pro quo is that Centramust sell financial instruments that effectively place a floor on what Centra can pay for primary gas. The use of such instruments for these purposes is colloquially known as hedging. In the past, there has been much discussion and debate on the merits of Centra employing hedges to smooth rate volatility for System Supply customers. The Board is familiar with these arguments. However, new information has come to light which questions the worthiness and desirability of hedging default Systems Supply gas. This new information includes recent customer survey and focus group results, empirical evidence of the effect of hedging on bill volatility, and the recent incurrance of extensive additional costs as a result of the market price of gas being consistently below the lower hedged strike price. Each of these issues are discussed in more detail below.

a) Customer Research Evidence

While the cross-examination of Andrew Enns, Senior Vice-President of NRG Research Group revealed some significant problems with the NRG research reports, the following principles regarding bill volatility appear to relatively uncontentious among the parties:

1. Residential customers appear willing to accept an approximate 15 percent to 18 percent change in their annual natural gas bill. This translated into an annual average change in a residential Hydro bill of $195.00 and for a residential marketers bill of $234.00. (Tab 88 - page 23 of the Manitoba Hydro Natural Gas Customer Research Report, June 12, 2007) (Tab 89

- See also CAC / MSOS cross-examination of Centra at page 710, lines 1-6);

2. According to CAC/MSOS' cross-examination of Andrew Enns, bill volatility is not a "top of mind issue" nor even a particularly notable issue for consumers. (Tab 90 - page 711, lines 9-16);

3. Natural gas customers are primarily concerned with the bottom line number on their bill. (Tab 91 - CAC / MSOS cross-examination of Andrew Enns at page 715, line 1-6) (Tab 92 - see also Board counsel's cross-examination of Centra at page 1192, lines 12 – 25 and page 1193, lines 1-11);

There is also some evidence that natural gas customers are not that interested in paying for bill stability. (Tab 93 - C AC / MSOS cross-examination of Andrew Enns, page 715, lines 14 – 22) In fact, 79 percent of residential Hydro customers do not want to pay a premium to eliminate ups and downs in the price for gas where the rate for natural gas changes every three months. (Tab 94 - Research Report, Table 14 at page 36) (Tab 95 - C AC / MSOS cross-examination of Andrew Enns, page 715, lines 23 – 25 and page 716, lines 1 -14) (Tab 96 - See also page 36 of the Manitoba Hydro Natural Gas Customer Research Report, June 12, 2007) Moreover, Centra admitted this fact in cross-examination by CAC / MSOS at pages 1442 and 1443 (Tab 97).

However, a thorny issue arises as to what inferences may be drawn from Table 14 (*supra)* of the Customer Research Report. CAC / MSOS interprets Table 14 of the Research Report to indicate that the majority of residential Hydro customers in all categories are not willing to pay a premium for hedging.

From its evidence on cross-examination, Centra appears to draw a very narrow inference from Table 14 of the Research Report and points to Table 17 (at page 38 – Tab 98) and Table 20 (at page 41 – Tab 99) of the Customer Research Report as evidence of consumer support for hedging. In summary, Table 17 of the Research Report appears to indicate that 68 percent of residential Hydro customers support the "price management program [operated by Manitoba Hydro] on behalf of its customers to reduce the rate volatility of natural gas" [which is described to the respondent in more detail]. Table 20 of the Research Report finds that 56 percent of residential

Hydro customers would support a fixed rate plan, ranging from one to five years, which guarantees a set rate, usually at a premium. At the same time, Table 20 indicates that 48 percent of residential Hydro customers would support "a market price or variable rate plan, where the customer pays the actual market rate for natural gas on a monthly basis".

Although denied by Centra, clearly there is an element of contradiction between Table 14 and Tables 17 and 20 of the Research Report. (How can a majority oppose paying a premium for a fixed rate product and at the same time support paying a premium for a slightly fixed rate product [i.e. hedged product]?) There may also be some internal contradiction in Table 20, itself. It is possible that some of these contradictions may be logically resolved and the Board can draw some meaningful conclusions from them. Alternatively, if these contradictions cannot be resolved, the customer Research Report is effectively inconclusive and not useful on the issue of consumer support for hedging programs.

CAC/MSOS takes the position that, while imperfect, the results from Table 14 are more reliable, and provide greater insight into the mind of the consumer, than the results in either Table 17 or Table 20. CAC/MSOS’ reasons for this position are as follows.

The question in Table 14 is clear, straightforward, and understandable. It is essentially asking, "are you prepared to pay a premium to eliminate the ups and downs in the price of gas?" The results for residential Hydro customers are clear majorities in all time interval categories.

In contrast, the questions in both Tables 17 and 20 are improperly worded. With respect to Table 17, CAC / MSOS submits that respondents are being asked to answer a longwinded, complicated and biased question. And, as Mr. Enns admitted in cross-examination (Tab 100 - CAC / MSOS cross-examination of Enns at page 731; see also Board counsel cross-examination of Enns) the quality of respondents' answers are directly related to the nature of the question asked. CAC / MSOS submits that there are at least three elements to this question that would tend to bias responses.

First, there is the sentence "like all insurance products, there is a cost" [emphasis added]. Why is it necessary to say "like all insurance products...."? Why does the question not simply say "there is a cost"? The qualifier, "like all insurance products" seems to provide some sort of excuse or justification for the fact that there is a cost and appears to attempt to minimize the significance that there is a cost.

Second, the next sentence says, in part, that "the theory is the cost will be very small – less than 1 percent to your overall gas cost". What value does the modifier-adjective "very small" add to the sentence? Those words do not add any new facts beyond the simple statement that ‘the theory is the cost will be less than 1 percent’. The phrase "very small" is an expression of an opinion from a particular perspective. What is very small to one person may be very large to another. It simply adds nothing to the facts required of a respondent to answer the question and only serves to diminish the fact that there is a cost.

Third, nowhere does the explanation of the hedging program indicate that short-term savings and losses accruing to the utility as a result of hedging can be in the tens of millions of dollars.

For these three reasons, CAC / MSOS is of the view that the question is poorly worded and biased in favour of the hedging program and, therefore, its results are tainted as such.

With respect to the questions asked in Table 20, the problems are more subtle, but equally problematic. The problem with the question "Would you support or oppose MB Hydro offering natural gas at a fixed rate plan, ranging from one to five years, which guarantees a set rate, usually at a premium" are as follows: First, there are too many variables in the question. We cannot tell what respondents liked (or disliked) in that question. For example, did they like the fact that it was Manitoba Hydro offering the fixed rate, or the concept of a fixed rate, itself? What about the "ranging from one to five years" part of the question. If some respondents preferred five year set rates only and others preferred one year set rates only, the extent of their support may be skewed as a result of the breadth of the question. Finally, the word "usually" is inserted before "at a premium". Did some respondents interpret the use of the word "usually" to indicate that at times there would not be a premium, or costs, for having a fixed rate? If so, to what extent did this reflect the answers provided? Moreover, this result has to be read in context with the result that almost 50 percent of residential Hydro customers said that they would support Manitoba Hydro offering natural gas at a market price or variable rate plan, where the customer pays the actual market rate for natural gas on a monthly basis.

The bottom line is that the areas of the Research Report on hedging are flawed. CAC / MSOS says that, in the end, perhaps very little meaningful information on a consumers perspective of the hedging program can be drawn from this Research Report. However, if anything can be drawn from this aspect of the Research Report, CAC / MSOS says that it is only the sense that consumers are hesitant to pay any form of premium for price stability.

b) Reasons for Hedging

The only reason why Centra employs hedging is to reduce volatility. (Tab 101 - CAC / MSOS cross-examination of Centra at page 1412, lines 8 – 13)

The reason why volatility is such a concern is that an unexpected price change in a short period of time could catch consumers by surprise. (Tab 102 - CAC / MSOS cross-examination of Centra at page 1412, lines 14 – 20)

Since Centra has acknowledged that the bottom line amount of the bill is the most important concern to consumers (supra), the issue is about bill volatility, not rate volatility. Centra does not employ the hedging program to control bill variability due to weather, yet "...the overwhelming majority of the volatility or variability that customers experience on their monthly natural gas bill is the result of changing consumption in response to changing weather conditions." [Emphasis added] (Tab 103 - PUB / Centra IR answer 26)

c) Cost of Hedging

The costs of hedging can be sub-categorized broadly into costs to run the hedging program (administrative and dealer margins) and costs (or benefits) depending upon whether the cost of primary gas is striking the upper or lower strike points during any given time period.

While it seems to be generally acknowledged that over the long-run (20 years or so) (although, there is even some doubt about this proposition – Tab 104 - see evidence of Dr. Van Audenrode at page 338, lines 13 – 25 and page 339, lines 1 – 19), the net costs and net savings for operating a hedging program tend to balance out (with the exception of administrative and dealer costs), it is clear that the program costs can be significant in the short-run. Last year, the net costs of the hedging program was $73 million. (Tab 105- PUB / Centra IR 20) The projected net cost to Centra of the hedging program for this fiscal year is $41 million (Tab 106- CAC / MSOS cross-examination of Centra, at page 1404, lines 8 – 25 and page 1405, lines 1 – 12)

While it is acknowledged that the program has resulted in significant savings in certain periods of time, this is cold comfort when the most recent two fiscal years are likely going to result in a net loss of over $100 million.

Even if such net losses and savings balance out over the long-term, Centra incurs administrative costs to manage the hedging program each year in the approximate amount of $100,000.00. (Tab 107 - CAC / MSOS cross-examination of Centra at page 1419, lines 21 – 25 and page 1420, lines 1 – 18) Amazingly, this is a 50 percent reduction of administrative costs from the PUB hearing that resulted in Order No. 175 / 06 that just occurred last year. At that hearing, Centra suggested that their administrative costs were $200,000.00. (Tab 108 - See page 14, Order 175/0 6) In any event, in addition to these administrative costs, there are embedded dealer margins that Centra estimates to be approximately $400,000.00 per year. (Tab 109 - CAC / MSOS cross-examination of Centra at page 1420, lines 19 – 25 and page 1421, lines 1 -25 and page 1422, lines 1 – 3) Thus, the total annual cost to Centra to run the hedging program is in the order of magnitude of

$500,000.00. (Tab 110 - CAC / MSOS cross-examination of Centra at page 1422, lines 4 – 9)

d) Empirical Evidence of the Benefits of the Hedging Program

Centra's evidence is that the hedging program reduces rate volatility by between 30 percent and 53 percent since April, 2002. (Tab 111 - Centra's written evidence, Tab 3, page 3). However, the empirical evidence also indicates that hedging is not improving bill volatility. (Tab 112 - DEML / Centra 16 and PUB/ Centra 26); (Tab 113 - see also Board cross-examination of Centra at page 1193, lines 15 – 25 and page 1194, lines 1 – 10)

This result is surprising even to Centra. (Tab 114 - CAC / MSOS cross-examination of Centra at page 1416, lines 3 – 14)However surprising this may be, the fact is that the only evidence that we currently have with respect to whether hedging is reducing bill volatility indicates that it is not reducing bill volatility. (Tab 115 - CAC / MSOS cross-examination of Centra at page 1418, lines 14 – 25 and page 1419, lines 1 – 2)

e) CAC / MSOS Argument on Hedging

As a general principle, Centra wants to meet the needs of its customers. (Tab 116 - CAC / MSOS cross-examination of Centra at page 1460, lines 10 – 19)

By its own admission, Centra acknowledges consumers are primarily interested in bill volatility supra). Rate volatility, insofar as it does not impact the bottom line of the bill, is not a concern for consumers.

The evidence demonstrates that the hedging is doing nothing to diminish bill volatility (supra).

By its own admission, Centra acknowledges that the equal payment plan (EPP) is the best thing for managing bill volatility. (Board counsel's cross-examination of Centra at page 1239, lines 9 – 19)

Hedging costs Centra approximately $500,000.00 per year (supra). By Centra's own admission, this $500,000.00 cost is essentially a premium. (Tab 117 - CAC / MSOS cross-examination of Centra at page 1443, line 25 and page 1444, lines 1 – 18) Given that, according to Centra's own commissioned Research Report, 79 percent of Manitoba Hydro residential customers do not want to pay a premium to eliminate ups and downs in price on a three-month rate, why would customers want to pay a premium for a hedged product that is only partially fixed?

The bottom line is that Centra is pushing a hedged default supply product for no good reason. People do not appear to be that concerned about volatility. If they are concerned about volatility, it is clearly the bottom-line bill volatility, and not rate volatility which concerns them. The only mechanism that protects people from bill volatility, is the EPP Program. Finally, even if people are interested in rate volatility, there is some evidence that they are not prepared to pay a premium for it.

Based upon the foregoing, it does not make any sense for Centra to continue using hedges for default System Supply. No matter what the administrative cost -- whether it be $5.00, $500,000.00 or $50 million -- default supply customers are receiving no value from hedging. (Tab 118- See also Mr. Stauft's evidence at pages 236 – 238) If Centra is so concerned about the extent to which consumers are affected by volatility, a more appropriate course of action would be to make the EPP program the default supply option.

B. Default Primary Gas Rate Design

In their written direct evidence the Retailers took the position that it would be appropriate for Centra to fix its Primary Gas rates on a monthly rather than the quarterly basis. They suggested two general approaches to implementing such a mechanism. One would involve fixing rates on a monthly basis based on forecast gas costs for the month, with a conventional PGVA deferral mechanism. As we understand it, this would be similar to the mechanism that Direct Energy Regulated Services uses to fix the price of its regulated default supply for customers that it serves in Alberta.

