Manitoba	)	**Order No. 15/98**
	)	
The Public Utilities Board Act	)	**February 11, 1998**

BEFORE: G. D. Forrest, Chairman
D. L. Barrett-Hrominchuk, Member
W. E. Chiswell, Member

PUBLIC HEARING TO REVIEW THE NATURAL GAS SUPPLY PROCUREMENT, TRANSPORTATION AND STORAGE FUNCTIONS OF CENTRA GAS MANITOBA INC.

Table of Contents

Page

Executive Summary

Background

Many structural and regulatory changes have occurred in the natural gas industry in Canada and Manitoba over the last ten years. The Public Utilities Board of Manitoba (Athe Board≅) convened a hearing in June 1996 to review what, if any, changes could or should be made with respect to Centra Gas Manitoba Inc.=s (ACentra≅) role in the natural gas supply procurement, transportation and storage functions.

Prior to 1985 the commodity cost of natural gas was regulated as a result of a joint agreement between the Governments of Canada and Alberta. The move towards deregulation in the Canadian natural gas industry began in 1985 with a series of Federal/Provincial agreements including The Western Accord on Energy Pricing and Taxation dated March 28, 1985, and the Agreement on Natural Gas Markets and Prices signed by the Governments of Canada and the producing provinces of Alberta, Saskatchewan and British Columbia on October 31, 1985. In 1991 the Board permitted ABMs to purchase gas on behalf of customers thereby introducing competition and ending the monopoly previously held by Centra in purchasing gas. This had an important effect on the way gas was purchased for consumption in Manitoba. Buyers could now contract directly for supplies with producers, marketers and other agents and could enter into these commercial transactions free from government price regulation. Utilities could also arrange for a gas supply at the wellhead in Alberta at the best possible price and, for a transportation fee, use the interprovincial pipeline transmission system. As a result of such deregulation the price of natural gas decreased substantially, and savings have been passed on to consumers in Manitoba.

Prior to price deregulation, most natural gas was sold by pipeline operators and their marketing representatives to the local distribution companies including Centra. With the advent of price deregulation and transportation changes, gas is now also sold directly to industrial, commercial, and residential customers through agents, brokers and marketers (AABMs≅).

Since 1991, all Manitoba customers have had the choice of obtaining their gas supply through Centra or through ABMs. If electing the Centra service, Centra makes all arrangements for the purchase, transportation, and storage of gas and charges a regulated sales rate to its customers. All of Centra=s costs, including the gas supply costs, are reviewed by the Board prior to approving sales rates.
If a customer elects to use an ABM to supply natural gas, the customer enters into an agreement with the ABM whereby the ABM arranges for the purchase of natural gas in Alberta. The ABM then sells the gas to Centra who transports it on the TransCanada PipeLines system and the Centra distribution system to the customer. Centra then bills the customer at the sales rates approved by the Board. The ABM and the customer also enter into an agreement on pricing the commodity cost of gas. This arrangement usually provides pricing at a discount compared to the price charged by Centra. Pricing arrangements vary, depending upon the ABM and the customer.

The following table shows the 1995 volumes of natural gas in Manitoba consumed by rate class, and the proportion of total volumes supplied by Centra and by other ABMs. It indicates that most residential customers continue to have Centra supply their natural gas, whereas most industrial and large commercial customers choose ABMs for their supply.

Customer Class	Volumes in (Bcf)			Centra Percent of Total
	Centra	ABMs	Total	
Residential	20.5	4.5	25.0	82%
Small Commercial	1.8	0.9	2.7	67%
Large General Service	8.2	14.5	22.7	36%
Interruptible	2.1	4.0	6.1	34%
Simplot	0.0	7.0	7.0	0%
Total	**32.6**	**30.9**	**63.5**	**51%**

The following is a breakdown of a typical Manitoba residential customer=s annual natural gas bill by cost component based on $1.707 GJ for Western Canadian Supply as of December 31, 1996.

Centra=s distribution costs downstream of the City Gate	$410
Transportation to the City Gate	124
Commodity cost of gas, including storage and peaking gas	205
Total	$739

The scope of this generic hearing is related to the transportation and commodity components which total $329 and not to the distribution costs downstream of the City Gate. As many argued in this hearing, any cost savings that might occur as a result of an increased competitive environment will relate only to a portion of the $329 component of a typical residential customer=s annual natural gas bill, and is not likely to be a significant dollar value.

The Benefits of Competition

A prevailing trend in many industries is one of moving from a regulated environment towards a greater reliance on the competitive market. By identifying areas where the competitive market can establish itself successfully, there should be a withdrawal of regulation coupled with established guidelines and policies set in place to facilitate the transition to a competitive market place.

The Board, in arriving at its conclusions and decisions, has considered the unique aspects of the current Manitoba marketplace, and in particular, the existence of a number of impediments to full and effective competition. The decisions set out in this Order are considered by the Board to be in the public interest for all Manitobans. Any structural or regulatory changes in the natural gas industry in Manitoba must advance the interests of the consumers and not be exclusively for the individual economic interests of market participants.

The Board has concluded that ultimately the market should allow natural gas consumers to choose the products and services they want from a broad range of competitors. The Board is also of the view that most customer categories are already experiencing many of the proposed benefits of competition, including competitively determined gas prices and choices. If the potential additional economic benefits to customers are minimal, the Board questions the wisdom of expediting the process of deregulation with unnecessary haste. The Board believes that necessary changes to bring about an increasingly competitive commodity market should occur but be carefully managed so that customer protection and public interest concerns are properly and adequately addressed.

In making its decision, the Board has considered the barriers to a fully competitive market structure, and in this Order has sought to remove several of the short-term impediments so as to promote a long-term fully competitive market structure.

Regulatory Considerations

One of the regulator=s concerns is that transition to a more competitive market proceed without negative consequences to the utility customers and to the regulated utility. All customers, particularly the residential customers, must be well informed of the changes taking place and the options available to allow them to make choices. In addition, the delivery system must continue to be operated in a safe, reliable, secure and non-discriminatory manner. To achieve these objectives, the regulator has a significant role to play in facilitating change and ensuring that access to and pricing of monopoly services is and continues to be fair.

The natural gas industry is in a period of change, and the distinction between natural monopoly services and competitive services is not always clear. Some activities that were once accepted as part of the natural monopoly are now considered competitive. Regulation should continue to protect consumers= interests in dealings 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.

Gas Purchasing

The fundamental question which the Board addressed in this Order is what, if any, changes should or could be made to the role of Centra in the gas procurement, transportation, storage and sales functions.

Centra is responsible for maintaining a gas supply sufficient to meet the demands of the Manitoba customers. Centra has entered into various gas supply contracts. These gas contracts include pricing arrangements that are tied to various market indexes. The pricing arrangements are thus market sensitive, and prices change daily. To ensure that customers only pay the actual cost of gas, a Purchase Gas Variance Account (APGVA≅) has been established. This PGVA tracks the differences between the actual cost of gas paid by Centra to its suppliers and the price of gas that the Board has approved in sales rates. The balance in the PGVA is periodically cleared either through a refund to customers or collected from customers through rates.

In the opinion of the Board, there is little connection between the identified constraints in the current marketplace and the recommendation by some parties to remove Centra from the natural gas supply marketplace. The constraints include limited information for customers, a pricing mechanism that is complex and sends incorrect market signals to customers, lack of customer knowledge of supplier or options, and competition that uses a percentage discount from Centra for its pricing rather than a specific dollar amount. Resolution of these constraints does not require a dramatic restructuring of the natural gas marketplace. This Order reflects the Board=s decision that many of the impediments to a fully competitive market can be resolved without removing the gas purchasing function entirely from Centra.

The Board agrees with the proposition put forward by many of the interested parties that the natural gas purchasing function is not a monopoly function, and should ultimately operate in a fully competitive market. In the

Board=s view, however, many of the necessary conditions for a fully competitive market currently do not exist, including better price discovery, full price transparency and reliable market information, a wider range of reliable supply choices, choices in pricing options, a sufficient number of strong competitors, and the ability to switch suppliers. There are also a number of customer protection and public interest issues, including customer education, dealing with matters such as treatment of Centra=s existing customers who may not want to switch suppliers, high credit risk customers, security of supply, long-term storage, transportation and supply arrangements, and legislative issues that mitigate against the immediate removal of the regulated gas purchasing function from Centra.

The Board will require Centra to maintain the status quo in offering only a single regulated gas supply option and price. Customers will be able to choose between this offering and any number of other supply options offered by ABMs. The regulated commodity gas price will not only serve as a benchmark price for competition, but will also serve as a basis for improved price transparency which is necessary for enhanced competition.

Price Transparency

The Board is of the view that education of customers and price transparency are required for a fully competitive market to develop. The Board holds the view that the gas bill should, at a minimum, be redesigned, segregated and priced into distinct components of the commodity, transportation, storage and distribution costs. By segregating cost components of a customer=s bill to the greatest extent practical, the customers will be made aware of the various cost components of gas service which they are receiving.

Western Bundled Transportation Service

The Board agrees with the opinion expressed by most interested parties that the pricing mechanism is flawed and incorrect price signals are being sent to customers.

To remedy this the Board will direct that the Western Bundled T-Service tariff and terms and conditions of service as proposed by Centra be developed and application be made to the Board for approval by August 1,

1998 for implementation no later than November 1, 1998. Under the Western Bundled T-Service, Centra would take custody, but not ownership, of gas at the Alberta border and transmit and distribute that gas to the customer. The customer would purchase the gas from either Centra or an ABM. The current buy/sell arrangements should be replaced by this offering as the current buy/sell arrangements expire, but no later than October 31, 2000. The Board will also direct Centra to develop appropriate tariffs and terms and conditions of service for an optional billing and collection component related to the offering of a Western Bundled T-Service, and apply to the Board for approval by no later than August 1, 1998. This will ensure that Centra will only operate as a transporter and distributor of natural gas for those customers who purchase their gas through the ABM.

Operational Issues

The Board remains convinced that some form of storage to ensure reasonably priced gas and to maintain supply security is critical and must be provided. The Board considers that to properly and efficiently operate the distribution system under the existing circumstances, a single entity must retain the responsibility for storage, related transportation and load balancing. Currently, Centra is the best entity to perform these functions and nominate the amount of gas to ensure effective delivery of gas on a daily basis. Similarly, Centra should retain the responsibility for backstopping - providing its own supply of gas to customers if the supply of another gas broker fails.