The second alternative that they identified would involve Primary Gas rates that are similarly fixed on a monthly basis, but which would be established on some kind of index basis with no gas cost deferral mechanism.

Although the second suggested approach would involve a number of complications that we do not believe can be reasonably addressed in this proceeding, CAC/MSOS would not object to Centra implementing the first alternative, provided that the Board also approves the proposal to allow Centra to offer fixed-price services for one and two year terms.

Such a mechanism would result in Primary Gas rates that are more closely reflective of market prices, as those are normally conceived, than the current approach. However, monthly pricing would tend to increase volatility in Primary Gas rates, and probably in customers' bills, and our position is that such a change should only be made if, at the same time, customers are provided with appropriate tools to manage rate volatility themselves, if they choose to do so. Implementation of the proposal to allow Centra to offer fixed-price products would provide customers with such tools.

All of which is respectfully submitted this 24th day of October, 2007.

D'Arcy & Deacon LLP
Kris M. Saxberg/R. Ivan Holloway

(SUBMISSIONS CONCLUDED)

THE CHAIRPERSON: Thank you, Mr. Holloway. Okay. We'll adjourn for now. We'll come back at one o'clock, and then we'll hear from Centra. Thank you.

--- Upon recessing at 11:50 a.m.
--- Upon resuming at 1:06 p.m.

THE CHAIRPERSON: Okay, Ms. Murphy, anytime you wish to begin.

MS. MARLA MURPHY: Thank you, Mr. Chairman. By way of introduction, you have before you the book of documents presented in final argument of Centra Gas Manitoba Inc., for this proceeding, and I would like to ask that that be marked as an exhibit. Just so that we keep the record clear. I believe it should be number 35?

THE CHAIRPERSON: Subject to check. Thank you.

--- EXHIBIT NO. CENTRA-35: Centra's book of documents presented in final argument

CLOSING SUBMISSIONS BY CENTRA:

MS. MARLA MURPHY: Mr. Chairman, members of the Board, in January of 2007 the Public Utilities Board gave notice of its intention to hold a review of the competitive landscape in the natural gas market in Manitoba.

Since that time, significant time and effort has been expended by a number of individuals on behalf of Centra Gas, CAC/MSOS and the two active brokers in the residential market, Direct Energy, and Energy

Savings Manitoba, to explore the issues outlined in the Board's notice and to bring to the Board each of our respective views on how the market has evolved, and our suggestions on the direction in which the Board should guide the market in the future.

The evolution that has occurred in the natural gas marketplace began with the signing of the Western Accord, and the agreements of natural gas markets and prices some twenty (20) years ago.

These agreements and the impacts they have had on natural gas production, pipeline and utility industries, fostered innovation in the direct purchase environment, which first took the form of the City Gate buy/sell service in 1987, and later expanded to include the Western by/sell service.

These services permitted customers, first large volume customers and later all customers, to purchase natural gas from a supplier other than Centra, and to arrange for the resale of the gas to Centra at its weighted average cost of gas. Customers could be assured that their gas costs would be no higher then the Utility cost, and there was a potential for customers to receive savings, usually in the form of a rebate, from the service providers.

In 1996, a second generic hearing was held by the PUB and consideration was given to whether further changes were then necessary in Manitoba. It was at this hearing that Centra proposed to replace the existing buy/sell arrangements with the Western Transportation Service, or WTS, in large part, to address the lack of transparency associated with the buy/sell arrangements.

In the Order resulting from that hearing, Order 15/98, the PUB directed that the WTS service be developed and replace the buy/sell arrangements. This Order contained a sig -- a number of significant policy statements with respect to the shape of the natural gas landscape in Manitoba. It also resulted in Manitoba being one of the front runners in the deregulated marketplace.

The implications of that Order are ongoing and far reaching. A customer's gas bill, as we know it today, unbundled into various components, is largely a result of Order 15/98, including the need for price transparency and information to permit customers to identify their suppliers and the services for which they are paying.

The decisions in Order 15/98 also fostered and recognized the need for customer education. In order for customers to make informed decisions as to the purchase of primary gas, they needed and still need, to be able to understand and identify what it is that they're purchasing, and to understand which components of their natural gas requirements are available in the competitive marketplace.

As Mr. Barnlund and Mr. Stauft have testified, the expectation at that time was that this -- that severing the link with the Utility Service would result in, what Mr. Stauft described as a "flowering of competition". And I quote; he said:

> "...so that you have, ideally, a variety of products available to customers, variable priced or, you know, various forms of hedging or one (1) or two (2) or three (3) year fixed prices or just whatever people could dream up. And also that, of course, you would attract more market participants in addition to the one (1) or two (2) that existed in Manitoba at the time.
>
> I think the expectation was that this sort of blossoming of competition would ultimately lead -- sorry -- would lead, ultimately, to a squeezing out of the Utility Sales Service, that eventually

competitive forces would make it unnecessary for there to be any sort of one-size-fits-all Utility Sales Service. Because in the competitive market, customers could buy whatever they wanted, whatever suited their particular needs, and the prices for all of this would reflect, you know, a competitive outcome that basically reflects costs, in more or less, the same way the utility service does."

And you'll find that, Mr. Chairman, at transcript pages 111 and 112:

Mr. Stauft went on to say, at page 113, that:

"The real world has just not unfolded in quite the way that our idealistic vision called for ten (10) years ago."

In the ten (10) years since that generic hearing and the issuing of Order 15/98, there have been significant changes in the natural gas industry. We've seen the cost of the commodity triple. Customers have experienced unprecedent -- unprecedented levels of market price and rate volatility, and the Industry has experienced the con -- consolidation of some marketers and the demise of others.

These changes are fundamental to the Manitoba market, and have significant bearing on the public interest objectives that were outlined in Order 15/98. Centra submits that these factors constitute sufficiently changed circumstances to justify revisiting the or -- the findings of Order 15/98 to determine how best to meet customers needs going forward.

I'd like to look at the issue of why competition is important and I can refer you to Tab 1 of our book of documents which contains some excerpts from Order 15/98.

In Order 15/98, the Board noted at page 62 that, and I quote:

> "The individual interests of the Utility and other market participants, in preventing each other from offering competitive alternatives to their own services, must not overshadow the real objective in moving towards a fully competitive market.
>
> That objective is to provide the consumer with meaningful customer choices, service offerings and economic

benefits.

Ultimately, the consumer must benefit, and that must be the rationale for any industry or regulatory change." Close quote.

During the course of this Hearing and in our submission, Centra has considered the threefold test which was advocated by Centra's experts in 1996 and was accepted by the PUB in Order 15/98 at page 61.

That threefold test suggests that competition will further the public interest only if supply will be increased, if prices will decrease, and if products and services are improved.

The PUB, in Order 15/98, considered the objectives of competition and noted, at page 4 in the Executive Summary, that regulation should continue to protect consumers' interests in dealing with monopoly and market-dominant service providers. However, where there is sufficient competition, more emphasis will be placed on the market to satisfy the consumer interest. Competition is not a goal in itself, and should be encouraged only if it will advance the interests of the natural gas end-user.

In considering why competition is important, policy directions must be taken into account.

We all accept the consumers generally find that choice is good and that more choice is better. But these general statements must be considered through the kaleidoscope of public policy and legislative mandate.

Some jurisdictions which have been held up to you as examples of what should aspire to in the Manitoba market, have different legislative mandates. In particular, the Ontario Energy Board has, as one of its statutory mandates, the requirement to promote competition in the Ontario natural gas market. There is no such similar objective in the Manitoba Public Utilities Board Act.

Mr. Newcombe also identified that -- the impact of policy statements by political leaders citing, as an example, the Mayor of the City of Lethbridge statement that customers should sign up with marketers as being instrumental in the success of marketers in that community.

You'll find that at page 1975 of the transcript.

One of the questions before you today, and which is fundamental to the decisions that you'll make with respect to the eleven (11) issues set out by the Board at the commencement of this process, is whether there presently exists in Manitoba a competitive market for natural gas.

The parties who appeared before this Board were in agreement that a competitive market does exist for the supply of natural gas to large-volume industrial users. Centra gave evidence of the factors it views as significant in making the assessment that there's workable competition in the larger-volume market.

In particular, Mr. Barnlund testified, commencing at page 1063, that the customers who make up that category are relatively sophisticated customers; they understand how to manage purchase transactions much better than small -- smaller volume customers, they have better access to information, they're able to deal directly with suppliers and participants in the wholesale natural gas market themselves because of their size and their ability to negotiate with those parties directly.

Further, at page 1072 Mr. Barnlund noted that there are a large number of marketers serving -- servicing the customers, as compared to the small volume, in particularly the residential category.

Mr. Barnlund also noted that the products tend to be different, specifically shorter term year-to-year contracting, which permits greater potential for customer mobility and contracts which are more customised to satisfy individual customer requirements.

As Mr. Stephens noted at page 1075 of the transcript, these customers are, and I quote:

"getting exactly what they want in terms of price stability versus market reflective prices".

The focus of this Hearing then, and the area in which we'll focus our closing submissions today is whether there is a workably competitive marketplace for the purp -- purchase of primary gas by residential and small commercial customers in Manitoba, specifically those customers of the SGS and LGS classes.

There are a number of measures of the competitive marketplace. In preparing its submission, Centra considered factors such as the number of suppliers, the number of available products, the price of those products, the number of participating customers, and the availability and customer awareness of information.

With respect to the number of suppliers, while the evolution since the inception of WTS from one (1) marketer to two (2) marketers may be characterised as a doubling of the number of suppliers, the reality is that since 2003 there have only been two (2) suppliers from which residential customers may choose an alternative primary gas product.

As was noted in the evidence of Mr. Barnlund and others throughout the course of this Hearing, to the extent that there remains enough competitors in the market to provide viable choice and different product offerings and to be able to compete against each other for those customers, the market remains competitive.

However, there is a threshold which the Board must be mindful of. Where exactly that threshold lies in Manitoba is not a simple question.

Certainly one (1) competitor would not equate to a competitive marketplace simply because there's no one to compete with. Mr. Barnlund notes in his evidence at page 1094 that it's fair to -- to suggest, that in -- the market in Manitoba may not be competitive by the virtue of the fact that there are two (2) in the marketplace.

Another factor to be considered is the number and type of available products. In contrast to the variety of products in the larger volume cu -- market, residential customers have, for the most part, in the past ten (10) years, had to choose between the utility's variable rate offering and a long term fixed-price contract offered by brokers.

There has not been a plu -- proliferation of products available in the market. Brokers have, in large part, confined themselves to long term fixed-rate price contracts. And one (1) might suggest that the declining rate and the recent offer of seasonal rates expand the range of products available, however, those products both still require long term contracts.

In the case of the declining rate, which is no longer offered in Manitoba, the customer was required to sign a five (5) year contract. And while the rate changed slightly during the term of the co -- each year of the contract, the fact remains that the customer was committed to a long term contract with a premium imbedded for rate stability.

This is also true of the seasonal rates offered. Customers will experience different rates in the summer and the winter, however, those rates continue for the duration of the five (5) year contract.

This is not unexpected, given the evolution of the market in Manitoba and elsewhere. As Mr. Barnlund testified at page 1094, brokers incur a cost to acquire a customer, and under fixed-price products they only may have a certain amount of margin for the broker each year.

Given the acquisition costs, which Mr. Roeder testified, may be anywhere from thirty ($30) to three hundred dollars ($300) and which are identified as being in the range of a hundred and eighty dollars ($180) in the Energy Savings Manitoba quarterly report, which was filed as Centra Exhibits 14.

As Mr. Barnlund testified at page 1059:

"It makes sense for the brokers to be focussing on the four (4) and five (5) year or the longer term end of the market. In doing so they're amortising their customer acquisition and marketing costs over the longer period of time and over more volumes. And it's reasonable from a business perspective to be pursuing that approach, but the result is you end up with a barbell of offerings in the market where you've got a focus on the four (4) and five (5) year offering and then the utility residing at the three (3) month quarterly offering." Close quote.

Another factor which assists in evaluating the competitive -- competitiveness of the Manitoba market is the market penetration rate. As you've heard, the number of customers participating in the direct purchase market in Manitoba has been fairly consistent at 20 to 25 percent.

And we've included at Tab 2 for your reference the attachment from our submission which demonstrates the number of customers year over year. This is consistent with the market in Alberta, although it's significantly lower than the participation rates in Ontario.

I noted, with interest, that according to Mr. Roeder's evidence, the general consensus among market participants is that a 40 percent participation rate is considered to be a successful market. You'll find that at page 2416. This also suggests that the current market in Manitoba is not sufficiently competitive.

Perhaps one of the most difficult assessments of competitiveness of the market is determining whether the price for the available product is competitive.

As was testified by Mr. Stauft and Dr. Van Audenrode at pages 148 and 149, a competitive price for the product is one which is seen to be cost plus normal returns based on the nature of the risk and the like. The mystery in all of this is that because of the competitive nature of the market, no broker wants to disclose their costs. As such, the Board is left with something of a black box in attempting to determine whether the price for the products available in the market is competitive.