** ** **

1.0 Appearances

R. F. Peters K. L. Kalinowsky	Counsel for the Public Utilities Board of Manitoba (Athe Board≅)
A. S. Hollingworth	Counsel for Centra Gas Manitoba Inc. (ACentra≅)
R. W. Singleton, Q.C.	Counsel for the City of Brandon
G. Wood	Counsel for the Communications Energy & Paperworkers Union (ACEPU≅)
B. J. Meronek, Q.C.	Counsel for the Consumers= Association of Canada
R. Graham	(Manitoba) Inc. and Manitoba Society of Seniors (ACAC/MSOS≅)
P. Budd	Counsel for Direct Energy Marketing Ltd. (ADirect≅)
T. Adams	Representative of Energy Probe Research Foundation (AEnergy Probe≅)
M. Mattson	Counsel for Energy Probe
J. F. Rook, Q.C.	Counsel for Enron Capital & Trade Resources Canada Corp. (AEnron≅)
D. Foreman	Representative of the Heating Ventilating & Air Conditioning Coalition - Manitoba (AHVAC≅)
P. C. P. Thompson, Q.C.	Counsel for Industrial Gas Users Association (AIGUA≅)

D. Perdue (AMunicipal≅)	Counsel for Municipal Gas Inc.
J. Carstairs	
G. J. Pratte	Counsel for NovaGas Clearinghouse Core Ltd. (ANCCL≅)
G. Collis	Representative of Simplot Canada Limited (ASimplot≅)
M. Samuel	Counsel for TransCanada Gas Services Ltd. (ATCGS≅)

2.0 Witnesses

2.1 Centra Gas Manitoba Inc. (Centra)

A. H. Willms	President and Chief Operating Officer, Westcoast Energy Inc.
Hon. O. E. Lang	President and Chief Executive Officer, Centra
J. D. Brett	Vice-President, Gas Supply and Regulatory Affairs, and Corporate Secretary, Centra
I. D. Anderson	Senior Manager, Regulatory and Strategic Planning, Centra
G. B. Whitehill	Controller, Centra
R. D. DeWolf	Ziff Energy Group
Dr. G. R. Hall	Putnam, Hayes & Bartlett Inc.
K. Dangerfield	Prairie Research Associates Inc.

2.2 Communication Energy & Paperworkers Union (CEPU)

Dr. I. F. Lipnowski	IFL Consulting Ltd.

2.3 Consumers= Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS)

J. Todd	Econalysis Consulting Services Inc.
J. A. Gruenbauer	G & G Business Solutions Ltd.

2.4 Direct Energy Marketing Ltd. (Direct)

R. Jones	Vice President, Government and Regulatory Affairs, Direct
N. Silvestri	Vice President, Marketing, Direct
Dr. C. G. Stalon	Oliver, Oliver & Waltz P.C.
S. Chown	Industrial Economics Inc.
D. Guy	Insight Canada Research

2.5 Energy Probe Research Foundation (Energy Probe)

T. Adams	Borealis Energy Research Association

2.6 Enron Capital & Trade Resources Canada Corp. (Enron)

K. Magruder	Director of State Regulatory Affairs, Enron

2.7 Heating, Ventilating, and Air Conditioning Coalition (HVAC)

D. Kelly	Director, Provincial Affairs, Canadian Federation of Independent Business

2.8 Industrial Gas Users Association (IGUA)

P. Milne	Peter Milne & Associates Ltd.
T. Bjerkelund	Executive Director, IGUA

2.9 Municipal Gas Inc., Transprairie Gas Inc., Western Gas Inc. (MTW)

Dr. F. Mathewson	Department of Economics, University of Toronto
N. MacMurchy	Interco Energy Consultants Ltd.
R. B. Callow	President and Chief Executive Officer, Municipal Gas Inc.
K. Hillman	President and Chief Executive Officer, WestCan Gas Inc.

2.10 TransCanada Gas Services Ltd. (TCGS)

M. Stauft	Director of Planning & Regulatory Affairs, TCGS
B. Patterson	Director of Eastern Marketing, TCGS

3.0 Other Participants

3.1 Participants Submitting Final Written Argument Only

T. G. Kane, Q.C.	Counsel for ANR Pipeline Company (AANR≅)
P. R. Jeffrey	Counsel for TransCanada Pipelines Limited (ATCPL≅)

3.2 Presenters

J. Bigelow	President of the Refrigeration, Air Conditioning Contractors Association and Director of the Heating, Refrigeration, Air Conditioning Institute
G. Duncan	President of Keystone Mechanical Contractors Association
R. Taylor	Acting Chief, Civil Matters Branch, Bureau of Competition Policy

4.0 Introduction

Many structural and regulatory changes have occurred in the natural gas industry in Canada and Manitoba over the last ten years. The Board sought to investigate whether further changes are appropriate. On August 31, 1995 the Board called for a Generic Hearing and instituted a consultative process to establish the issues to be discussed by interested parties. The Board convened a generic hearing in June, 1996 to review what, if any, changes could or should be made with respect to Centra=s role in the natural gas supply procurement, transportation and storage functions.

4.1 The Issues

The Board sought input from interested parties on seven principal issues listed below. The issues discussed in this Order are related to the first six of the seven issues which were discussed at the hearing. Issue seven, dealing with guidelines for acceptable conduct between Centra and affiliated companies, was the subject of Order 110/96 dated November 4, 1996.

1. (i) Describe current market conditions from the well head to the customer=s meter in the context of its structure, behaviour and stability in the areas of supply, transportation and storage.

   (ii) In discussing the structure, behaviour and stability of the current market describe any constraints or concerns that unfavourably impact on the current marketplace.

2. (i) What changes in the current marketplace do you recommend. Explain your recommendations providing estimates of the economic benefit and risks of such changes by customer class.

   (ii) In making your recommendations discuss the anticipated market structure, behaviour and stability in the changed environment including any constraints or concerns that may impact on the functioning of such a changed marketplace.

3. Describe the role of Centra Gas Manitoba Inc. in any changed marketplace including a description of what is the Aminimum level of service≅ that can or should be provided by the utility.

4. If the minimum level of service does not include natural gas procurement, transportation or storage, discuss separation issues related to the existing contracts, security of supply, obligation to serve, backstopping, nominations and load balancing.

5. Describe what regulatory directives or legislative amendments may be required to support such changes. Discuss what regulatory framework would be required in the new environment.

6. Describe any transitional considerations as well as a timetable for transition. Please discuss the dissemination of market information under the changed environment.

7. Discuss the guidelines for acceptable conduct between Centra Gas Manitoba Inc. and affiliated companies, including the methodology and costing for the transfer of assets, the sharing of resources including human resources and the use of the common name.

5.0 Background

5.1 Canadian Market

The move towards deregulation in the Canadian natural gas industry began in 1985 with a series of Federal/Provincial agreements including The Western Accord on Energy Pricing and Taxation dated March 28, 1985, and the Agreement on Natural Gas Markets and Prices signed by the Governments of Canada and the producing provinces of Alberta, Saskatchewan and British Columbia on October 31, 1985. The intent of these agreements was to create a more flexible and market oriented regime which would enhance the possibilities for price and other conditions to be freely negotiated between buyers and sellers and to encourage governments not to interfere with commercial transactions between buyers and sellers of natural gas. The traditional method of gas marketing and sales whereby producers sold their production to an intermediary who sold the gas to a Local Distribution Company (ALDC≅) who handled all sales to customers within its exclusive franchise area changed.

Prior to deregulation, Manitoba LDCs obtained the total gas supply from Western Canada under long-term supply contracts, initially with TCPL, and subsequently with its marketing affiliate, Western Gas Marketing Ltd. (WGML) and its successor, TCGS. Transportation arrangements were in place with TCPL to deliver the gas to city gate locations. Subsequent to deregulation, the LDCs renegotiated these gas supply arrangements on several occasions. These negotiations included, in addition to price and price change mechanisms, volume entitlements, decontracting rights and other terms and conditions of service.

Canadian consumers have benefited from a decrease in the cost of gas since the implementation of deregulation.

5.2 Manitoba Market

The deregulation changes initiated at the federal level by the two agreements precipitated changes at the provincial level which have affected the price of

gas, the options available to purchase gas, the choices of supplier, and the terms under which gas is purchased.

In 1988, Centra renegotiated its WGML supply contracts and TCPL transportation arrangements. The Board subsequently approved rates based on gas prices flowing from these arrangements and the price adjustment mechanism negotiated by the parties. This price adjustment mechanism indexed the commodity price of gas for Manitoba consumers for the next five years to the 100% load factor price, including demand and commodity components, paid to WGML or TCPL by LDCs in the Province of Ontario for firm gas supply for a term of 10 years or more. This ensured that Manitoba consumers would enjoy favourable pricing given that the Ontario LDCs= load factor was in the 90% range, while the Manitoba load factor was approximately 53%. The renegotiated supply arrangement also provided that if Centra=s supply load factor did not improve after five years, Centra would be required to pay a premium of $0.60 per GJ to the suppliers in recognition of this low load factor.

In 1991, Centra entered into a 20 year agreement with ANR Pipeline Company and Great Lakes Gas Transmission Company. This agreement enabled Centra to utilize downstream storage in Michigan to improve its load factor. Centra estimated that annual gas costs after 1993 would have increased by approximately $18 million without this arrangement. Under these arrangements, gas shipped on TCPL during the summer is delivered into the Great Lakes Gas system and transported on the ANR Pipeline system to the ANR storage facility. In the winter, Centra=s gas is withdrawn from storage and notionally backhauled to Centra=s distribution system. The Board found that Centra was prudent and reasonable in the steps it took to evaluate its options to mitigate against gas cost increases and that the downstream storage arrangements were beneficial to Manitoba consumers.

In 1993, Centra and WGML negotiated gas supply contracts to include a market indexed pricing mechanism whereby the price of gas paid to WGML is tied to the settlement prices for natural gas futures contracts trading on the New York Mercantile Exchange (NYMEX). At that time, a Purchase Gas Variance Account (PGVA) was approved by the Board to track the differences between the price of gas embedded in sales rates and the actual cost of gas paid by Centra to its various suppliers. The PGVA balance from time to time

is either refunded to or collected from customers through rate riders which are included as a component of gas sales rates.

5.3 Natural Gas Market in Manitoba

5.3.1 Gas Supply

The principal producing area for Canada=s natural gas is the Western Canadian Sedimentary Basin in British Columbia, Alberta and Saskatchewan. Alberta accounts for nearly 83% of the proven reserves yearly production. While increased exploration and development in British Columbia and the Northwest Territories is occurring, Alberta will likely remain the principle source of Canadian natural gas consumed in Manitoba.

Several factors are improving the availability and reliability of Canadian natural gas. Producers are increasing their exploration in Alberta, British Columbia and the Northwest Territories. Increasing exploration along with the increase in supply-basin storage have and will continue to enhance the reliability of Canadian natural gas and its availability to meet market requirements.

Centra=s supply portfolio includes three sources of gas from Western Canada: TCGS long-term supply, Direct Purchase volumes and spot market purchases. Western Canadian gas supply is transported to Manitoba using transportation service on the TCPL system. In addition to this supply, Centra utilizes various supply and transportation arrangements to inject and withdraw gas from its Michigan storage facility to meet its daily load requirements. Centra utilizes U.S. supply and purchases supplemental peaking supply from various sources or through capacity management arrangements.

Manitoba natural gas customers consumed approximately 63.5 Bcf in 1995. Of this amount, some 7 Bcf was attributable to Simplot Canada Limited, which has its own independent supply. The following table shows the 1995 volumes consumed by rate class, and the proportion of total volumes supplied by Centra and by other aggregators, brokers and marketers (″ABMs″.)

Customer Class	Volumes in (Bcf)			Centra Percent of Total
	Centra	ABMs	Total	
Residential	20.5	4.5	25.0	82%
Small Commercial	1.8	0.9	2.7	67%
Large General Service	8.2	14.5	22.7	36%
Interruptible	2.1	4.0	6.1	34%
Simplot	0.0	7.0	7.0	0%
Total	**32.6**	**30.9**	**63.5**	**51%**

The following is a breakdown of a typical Manitoba residential customer=s annual natural gas bill by cost component based on $1.707 per GJ for Western Canadian Supply as at December 31, 1996.

Centra=s distribution costs downstream of the City Gate	$410
Transportation to the City Gate	124
Commodity cost of gas, including storage and peaking gas	205
Total	$739

The scope of this generic hearing is related to the transportation and commodity components which total $329 and not to the distribution costs downstream of the City Gate. As many argued in this hearing, any cost savings that might occur as a result of an increased competitive environment will relate only to a portion of the $329 component of a typical residential customer=s annual natural gas bill, and is not likely to be a significant dollar value.

5.3.2 Transportation

The only current physical pipeline supply vehicle for natural gas to Manitoba is the TCPL system. However, contractual volumes are also delivered to Manitoba markets by displacement, backhaul, and assignment arrangements in which Centra regularly engages.

Different seasonal transportation arrangements govern the delivery of gas to Manitoba. During the summer period (April to October), Centra uses Western Canadian supplies to meet its Manitoba market requirements. Any daily entitlements in excess of these requirements are injected into Centra=s Michigan storage facility using TCPL, GLGT and ANR transportation arrangements. Centra is also able to purchase and transport Oklahoma and or Louisiana gas to inject into storage.

During the winter period (November - March), maximum entitlements for Western Canadian supply are utilized to serve the Manitoba market, with excess requirements firstly being met by Oklahoma supply direct to market and then storage volumes used under notional backhaul arrangements. Further requirements are met by transporting spot market purchases directly or by backhaul or by use of volume loan transactions under Centra=s capacity management activities.

Over the past decade there has been a trend of increased contract flexibility on the NOVA and TCPL transportation systems. This increased transportation and contracting flexibility assists producers and shippers in reducing their costs. Shippers on TCPL have increased the load factors of their contracted pipeline capacity, thereby lowering unit transportation costs. The increased use of assignments, storage and other balancing mechanisms has served to reduce the overall delivery cost of natural gas at the City Gate.

There is also a trend to shorten contracting terms as transportation contracts are renewed. Many shippers are now contracting for pipeline capacity of similar contract length as the gas sale/purchase contract in order to lower the risks of unabsorbed demand charges. Shorter contract terms have resulted in lower gas costs. This issue has given rise to concerns as to who, in the future, will provide the underlying financial support for increased pipeline capacity as it is required. Traditionally, the expansions of the TCPL system to serve the Canadian domestic core market has been facilitated by the Canadian LDCs who were prepared to commit to the long-term contracts and who could provide the financial security to underpin the expansions.

5.3.3 Distribution and Marketing

Under the current retail market arrangements, Manitoba customers may obtain their gas supply either from Centra or ABMs.

Centra sells and delivers gas to all end-users within Centra=s franchise area, with the exception of Transportation-service, special contracts and buy-sell volumes. Under Centra=s burnertip service, customers purchase and take delivery of gas at their meter. It is a bundled service in that Centra makes all arrangements for the purchase and transportation of gas supply upstream of the customer=s meter and charges a single regulated, cost of service based sales rate.

Centra=s gas supply function operates on the basis of an integrated supply portfolio supported by a number of arrangements negotiated between Centra and its suppliers and shippers. The gas commodity price reflects Centra=s Weighted Average Cost of Gas (WACOG) without mark-up. Centra=s gas commodity price is subject to regulatory review and the anticipated gas cost consequences of the various arrangements must be approved by the Board for rate setting purposes. Centra=s approved commodity price is embedded in its sales rates and reflects the estimated weighted average cost of gas. The PGVA tracks variations between embedded and actual gas commodity cost and is normally balanced on an annual basis.

5.3.4 Transportation Service

Centra also provides a transportation service (T-service) which allows a customer to make its own gas supply and transportation arrangements on TCPL.

This transportation service is from the City Gate to the customer=s meter. T-Service customers pay the approved T-Service rate which reflects only Centra=s distribution costs. T-service customers are responsible for determining their requirements, making the appropriate nominations and notifying Centra of their nomination on a daily basis. Any difference between the customer=s actual consumption and deliveries to Centra is treated as an imbalance between the customer and TCPL, for which the customer is responsible.

5.3.5 Direct Purchase Customers

In Order 119/91, the Board concluded that all classes of customers should be allowed to participate in the direct purchase of natural gas at their own risk. Previously, only large volume customers had the opportunity to purchase their gas directly. The Board approved the establishment of the Alberta Border or Western buy/sell arrangement and also approved the City Gate buy/sell arrangements. The buy/sell arrangements permitted end users to acquire their own gas supplies and then sell their gas to Centra at Centra=s WACOG, realizing a saving equal to the difference between their purchase price and Centra=s WACOG. The two buy/sell arrangements are merely distinguished by the location of the transaction and related transportation where Centra takes title to the gas, either at Empress, Alberta or at the City Gate.
The Board also approved a generic contract for use between Centra and ABMs. This generic contract provided for a minimum two year rolling term gas supply with related transportation capacity and daily deliverability assurances for all core customers. This Order allowed any ABM, after registering with the Board in accordance with Board stipulated requirements and procedures, to participate in direct purchase arrangements for the sale of natural gas in Manitoba. ABMs were required to advise all prospective customers in writing that neither the Board nor Centra assumed any guarantee of gas supply if the ABM=s gas supply failed.

Under the direct purchase system, after the daily contract quantity (DCQ) has been determined by Centra and the customer, the ABM executes a buy/sell agreement with Centra and identifies the supplier with whom the ABM has contracted to supply the gas for the customer. Centra nominates volumes on a daily basis from the appropriate supplier. The ABMs designated supplier

is responsible for making deliveries into the TCPL system equal to the nomination. Centra invoices the customer at the appropriate sales rate as if the customer was a system supply sales customer. On a monthly basis, Centra calculates the amount payable to the ABM for the deliveries made into the system. The monthly price paid by Centra is determined based upon the average of prices paid by Centra for Western Canadian system supplies (both WGML and spot market) including the effects of any price management related to the month=s system supply volumes. The ABM and the customer have their own pricing arrangement which normally provides pricing at a discount related to the system gas price charged by Centra. Other alternative pricing arrangements exist, depending on arrangements between the ABM and the customer.

Large volume customers typically contract directly with suppliers. For smaller volume customers, particularly residential consumers, ABMs aggregate numerous customers into manageable loads, supply the aggregated volume to Centra, and receive payment directly from Centra for the aggregate volume sold.

5.3.6 Operations

Centra is responsible for ensuring that adequate gas supplies are in place to serve the Manitoba market. Centra determines the DCQ and nominates and load balances on behalf of all customers. Centra has assumed an obligation to serve which includes providing backstopping supply in situations where a customer=s supply failed, and by maintaining a supply portfolio and infrastructure asset management which ensure delivery of an uninterrupted gas supply. Centra also manages the required upstream arrangements and ensures that the necessary facilities on its own system have been provided.

6.0 Participants' Positions

6.1 Centra

Centra noted that this is a significant hearing and a significant step for the natural gas industry. Centra believes that some change is necessary, but urged the Board to adopt a cautious approach, since Manitoba is leading the way in this process and the implications are significant. Centra stated that parties proposing dramatic change should be obliged to support the proposed change by submitting evidence demonstrating the potential benefits to customers that might result from that proposed change.

6.1.1 Constraints and Concerns in Current Marketplace

Centra submitted that while there were imperfections in the current marketplace, these imperfections could be corrected by implementing some relatively minor changes. These changes would not require the withdrawal of Centra from the merchant function. Centra identified the following imperfections in the current system:

X Limited information is available on current market prices, especially for smaller customers, related to Centra's cost of gas.
X The pricing mechanism in the buy/sell arrangement which normally results in third party supply being offered at a discount off the WACOG and the monthly reference price does not reflect actual current market prices;
X The retroactive price adjustments required to balance the PGVA, normally on an annual basis, causes confusion and uncertainty to market participants and sends inaccurate price signals on which energy consumption decisions are made;
X Centra is able to offer only one average priced supply which limits customer choice; and
X Most customers are uncertain who their supplier is, even if it is an ABM.

Centra commissioned Prairie Research Associates Inc. to conduct a survey of the residential and commercial customers that are supplied by either Centra or ABMs. The survey was intended to help determine the wishes of the natural gas consumers in Manitoba. The survey found that most consumers

believe that having a choice of a natural gas supplier is important and that Centra should be one of those choices. The vast majority of customers stated that Centra should continue to sell gas to the public and not be restricted from doing so. The survey results also indicated that customers are generally satisfied with their current gas supplier, and viewed their supplier as being reliable and stable. About half of the customers surveyed were aware that other companies sell natural gas. However, few could name any of the alternative suppliers. It was also noted that almost 80% of those customers whose supplier of record is an ABM thought that Centra supplies their natural gas.

Centra submitted that the Board can gain some insight from the survey into the low level of customers= awareness of what is available in the marketplace, the importance of providing better market information, and the high value customers place on choice.

6.1.2 Purpose of and Consideration in Restructuring the Market

Centra submitted that the key issue in respect of the merchant function of an LDC was best capsulized by Centra's witness, Dr. Hall, who stated: "The objective of promoting structural or regulatory change in natural gas markets should be to advance the interest of natural gas consumers." He further suggested that the overall public interest and the interests of the end user were paramount rather than the individual economic interests of specific market participants. The public and end user interests would be advanced if supply increased, prices decreased and products and service improved.

Centra argued that the market ought to be restructured without discrimination and should be defined for the next phase of deregulation by enabling competition for non-monopoly services without diminishing customer choice, market efficiency, or system security. Centra recommended that the Board consider the following objectives for an appropriate market structure:

X Increased customer choice and options;
X Efficiency and effectiveness of market, as determined by economies of scale and scope;
X Favourable economic climate;

X Fair competition;
X Customer confidence and price predictability; and
X Reliability and security of supply.