Centra has provided evidence of its analysis of the premium typically embedded in a residential customers primary gas costs which may assist in assessing the reasonableness of a fixed price product. As you can see from the updated response to PUB/CENTRA-21, which was filed as Exhibit CENTRA-12 and which you'll find at Tab 3, page 2 demonstrates that the typical residential customers natural gas bill on a fixed price fixed term contract is approximately 8 percent higher than what their primary gas costs would have been when compared to Centra's system supply offering over the same period of time.

This reflects the difference in outcome of the market price over the term of a contract, although it cannot necessarily be equated with the gross margin or premium associated with shedding risk of uncertainty over the term of the contract. And if you require further explanation, I'd refer you to Mr. Barnlund's discussions at page 1678 of the transcript.

There has also been discussion during the hearing of whether or not customers of fixed price offerings have benefited financially. You will recall that all parties agree that this question cannot be determined until after the conclusion of the contract term.

As can be seen from a review from Centra Exhibit 12, some customers benefit while others do not. The results are split approximately 50 percent.

It is noteworthy that the range of potential benefits is far smaller than the range of potential added costs which in fact may not be well understood by customers.

It can be seen from the bottom of Exhibit 12 that the un -- unweighted aggregate impact of the contracts is a net loss of six thousand one hundred and fifty-two dollars ($6,152}.

It should also be noted that Dr. Van Audenrode suggests that it's not the appropriate measure of whether customers benefited from the contract. In his view, the more important consideration is the spread between the prices at the time of entering the contract. He testified to that at page 416 of the transcript.

At present, there appears to be a significant differential when comparing Centra's rates at twenty-eight (28) cents to the broker rates at thirty-five (35) and approximately thirty-nine cents (39) cents.

Direct Energy and Energy Savings also

filed, during the course of the proceeding, an indication of the composition of their rates comparing rates in Manitoba and Ontario. You'll find that at Tab 4, which was Exhibit DEML/ESMLP-21 which compares between juris -- it -- it demonstrates that comparisons between jurisdictions are difficult as the costs vary from jurisdiction to jurisdiction.

This was confirmed on cross examination of Mr. Roeder, where he confirmed at page 2692 of the transcript, that the Board is not able to take any comfort that the Manitoba prices are reasonable by comparing them to the Ontario prices because the input costs are not the same. He also confirmed, in that same exchange, that the costs for Manitoba are lower than those in Ontario.

Mr. Chairman, this discussion leads one to the conclusion that, without a regulated benchmark price, it's very difficult for a customer to assess whether the price being offered for a broke -- by a broker for their product is reasonable. There is no conclusive evidence on the record to suggest that the prices of the products offered by the brokers are inappropriate, but there's very little evidence to suggest that their products are competitively priced to the benefit of consumers.

This difficulty is compounded in the

natural gas industry by trying to ensure that customers understand and appreciate exactly what it is that they're purchasing. Centra remains concerned that many customers are entering into long term fixed price contracts without fully appreciating the risks and the benefits of the product and, perhaps, with the expectation that they'll save money as a result.

We intend to deal with this product a bit more fully later. However, in terms of considering whether there are -- is a functioning competitive market in Manitoba, the final factor, which Centra considered in its submission, is the availability of customer information and the customer's awareness of that information.

Customer research, in both 2004 and 2007, identified an ongoing and, in our respectful submission, serious problem. Many customers who have signed a long termed -- signed a contract for long term gas supply are unable to correctly identify their supplier or are even aware that they have entered such an agreement.

Both in 2004 and 2007, in the order of 20 to 25 percent of customers were unaware that there were different companies from which to purchase natural gas. You'll find that Information at Tab 5 of our book of documents.

In 2007, over half of the marketer residential customers sampled, which was provided to the researcher, either incorrectly identified themselves as a customer of Manitoba Hydro or did not know who their current provider was. And that's also contained at Tab 5. It's from page 6 of the customer research file report.

As noted in our submission, and throughout the evidence in this proceeding, Centra views the level of customer information available to assist customers in the marketplace in making informed decisions, to be a serious limitation in the current natural gas marketplace.

The lack of an easily accessible database, which provides customers with adequate information, is in our view, vital to the success of the natural gas market. In our respectful submission, customers should be able to readably -- readily obtain a comparison of the products and the prices available in the marketplace at anytime, by reference to a website or newspaper.

All parties agree, at least in theory, that customer education is important. You've heard from the witnesses for CAC/MSOS, and I would also refer you to page 2686 of the transcript where Mr. Newcomb testified, and I'll quote:

"I don't think we can disagree that consumers should know the full range of products that are out there, what the risks and costs and benefits of all of them are." Closed quote.

However, and we submit curiously, the brokers maintained, throughout the course of this proceeding, that a website comparing information ought not to be made available to customers. You'll find that at pages 2180 and 2188 -- through 2188.

At page 2729 of the transcript, the brokers confirmed that they would not like to have the pricing information posted on a website, and further suggested that if the Board mandated that it be posted, they did not want it to be on Centra's website.

Centra agrees that this type of information is best kept on an independent website, perhaps hosted and administered by the Public Utilities Board. It is our submission that rules requiring all market participants, either regulated or unregulated, to provide information to be posted to the website by a specified date or within a defined time period, would be sufficient to ensure that accurate and current information is available to the public.

This type of information being readily

available to the public, perhaps with links to individual participants websites, or contact information, will be useful to customers, and can only improve the current level of information available and customer awareness of this important decision.

The current process that was undertaken to produce a document such as the 2006 updated guide to purchase of natural gas was cumbersome. Consensus was not achieved, and the process to produce that document required several months.

Centra submits that this document, updated as necessary to reflect the branding of -- re-branding of Direct Energy, and perhaps the name change of Energy Savings, should replace the earlier version prepared in 2000 which is currently used by the brokers in accordance with the code of conduct.

With respect to the analysis of whether or not there exists a competitive market, the economist -- economists both, who appeared before this Board, also offered tests for the existence of that market.

You will recall that Dr. Van Audenrode addressed the four (4) firm concentration ratio during cross-examination as one means that the competition bureau considers to aide in the determination of whether there's a risk of an exercise of market power. You'll find that discussion at pages 348 and 349 of the transcript.

Dr. Van Audenrode testified that given the number of competitors in the Manitoba markets, the four (4) firm concentration ratio would be 100 percent and would, absent regulation, be sufficient to cause a concern for the competition bureau.

He further testified that the availability of a regulated product would mitigate that concern, and in his words, "would work as a benchmark."

Professor Cyrenne introduced another measure of potential market concentration into the mix with his evidence that the more current standard for testing such concentration, is the Herfindahl-Hirschman Index or HHI.

Professor Cyrenne confirmed on cross-examination at page 2891, that this test accomplishes the same goal as the four (4) firm concentration ratio, but also takes into account the relative size of the market participants.

Centra Exhibit 32, which is at Tab 6 of the book of documents, explains the index and indicated that a market which scores in excess of eighteen hundred (1,800) is considered concentrated.

You'll recall that on cross-examination we established that the HHI index for the primary gas in Manito -- sorry, primary gas market in Manitoba considered as an unsegmented market is sixty-seven hundred (6,700), with the largest participant being regulated.

We also established that if the market were considered segmented, the fixed priced offering market would have an HHI of five thousand (5,000) with neither party being regulated. This clearly indicates a concentrated market.

Importantly, we were also able to demonstrate on cross-examination in this scenario, that if the two (2) competitors were to amalgamate or if one (1) were to leave the province, there would effectively be no competition in the long term fixed price market.

With respect to the issue of market segmentation, Dr. Van Audenrode admitted to being puzzled by the number of cust -- of customers willing to purchase a fixed price product, which he, in his words, may not be beneficial.

He explained this phenomenon as being the result of market segmentation. He testified, at page 120 of the transcript, that the way to understand the number of customers actually signed with brokers is to look at it as, quote:

"The retailers having 100 percent of the market of the fixed price fixed rate long term contracts and zero percent of the market of the short term fluctuating rate contracts and customers."

Mr. Wiens and Professor Cyrenne were less categorical in considering whether the market for natural gas products in Manitoba could be characterised as segmented.

Mr. Wiens described the variable rate product and the fixed price products as substitutes for one another, although not a perfect substitute. Professor Cyrenne agreed with that characterization, at page 2894, to the extent that the Board considers the market to be segmented, the impetus to permit Centra to offer a fixed price long term contract is even stronger.

If the Board were to find that the market is indeed segmented, as Dr. Van Audenrode suggests, then the four (4) firm concentration ratio and the HHI index will strongly suggest that some action is warranted to prevent the potential exercise of market power, for in that case there are only two (2) unregulated firms competing for the fixed price long term customers.

To the extent the customer protection is desired for customers of fixed price products, a regulated offering or regulation of the existing products is warranted. To summarize our submission on this point, regardless of the test that's used, whether it's the economic principles of HHI or the four (4) firm concentration ratio, or the more general analysis of the number of customers, products, suppliers, or customer awareness and understanding, Centra submits that's a sufficiently robust competitive market is not available for SGS and LGS customers today.

In order to determine what steps next ought to be taken in the Manitoba market, the Board can consider several options. Centra submits that there are, essentially, three (3) options for the Board to consider.

The first alternative is to maintain the status quo. In other words, continue to have Centra offer a single short term rate against which the brokers can market their products.

We submit that this alternative is appropriate if, and only if, the Board is convinced that the market is continuing to develop and that it will, without further action on the part of the PUB, continue to evolve.

The brokers have suggested that there are a number of fixes which can be implemented which will encourage the market to develop on its own. These include changes to monthly nominations, minimum volume requirements, restatement of the automatic ninety (90) day renewal, doing away with the requirement to provide contract images to Centra as a matter of course, the electronic billing transactions, changes to Centra's quarterly pricing mechanism, and increasing the potential sales channels available to them to include telesales and internet sales, and eliminating the need for what was described as "wet signatures" to form a contract.

We heard, several times, during the testimony of the -- on behalf of the brokers that these items, each in and of themselves, weren't significant, but had to be taken as a package.

We also heard, consistently, that any cost associated with these fixes should be borne by all customers, or in the words of those witnesses, socialized across all customers.

The question for the Board is whether in fact these items are, either individually or as a whole, sufficient to drive evolution in the competitive market. Centra submits that they are not.

While these tweaks may make the operations in Manitoba more profitable for established brokers, they will not encourage new participants to enter into the market.

To review the items on the list, it's been established that monthly nominations will be available to the brokers, commencing on November 1st, 2007. Centra acted on -- on the request of the brokers for this additional flexibility and secured this option at a reasonable price. The issue to be decided at this Hearing and which we'll address later in this argument is who should pay for that benefit.

With respect to the minimum volume requirements, as you're aware, Centra has proposed and is implementing a trial whereby minimum volume requirements on a contract or pool basis will be waived for the 2007/'08 gas year.

Centra will continue to require that the aggregate of all broker contracts meet the minimum volume requirement.

As you recall, during the testimony at this Hearing, the two (2) brokers took different views as to the number of customers required to warrant a particular product offering. While Energy Savings Manitoba suggested they would require a minimum hundred (100) customers, Direct Energy suggested that it would offer a product even if there were only one (1) customer interested.

Centra has raised questions of the administrative costs associated with administering contracts with no minimum volume requirements and is hopeful that this trial period will permit a better assessment of how changes in the minimum volume requirements will impact enrollments and the cost associated with this change.

After the trial period, Centra will report to the PUB, with respect to the administration and customer impacts of the change, and propose changes to the terms and conditions of service, as necessary.

The brokers have also advocated changes to Centra's daily nomination and forecasting process. While the brokers expressed a desire for more information and a better understanding about this process, they also expressed a desire for the ability to deliver gas to Manitoba in equal amounts each day of the year.

The brokers admit that their customers do not use gas in this fashion at page 2114. Essentially, this request would result in brokers and their customers receiving a greater benefit of storage, and system customers would be disadvantaged because more of their gas would be delivered at the swing service at a higher cost.

Centra presently treats all customers the same. Gas is nominated for system customers and broker customers on the same proportion. The simple and unchangeable fact is that weather changes frequently in Manitoba, and no forecast or combination of forecasts will capture how customers' consumption will change in response to the weather.

Centra submits that the PUB can assess the accuracy of its load forecasting and nomination process by reference to the magnitude of the TCPL balancing fees which are paid.

As you know, Centra has made continuous improvements in this process, and has demonstrated significant reductions in costs. What the brokers are asking for is to improve the load factor of its customers, even though they admit, at page 2783 of the transcript, that the load factor of broker customers is very close to that of system supply customers.

Although there is a suggestion that changes to nomination causes a cost increase to brokers -- which they have suggested is in the order of 2 1/2 percent on the wholesale gas costs, which you'll see from Exhibit DEML-21 at Tab 4, and pages 2796 and 97 of the transcript -- it was admitted on cross-examination that variations in nominations do not generally occur in the winter when the pipe is running at 100 percent, limiting the majority of adjustments to the lower-volume summer and shoulder months.

The fallacy in this suggestion becomes apparent if you assume, for a moment, that 100 percent of the Manitoba load is served by brokers. It demonstrates that the request by the brokers is simply not sustainable. The Manitoba load could not be served by permitting all parties to nominate one three hundred and sixty-fifth (1/365th) of their gas each day. Brokers and their customer should be treated the same as all other customers as Centra does today.