Centra contended that the following principles, if adopted, would accommodate the recommended objectives:

X Market based and market responsive commodity pricing;
X Increased price disclosure, allowing customers to manage their own gas supply costs;
X Increased customer information and publicity campaign;
X Increased range of service options and customer choice, facilitated by open delivery system access;
X Aggregation of individual customer gas requirements; and
X Assurance of a future secure gas supply.

Centra recommended that the Board decision in respect of this hearing should accomplish the following:

X Meet the customer benefit test; customers must be free to make their own choice, not have a choice made for them;
X Rectify the existing market imperfections without discarding in whole a fundamentally good and reliable delivery system;
X Weigh the benefits to various parties: peak users may be disadvantaged by change;
X Restrict the decision to the narrow parameters of this proceeding, while providing flexibility to accommodate the future direction of gas sales;
X Address legal constraints;
X Protect Centra's shareholders for past prudent decisions in the event of stranded assets or costs; and
X Assure that a secure and dependable gas supply is maintained for Manitobans.

Centra argued that the natural gas market is already fully competitive at the wholesale end. The prices paid for gas at the Alberta border are market responsive and price variation is small for gas purchased under approximately the same terms and conditions. As a consequence, no further significant price reductions should be expected for the core market. However,

benefits would result from increased customer supply options, choice of services and pricing mechanisms. These would primarily benefit core customers, as the large industrial and commercial consumers already realize these benefits.

Centra noted that, based on a typical residential consumer's annual heating bill of $739, distribution costs downstream of the City Gate accounts for $410, commodity costs including storage and peaking total $205, and transportation to the City Gate accounts for the remaining $124. If one were to assume that all gas and transportation costs could be reduced by 10%, an amount which Centra viewed as optimistic, the potential annual savings would be less than $32.

In assessing the need for structural change to the marketplace, Centra recommended that the Board consider whether residential customers would develop the same sense of knowledge and sophistication as larger users have, given the relatively small potential savings, whether they will be interested in rebundled service offerings from the unregulated ABMs, and whether ABMs would enter the Manitoba marketplace to serve those low volume customers.

6.1.3 Westcoast Energy Inc. Strategic Plan

Westcoast Energy Inc. (WEI), the parent of Centra, recently developed a new strategic direction in response to the unprecedented pace of change in the natural gas industry. This change is a result of pressures from competitors, greater customer expectations and the movement of regulated utilities into unregulated business opportunities. WEI's strategic plan contemplates seven distinct businesses. Three of the anticipated business lines would remain regulated being Retail Energy Delivery (ownership and operation of the systems from city gate to customer premises), Field Services (services from well head to distribution system interconnect), and Storage and Transportation services (using the company=s own facilities).

The activities which would be carried out by unregulated affiliates would include Retail Energy Services (provision of energy related services to the retail market), Power Generation (development and operation of independent power facilities), International project development outside North America,

and Merchant and Management Services. Merchant and Management services would include the purchase and sale of energy products, contractual storage and transportation services, fee-based energy management services and the provision of price risk management and financial products.

Centra stated that the merchant function and the commodity supply function would eventually be unregulated, but only if the customers wanted this to occur. In the interim, Centra proposed that the merchant function role remain in the regulated utility. During this interim period, Centra would offer a limited number of supply options including an optional menu of either fixed or floating pricing for varying periods of time.

6.1.4 Recommended Changes

Centra provided two recommended options, Option 1A, the preferred option, and 1B, an alternative model. Centra's preferred option includes several changes to its current role and to the types of services offered its customers. Centra believes that this option provides basic changes to rectify what it perceives as the significant areas of concern affecting gas sales in the province. At the same time, a good deal of the present system would be retained.

Merchant Function
Centra, as a distributor, would continue to maintain a regulated merchant function, offering customers basic gas service. The basic service would consist of a limited menu of supply options, primarily for the core customers who actively choose to stay with the regulated company. Pricing would be regulated by the Board, and would consist of either fixed or variable pricing for differing periods of time or, the offering could consist of the Aplain old≅ gas service currently being offered. Concurrently ABMs and a Centra unregulated affiliate, Centra Energy Services (ACES≅), would offer a wide range of supply options in the competitive market.

With respect to the regulated merchant function, Centra proposed a lessening of the degree of regulatory oversight to one of monitoring Centra's processes in obtaining and pricing the regulated supply. Centra believes that market forces would to a large extent dictate price, both at the wholesale and retail end of the market. Under this option, the market price paid by Centra would

be passed through to the customers by use of a pre-approved price mechanism which would balance the PGVA more frequently than is the current case. The Board would monitor the price of the gas commodity, but normally, there would be limited need for the Board to intervene.

Minimum Level of Service

Under Option 1A, Centra would retain the obligation to serve, as in Centra=s opinion, this is a legislated requirement imposed on Centra. Centra views this issue with two concerns:

1. In the event that ABMs took over the entire role of gas merchant, what protection would there be to ensure that there would always be an adequate supply of gas available to customers? If Centra were removed from the merchant function, including the storage, transportation, and load balancing functions, maintaining an obligation to serve would be difficult and onerous as Centra would not have a gas supply department to either acquire gas or ship it to Manitoba. Accordingly, a legislative amendment would be required to remove the obligation to serve.

2. Who would be responsible to serve those customers who are perceived to be or are bad credit risks, if the statutory obligation presently imposed upon Centra by the *Greater Winnipeg Gas Distribution Act* S.M. 1988-89, c.40 (AGWGDA≅), were to be removed? For those customers that are poor credit risks, the lock-off provisions of the *Public Utilities Board Act* S.M. 1987, c.P.280 (A*PUB Act≅)*, would have to be amended to prohibit all ABMs from discontinuing service from the October 1 - May 14 period, if Centra were to be removed from the gas merchant function. Centra urged further review to determine who should assume the risk for bad credit customers, and other aspects arising out of the obligation to serve consideration.

Price Transparency

Centra submitted that, while the buy/sell mechanism had delivered significant benefits to customers, the current customer requirements are not being fully met with this arrangement. Customer choice is constrained and the emphasis is on savings relative to Centra=s average price supply portfolio, rather than on actual commodity prices. A further complication results because of the WACOG based pricing and requirement for periodic price adjustments. Centra suggested that buy/sell arrangements be continued but

that the pricing mechanism be revised to allow for more current and transparent pricing. An unbundling and showing of the different components of a consumer=s gas bill, such as commodity costs, upstream costs for both transportation and storage and distribution costs and perhaps other costs, as services become unbundled, would allow customers to understand these underlying costs and make appropriate decisions. Customers could then avail themselves of these services in a competitive market, to the extent these services were made available by the competitive market.

Centra also recommended the institution of Western Bundled Transportation Service (AWestern Bundled T- Service≅), with an optional billing and collection service component. By way of definition, in a Western Bundled T-Service, Centra would take custody, but not ownership of gas at the Alberta border and transport, transmit and distribute that gas to the customer=s burner tip. The customer would purchase the gas at the Alberta border from an ABM. Included in the service charge of Centra to customers would be the transportation on the TCPL system, storage and related transportation in the U.S., and the delivery charge on the Centra transmission and distribution systems. The commodity cost of gas would be billed by an ABM to its broker and Centra would play no part in the gas purchasing, risk management and sales rate determination procedures for gas if the customer chose to purchase gas through an ABM. Within the Western Bundled T-Service, Centra would remain an option from whom the customers could purchase gas.

The billing and service component would be available to ABMs at an appropriate tariff. Under this arrangement Centra would bill direct purchase customers for gas supplies purchased by the customer from ABMs, at prices agreed to by the customer and the ABM, in addition to the transportation tariff. Amounts collected from the customers for the cost of gas would be remitted to the respective ABMs. Centra submitted that such a service would benefit the customer as it would name the customer=s supplier and would enable the customer to readily determine the commodity cost of gas. The ABMs would benefit in that it would overcome their concern with respect to customers receiving appropriate and timely price signals.

Transportation and Storage

In terms of system operational concerns, Centra proposed that it be allowed to continue to control storage and related transportation to the city gate. Centra took the position that if ABMs provided their own storage requirements, Centra would have stranded costs arising from existing long-term storage arrangements. Centra=s position was that the shareholder should not bear such costs since the Board has previously determined that Centra had acted prudently in entering into the most cost-effective arrangements at that time. Centra's contention is that it had contracted for optimal transportation and storage arrangements for the particular requirements of the Manitoba market.

Although Centra indicated that potential problems of assignments of its long-term supply, storage and transportation arrangements with TCPL, ANR and GLGT were likely not insoluble, absolute assurances could not be given that problems do not exist. Such problems could involve stranded assets and costs, credit worthiness of new players in the market and call-back rights of assigned capacity.

Centra requested that it continue to be responsible for daily load balancing in order to shield system customers from any cost implications attributable to load imbalances by non-system customers. Centra considered that this might require extensive telemetry and suggested that this matter be a topic for discussion by the proposed committee of interested parties.

Centra believes that the ABMs could and should provide their own backstopping supplies.

6.1.5 Alternative Recommendation

Centra also put forward an alternative recommendation whereby the Board would order the separation of the sales function from the distribution function. The significant change would be the immediate separation of the distribution and sales functions, either by assignment of distribution assets to a new regulated corporate entity or by assignment of the LDC's remaining customers to an unregulated affiliate, likely Centra Energy Services (ACES≅). This would result in all gas in Manitoba being sold by unregulated entities in time. In the initial instance Centra's position is that regulatory supervision over ABMs might be necessary until Part IV, 127 of the *PUB Act* is amended, since the Board is mandated to determine rates charged by any person selling gas.

In this scenario, a customer information campaign would be undertaken which would indicate that all customers, after some transition period, would be purchasing gas from an unregulated entity in a fully competitive environment. After this period, those customers not choosing some other ABM would automatically be served by CES. Centra contended that failure to choose another ABM would indicate that customer wished to remain with the Centra affiliate.

6.1.6 Transition

As a final matter, Centra suggested that a working committee of interested parties be struck to work out many of the details of a restructured market. Centra suggested that this Order of the Board could not hope to cover all of these details, but rather that the Order be detailed enough to enable the working committee to recognize and meet the Board's ultimate expectations, without having to return to the Board for further and continuous direction.

Centra indicated that a period of twelve months from the date of this Order would be required to affect the suggested changes and to implement the recommendations.

6.1.7 Centra=s View of the Positions of Others

In closing argument, Centra submitted that there was agreement amongst all participants on a number of principles, but not necessarily on the details of how best to resolve the various issues. The principles of substantial agreement include:

X The merchant function is competitive and not a monopoly;
X Current buy/sell arrangements are a barrier to the further evolution of the market;
X Further financial benefits to be realized are likely minimal;
X Customers wish to have commodity options;
X More non-discriminatory and clear consumer information is required;
X The LDC should be responsible for the efficient management of the distribution system;
X A monopoly LDC cannot misuse its position to engage in predatory pricing to inhibit competition;
X Regulatory burden and costs should be reduced; and
X This phase of deregulation is likely transitory and a further process will be required.

Centra also commented on the positions taken by some of the other participants at this proceeding.

Direct
Centra suggested that Direct is the major supplier to the core market by virtue of its brokering of gas to MTW who directly service this market in Manitoba. Centra submitted that if Centra or its affiliate were prevented from selling gas then Direct would become a much more dominant player and this would result in limiting the number of sellers to this market.
Enron and MTW
Centra submitted that Enron has not committed to enter the Manitoba market and that MTW have not vigorously pursed this market segment to date, even though they were allowed to do so under the existing system. Furthermore, parties such as Enron, MTW and Direct have substantial self-interest and potential financial gain in the positions they are advancing.

IGUA
Centra questioned the motives of IGUA, contending that its membership had already reaped the benefits of deregulation and that the only likely economic benefit would be the ability of IGUA members to sell peaking gas within the Centra system.

CEPU
Centra tended to agree with most of the positions advanced by CEPU in its pre-filed evidence and by its witness, but disagreed that no changes to the status quo were required.

Energy Probe
Energy Probe's position of a full prohibition of any affiliate of WEI selling gas in Manitoba and the required divestiture of the merchant function from the WEI family was, in Centra's opinion, draconian and would come at a price which is unacceptably high and unnecessary.

6.2 CEPU

6.2.1 Purpose and Consideration in Restructuring Market

CEPU strongly urged that the principle behind any form of deregulation should be a clear benefit for the consumer, and referred to the experience in the telecommunications industry where deregulation has not resulted in benefit for the majority of consumers. CEPU argued that there is no evidence before the Board that fundamental or systematic problems exist in the natural gas industry in Manitoba, and that the burden of proof supporting more radical changes has not been satisfied. CEPU submitted that there is no evidence to support that any further substantial benefits will be received from deregulation. They urged the Board to make some adjustments to the natural gas industry in Manitoba, but that on the evidence that is before the Board, nothing substantial is required.

CEPU expressed concern about diminishing the regulatory responsibility of the Board as guardian of the public interest and relying to a greater extent on the operation of market forces. CEPU contended that there would be

increased risk of an inferior outcome measured in terms of energy prices, safety and reliability of service.

6.2.2 Recommended Changes

CEPU was in substantial agreement with the position advanced by Centra, and is supportive of the constructive reform being proposed by Centra. CEPU believed that the natural gas industry in Manitoba is serving the consumer well with a reasonably priced, reliable supply of natural gas, and confirmed its view that the course proposed by Centra is the sensible and pragmatic one and one without potential negative impacts on the Manitoba consumers.

The original position of CEPU was to support the status quo. After listening to the evidence and final arguments, however, its position evolved. CEPU stated that it supports the series of changes being proposed by Centra, noting that more radical changes to the natural gas industry were not needed at this time.

6.3 ANR

ANR did not present evidence in chief or participate in cross examination of any of the witness. ANR maintained a watching brief throughout the hearing and submitted written final argument to the Board. ANR's direct and substantial interest in this hearing and subsequent Board decision is attributable to the existing storage and transportation contracts between Centra, ANR and GLGT.

6.3.1 Constraints and Concerns in Current Marketplace

ANR suggested that the critical underlying principles in this matter pertain to sanctity of existing contracts and security of supply. ANR submitted that sanctity of contract was the cornerstone of modern business, ensuring efficiency and confidence in economic transactions and must therefore not be breached. ANR submitted that Centra was required to fulfil the terms of the contract which had been concluded to allow Centra to meet its statutory obligation. ANR and GLGT have made substantial capital commitments and obtained Federal Energy Regulatory Commission (AFERC≅) approval for the Centra contracts. FERC requires ANR to offer firm service on a first-come, first-serve basis, which could influence Manitoba storage arrangements should the Board order some change in these arrangements.

ANR requested that the Board decision state general principles which would ensure that the Board's statutory responsibility of ensuring Manitoba consumers obtain required service at fair and reasonable rates is maintained. ANR submitted that a reasonably priced service now exists in large part because of the complex interjurisdictional and inter-corporate storage and transportation arrangements entered into by Centra in 1991. The continuation of these arrangements would protect the consumer interest. These arrangements are desirable because ANR is obligated to provide storage arrangements based on costly facilities at guaranteed rates which are capped. These rates cannot increase but may decline. Centra thus is free of risk of cost of new facilities and unknown rates.

ANR urged the Board to consider the possibility that, depending on the degree of separation of the merchant function ordered, a real potential could exist to undermine critical and positive features of the storage/transportation arrangements. Assignment of contracts would not necessarily guarantee that existing rate levels would be maintained, and it might be necessary to "abrogate, terminate or otherwise affect existing contractual obligations." ANR concluded that the Board, in any event, lacked jurisdiction to review these existing contracts with a view to directing either Centra or ANR to terminate or assign the contract unilaterally.

6.3.2 Recommended Changes

ANR supported the scenario which would see Centra retaining a regulated merchant function. ANR also supported an unbundling of delivery services beyond the city gate to allow for the continuation and expansion of the operations of other ABMs.

6.3.3 Alternative Recommendation

ANR recommended that, in the event the Board chose another option involving some degree of separation, it should also require that a working committee of interested parties be formed to fully explore the implications, both legal and financial, before affecting that separation.

6.4 TCGS

TCGS supplies gas to Centra for Centra's system supply and also participates in Manitoba's direct market. TCGS therefore has a direct and substantial interest in this hearing. TCGS 's interest concerns the merchant function role, with much less emphasis on Centra's participation in other areas of the gas business in Manitoba.

6.4.1 Constraints and Concerns in Current Marketplace

TCGS identified two constraints that unfavourably impact the current marketplace. First, the predominance of the buy/sell service as the mechanism for implementing direct purchase transactions may introduce price and service distortions into the competitive market. Second, the unbundled T-service currently offered by Centra appears to be suitable only for large volume customers, thus limiting the ability of customers and marketers to compete with Centra in the upstream transportation of gas.

6.4.2 Purpose of and Consideration in Restructuring the Marketplace

TCGS submitted that a principle generally agreed to by all participants is that where it is possible to engineer conditions that will create workable competition in the market for goods and services, market forces will often be more effective in protecting the public than regulation. The dispute centers around how to put this principle into practice by restructuring the Manitoba natural gas industry and foster a competitive environment that will best serve Manitoba consumers.

The solution put forward by TCGS was one of providing properly priced transportation services for customers who choose to purchase gas from an ABM and at the same time rectifying the flaws in Centra's existing transportation services.

The central issue in this proceeding is whether it would be appropriate to discontinue Centra=s regulated sales services, and instead require all end-use customers to purchase their gas supplies at unregulated prices from unregulated marketers.

TCGS contended that there are two distinct factions, one favouring elimination of the LDC merchant function role and the other supporting the continuation of this function as a regulated activity. TCGS submitted that the real differences in the relative positions are very slight and perhaps totally illusory. TCGS suggested that all parties agreed that the overall goal is to ensure that consumers are better off financially, have more and clearer choices, and have equitable access to the gas market. Additionally, TCGS expressed the opinion that where they can be engineered, competitive solutions are preferable to regulated ones. This concept was accepted by all participants, who further agreed that:

- The wholesale gas market in Alberta is already competitive;
- Not many additional benefits can result from changes in Manitoba;
- It may be possible to increase the efficiency of Centra's upstream transportation and storage arrangements;
- Existing buy/sell arrangements are flawed and send out false price signals; and
- The economic benefits or detriments resulting from any of the proposed changes cannot be quantified.

TCGS suggested that the decision on this issue should rightfully be made not on the basis of balancing costs and benefits, but rather on the assessment and balancing of risks inherent with each of the recommendations. TCGS argued that there is a clear benefit to allowing the regulated merchant function to continue and no discernable benefit to forcibly eliminating it.

TCGS submitted that competition in all segments of the retail market, although not functioning perfectly, already exists. The current market structure results in the Centra merchant function providing a competitive cost-based alternative gas supply, which the consumer is free to accept or equally free to reject in favour of ABM supply. By virtue of Board regulatory oversight, Centra's pricing behaviour is constrained not only by competitive forces, as are Centra's existing competitors, but also by the Board. The benefit to this, in effect, price capping at cost based rates, is that the utility cannot mark up its price over cost. If Centra's price is above market price, the consumer is free to obtain gas from an ABM. TCGS contend that if the regulated merchant function were eliminated, this benefit would no longer be available for the consumer. Any financial benefits, which TCGS admits might be small, would then accrue to Centra's shareholders. TCGS agreed that if one assumed that an unregulated market operating with properly designed transportation services would limit prices to a cost-based level, this position is not valid. However, it is not known how effective the competition will be nor how long it will take for a truly competitive market to develop. TCGS suggested that, as a result, no statement can be made which implies that there would be no risk to consumers if the regulated merchant function were eliminated.

TCGS further submitted that there are no discernible benefits arising from the elimination of the regulated merchant function. It stated that costs would

not likely to be reduced by removing the merchant function from Centra since it currently acquires its gas at market price which is passed on to customers without mark-up. The cost-based merchant function limits the pricing behaviour of the largest seller in Manitoba to a cost-based level. TCGS argued that the problems which parties suggested be solved by eliminating the merchant function could in fact be resolved absent such a change. The flaw in the buy/sell arrangement of obscuring market signals could be resolved, a Western Bundled T-Service could be instituted, upstream storage and transportation could be unbundled to improve efficiencies, and none of these solutions would require the elimination of the regulated merchant function.

6.4.3 Recommendations

TCGS recommended that Centra's merchant function remain a regulated business. TCGS also noted that as it exists now, with cost-based rates, the merchant function has the important advantage of capping consumer prices at a cost-based level. TCGS further recommended that a Western Bundled T-Service be instituted and that a study be undertaken to investigate the unbundling of all of Centra's storage and transportation arrangements. By instituting a Western Bundled T-Service, prices would be more transparent and consumers would be able to make better purchasing decisions. TCGS submitted that as a step in the evolution of the market towards a structure in which there is no regulated merchant function, substituting the Western Bundled T-Service for the current buy/sell mechanism would likely be useful. TCGS did not agree with Centra's reasons for wishing to retain control of upstream storage and transportation (potential diversion to higher priced markets and the requirement for real time telemetry) and suggested that further study by a working committee of interested parties would resolve these concerns.