With respect to the reinstatement of the ninety (90) day renewal and -- Centra submits that there's no reliable evidence before this Board that this change has had, or will have, any impact on broker enrollments.

While Direct Energy suggests that this requirement is critical, Energy Savings Manitoba testified that they do not rely on renewals but seek to sign customers to a new contract.

Centra suggests that the evidence of Direct on this point must be examined critically as -- although the original evidence suggested that this had already had significant impacts on the customer base and percentage calculations were offered, on cross-examination it became evidence that to date there have been no contracts without automatic renewals expire. And, as such, there is not empirical evidence available to the Board on which you could base a decision.

It was suggested that, based on experience in Ontario, there will be adverse effects. However, there is no evidence on the record that Ontario has experienced, with a similar ninety (90) day -- has experienced -- excuse me, with a similar ninety (90) day renewal clause which could provide a comparison to what may happen in Manitoba.

It is Centra's understanding that brokers seek to have the ninety (90) day rollover provisions, previously in the Code of Conduct, reinstated. You will recall the discussion with Ms. Melnychuk which indicated that the renewal price which customers are exposed to, when they do not respond to a broker renewal package, is the new price or renewal price.

As the recent EPP discussion has shown, there can be a substantial change in the price upon renewal. And in the examples that we considered in this Hearing, that rate increased by 52 percent.

It's also significant to note that in the response to Undertaking DEML Number 37, which you'll find at Tab 7 of our book of documents on page 2 -- that's the

October 12th letter from Bennett Jones.

This indicated that only 9 percent of customers who did not renew their contracts, sent in a cancellation during the ninety (90) day rollover. This suggests that for the remaining 91 percent, they simply paid their renewal rate for the next three (3) months. This process does nothing to advance customer awareness or understanding nor does it suggest that customers find this renewal a convenient form of contracting. As many of them appear to put up for the -- put up with the higher rate for three (3) months, perhaps even without noticing before being returned to system supply.

The brokers also suggested that eliminating the requirement to provide contract images to Centra as a matter of course would improve the competitive market in Manitoba. This suggestion is one which will -- will, perhaps, save the existing brokers whatever amount of time it takes to send a copy or burn a disc of already scanned images to Centra, but not one which will attract more brokers. There is also no evidence that this change will reduce the costs of broker offering to customers.

Centra remains of the view that it's appropriate that it be provided on an ongoing basis with copies of contracts executed by customers. This is the document by which customers appoint broker as agent for the purpose of supplying primary gas. It is a document which Centra relies on as well as the brokers. Given that scanned images are already retained by the brokers for their own records, it does not seem unreasonable to expect that a copy of those images would continue to be provided to Centra.

The brokers have also suggested that a discussion of electronic business transactions take place. Centra understands the evidence of the brokers to be that this is an item that needs to be discussed between the parties and not one which the brokers are advocating be directed out of this proceeding. This item clearly requires significant financial investment, and we heard evidence it was in the millions of dollars, and further discussion and understanding of what the system would include, the costs associated with adapting existing computer systems to enable such a model to be functional.

There's also the ongoing question of how those costs should be paid. For the current proceeding, Centra suggests that this is an item -- that this item would also fall into the category of facilitating transactions with existing brokers but not one which would entice new entrance into the market. Further, this is not an item that will save money for any party and, in fact, is likely to cost customers more.

Until such time as there is an understanding of who should be responsible for the costs including the cost of investigating such potential, we suggest that no further expenditures ought to be directed.

The brokers have also advocated changes to Centra's quarterly pricing mechanism as a means to advance the competitive market. Centra will address its views with respect to the default supplying a bit -- supply offering a bit later, but in this respect cautions the Board against designing a default product which will result in a -- more volatility in the hopes of encouraging the development of a competitive market.

The Board's first and foremost concern is consumer protection. This important objective should not be overlooked in the interests of advancing competition.

As outlined at page 4 of Centra's rebuttal evidence, a similar debate was waged in Ontario in 2006. You'll find at Tab 8, a portion of our rebuttal evidence which includes reference to the Ontario Energy Decision EB-2005-0520.

In that decision the OEB referred to a key complaint of the parties challenging Union Gas' risk management program which was the smoothing effect the program has on volatility of natural gas prices inherently inhibiting or impairing competition. The natural gas marketers, in that hearing, asserted that the products that they were able to offer the public were less attractive than they would otherwise have been because of that smoothing effect.

In that Order, the Board stated that the desire of brokers for customers to experience as much volatility as possible in their gas prices was motivated by the desire to make their own products more attractive to consumers.

In this proceeding the brokers acknowledged in -- in cross-examination at transcript page 2232, that the more a broker can distinguish its product from their competitors product or from Centra's product, the better off they will be.

Centra encourages the Board to be very cautious in accepting recommendations for a rate design akin to the Alberta model. For as you've seen the graphs filed in response to CENTRA/DEML-8 which you'll find at Tab 9 of our book of documents, this will result in a price even more volatile than the market price. This cannot be construed as being in the interest of customers.

Given the limitations in the Manitoba market, the Board must be assured that customers have a viable, desirable, regulated product from which to choose.

The final area that's advocated by brokers as a fix for the current market is the introduction of additional sales channels, specifically telesales and internet sales and, peripheral to that, the elimination for the need of wet signatures to form the contract. This is an area of public policy that also has significant implications for consumer protection.

Given the lack of customer understanding and the evidence before you as to the significant number of customers who fail to appreciate the nature of the agreement they've entered into or indeed the fact that they've even entered into an agreement, the Board should remain vigilant in terms of cust -- customer protection.

It must be recognized that natural gas consumers generally do not receive the same level in -- of information about prices and terms as may be available for other products in the market.

There appears to be some unwillingness on the part of the brokers to make that information readily available to customers, either on current websites of -- of one marketer, or on an independent website, or in the newspaper. Similarly, it's difficult for customers to access natural gas commodity prices or historical comparison data.

This is one of the reasons that consumer protection is so vital in this industry. Not only is the information difficult to obtain and evaluate, but the nature of door-to-door sales, in and of themselves, are recognized by the Consumer Protection Act, to require additional consumer protection.

I've included excerpts of the Consumer Protection Act at Tab 10 for your reference.

And it was this fact, the -- the nature of the door-to-door sales that -- that prompted that protection, that appeared to be overlooked by the brokers.

Mr. Newcomb frequently referred to the fact that similar consumer protection wasn't required in other industries, and appears to take the position that consumer protection is not a valid concern.

He noted on pages 2490 and 91 of the transcript that, and I'll quote:

> "We're talking about customers who are going to be buying natural gas from somebody, so they're going to paying somewhere in the order of fifteen

hundred dollars ($1,500) lets say, on default supply, versus, I don't know, pretend it's always more expensive, eighteen hundred dollars ($1,800) on a fixed price contract. So we're talking about a differential here of three hundred dollars ($300) to five hundred ($500) whatever it is, in a typical year, and it could be either way. I mean, just how much cus -- consumer protection and time and effort do we need to throw at a decision like that. I mean, I don't know what the cooling off period is for a five (5) year term on a mortgage or to buy a forth thousand dollar ($40,000) car, but it's probably not five (5) years, it's probably not sixty (60) days, it's probably a standard ten (10) days. So I'm not sure why a financial transaction involving a relatively small amount of money, like probably less then what people spend on latte's in a year, needs this huge level of consumer protection, and all this fuss." Close quote.

Mr. Chairman, that sentiment is in stark contrast to the evidence of Dr. Van Audenrode who indicated that deciding to buy gas for the next five (5) years is a big decision. He noted at page 316 of the transcript, and I'll quote:

"It's not a trivial amount. You know it's five (5) times two thousand (2,000) or fifteen hundred (1,500). It's ten thousand dollars ($10,000). That's more money then most people put in their RRSPs. And third, it's a financial decision. Your decision to go for a fixed rate or for a floating rate has nothing to do with your need for natural gas. It's a financial decision. When you advise people on financial decisions, there are very stringent rules. You know, know your customers, make sure that you're offering a product that is suitable." Closed quote.

And he concluded that the level of information that you would expect the consumer to get when they're making this decision is exactly the same as the one you would expect the consumer to get when they decide how to use their RSP's. Centra supports the fact that this is a significant decision for consumers, and one which ought to be made with timely accurate information and a clear understanding of the risks and benefits of the various products.

Access to marketer products over the internet is an area where it's conceivable that rules for the offering of natural gas contracts could be developed, which would balance the desire of marketers to lower customer acquisition costs with the need for adequate consumer protection. This would include requiring some account numbers and information to ensure that the person entering the contract over the internet is in fact the correct party.

Electronic business regulations would have to be clearly understood and complied with. There's certainly an opportunity for better controls in this scenario then there are with the current door-to-door system.

Centra does not oppose the signing of contracts over the internet, provided the appropriate safeguards are put in place. As Mr. Barnlund explained at page 1737 of the transcript, and I'll quote:

"We are much more comfortable with

using the internet then we are voice transactions. Because when you use the internet, you sit down to your computer and you would likely through some requirement have to enter your account number and some other valid means of identifying yourself. And then you have to actively click through that web page to accept the terms and conditions of service. So you're undertaking a definitive -- sorry, a definite affirmative response to that contract, and it really becomes a very good indication that the customer has entered into that agreement willingly, with knowledge." Closed quote.

Centra does not advocate that telesales be permitted, primarily because we continue to be concerned with the lack of customer understanding of the products, and who they're purchasing from.

While it's possible that if brokers were required to record their entire telephone conversation with a potential customer, and to retain that call record for the life of the contract, some of the disputes that currently arise could be addressed.

However, Centra submits that the requirement of customers to execute a written agreement, assist in making customers aware that they are entering into a legally binding arrangement with specific terms and conditions and ought to be maintained.

In the event that the Public Utilities Board were to determine that telemarketing was appropriate in the Manitoba marketplace, Centra would recommend safeguards identified in the response to the Information Request to PUB/CENTRA-19, which we've included as Tab 11 of our book of documents and, in particular, would encourage the Board to require that brokers forward a written agreement to the customer and the customer return the signed agreement to the broker without further solicitation in order to form the contract.

Centra has also suggested that such telephone solicitation should be undertaken with an approved script, either played from a recording with the customer's consent or alternatively followed by the mar -- telemarketer.

While the marketers suggest that the elimination of wet signatures and permitting of alternate sale -- sales channels will be a significant benefit to the Manitoba competitive market. It should be remembered that much of what the brokers are seeking is already available, and to that end, we submit that the Board should carefully consider whether such steps would have the effect that brokers suggest on the marketplace.

Ms. Melnychuk testified that customers can already print the contract off of their computer and send it into the office if they choose. While eliminating the need to print and mail the contract would likely increase convenience, one must question whether this would significantly impact the marketplace as a whole.

Ms. Melnychuk also testified as to the practice which she dubbed "telehop" where customers are contacted first by telephone and then subsequently visited at their home to conclude the contract. Ms. Ruzycki also testified to the use of telephone contact with the contract subsequently being mailed to the consumer.

I think most telling in respect of this matter is the information which is contained in the response to CAC/MSOS/DEML-21, which you'll find at Tab 12 of our book of documents. In that response it stated that approximately 99 percent of direct purchase contracts are entered into by way of door-to-door sales and only 1 percent arise from the Internet. When coupled with Mr. Peters' line of cross-examination that asked the brokers to choose between door-to-door sales on one hand and internet and telephone sales on the other, Ms. Ruzycki testified that they would choose door-to-door sales.

And we submit that although the addition of further sales channels may be desirable, there is no evidence that this will improve the state of the competitive market.

I think it's also instructive at this point to refer to the response to Undertaking Number 29, which you'll find in the letter filed at Tab 7 of our book of documents on page 1.

It was filed on behalf of the brokers on October 12th. During the cross-examination of the broker panel, Centra queried who specifically the brokers had spoken with in making the statement in response to CENTRA/DEML-17, that brokers who are active in Canada recognise impediments in the Manitoba market.

The items identified in that information response, as examples of the barriers, are quarterly enrollments, quarterly pricing changes, including a deferral mechanism, nomination changes and the short notice of nomination changes.

While it was admitted during cross-examination that the list of barriers were those of

Direct Energy and Energy Savings at page 2425, and not the other brokers in Canada, it's also noteworthy then in responding to that undertaking only one (1) other broker, identified as Universal Energy Corporation, was prepared to be identified as having concluded that it would even consider entering the Manitoba market if the rules were changed.

While the Board can consider the appropriate weight to give that information, one wonders why no formal correspondence or submission was received from Universal Energy Corporation or any other potential market participant in this proceeding.

Mr. Chairman, Board members, that's a lengthy list of items to be addressed for an option that I started out as describing as status quo. And further, we would submit that even if all of those items on that brokers' list were to be ordered by the Board that there are certain unchangeable fundamentals in the Manitoba market which suggest that growth and competition, and particularly the number of competitors in Manitoba, is highly unlikely.

Most important is the size of the market. It is important to recognise that Manitoba, with two hundred and fifty thousand (250,000) gas customers, is by far the smallest market in which these brokers operate.

The Ontario market has 3.2 million natural gas customers, Alberta has over 1 million, and even the number of customers in BC at seven hundred and fifty thousand (750,000) is three (3) times the size of the Manitoba market.

This is a fundamental which cannot be changed by regulation and which is not likely to change dramatically on its own in the foreseeable future. Mr. Peters and Dr. Van Audenrode discussed this factor at page 230 of the transcript.