6.4.4 Alternative Recommendation

TCGS urged the Board that, if it were to order the elimination of the regulated merchant function, that it not do so in haste and certainly not before being satisfied that a totally unregulated market would be competitive and that such an action would not leave consumers worse off than under the present regime. Additionally, in this circumstance, the Board ought to ensure that alternative transportation services were in place before affecting a change. Such transportation arrangements should include matters related to load balancing, backstopping, obligation to serve, penalty provisions, lock-off rights and assignment rights for upstream storage and transportation.

6.4.5 TCGS=s View of Positions of Others

Centra

TCGS noted that if the Board were to remove Centra from the regulated merchant function then parties such as Enron, MTW, and Direct would presumably be in a better position to acquire significant new market share in an environment untroubled by competition from the cost-based merchant service currently offered by Centra. TCGS questioned whether this would be in the public interest. TCGS disagreed with Centra=s proposal that the Board discontinue regulation of the prices charged by Centra for gas supply. The proposal that Centra retain and operate all of the upstream transportation and storage infrastructure necessary to deliver gas to Manitoba on a bundled basis was not necessary since this was not a genuine obstacle to the provision of a Western Bundled T-Service. Furthermore, telemetering would not likely be required for this service.

Direct and Enron
TCGS submitted that Direct=s evidence proposing a market structure was not in response to the constraints or concerns which Direct identified as adversely affecting the current marketplace.

TCGS noted that there was no connection between the Direct proposal and the identified constraints in the market, and therefore there was little basis for making the proposal in the first place. TCGS held that the Direct evidence did not support the elimination of the merchant function. TCGS provided the same criticism with respect to the evidence of Enron.

MTW
TCGS pointed out the lack of connection of the evidence of Municipal between the constraint of the buy/sell mechanism and the need to eliminate the purchase of gas from Centra at the regulated cost-based rate.

IGUA
TCGS charged that the evidence of IGUA leaps from pointing out the defects in Centra=s offering of transportation services to the conclusion that Centra should not be allowed to sell gas through a regulated merchant function.

Energy Probe
TCGS disagreed with the proposal of Energy Probe to forcibly eject Centra from the merchant function by the sale of its merchant business at market-value to an arm=s length third party. TCGS further expressed puzzlement as to the Energy Probe proposal that Centra continue to sell system gas after it divested its merchant function.

6.5 TCPL

TCPL monitored the proceedings and submitted final argument. TCPL stated that they are neutral with respect to the degree of unbundling which might be appropriate for Manitoba, but expected that any such process would have a high regard for honouring all existing contractual arrangements. TCPL further stated that any Manitoba decision would not likely adversely impact on the total quantity of gas under the contract with Centra and that Centra's capacity could be assigned to other shippers, if necessary. Additionally, TCPL's Toll Schedule stipulates required financial assurances and TCPL would expect any assignee to satisfy those requirements.

TCPL further stated that LDC=s, like Centra, have proven to have sophisticated knowledge and financial strength which made them ideal customers. TCPL went on to indicate that, as the industry evolves with the overall objective of benefiting end-use customers, it must be recognized that future transportation infrastructure expansions will continue to require long-term commitments from financially secure participants.

6.6 CAC/MSOS

6.6.1 Constraints and Concerns in Current Marketplace

The constraints and concerns in the current marketplace identified by CAC/MSOS include the lack of price transparency so as to prohibit customers from price comparison, the buy/sell mechanism, residential market dominance by the LDC, Centra=s control over all billing and collection functions, limited retail competition, lack of information about supply and pricing options, and diversification into new markets by Centra.

6.6.2 Purpose and Consideration in Restructuring Marketplace

CAC/MSOS submitted that although the restructuring of the marketplace is being considered with the hope that the result will be a more competitive market with more customer choice, lower prices and less risk, there is no guarantee that this will occur, particularly for the small and unsophisticated customer. There is a possibility that there will be less regulation without effective competition which could result in higher prices and unfavourable contract terms.

The interest of suppliers and consumers often differ, but when operating properly, competitive markets discipline producers more effectively than regulation. However, interests of consumers are not served by a market that lacks either competitive or regulatory discipline. Because natural gas consumers have traditionally relied on regulation, the risk of market failure is greater in this industry. CAC/MSOS contended that before regulation can be removed, the market must be transformed to give consumers well informed choices. To deny this restructuring may result in higher prices which is not acceptable to consumers.

CAC/MSOS suggested there were three different agendas which dominated this process:

1. A desire to increase competitive discipline in the market to induce players to operate more efficiently and reduce gas cost;

2. A move to replace the buy/sell mechanism to allow ABMs to maximize profits on gas sales; and

3. To protect the LDC=s dominant market position to give the LDC an opportunity to expand into other unregulated business lines with significant profit opportunities.

CAC/MSOS submitted that in reviewing the models proposed to restructure the market, the Board should use seven well defined criteria to assist in the evaluation of a decision related to the appropriate model as follows:

1. are operating costs subject to the competitive market;

2. are gas supply arrangements facilitated;

3. are regulatory costs minimized;
4. are economies of scope maintained;

5. are cost reductions passed on to consumers;

6. are a wide selection of choices available to meet individual customer needs; and

7. is the incentive and opportunity to over recover costs from monopoly services controlled.

CAC/MSOS submitted that the primary benefits of separating the merchant function are reduced regulatory costs and undetected cross-subsidy that will enable an LDC to obtain a competitive advantage. CAC/MSOS suggested that there is little advantage in subjecting the merchant function alone to increased competition and the only way to achieve significant cost reductions is to expose those Centra services which are not natural monopolies to competition.

CAC/MSOS contended that the risks of any change included the possibility of higher consumer prices, because too few sellers enter into the market and Centra is restricted from competing, as well as exploitation of unsophisticated customers until they become acclimatized to the new environment.

6.6.3 Recommended Changes

The model proposed by CAC/MSOS requires the separation of the monopoly distribution function from the rest of Centra through the creation of a Centra Distribution Company (Distco). The rest of Centra=s retail functions, including all sales and billing activities, customer inquiries, merchandise sales, rental and leasing, would be carried out by a sister company (Retailco), which would eventually be unregulated. Centra Gas Inc. would continue as the holding company, with Centra Gas Manitoba Inc. becoming the Retailco and the Distco could be organized under a separate corporate entity. At the end of the transition period, CES could be amalgamated with Centra Gas

Manitoba Inc. since activities carried on by both companies would be competitive.

CAC/MSOS submitted that this model would enable competition for all Centra=s functions, other than distribution, and would achieve the maximum possible benefits by best meeting the evaluation criteria proposed by CAC/MSOS. It offers the best chance for reduced consumer costs, provides a competitive incentive to provide for more efficient gas supply arrangements, and reduces regulatory costs by streamlining the regulatory process as much as possible while retaining the Board=s essential role during the transition period. Only a portion of Centra=s current costs would be subject to regulation, decreasing the regulatory load. The need to regulate the competitive services would disappear after the transition period. CAC/MSOS urged the Board to continue to regulate prices charged by Centra Retailco until all segments of the restricted market achieve full and effective competition.

With respect to regulatory oversight of Centra Distco, CAC/MSOS recommended the Board continue to regulate the distribution activities, but perhaps in a different "light handed" mode, such as price cap regulation. To protect consumers, CAC/MSOS recommended an extended Acooling off≅ period in respect of gas supply contracts during the transition period to ensure that suppliers do not take advantage of poorly informed consumers. The Acooling off≅ period would allow consumers to withdraw from contracts within 30 days. CAC/MSOS also recommended that the Board limit variable price contracts to one year, and limit fixed price contracts to the term of the price guarantee, at all times customers being notified of their rights to renew such contracts. A price registry where all ABMs, including Centra, are required to post current prices would be required to improve price transparency.

The model also minimizes the potential for lost economies of scope, as all functions are grouped into two distinct areas. It further offers the best chance for benefits to be passed on to consumers by forcing aggressive price competition which would not occur where there are only a few suppliers and a lack of price transparency. CAC/MSOS contends that as the model facilitates consumer choice, and diminishes the opportunity for cross

subsidization, it is more difficult to misallocate costs between sister companies than within the same company.

CAC/MSOS believes their proposal advances consumer interest by bringing competition to bear on many of the LDC=s previously regulated customer service functions. It facilitates choice among alternate pricing options, and offers consumer choice for all other related gas services. To protect the consumer interest, CAC/MSOS recommend that the Board order the establishment of a committee of interested parties to address and recommend procedures with respect to improved customer information, backstopping, and a natural gas contract insurance mechanism. The gas contract insurance mechanism, perhaps an industry established fund, would provide for guaranteed fulfilment of all contractual obligations to small customers.

CAC/MSOS agreed that the potential for supply interruptions was remote, but unless appropriate mechanisms were in place, problems could arise if suppliers were not paid by some of their customers. It urged the Board to ensure that, whatever model was chosen, a failsafe mechanism be instituted to ensure that backstopping of gas supply would be available when required.

6.6.4 Transition

CAC/MSOS recommended that the industry introduce a price registry for consumer information on current prices of natural gas and that the matter of stranded assets and associated cost be reviewed by the proposed working committee of interested parties. CAC/MSOS favoured a voluntary ballot mechanism for contract assignment, but could not agree with forcing a consumer to choose an alternate supplier. CAC/MSOS felt the Board would have to monitor the operation of the new marketplace to resolve any customer complaints or disputes between the Distco and the suppliers, and any number of other potential problems not foreseen at this time.

CAC/MSOS recommended the Board order that:

1. Centra create a separate company to supply distribution services to all ABMs on a non-discriminatory basis;

2. Centra and ABMs prepare, under direction of the working committee, an information package to be available to consumers on request;

3. A mechanism be instituted to ensure consumers have comparative pricing information;

4. A fund be established to ensure continued gas supply under terms of an original contract, if an ABM defaults on a contract; and

5. A working committee, consisting of representatives of Centra, ABMs, consumer groups and the Board, develop a detailed plan to implement principles established by the Board.

6.6.5 CAC/MSOS=s View of the Positions of Others

Centra
CAC/MSOS disagreed with the model proposing to separate only the merchant function because the potential risks far outweigh the small potential benefits. The risks include over allocation of costs to the monopoly entity, increased regulatory burden to monitor cost allocation procedures, and Centra would be better able to maintain its dominant market position because it would continue to control customer relations. There would also be little incentive for Centra to increase productivity in its customer service functions. Also, if potentially competitive functions continue in the regulated company, further costly proceedings would be required to resolve those matters.

Energy Probe
CAC/MSOS suggested that complete divestiture, as recommended by Energy Probe, would be difficult to implement and would likely result in court challenges which would further delay any market restructuring.