And while Dr. Van Audenrode indicated he did not know all of the institutional aspects of the gas industry, he noted the size of the Manitoba market to be a possible explanation for the lack of retailers in the market.

Quoting from page 230, lines 20 to 25, he stated, quote:

> "While there are costs associated with setting up such an operation and these costs are largely fixed costs. And you know if the size of your market does not support enough players to justify these fixed costs, then players just don't come in." Closed quote.

These costs must also be considered in

light of the fact that there are two (2) well established marketers already in the residential and small commercial market whose setup costs have already been incurred.

The evidence is clear that these marketers share a fairly consistent 20 percent of a total SGS and LGS natural gas market. Professor Cyrenne admitted on cross-examination that this was a factor that a new entrant would want to consider, at page 2899.

Essentially, Mr. Chairman, in order to permit the status quo to remain, and to make whatever adjustments the Board finds warranted with the hope or expectation that the market will, of its own accord, become more competitive, you must accept that there will be sufficient interest on the part of potential future market participants to expend the necessary funds to establish themselves in Manitoba, to compete with the existing brokers who have already established a firm foothold in the market, to gain whatever share of the remaining market that they can.

Mr. Barnlund outlined in his evidence some of the distinctions between an already established market, such as Manitoba, and a Greenfield, such as BC, where all entrants compete equally without any -- anyone having an established foothold.

Equally important, Mr. Chairman and

members of the Board, I submit that it's relevant to consider the participation in this Hearing. Certainly, if a broker were interested in entering the Manitoba market and wanted input into how that market would evolve in the future, you would expect that -- them to participate in a Hearing such as this one.

It is significant that the participation in this Hearing was limited to only the existing brokers. This certainly supports the notion that expecting the market to expand, by virtue of the entrance of new participants, is unrealistic.

There is a second option available to the Board. And to outline this alternative, I must begin by reference to the Public Utilities Board Act. We've included excerpts of that Act at Tab 13 of our book of documents.

I would refer you to Section 1 of the Act which defines a public utility:

> "...as including any service for the furnishing of gas, either directly or indirectly, to or for the public."

Section 2(1)(b) provides that:

> "The Act applies to public utilities owned, operated or controlled by any company or corporation that is subject

to the legislative authority of the Province. This includes the brokers participating in this proceeding."

Just over the page, Section 77 and 78 of the PUB Act:

"...give the Board the power and authority to fix rates, standards, practices and service to be provided, and to require reporting."

And Section 127(1) requires the Board:

"...to determine rates, tolls and other charges to be charged by a public utility or any person selling, delivering or transmitting gas within the Province. And, in connection therewith, to determine, among other things, ratebase and rate of return on shareholder equity."

Now, at present, the Board has refrained from exercising that power in accordance with Section 74.1(1) which provides that the Board may make a determination to refrain, either in whole or in part, conditionally or unconditionally, from the exercise of any power or the performance of any duty under the Act in relation to a matter before it or in relation to a public utility, or any person who is subject to the Act, or any product or class of products supplied, or service or class of services rendered within the province by a public utility or by a person referred to in subsection 2, which is subject to the Act, where the Board finds, as -- as a question of fact, that the public utility, person, product, class of products, service or class of service, is or will be subject to competition sufficient to protect the public interest.

This particular section was enacted in 1997, which appears to coincide with the attempt to develop the competitive market, and was discussed as such in Order 15/98.

It is certainly open to the Board to consider the question and to make a finding of fact as to whether competition in the market, as we know it today, is, to quote the legislation:

"Sufficient to protect the public interest."

If the Board is not satisfied that the current competition is sufficient to protect the public interest, it is within your power and authority to review, consider and approve the rates associated with broker offerings, including the ratebase and rate of return on shareholder equity.

This is certainly one means by which the Board could satisfy itself that the rates being charged by the brokers are essentially cost-based in the absence of a fully functioning competitive market, which is designed to do the same thing. Admittedly, this would be an extreme remedy, and we submit, Mr. Chairman, that this is not necessary at this time.

In the alternative, we suggest that the appropriate remedy, and one which will advance consumer protection and protect the public interest, is the third option which is to permit Centra to offer alternative regulated products.

As Centra has indicated in its submission and in its evidence throughout the proceeding, the desire to offer alternative products is based upon our view, as supported by the customer research, that customers desire the opportunity to purchase a variety of products from Centra.

Centra intends to be guided in the types of products it will offer by customer research and feedback. As we've seen from the research filed in this proceeding, almost two-thirds (2/3s) of Manitoba Hydro residential customers and three-quarters (3/4s) of marketer residential customers say they would like to see Manitoba Hydro offer more than one (1) natural gas plan to consumers.

You'll find that at Tab 14 of our book of documents, which is on page 8 of the eNRG report.

It's also important to consider that improvements may be seen in the market even before Centra introduces any alternative products, simply by removing the current restriction limiting Centra to one (1) product offering. As Dr. Van Audenrode noted at page 355 of the transcript, and I quote:

> "Sometimes the mere threat of offering a product can serve very effectively as some type of a way to get competition. So what I'm concerned about in this case is a situation where it is clear that Centra has no ability to get into this long term market." Close quote.

He further elaborated on this concept at page 367 where he cautions that we should not overlook the importance of the threat of entry of Centra into the fixed price market. He stated:

> "Competition works equally because you have -- actually have comp -- competitors, but it can work very well because you simply have the threat of having competitors and that works very

well as a competitive -- sorry -- as a discipline device."

Mr. Chair, the proposal that any alternative products offered by Centra be made through the regulated entity is important in our view. As Dr. Van Audenrode testified at page 352, and I'll quote:

"Allowing Centra to offer a long term regulated product was a simple, easy, and efficient solution to make sure that customers who would want to participate in the fixed price market would get a price as close as possible to competitive price." Close quote.

Not only does permitting Centra to offer regulated alternative products create a benchmark which customers can rely on as having been reviewed and approved by the regulator in order to permit comparison with unregulated products, but it permits Centra to bring its best alternative forward without incurring additional costs associated with creating, operating, and maintaining an unregulated affiliate.

I'd like to suggest -- sorry, to address the suggestion that was made during cross-examination that the simplest way to avoid cross subsidization between utility offerings is to have Centra's alternative product offered through an unregulated affiliate. This proposal does not address the problem.

Whether the services are shared between two (2) programs in a regulated entity or whether the services are provided by an unregulated affiliate some cost allocation will be required. In fact, the review and approval of standards and codes of conduct and the ongoing auditing and monitoring of the relationship between an affiliate and the regulated utility may very well require more effort and result in more costs than the testing of a cost allocation model in the context of rate approvals for various regulated products.

In addition, as Mr. Warden testified at page 1135, and I'll quote:

> "We have a structure set up now within Centra that can offer fixed price contracts, fixed price alternative products with minimal incremental costs. If we were to set up a separate affiliate, however, there would be a lot of duplication of services and those costs would be such that it's not something we would want to do." Close quote.

Further, on page 1310 and 11 of the

transcript Mr. Warden noted that a nonregulated affiliate would add a substantial cost to Centra because of the, in effect, duplication of services and administrative costs that would be incurred. There would be some incremental costs incurred by Centra to offer a fixed priced offering, but those costs we expect to be relatively minimal and far, far less than they would otherwise be if we were to set up a totally separate affiliate.

The suggestion that the regulated utility be able to offer alternative products is not without precedent. Examples of these types of offering including Terasen's recent stable rate offering. Although that product has been recently ordered to be discontinued, Mr. Barnlund drew to the Board's attention the difference in timing between the Terasen offer and Centra's proposal.

I noted earlier that the develops -- developments in this jurisdiction put Centra out as a frontrunner in the dereg -- deregulation of the natural gas market. I suggest that expanding the product offerings of the regulated utility is a further step forward.

The Board should not be dissuaded by the recent developments in British Columbia. And I would refer you to pages 1618 through 1620 of the transcript wherein Mr. Barnlund outlined the details of the BC market noting that when gas flows in November of this year in BC, they will be catching up to where Manitoba was in May of 2000.

This is noted to be a very critical stage in terms of the development of the -- the early development of the BC market. Mr. Barnlund went on to say, and I quote:

> "A significant amount of time has elapsed since unbundling has occurred here [meaning in Manitoba] so it's a different situation here than it is in British Columbia. British Columbia is right at the starting gate. It's all brand new. Customers don't know anything about unbundling and so the BCUC in its, perhaps, over concern about the uptake of the program has I would say created not a level playing field but an unlevel playing field that is in certain ways tipped against the incumbent LDC." Closed quote.

I'd like to spend just a minute talking about the concept of a level playing field, Mr. Chairman. We've heard a lot of reference to that during the evidentiary portion of this proceeding, and you'll no doubt hear more of it throughout the final submissions.

I think it's very important not to fall into the trap of thinking that a level playing field means that no party should be able to bring to the table anything different than the others.

The goal of a level playing field is not to cut everyone off at the knees, the goal is to ensure that customer's interests are well served. In doing that, Centra may bring the strength of its reputation for customer service and may also brings its standing as a wholly owned subsidiary of a crown corporation and the benefit that brings for consumers in terms of a smaller profit component and cost based rates.

Those are not things that Centra should be precluded from using to bring reasonably priced quality products to consumers, just as the brokers should not be precluded from using their national purchasing power or their ability to share costs and resources across the various provinces in which they operate or to market their services in connection with other business interests they may have acquired.

It should be recognised that the field on which the brokers play is different than the field for Manitoba Hydro. Rather than dividing the field by jurisdiction and suggesting that incumbent utilities have unfair advantages, Centra submits that you should step back and view the field as all of North America, or perhaps even internationally, in order to understand and appreciate the attributes of the respective companies.

These are not unfair advantages, but simply commercial realities. The should be embraced with a view to bringing the best alternatives available to Manitoba gas consumers.

In that vein, the suggestion that Centra will have an unfair advantage by virtue of using its name makes little sense, particularly in the context of a regulated entity.

Firstly, that brand recognition really amounts to a recognition of the customer service that's been offered.

Secondly, in the context of a regulated utility, if the costs of creating that brand have been paid by the ratepayers -- payers, then the benefits will also flow to the ratepayers. There is no shareholder to unfairly profit in that scenario.

Finally, the brokers before you in this proceeding have also had the opportunity to build brand recognition. As Mr. Newcombe noted at page 2258, Centra's market research, identified that Municipal Gas enjoyed as much name recognition as anyone else in that survey.

If brand recognition was such a significant concern, perhaps Municipal Gas would have refrained from rebanded -- branding, or alternatively have made a more significant investment to establish a more prominent brand in Manitoba.

Dr. Van Audenrode recognised that issue, as well. At page 269 of the transcript he said, and I'll quote:

"You can't penalize people to have name recognition. You can't penalize people for being good at what they do. That fact is that, you know, if you try to enter a market where you have a strong incumbent with a very strong name recognition, well, you have to work harder and that's reality and you can't change that." Close quote.

Mr. Chairman, you heard the evidence of the brokers in this proceeding, that if Centra were to be permitted to offer fixed price products the brokers would consider whether they were willing to remain in the province.

In con -- in addition to considering whether it's reasonable to anticipate that brokers would leave Manitoba if Centra were permitted to offer regulated alternative products, Centra submits that you should also consider what the implications of such a departure might be for consumers.

Dr. Van Audenrode addressed this issue in his evidence at pages 271 and 272. He indicated, and I'll quote:

> "Competition is not an objective, per se. Competition is there because you want competitors or customers to have the lowest possible price. If retailers are able to sell their product at a lower price than Centra, they will stay in the market. If they are not able to sell their product at a price that is competitive with Centra, they will leave and the consumer will still benefit from the lowest possible price." Close quote.

Mr. Chairman, at this point in our argument I'm going to turn the mic over to Mr. Czarnecki to conclude. If you're -- if your interested in taking a break before we carry on, this might be an appropriate time to do that. However, we're about halfway through, so if -- I'll leave it to you to decide which you prefer.

Thank you.

THE CHAIRPERSON: Okay, we will take ten (10) to fifteen (15) minutes. Thank you.

MS. MARLA MURPHY: Thanks.

--- Upon recessing at 2:09 p.m.

--- Upon Resuming at 2:28 p.m.

THE CHAIRPERSON: Okay, Mr. Czarnecki, we're all ears.

MR. BRENT CZARNECKI: Thank you, Mr. Chairman and good afternoon. Good afternoon Member Evans and Member Jorgensen. And perhaps before I start, I'll just refresh everyone as to -- to where we're going to be going in this portion of the argument in accordance with our outline.

I'll first address the appropriate design of the system supply offering, which will include a section to hedge or not to hedge, followed up by a discussion on the customer research.

Next, I will address the consultation issue, followed by the broker cost issue, the equal payment plan -- or what is commonly referred to as the EPP -- and, finally, I will conclude by providing a brief summary of the eleven (11) issues outlined in the PUB's notice of this Hearing.

Firstly, I will turn now to the issue of the appropriate design of the system supply offering.

In considering this issue, it is important to remember the context in which we are now considering the appropriate design of the system supply offering.

The purpose of this proceeding is to focus on the competitive landscape in Manitoba, and how the system supply may or may not be offered to better facilitate the competitive landscape in Manitoba.