6.7 Enron

Enron is a large multi-national energy corporation based in Houston, Texas. It is the largest gas marketer in North America. Although it presently does not have any economic interests in Manitoba, it intervened actively in these proceedings. Enron expressed future interest in the Manitoba market. Comments made by Enron related to the natural gas industry in North America generally rather than Manitoba specifically.

6.7.1 Constraints and Concerns in Current Marketplace

Enron filed similar evidence to Direct and identified the same constraints and concerns.

6.7.2 Purpose of and Consideration in Restructuring the Marketplace

Enron requested the Board to order a restructuring of the Manitoba market in order to realize the potential for robust retail market competition which would encompass three major changes:

1. Separation of Centra's distribution and merchant functions
2. Unbundling of the remainder of Centra's distribution and related services
3. Forbearance by the Board in respect of regulation of the commodity price of gas.

Enron submitted that the Board must weigh the potential loss of any economies of scale and scope against the real benefits of separation. The Board should determine an appropriate level of separation which would balance the loss of economies against the real benefits of separation. Enron suggested that the appropriate degree of separation would be similar to that ordered by FERC Order 497 in which the level of separation accommodated the twin goals of determining and preventing affiliate favouritism and preserving the benefits of vertical integration for consumers or by The Public Service Commission of Wisconsin Order 05-GI-108 which adopted complete separation between regulated and non-regulated activities.

6.7.3 Recommended Changes

Enron urged the Board to order the unbundling of Centra's storage and distribution functions and to identify the cost of each service so that customers would know what they are buying. Enron submitted that unbundling would increase customer choice and customer understanding of the service offerings, and would reduce the risk of cross-subsidization between services and customer classes. Enron also asked the Board to permit a robust competitive market to develop and forebear from regulating the commodity price of gas though this might require certain legislative amendments.

Enron summarized its position by suggesting that the Board Order contain the following:

X Centra cease its merchant function.
X The Board monitor the level of separation achieved and make adjustments as necessary.
X As a general principle stipulate that all components of Centra's distribution and storage tariff be unbundled on the basis of cost of service and cost allocation studies, and that the unbundled tariffs be reviewed by the Board in a public forum.

6.8 Direct

Direct's current role in Manitoba involves arranging for the supply of natural gas to three aggregators operating in Manitoba. These aggregators are WestCan, Transprairie and Municipal.

6.8.1 Constraints and Concerns in Current Marketplace

Direct identified the continued market dominance of monopoly LDCs as the principal constraint that has unfavourably influenced Canadian downstream markets. Centra has traditionally acted as the facilitator of direct purchases within the province. Under Centra=s proposal, it would also act as a competitor. Direct contended that Centra would be unable to act both as a facilitator and a competitor.

Further constraints identified by Direct include the system gas resale mechanism which moved the gas pricing from the downstream jurisdictions upstream to Alberta. Another constraint is the traditional financing of TCPL which does not allow for shorter term contracts and different types of service. Finally, Direct is concerned that the misallocation of costs by the LDC creates price distortions.

6.8.2 Purpose of and Consideration in Restructuring Marketplace

Direct submitted that this hearing was another step in the evolution of the Manitoba gas marketplace and that the restructuring of the industry was clearly desirable and inevitable. The trend is towards unbundling of utility rates and structures and towards more competition and less regulation. Direct suggested that effective competition will benefit the competitive position of Manitoba firms, that the regulator will have to guide the development of efficient downstream markets, that concerns about supply reliability and adequacy of pipeline capacities must be satisfied, that physical flows of gas and contractual flows of gas within the North American market must be distinguished, and that the presence of many ABMs will result in more efficient pricing system which will, in turn, serve to improve the overall system load factor.

As a general premise, regulation should be limited to where there is a natural monopoly. Since there are no natural monopoly characteristics associated with the merchant function it should be placed within the unregulated market. Direct commented that there was agreement by the participants on a number of issues, including efficiency of the industry at the wholesale level, security and adequacy of Alberta supply and inability to quantify the economic benefits of separation. However, Direct suggested that there might be some economic benefit to separation in that the delivery rates might decrease if costs related to gas acquisition were properly tracked, removed from the distribution function and charged to the merchant function. Furthermore, by introducing competition, economic efficiencies would be found as competitors discover the hidden values in the system.

Direct submitted that Centra has made substantial progress towards creating downstream competitive gas markets through the use of the buy/sell

mechanism and direct purchase. The buy/sell mechanism however cannot provide a firm foundation for efficient, robust downstream gas markets. In the transition to a more competitive market, a regulatory principle to be considered is that LDC prices and terms of service should not only facilitate efficiency of the LDC=s operation but also encourage efficiency of use by customers. Efficiency in the gas industry requires that each user have the opportunity to take title to gas at the customer=s point of choice. Efficient pursuit of that objective requires the user to be able to contract for monopoly services such as storage, pipeline transportation, distribution transportation, and balancing services at efficient prices, as required.

In reviewing the future role of the LDC, a witness for Direct provided five conclusions:

1. Distribution will remain a significant natural monopoly and must continue to be regulated;

2. There are economies of scale in buying and selling gas, and many merchants are large enough to exploit these economies. There does not seem to be any significant complementaries between the distribution and gas merchant functions;

3. The LDC=s obligation to serve must be re-defined;

4. Comparability of transportation services beyond city gates must be established since efficient downstream markets depend upon this;

5. Determining prices for individual LDC services is more difficult when services are produced from common plant. As competition intensifies and unbundling occurs, this task of the regulator will become even more difficult.

Direct suggested that the existing buy/sell arrangements and potential for cross-subsidization remain a problem. The main problems with the buy/sell arrangements is the lack of price transparency, false and mixed price signals and price retroactivity imposed by the existence and requisite balancing of the PGVA.

6.8.3 Recommended Changes

Merchant Function
Direct recommended that the Board direct full separation between Centra=s competitive merchant and monopoly distribution functions. Centra would be allowed to create an unregulated gas marketing affiliate which could not bear the Centra name, or Centra could use the services of its affiliate gas marketing company, Westcoast Gas Services Inc. The Board would then not regulate the commodity cost of gas, but would only regulate the distribution functions of the utility.

Separating Centra=s functions by removing its regulated commodity business would guarantee that LDC pricing of monopoly services is accurate and would eliminate the problem of cross-examination between the two businesses. Direct further recommended that a co-operative, comprehensive customer communication and awareness program to educate all customers about the restructure gas market be initiated.

Transportation and Storage
All components of Centra=s distribution tariff should be fully unbundled, in accordance with Board approved cost of services and cost allocation studies, so that customers can choose from an available menu of individual service options.

Direct argued that Centra must operate its distribution system adequately to ensure continuity of adequate supply into the distribution system, and so must be charged with load balancing and nominations. Backstopping could be provided by the market rather than the regulated utility, as ABMs are able to provide this service competitively.

Direct suggested if its proposal were accepted, stranded assets and costs would be minimal and profits from the sale of excess transportation capacity would accrue to Manitobans because of competitive pressures. Direct suggested that other operational problems such as bad debt provisions and telemetry could be satisfactorily resolved by a working committee of interested parties, which Direct recommend be formed.

Minimum Level of Service

With respect to the obligation to serve, Direct differentiated between the obligation to provide delivery service and the obligation to supply gas. Direct argued that Centra had an obligation for the former, not the latter.

Since none of the parties could quantify any benefits that might accrue from their positions being adopted, Direct suggested comparing the risks of the recommendations of the interested parties. Under Centra=s proposed expanded role for the utility, the risk is that competition will fail to materialize due to the dominant role of the utility. The risks of complete separation of the merchant function from the distribution function is that the natural gas supply choices will be reduced, resulting in a market which fails to meet customer=s needs and a lessening of the economies of scale. In weighing these risks, Direct submitted that the risks of complete separation are less.

6.8.4 Alternate Recommendation

Direct asked that should the Board decide that total physical separation was not desirable, the following be considered to ensure safeguards, but only as a temporary transitional measure:

X Institute Western Bundled T-Service;
X Deny Centra's proposal to offer a wider range of options ;
X Consider phasing out buy/sell over two years;
X Eliminate the PGVA;
X Centra to become a neutral facilitator;
X Move the ABC function into the competitive side; and
X Allow assignment of storage and transportation to attempt to improve load factor.

6.8.5 Transition

Direct requested that the Board decision in this matter should embody principles and the details would then be determined by a working committee of interested parties. Additionally, the Board should outline some issues for this committee to address. The working committee would likely be required to approach the Board with the details of the restructured market to enable the Board to satisfy itself that the details are workable.

Although there were some differences on other matters, such as load balancing and nominations, Direct was of the opinion that most of the participants believed that these could be resolved by the proposed committee.

All customers not choosing a specific ABM should be assigned by a lottery system. Cost allocation should be an integral part of restructuring and Centra's customer list should be made available to all ABMs.

6.8.6 Direct=s View of the Positions of Others

Centra
Direct contended that Centra's position was contradictory to Westcoast=s in that Centra would stay in the merchant function as long as its customers wanted them to, while the sister company in Ontario wanted to exit that function now, despite customer wishes to the contrary. Direct contended that Centra is attempting to become an ABM, engaging in active and aggressive competition with other ABMs. However, Centra would also have the advantage of having a PGVA which gives them an unfair competitive edge, removes any risk and creates a totally unlevel playing field. At the same time Centra wants to offer its customers an expanded menu of regulated price supply options. Direct contended that Centra's proposal would trigger increased regulatory supervision, citing as an example the potential for multiple PGVAs.

Others
Direct also expressed the opinion that the complete divestiture model advanced by Energy Probe was a reasonable alternative, but perhaps required action beyond the Board's authority.

Direct further expressed reservations of the TCGS proposal indicating that this would give TCGS an unfair advantage in retaining customers.

Direct did not agree with the model advanced by CAC/MSOS because it felt that the result would be two regulated companies.

Direct did not agree with the position adopted by CEPU, stating that it was a proposal to retain the status quo, which Direct felt would not be in the public interest.

6.9 Municipal, Transprairie, Westcan (MTW)

This interested party group is a coalition of ABMs servicing the residential and small customer in Manitoba, consisting of Municipal Gas Inc., Transprairie Gas Inc., and WestCan Gas Inc.

6.9.1 Constraints and Concerns in Current Marketplace

MTW identified a number of inefficiencies associated with current regulatory arrangements including the following three forms of price distortion:

X Inaccurate price signal generated by WACOG since it does not reflect current market prices;
X Cost distortions occurring as commodity costs are moved into the regulated side of the LDC; and
X The current restricted menu of services offered by the LDCs.

The convoluted structure of the buy/sell arrangement increases transaction costs as does the cost of regulatory proceedings. The current market structure has increased information costs as the buy/sell results in decisions being made without any information on true market prices.