This proceeding did not include a detailed review of the system supply offering, such as was the case with the rate setting methodology hearing in 2001, which ultimate -- ultimately led to PUB Order 99 of '01.

Centra believes that its regulated primary gas product, together with the hedging policy and practice -- that may be amended from time to time -- plus the existing EPP and other billing options, is the best match with the mix of attributes desired by a broad range of system-supply customers.

As such, Centra submits that the existing regulated system supply offering, including the current rate- setting methodology, remains appropriate. Centra strongly believes that it is important that it retain the authority to hedge in order to protect customers from gas price spikes that will inevitably occur in the future.

The mechanisms of the primary gas product are currently working as intended, and consumers in the public interest are well served by it.

A detailed explanation of Centra's product offering and the rationale for the continuation of this product is found at Tab 15 of Centra's book of documents, which is a reproduction of Sections 3.1 and 3.2 of Centra's submission to this proceeding, which are found at Tab 3, and Section 1.1 of Centra's rebuttal evidence, which is found at Tab 8 of our book of documents.

As we -- we are all aware, natural gas is an essential source of heat and energy for Manitobans, and Centra's role as the incumbent LDC supplier is of critical importance.

As a subsidiary of Crown-owned Manitoba Hydro, Centra has a long-term interest in offering a safe, secure and reliable supply of natural gost -- natural gas at cost-effective prices to the citizens of Manitoba.

Centra does not profit from the sale of natural gas. Therefore, Centra's motivation is based on best providing Manitobans with a system supply offering that is not only viable in the long-term, but as Mr. Stevens testified at page 1186 of the transcript, it must

-- it must strike the appropriate balance between price transparency -- or, in other words, market responsiveness -- and volatility reduction, being price stability.

For those customers who choose not to participate in a fixed-price product, there must be a viable and desirable system -- system supply offering for them.

It should be recognized that if one accepts that a workably competitive market is one with 40 percent participation, and the Manitoba market currently is in the order of 20 percent, this suggests that some 60 to 80 percent of customers will continue to receive the system supply offering.

We should not disadvantage or harm that majority for the sole purpose of improving the competitive market. That is simply not in the interest of those consumers.

Centra's regulated primary gas product provides both an alternative to broker offerings and a benchmark against which other offerings can be measured. This was recognized by the Board in Order 15/98, which is found at Tab 1 of our book of documents, at page 5 of the Executive Summary of that Order, wherein the Board found that, and I quote:

"The regulated commodity gas price will

not only serve as a benchmark for competition, but will also serve as a basis for improved price transparency, which is necessary for enhanced competition." End quote.

There has only been one (1) other option put before this Board with respect to what the appropriate design of the system supply offerings should be to better facilitate a competitive market.

The option was advanced by the brokers that the gas merchant role of Centra should be restricted to that of de -- default supplier or, in other words, supplier of last resort. They further suggest that the default supply offering ought to be an unhedged primary gas product that has the rate adjusted on a month-by-month basis on the rationale that the rates for the system supply offering should be more closely tied to market prices.

Before discussing the merits of such a proposal, it is important to consider the motives of this suggestion.

Without implying any inappropriateness for the difference in the brokers' motivation, the reality is that the brokers are for-profit entities and, as such, the primary motivation, and quite rightly, is to maximize the return to its shareholders. Centra submits that the Board ought to be mindful of this objective when considering the proposal of the brokers to modify the system supply offering.

In short, and for the reasons that follow, Centra submits that the brokers' proposal is not driven by the desire for a system supply price that is more closely tied to market prices for the supporting reasons offered in their evidence, but rather to facilitate the marketing of their product.

Centra submits that the brokers' fixed-rate product becomes far more attractive when measured or compared against a benchmark that is at the other end of the extreme.

Quite simply, the monthly variable product they propose would result in an offering fraught with random, frequent and erratic rate spikes, the antithesis of the brokers' peace-of-mind, fixed-rate offering.

As Mr. Stauft testified at page 333, if Centra's rates are bouncing all over the place, it makes it easier for the brokers to persuade the people to sign up for their product offerings. The brokers repeatedly testified to the fact that their product offerings are essentially marketed on one (1) element; the peace of mind that comes with locking in with a fixed stable rate over a defined and longer period of time.

However, it is clear that much of the broker marketing material reviewed during the course of this proceeding focuses on price stability in stark contrast to rising prices, and is designed to cause customers to be concerned that prices will increase, in order to encourage them to lock in.

Ms. Ruzycki also acknowledged that when signing a con -- contract most people hope they would save money. And that's at page 2658 of the transcript.

Ms. Melnychuk also accepted that the potential to save money was in the minds of consumers, but suggested at page 2662 of the transcript, that that -- that -- that -- that's their own assessment. It's their level of risk tolerance.

With respect to the proffered rationale that the system supply offering should be unhedged and rest -- reset on a monthly basis to be, quote, "more closely tied to market prices."

The information provided in Tab 9 of the book of the documents which is a re -- reproduction of Centra DEML/ESMLP-8A, demonstrates that in Alberta the use of monthly pricing results in system gas rates which consistently overshoot or undershoot the AECO Index price, itself.

While the brokers contend that system supply should be more responsive to market pricing so that natural gas customers can clearly see the price of the underlying commodity, the result of monthly resetting is to create a more volatile commodity rate that also overstates or understates the cost to the consumer. It does not necessarily provide a more valid price signal.

The brokers have also provided in their evidence, references to regulatory decisions in other jurisdictions in support of their proposed move to a monthly unhedged product offering.

As outlined in Centra's rebuttal evidence, there are similarities between Centra's current rate setting methodology and the methodologies employed in both Ontario and British Columbia.

In each case, the utility engages in a quarterly rate setting process. Only Alberta currently uses the monthly adjustment process advocated by the brokers in this proceeding.

With respect to price management strategies, both Union and Terasen engage in price management activities with the approval of the regulator.

Mr. Barnlund in -- discussed the distinctions between Centra's circumstances and Enbridge's circumstances at page 1809 and 1810 of the transcript. Both British Columbia and Ontario have recognized that reduction of volatility is a worthwhile measure of consumer protection.

The OEB endorsed the use of the risk management program offered by Union Gas noting that, and I quote:

> "It is not reasonable for marketers to expect the Board, charged as it is with a consumer protection mandate, to expose system gas customers to avoidable volatility purchased at modest cost and where the market price of gas will be paid within a reasonable horizon."

Centra submits that the same rationale applies in Manitoba today.

Similarly, the findings of the BCUC in moving to the quarterly rate setting process in that jurisdiction, have application in Manitoba as well. In letter number L-5-01, the BCUC found that, and I quote:

> "A monthly process could lead to overly frequent rate changes and rate oscillations that impede, rather than improve, the price signal to customers and would involve a great deal of

administrative effort. A quarterly process for adjusting gas cost rates would provide a good price signal to customers, would help to reduce the size of the required rate changes, and would keep -- and would help to keep the deferral account to manageable levels, and would be less onerous administratively."

And that quote is found at -- our Tab 15 and -- which is page 8 of our rebuttal evidence.

And with respect to the rate mechanism currently employed in Alberta, the brokers confirmed in their evidence, at transcript pages 2188 to -- through -- to 2190, that this is a mechanism which they ad -- advocate for use in Manitoba.

However, as noted in Centra's rebuttal evidence, there is an important distinction to be drawn from Manitoba and Alberta. You will -- you will recall that in Alberta, consumers are protected from natural gas price increases through the Natural Gas Price Protection Act. This Act protects consumers from commodity price increases above a predetermined threshold by issuing rebate cheques when the market price of natural gas exceeds that level.

Relying on this method of price protection, the AEUB determined that the value of further price hedging was less apparent to them.

Centra does not accept the stated rationale the brokers for just -- for suggesting that Centra should move to a monthly price. We submit that it is the desire to market piece of mind and potential savings against a wildly fluctuating product that prompts the brokers interest in the design of the system supply offering they have offered.

In addition to changing Centra's quart -- quarterly rate setting process to an unhedged monthly procurement mechanism based on market price, such as the ACEO Index, the brokers sug -- suggest including the Utility's cost of transportation into the primary gas rate citing Alberta having employed a similar approach.

Now, at this point we note that this matter was not addressed aggressively by the brokers during the oral portion of the hearing or during the cross-examination of the witness. And, as such, it may be that this matter is no longer being pursued by the brokers.

However, if it is -- in response and as outlined in Section 1-2 of the rebuttal evidence found at Tab 8 of the book of documents -- including the transportation costs into the primary gas rate is inconsistent with the approved rate design methods because Centra's transportation and storage assets are employed deliver -- to deliver, both broker supply and system supply to the Manitoba market. As such, Centra submits that such an approach is unreasonable.

As outlined in Centra's evidence on cross-examination to Mr. Peters, the transportation rate to the retail cu -- retailer customers is the same as the transportation rate to system supply customers. And the cost of transportation is recovered from all customers through their transportation to Centra through this rate. It is not mixed in with the primary gas rate or with the commodity rate at all.

Now, although CAC/MSOS did not definitively stipulate their position on the appropriate design of the system supply offering in its submission or during the evidentiary portion of the proceedings, it appears that they advocate for a -- a monthly unhedged product, as well was -- as was reaffirmed by Mr. Holloway in his submission this morning.

However, the rationale for the adoption of such a position remains unclear, and, certainly ,has not been substantiated by the evidence in this proceeding.

This issue is further clouded by the

uncertainty in Mr. Stauft's testimony at page 235 wherein when asked whether or not his recommendation that the default product be offered on unhedged -- on -- on an unhedged basis was conditional upon Centra being able to offer alternative products, Mr. Stauft acknowledged that if the rationale for allowing Centra to hedge is to reduce rate and bill volatility, which Mr. Stauft admitted was a good thing, that, and I quote:

> "This rationale should be weakened if the environment were such that Centra could offer, for example, one (1) or two (2) year fixed term products. In other words, if people can deal with their own volatility concerns individually, through their contracting practices, through deciding what kind of gas products to buy, then it would seem there would be less justification for the utility going out and doing that rate smoothing on a generic basis for everyone." End quote.

Mr. Stauft, at page 236, then confirmed that the primary reason for his recommendation to discontinue hedging was the fact that it may cost more in the long run.

Mr. Stauft further conceded that even if the costs of hedging are not significant -- and at that point I think he quantified the costs at approximately a hundred thousand dollars ($100,000) -- he asked rhetorically, Then why spend the hundred thousand dollars ($100,000) for an activity that doesn't do you any good?

He concluded his view by stating that, and I quote:

> "So there's a whole range of tools that utilities and regulators can use to deal with this that don't really cost anything."

However it -- continuing on at page 325 of the transcript, Mr. Stauft admitted that there is no perfect substitute for hedging, noting that there are differences between the effects of the Hedging Program and the effects of the essentially free alternatives, that he identified at page 335 as being available; those being the equal payment plan and the rate setting methodology.

When cross-examined further on this topic by Centra, at page 330 and 331, Mr. Stauft again acknowledged that, and I'm going to quote again:

> "If it were the case that Centra was able and willing to offer alternative

products, that would certainly, in my mind, strengthen the argument for getting rid of the Hedging Program, just because it would be even less nare -- necessary in the sense that individual customers would then have alternatives available; an additional altertival -- alternative available to them to deal with the volatility issues." End Quote.

Mr. Chairman, the decision to be made with respect to hedging is not an easy one. Whatever decision is made by -- whatever decision made by this Board may have significant financial consequences for Manitoba consumers.

The goal for many of us in this room is to determine how best to meet the needs of system supply customers. In that vein, it bears remarking that, throughout the course of this hearing and the months leading up to it, we have not heard from a single consumer.

This may well suggest that customers are satisfied with the current state of the market and with the current system supply offering. It may also suggest that natural gas is, indeed, the low-involvement product that we've talked about.

Any suggestion that hedging be eliminated needs to be considered very carefully and the recommendations in this proceeding should similarly be carefully considered.

We have already discussed the potential self- interest of brokers which may motivate their recommendations, however, Mr. Chairman, we find the motivation and rational for CAC/MSOS more difficult to determine and understand.

It appears that the rationale for CAC/MSOS's present position is based on a very short-term view of the increase in gas cost in a declining market. However, in a not-so-distant past, the opposite position was advocated by the very same Intervenor in an upward-trending market.

In 2001, CAC/MSOS, in their closing submission to the Board, made scathing accusations that Centra was an unwilling hedger and imprudent for not having hedged. Now there has been a complete 180 degree turnabout, and CAC/MSOS now advocates that Centra be ordered out of hedging.

This is contrary to the evidence of their expert, Mr. Pringle, who has appeared at the expense of the rate payers in at least two (2) prior proceedings, advocating for hedging.

And even the evidence of Mr. Stauft in this proceeding, that the volatility protection offered by hedging is, in fact, a good thing. In our view it is most unfortunate that the principles of CAC and especially MSOS did not testify in this proceeding in order that all parties could have examined and better understood the reasons why an organization representing senior citizens, who are frequently noted to have a fixed income, would advocate that their members be faced with rates which reflect complete exposure to the volatility of the natural gas market.

It is worth remembering that in 2000, during a brief period when Centra was unhedged, that the PGVA accumulated very quickly to over $103 million as a result of the unforseen and unprecedented price spikes in the market, as Mr. Stevens testified to at page 1244 of the transcript.

Accumulation of large PGVA balances in either direction also requires that there be rules to address customer mobility issues, which was discussed at page 1429 of the transcript.

Hindsight is 20/20, and it is always very easy in hindsight to decide whether or not you ought to have hedged, and if you assume you're in a rising or falling market, you know what to do.

However, making such an assumption as taking a market view -- and the catch on this side of the table is that no one knows, looking forward, whether the market will rise or will fall.

It is for this very reason that purchasing the insurance or placing the hedge is a responsible thing to do, particularly on behalf of those customers who cannot absorb the large rate impacts associated with not hedging.

The only place on this record where customers views with respect to hedging have been recorded, is in the customer research. When customers were asked for their views of the price management program, 68 percent of Manitoba Hydro's customers supported it, 71 percent felt that the program has worked well in terms of limiting the ups and downs of household natural gas bills, and 79 percent of customers said the current program should be maintained or increased.

These results are found at Tab 16 of the book of documents.

While many suggest that if the program had been explained differently, then results would have been different, indeed, the marking experts suggest that if you ask a different question, you will get different results and answers.

However, the description contained in the report, and which was read to customers, is not unreasonable and not misleading.

It must be recognized that the cost of hedging is not the same as the results of any given year. And to provide some part of the results; for example, only in the year in which heading resulted in addition to gas costs, would likely skew the results of the question.

Likewise, it would likely skew the results in the opposite direction if we were to provide only the results of one (1) year, in which heading -- hedging resulted in reductions to gas costs.

The statement that over the long run the cost will be less then 1 percent of overall gas costs, referencing the dealer margin, is the most objective way to present information as to the cost of the program to customers.

Now, Mr. Holloway, this morning, suggested that hedging does not impact bill volatility, and, therefore, should be done away with. This suggestion is erroneous.

In response, and by way of illustrating the impact that hedging does have on bill volatility -- using the EPP as an example -- consider the situation wherein Centra system supply is unhedged, that there is an upward-trending market, and Centra is faced with a significant increase to gas costs.

Ultimately, these cos -- gas costs must be recovered in customers bills, which obviously affects bill volatility and the bottom line of the customer's bill. In such a circumstance, the question would then become one of how often Centra would adjust each customer's EPP amount, making the EPP more of an unequal and unpredictable payment plan.

This is not a desirable outcome, and would only perpetuate customer confusion. This issue is discussed by Mr. Warden at 1,242 to 1,244 of the transcript, as well, for -- for the Board's review.

I would like to spend a moment looking at the -- the response to PUB/CENTRA-20, which is found at Tab 17 of the book of documents.

This response received a great deal of attention over the course of this proceeding. The attachment to this response reflects the additions and reductions to gas costs over the life of the current hedging program.

The focus during this Hearing was on line 7 which demonstrated the addition to gas costs during the fiscal year '06/'07. However, this should not be characterized as the cost of hedging, and must be looked at in the context of the reduction to gas costs in each of the four (4) years prior to 2006/'07.

As you have heard on many occasions, over time, the expected outcome of the hedging program is zero, aside from the dealer margin. This means that there will be years in which the program reduces gas costs, and years in which it adds to the cost of gas.

As Mr. Warden testified at page 1038 and following, the objective of the hedging program is to mitigate natural gas volatility and, on this evidence, is indisputable and uncontradicted.

In each of the approximately six (6) years that the program has been in place, volatility has been reduced by between 30 and 53 percent. This is a significant benefit for Manitoba consumers.

It is easy to say no one minds downside volatility, and certainly it's true. But we must remember that downside volatility is essentially the premium for the upside protection that customers have enjoyed and continue to enjoy.

Given the stated objective of mitigating volatility, this is preferred to payment of an upfront premium which would be added to rates, and is much more consistent with the mandate of the program.

We can only conclude that CAC/MSOS's current position is based upon their market view. We suggest that their position on hedging changes based on the most recent market trend, and perhaps on their own market view. They seem not only to require dis -- require Centra to take a market view, but ultimately to always be right in that market view.

This is not much different than the decision of customers, whether to enter into a fixed price contract or not. As Dr. Van Audenrode said at page 376:

"Whatever happens in reality, once you've entered into that deal, you might be very disappointed, you might be very happy, but that has nothing to do with the fairness of the price."

Certainly, no one is happy to experience the year in which heading -- hedging adds to gas costs rather than reducing them, but that outcome does not mean that the hedging program has not met its objective, or that it ought to be abandoned.

To conclude on this are, Mr. Chairman, Centra does not endorse a monthly unhedged rate for system supply. The current quarterly rate setting mechanism represents a balanced approach between price transparency and rate stability that best meets the needs of the majority of Centra's customers.

As Mr. Warden testified at page 1039, Centra maintains that it should not be ordered out of hedging at this time. Centra will continue to monitor closely the derivatives hedging program's performance, and will bring recommended changes to the Board, should it be determined that such changes are warranted in the interest of Centra's customers.

I'll now turn to the issue of customer research which was filed in this proceeding.

There has been a great deal of time and effort expended in challenging and defending this research. You've heard the testimony of Mr. Enns of eNRG with respect to the design and conduct of this research and the conclusions that were ultimately reached.

Much of the time spent dealing with this issue did not relate to the report itself, but, rather, to the design -- to the design of the survey and the communication between Centra and the principals of eNRG. It has been suggested, and perhaps will be argued by the brokers in their closing submission, that this research is biassed and that the Board ought not accord it much weight.

I would like to first address the issues associated with the design of the survey.

In comments received from the brokers on the proposed survey, it was suggested that the survey was biassed. I encourage the Board to look closely at the comments submitted by the brokers and the suggestions that they made. The Board should also review the survey as posed and make its own assessment as to whether the questions in the survey were worded appropriately and reasonably.

Certainly, there is a great deal of material on the record from Mr. Enns explaining the rationale behind the design of the survey and the reasons why some changes were adopted and some were not. And I would note as well that Mr. Enns was the only professional that was retained and provided evidence in this regard before this Board.

I would further suggest that Mr. Enns made a very astute observation when he noted that while brokers were concerned with some of the questions, they would now be less concerned having seen the responses. There is also a very telling exchange on page 2764 of the transcript, wherein the brokers were asked if all of the changes to the survey they suggested had been made would they have felt that the survey was unbiased. The answer surprisingly was no.

Mr. Chairman, it is clear that there is nothing Centra or eNRG could have done to satisfy the brokers with respect to this survey, short of letting them design and conduct it by themselves at Centra's cost.

All of those issues aside, as Mr. Newcomb said, and I quote, "there may be the odd gems in it" -- and that was at page 2762 -- in fact, Mr. Chairman, we submit that there is more than the odd gem in that research.

This information is valuable. The Board can take comfort that the findings of this research are not inconsistent with the findings of the research done in 2004. Mr. Enns appeared and spoke very candidly with respect to the research and the finding in his report.

The customer research report does not draw grand conclusions or extrapolate wildly. The report simply summarizes the quantitative results of the surveys conducted. It tells you that there continues to be some portion of customers who are unaware of their primary gas purchase option and a disconcerting number who are not aware of who they purchase their gas from. It also tells you that customers value competition and choice in the market as well as a var -- a wider variety of products to choose from. Importantly, from our perspective it tells you that customers want Manit -- Manitoba Hydro to offer more than one (1) product.

From the broke -- broker perspective it tells you that many of their customers are happy with their supply arrangements and that customers overall are at least somewhat positive about their experience with the marketer representative at the door, even though they would prefer not to be approached at the door.

Customer research is a valuable tool and one which Centra will continue to use to guide its decisions with respect to its products. We submit that it is also a valuable tool -- tool for the Board in this particular case. If the goal of this proceeding is to determine what is in the interest of customers, then surely this research presenting the views of customers is valuable in assisting the Board in making its determination.

This proceeding is somewhat different from other applications as Centra does not bear the onus of proof and it is, therefore, not enough for others to merely attack the material put forward by Centra. You have heard and, no doubt, will hear more about how Centra ought to accept -- accepted all of the comments of other parties and provided every single draft to every stakeholder, however, we submit that this is not what consultation requires, and in the case of brokers was not what the Board advocated in its Order 175/06.

The brokers are adamant about the value of customer research and guard their own research very carefully. Through this process and the disclosure required of Centra, the brokers now have access to and use of SPS -- SPSS data which can be mined by the brokers in a variety of ways to further their interests.

You will recall that a motion was brought for this information, and yet even having received it no expert analysis was offered to challenge the conclusions of eNRG. Transcripts of the focus group sessions were prepared at considerable cost, and again, no expert analysis was offered to dispute the focus group report prepared by eNRG.

Indeed, on cross-examination at pages 2756 and 2757 of the transcript, the brokers disclosed that they conduct their own market research which -- which includes the citizens of Manitoba and their views and experiences, none of which was filed with this Board. Further, the brokers admitted on cross-exam -- examination at page 2774, that they had the ability to conduct their own research and chose not to do so.

Centra submits that the Board is able and, in fact, ought to draw an adverse inference from the failure on the part of the brokers to file expert evidence rebutting the reports of eNRG and producing its own research. We submit that this lack of evidence lends further credence to the reports that have been offered by NRG.

Before we turn to the discussion of broker costs, I would like to address some of the discussion that took place during the hearing regarding consultation. While this is not a -- not formally part of the matters you raised in your Notice of hearing, the issue of consultation is of serious concern to Centra. You have heard through this process criticism by other parties of Centra's efforts to engage and understand their viewpoints both in educational materials and the customer research that was prepared for this proceeding.

It appears that what Centra views as consultation, is very different then what consultation means to the representatives of CAC/MSOS and, quite clearly, to the brokers.

We resorted to the old-fashioned Oxford Canadian dictionary to clarify the meaning of "to consult". This excerpt is found at Tab 18 of the book of documents. Consult is defined, To seek information or advice from, refer to a person for advice an opinion or to seek permission or approval from or take into account, consider feelings and interests.

The evidence with respect to the consultations which took place with respect to the customer research is clear. Centra took steps to invite input from stakeholders and to communicate their comments to the consultant.

It engaged in several meetings with the representatives of CAC/MSOS in preparing the survey as well. In doing so, Centra was certainly mindful of the Board's direction in Order 175/06, which is found at Tab 19, that it should, and I quote:

> "...consult widely in advance of the proceeding. Parties to consult with include CAC/MSOS. The Board understands Centra's reservation about involving the gas brokers in Centra's customer surveys since in a sense, the two parties are in competition with each other. The parties also have different requirements and preferences. This does not mean Centra should refrain from making an effort to understand the perspective of brokers."

We suggest to you, Mr. Chairman, that even your Order attempted to recognize the differences between the interests of the stakeholders, and in our view, acknowledged that consultation would be different between various stakeholders.

The fact that the regulated entity is ordered to consult on a topic to be determined in an adversarial setting such as this, makes such consultation unworkable. The line of cross-examination by CAC/MSOS was telling.

It was put to the Centra witness in the form of a question that the Order was to include the views of CAC/MSOS and the brokers at page 724, and also that the Board had indicated that it was important to listen to the views of all of these other stakeholders.

Clearly, Mr. Chairman, when you direct the Utility to consult, and the Utility solicits the views of stakeholders, the stakeholders believe that if the Utility doesn't do what they say, the consultation is inadequate.

That problem persists even when the Order discussing the consultation addresses the differences in those interests. The view of the brokers appears to be that they ought to have been provided with every single draft of the survey in the name of consultation.

And that they should have had the final pen on the survey. Ms. Melnychuk complained that there were two more drafts after their input was provided. The other area where consultation has been difficult, to say the least, is with respect to the informational material produced by the Utility.

As you heard, after the fairytale campaign, Centra agreed to a process whereby the brokers would be consulted before any additional material would be published. The result has been that Centra has been unable to publish any advertisements since then.

The only material which has been somewhat successfully consulted on, is the updated guide to purchasing natural gas, which was not intended to be produced in the newspaper, is not widely distributed, and is currently not used by the brokers.

We therefore suggest, Mr. Chairman, that attempts to enforce consultation through Board Orders are simply not workable. It appears, in fact, to do more harm to the relationship than good. The day-to-day dealings between these parties appear to be satisfactory.

The complaints which were tabled in this process are with respect to matters more likely to form the subject of a hearing, and therefore by nature are very contentious.

I trust that it was apparent to the Board that the characterizations offered by the brokers of their relationship with Centra, were surprising to the company. Centra was, and is, of the view that it has made significant progress towards meeting the needs of brokers by providing information required to run their business in a timely fashion.

Extending an invitation to our offices to better understand our processes. Calling meetings to discuss changes to the terms and conditions of service pertaining to WTS. Hearing their concerns and withdrawing ads Centra viewed as educational. And trying to gain a perspective of their concerns and views of our customer research.

If these attempts result in the types of characterizations that were cast in this process, it's difficult to conceive of what else Centra could do to improve that relationship.

It must be recognized that Centra and the brokers have different objectives, and that ordering consultation does not facilitate a cooperative process. I will now -- I'd like to turn to the matter of broker costs. Just by way of background, in 1999 Centra proposed that all broker-related costs related to both WTS and the Agency Billing and Collection Service, or what we know as the ABC Service, be recovered from all customers.

In Order 19 of 2000 the PUB agreed that both the initial startup costs and the ongoing WTS costs should be borne by all natural gas customers; however, the PUB did not accept Centra's argument regarding the ongoing billing and collection costs incurred by Centra on behalf of the brokers and directed that Centra impose an ABC fee.

As a result, a nominal twenty-five (25) cent ABC was instituted. This fee has been characterised as notional because there were, and are, very few incremental costs associated with billing for primary gas on behalf of the brokers.

Centra submits that the practice of collecting an ABC -- ABC fee from brokers should be continued and further submits that the fee be increased from the current twenty-five (25) cents to include incremental bad debt.

The increase in this fee to incorporate a component for bad debt simply acknowledges that on an equal waiting basis broker customers, by virtue of higher primary gas rates, on average will contribute a greater level of bad debt.

If you accept Centra's evidence which demonstrates that broker customers pay on average 8 percent more than Centra's rates, broker customers will contribute to a greater level of bad debt.

Centra has also submitted that a WTS fee be implemented to recover only those costs which are easily identifiable and which would not be incurred if brokers were not operating in Manitoba.

On the opening of the competitive market Centra agreed that costs that incurred to allow brokers to operate should be recovered by all customers through Centra's distribution rate.

However, Centra is now of the view that sufficient time has passed since the implementation of WTS to help "kick start", using the words of Mr. Stauft, and that the cost causation principle that those who cause the costs should pay for those costs, and to the extent that this is possible, this should be reinstitute -- instituted.

It should be noted that all parties at this hearing, including the economists and the brokers themself, accept this basic principle. At page 2248 of the transcript Mr. Newcombe accepts that he or she who benefits should pay.

While it's fair to say that all parties recognise it is not always possible to stream costs and benefits to every customer, the appropriate endeavour is to allocate costs to the party who causes the cost to the extent practical.

Centra is not advocating that a detailed cost study be undertaken to specifically identify all costs assodiate -- associated with direct purchase activities. Centra views that such a study would be very time-consuming, costly, and would not necessarily produce better results.

Centra uses fully distributed costing for the setting of sales rates, but proposes to use incremental pricing to determine the charges applicable to brokers. For example, Centra knows that there is a department that devotes its time solely to maintaining the WTS Service.

This includes the processing of broker contracts and enrollments, establishing maximum daily quantities for broker supply, the nomination of deliveries, and the administration of storage loans and gas -- and storage gas.

Centra estimates that on an annual basis it incurs approximately seven hundred and fifty thousand dollars ($750,000) to -- to support these functions. Centra is simply submitting these types of readily identifiable direct costs be recovered from those who cause them, the brokers.

This practice would also be consistent

with the practice in other jurisdictions. As outlined in the response to PUB CENTRA-28, which is found at Tab 20, in other jurisdictions fees are paid on account of bills and on account of each pool of customers.

This was also confirmed in cross-examination of the broker panel at pages 2720 to -- through to 2722 of the transcript. You've also heard that Centra has recently negotiated on behalf of the broker community the flexibility for monthly enrollments.

This additional flexibility is expected to cost approximately a hundred and fifty thousand dollars ($150,000) annually. This flexibility is one (1) of the items that has been repeatedly identified by the brokers as being required to facilitate a competitive market.

Further, you heard several times during this hearing that in the brokers' view, this is something that they had been demanding of Centra for some time. However, having successfully negotiated this flexibility at -- at what, in Centra's view, is a reasonal -- a reasonable price, it now appears that the brokers are not prepared to pay for this flexibility.

With respect, Mr. Chair, it is not reasonable for the brokers to have expected this flexibility with no price tag.

Mr. Stauft indicated in his evidence, at page 253 of the transcript, that, and I quote:

"If they were expecting that flexibility to just materialise out of thin air for nothing from Nexen, I think that was they weren't thinking it through properly."

Further, Centra has testified that it would not have otherwise negotiated this change without its -- with its supplier had it not been for the brokers requesting it to do so.

As such, Centra proposed to include this premium into the WTS fee. Together, Centra anticipates the recovery of costs from brokers to be in the order of approximately $1 million annually.

Centra proposes that the recovery -- recovery of these costs, as well as the fee design, could be implemented within its next general rate application. While Centra would prefer the recovery of costs related to the flexibility for monthly enrollments to begin expeditiously, as it will begin incurring those costs on November 1st of this year, it is prepared to allow those costs to accumulate in a deferral account until the appropriate rate treatment is determined.

Mr. Chair, you've heard from the brokers in this proceeding. They are reluctant to admit that they receive any benefit from the Utility. The fact is, is that they do benefit on several fronts.

They have free backstopping service. They have the benefit of a constant cash flow. And the distribution customers have paid the costs associated with providing competition in the market.

The brokers, in their testimony, make light of the issue of backstopping and suggest that because customers don't know or don't turn their attention to it, means that it is not of value.

Certainly a secure supply of backstop gas in January in Manitoba is unquestionably beneficial. Ms. Ruzycki, in fact, acknowledges at page 1937 of the transcript that Energy Savings looks to markets where the Utility provides the billing and collection service, and recovers bad debt through distribution rates before they enter the market.

If these were not benefits to brokers, why does Energy Savings seek out markets with these attributes?

While Centra is not seeking recovery for all costs and/or benefits from brokers, Centra is requesting that the Board acknowledge that certain costs are specifically incurred to facilitate brokers carrying on business in this Province.

Centra views this as a reasonable proposal. It has been done before in this jurisdiction, and most other jurisdictions in Canada charge some kind of WTS fees to brokers.

Centra is simply seeking, to the extent practical, to stream some of the most identi -- identifiable costs of providing WTS to brokers and to update the existing ABC fee to include a component for incremental bad debt.

I would like to briefly touch on some of the issues surrounding the equal payment plan. With respect to the inquiry into whether the EPP should be made the default, we submit that there is little evidence to support making this the default option.

Centra has outlined, in its direct evidence and its submission, the concerns with this process. The customer research is clear that customers are not in favour of this default requirement.

CAC/MSOS advocated that it be -- be made the default, however, the evidence called on their behalf by Mr. Stauft suggests that this was not a carefully analysed proposition. And that can be found at pages 137 and 138 of the transcript.

The brokers also agree that this should be an option left to be elected by the customer, not the default.

Centra's strong preference is to continue as it currently does, which is to have the customer elect the EPP option.

I should, at this point, address an area which appeared to be of interest to the Board during the course of the Hearing.

That is the question of whether customers in arrears and are either removed from EPP or are not eligible to elect the EPP, would be better -- better able to manage their bill if they were on the budget plan.

As Mr. Kuczek testified at page 1202 of the transcript, for those customers who are removed from the budget plan because of arrears, customized payment plans are attempted with Centra's collection staff.

These customized payment plans allow the customer greater flexibility for managing both current bills as well as some contribution towards their arrears. This flexibility and customization is not available through the normal equal payment plan.

In addition, Mr. Chair, you have heard a great deal during this proceeding about a process error that occurred this year with respect to mid-year adjustments for some EPP customers.

While this certainly affected some broker customers, it also affected a significant number of certain -- of Centra customers. And I think the split was roughly half of all affected customers were broker customers, and the remaining were system customers.

As was testified at page 1573 of the transcript, Centra is adjusting its internal processes to ensure that this does not happen again. While this process error was unfortunate, and steps are being taken to ease the burden that's imposed on some of our customers, it does highlight some of the limitations of the EPP.

The EPP mechanism serves to defer volatility and, to the extent that bills are not adjusted during the year, customers are faced with the adjustment sooner or later. In this case, it came at the end of the year.

However, the alternative was not that these customers would have paid less, but simply that their monthly payments would have been adjusted sooner. The fact is that for many of these customers renewing long-term contracts, they were facing a 52 percent rate increase.

While we agree with Mr. Newcombe that that was likely in -- indicative of changes in the market over the proceeding five (5) years, the important fact remains that you cannot shield customers from rising prices indefinitely.

Mr. Chairman, Board members, by way of conclusion, I would like to review the eleven (11) issues posed by the PUB and to provide, in summary fashion, Centra's position in respect of each of those issues. Following the Order in which those issues appeared in the public notice, we submit the following.

With respect to the potential abandonment by Centra of hedging for its current system gas offering, with possible amendments to the rate setting mechanism to mitigate the effect of leaving hedging, Centra submits that the system gas offering should continue to include a hedged product.

The mechanisms of the primary gas product are currently working as intended, and consumers and the public interest are well served by it.

This Board, just as the OEB noted, is charged with a consumer protection mandate and should not expose system gas customers to avoidable volatility purchased at a modest cost, particularly where the market price of gas will be paid within a reasonable time horizon.

With respect to the establishment of the EPP as a default condition, we submit that the current practice should be maintained, and that customers continue to be offered, and have the opportunity to elect the EPP without requiring a significant proportion of customers to now elect not to be on a program which has been in place and advertised for many years, and which, to date, they've declined to participate in.

With respect to permitting Centra to enter the fixed-price, fixed-term market in competition with natural gas marketers, Centra's of the view that this should be permitted, and that Order 1598 should be varied to remove the current restriction of the utility to one (1) product offering.

More specifically, Centra requests permission to offer an array of alternative products -- not only fixed- price, fixed-term products -- in order to offer customer choices among a variety of products, perhaps including some hedged and some unhedged products.

The specifics of those products to be guided by customer research determined by the Corporation and approved by this Board upon application by the company.

With respect to the amendment to Centra's supply arrangements to facilitate improved broker service, Centra is of the view that many of the specific items raised in this proceeding are on their way to being implemented. Specifically, the requested monthly enrollments will be available to brokers effective November 1st of this year.

We have also recently corresponded with the Board to con -- to implement a change to the minimum volume requirements were contained in the Ts and Cs on a trial basis. Centra has responded to questions with respect to nomination practices, load forecasting, and, as I indicated, a willingness to have the brokers attend at Centra's office to view and gain a better understanding of the current nomination process and how it works.

We are hopeful that this will permit a better understanding of the process, and facilitate an exchange of information which will permit Centra to continue serving customers expeditiously, fairly allocate storage and transportation assets among all customers, and permit the brokers to improve their planning processes to serve the volatile Manitoba market.

With respect to the allocation of Centra's costs associated with the operations of natural gas brokers -- natural gas broker to brokers; Centra is of the view that the time for all customers to bear the costs of introducing choice into the Manitoba market has passed. And that customers who have not chosen an alternative product should no longer be required to share in the costs of making that choice available.

The fundamental regulatory principle that cost should follow the cause should, on a forward-looking basis, be employed, and brokers should be charged the costs associated with making services available to them. Those costs will ultimately be passed on to the consumers who avail themselves of the future competitive offerings available in the market.

With respect to the forecast implications of changes to the competitive gas landscape; Centra submits that permitting it to offer alternative products will enhance customer choice and increase the competitiveness of the long term prices in the marketplace.

Customers will have a wider range of gas supply products from which to choose, and which can be more directly tailored to customers individual risk profiles. The Board also requested submissions as to the nature and extent of competition in the natural gas market.

As we've outlined, Centra is of the view that the current market for small volume residential and commercial customers is not functioning well. It is characterized by only two (2) participating brokers, limited product choices and limited information to assist customers in their decision making process.

The evidence of CAC/MSOS witnesses, also suggest that the current market is not and may not be functioning well. Indeed, on the basis of the economic test, both the four (4) firm concentration ration and the HHI index, suggest that there is potential for the exercise of -- of market power to occur.

Given the pattern of the industry of marketers -- pardon me, amal -- try again -- lets -- lets just say merging for lack of a better word -- or leaving markets, there continues to be a risk that two (2) brokers could become only one (1) broker operating in the province, which would leave consumers with no competition in the fixed price market, and a choice between only two (2) suppliers, one (1) regulated and one (1) unregulated.

With respect to the terms and conditions of fixed price contracts, Centra views the existing terms and conditions, including the measure of consumer protection requiring a contract to be in writing, either electronic or in paper, and requiring the provision of understandable, timely and accurate consumer information to be most important.

With respect to the marketing model and practices of gas brokers, Centra's overarching concern is to ensure that customers are provided with sufficient and appropriate information in order for those customers to make informed choices. The requirement of physically signing or otherwise proactively confirming the commitment to enter into a contract, will aid in ensuring customers are aware of the commitments they are in fact undertaking.

With respect to the rules and practices for enrollment, termination and switching of suppliers, Centra considers the evolution of the Nexen contract, and the allocation of the costs associated with this increased flexibility, to be a direct benefit to the brokers, the costs of which should be paid by the brokers.

Finally, Centra is not requesting any specific changes to the code of conduct for gas brokers. As noted in our evidence, at present, the choice of remedies available to the Board to enforce the terms of the code of conduct, is either to do nothing, or to withdraw the brokers' licence.

There are no progressive measures, and the Board is left with a difficult decision. We have therefore suggested that some interim enforcement provisions may be warranted in the circumstances.

Mr. Chairman, Board members, subject to

any questions or comments that you may have, that concludes the closing remarks of Centra. On behalf of Centra I would like to thank the Board for their attentiveness throughout this entire process and express our appreciation for the opportunity to canvas these very important issues with you.

THE CHAIRPERSON: Thank you, Mr. Czarnecki, and thank you, Ms. Murphy. We appreciate your closing comments, and we look forward to Direct Energy's and Energy Savings' tomorrow morning.

So we'll see you all back tomorrow morning at nine o'clock. Thank you.

--- Upon adjourning at 3:24 p.m.

Certified correct,

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Rolanda Lokey, Ms.