MTW stated that barriers to entry for new players currently exist. These can be defined as costs which will be incurred by entrants to the market that were not incurred by the incumbent at the time of their entry. These barriers include the competitive abuse the LDC could exert through control of the distribution system; the LDC=s billing function, which provides the LDC with a high degree of customer information and the attendant brand name recognition or reputational capital.

6.9.2 Purpose of and Consideration in Restructuring Marketplace

MTW submitted that the Board decisions flowing from this hearing will be extremely important to the customer, the utility, ABMs and the gas industry in general throughout North America. MTW suggested that there is agreement amongst all player on a number of the issues and that the action of this Board in calling this hearing has precipitated industry wide discussions which have led to such agreement. The basic question is how the market for the sale of natural gas should be conducted in Manitoba and whether or not the competitive marketplace is able to provide what the customers want. The object is not to advance the interests of any one firm but rather to advance public interest by increasing the welfare of end-use consumers and overall economic efficiency.

The options in a competitive setting will center around consumer choice, market transparent pricing, marketing gas with other products and meeting the customer's expectations quickly and efficiently.

MTW stated that all participants agreed that the merchant function is now a competitive business. MTW therefore contended that there is no need for regulation of the commodity price by the Board which is already set by the market to a large extent by virtue of the commodity price being tied to the NYMEX contracts. MTW suggested that a compromise allowing both regulation and free market was not acceptable; it would dilute effective competition and further complicate regulation. Centra's offer to improve the current system exacerbates the problem by increasing regulation for no substantial reason, other than to enable Centra to retain its market share.

MTW also contended that the burden of proof is on Centra to show that the competitive market will fail and that if there is reason to believe the competitive market will develop it should be permitted to do so. MTW stated that all participants agreed that the security and availability of gas supply was such that the entire LDC's gas requirements could be supplied by an ABM. The matter of obligation to serve, load balancing and back stopping could be solved by an industry wide working group, or committee, the formation of which is recommended by MTW.

6.9.3 Recommended Changes

MTW recommended that the merchant function for the sale of gas, water heater rentals, and all burnertip services which can be provided by competitive market be segregated from the monopoly pipeline function of the utility.

MTW further recommended that the Board terminate its regulation of all these functions, particularly the commodity cost of gas. However, the regulatory withdrawal should not be complete and instantaneous, since deregulation in the absence of other changes leaves the potential for anticompetitive abuse by the LDCs. Only when a real competitive market exists should the Board forbear from regulation.

MTW submitted that the pipeline function of the utility would remain a regulated monopoly. Centra would continue to operate the present storage and associated transportation system and make daily nominations. It would also continue to provide billing, accounting, and meter reading. If Centra Gas Manitoba Inc. or its parent wished to enter the gas merchant function, then they would only be permitted to do so through a subsidiary of the parent, not as a subsidiary of the Centra Gas Manitoba Inc.

6.9.4 Alternative Recommendation

MTW suggested that if the Board chose Centra's option of continued commodity regulation, Municipal would request the immediate institution of the Western Bundled T- Service and the billing option, as an interim measure. Additionally, in this case, MTW suggested that a working committee be struck to investigate appropriate rates and procedures and to report its findings to the Board.

6.9.5 Transition

MTW urged the Board to order the implementation of a fully competitive market, and stipulate a definite time for the transition to be completed and that such a time must be relatively short. MTW suggested that the effective functioning of a competitive market depended on proper system operations and asked the Board to set up a working committee with industry participants to work out these operational details. The results would be reported to the Board for approval on a periodic basis.

MTW suggested that the topics for the working committee should include processes for encouraging customers to leave system supply, advertising campaigns and potential customer allocation systems; credit risk and service cut-offs; transfer pricing, transportation rates and/or Agency Billing and Collection-T Service rates. The Board should monitor these meetings and make decisions as required and to keep all parties focused. MTW also suggested the Board order an immediate study, to be undertaken by independent experts, at Centra's expense, on the effects of unbundling storage and transportation services and making these services competitive.

6.10 Industrial Gas Users Association (IGUA)

IGUA has several Manitoba members and participated in this hearing to advance their interests. As an organization IGUA believes that where a competitive market exists, in whatever market sector, it should be allowed to operate without regulation. The functions of marketing and selling natural gas as a commodity should be deregulated as it meets the competitive criteria and should be fully separated from the functions of transporting and distributing natural gas which, as a monopoly, should be regulated.

6.10.1 Purpose of and Consideration in Restructuring the Marketplace

IGUA stated that the purpose of their participation is to attempt to persuade the Board that the establishment of a market structure where all gas users can trade gas at the burnertip will maximize the efficiency of the markets. Full competition in the retail market will produce broadened service offerings, greater efficiency, and improved transparency, at prices which are no more volatile than those that will prevail under regulation.

Competition will probably result in lower prices based on the premise that increased efficiencies should decrease the total delivered cost of gas. IGUA=s focus is a strengthening market efficiency, improved commodity and bundled offerings and greater price transparency, not necessarily lower prices. IGUA urged the Board to take action to strengthen competition in the retail market for gas as a commodity because effective competition will invariably out-perform regulation.

IGUA argued that a regime that improves efficiency by increasing the number of options available at the burnertip advances and protects the interest of all consumers. IGUA believes that the best consumer protection is ensured by a fully deregulated retail commodity market with many buyers and sellers free to trade with one another. The consumers= interests are enhanced and protected by the greater choice, responsiveness and flexibility that would be available in a competitive retail marketplace. IGUA=s view is that a full and complete separation of the merchant function from Centra is required to maximize competition. An open and competitive retail market is a more efficient allocator of resources than is a regulatory tribunal.

6.10.2 Recommended Changes

IGUA supports the full separation model on the basis that it eliminates all the constraints that were identified as unfavorably impeding the current marketplace.

If competition does not emerge and instead the market is dominated by one large firm rather than several marketers competing to serve small users, then there is a risk that the benefits of competition to small users will not materialize. The most important means of avoiding this risk is to ensure that there is a level playing field for all players or marketers from the outset. It is for this reason that IGUA supported separation between the distribution and the marketing functions.

IGUA supported the position that gas distribution, load balancing, storage, emergency services and transmission should remain in the regulated utility.

6.10.3 Transition

In addressing transitional issues, IGUA suggested that the Order should specify a deadline date for separating the merchant function from the utility, and a date upon which consumers should elect their supplier. IGUA=s recommendation is that the dates should be Asooner rather than later". The Board would also review all LDC communications with the public to ensure that timely and accurate information is conveyed about the restructured market.

IGUA expected a decision that espouses general principles but in sufficient detail so as to render the application of the principles possible. In closing argument, IGUA gave some specific examples of the types of direction the Board could give in its order, including rejection of the marginal cost plus methodology, and information programs. IGUA noted that certain operational issues such as load balancing, storage and capacity management could be the subject of a consultative process between Centra and other interested parties.

6.11 NCCL

Although NCCL did not file evidence or produce witnesses, it participated in cross-examination and submitted final argument. NCCL submitted that the main purpose of this proceeding was to determine the appropriate restructuring of the marketplace and the appropriate restrictions which should be placed on Centra, from an operational and functional point.

6.11.1 Recommended Changes

NCCL supported the full separation model. NCCL summarized the qualitative benefits to its recommended separation model:

X economic benefits because CES would become another aggressive ABM leading to some reduction in allocated costs to the distribution function;
X more competitive service offerings;
X decreased regulation with respect to oversight and review of the PGVA and WACOG;
X decreased risk of cross-subsidization; and
X elimination of the existing market constraints (lack of market driven prices, poor price transparency, limited customer choice, buy/sell arrangements, price retroactivity related to the PGVA).

NCCL contended that the Board could satisfy itself that institution of the separation model would result in benefits which would accrue to Manitobans. For instance, there are already a number of buyers and sellers in the marketplace and more sellers may enter the marketplace and the identified market constraints would disappear.

There is general agreement that more competition is superior to more regulation and deregulation of the industry has resulted in benefits to the consumer since 1985. NCCL submitted that even if the estimated economic benefit of some $32 per year was optimistic for the residential customer, the consumer should be able to take advantage of any potential saving.

6.11.2 Alternative Recommendation

NCCL stated that if the Board were to consider an alternative other than the one proposed by NCCL, the Board should retain the status quo by not allowing Centra to offer an expanded range of regulated supply options nor to opt for light handed regulatory oversight.

NCCL also argued that there were adequate consumer protection measures in Manitoba to insulate the consumer from any imperfections in a competitive environment. Furthermore, NCCL suggested that a working committee of interested parties should have disciplinary powers to handle public complaints, thus further ensuring consumer protection.

6.11.3 Transition

NCCL submitted that while there are transitional matters to consider, that these are not insurmountable. NCCL asked the Board to embody the following points in its Order:

X Remove Centra from the regulated merchant function;
X Centra should actively and in good faith participate in the working committee proposed by NCCL;
X A company in the Westcoast group, other than Centra Gas Manitoba Inc. be allowed to sell natural gas, in accordance with terms and conditions; and
X A working committee be established with membership determined by participation of all parties involved with this proceeding and that the working committee report on the issues identified by NCCL.

6.11.4 NCCL=s View of the Positions of Others

Centra
NCCL argued that Centra supported its model on three bases: customer wishes; that benefits of the separation model were not proven or quantified; and potential problems with transition issues, with the prime driver being customer desires. NCCL argued that each of these bases had fallacies or were lacking in evidence before the Board.

NCCL indicated that there was no evidence before the Board as to the wishes of the customers because the customer survey conducted by PRA had not informed the participants of the choices of models of separation. The survey therefore was a poor indicator of customer=s wishes.

NCCL further contended that without the cornerstone of customer wishes, the Centra argument that separation should not be proceeded with if benefits could not be identified and quantified was further weakened. NCCL stated that because economic benefits could not be quantified, as this process was attempting to predict the future behaviour and potential benefits of a competitive market, a qualitative analysis had to suffice. To this end there should be no burden of proof or onus upon the advocates of separation to fulfil. NCCL submitted that Centra's admission that it could live with their alternative recommendation, in itself a separation model, was indicative that Centra was not diametrically opposed to separation.

NCCL contended that Centra had conceded that it could not identify economies of scale and that the economies of scope were solely related to Centra customers wanting the convenience of "one stop shopping". Additionally NCCL pointed out that WEI's strategic plan calls for ultimate withdrawal from the regulated merchant function and that if this plan was in the best interests of Centra's customers, then the economies of scale and/or scope must be very small.

CAC/MSOS
NCCL disagreed with the CAC/MSOS model contending that it would lead to more regulation and is fundamentally inconsistent with current trends. The Energy Probe model, while being "completely pure" would not allow Centra to be a supplier in any form, which would be contrary to Centra's customer wishes.

6.12 Energy Probe Research Foundation

Energy Probe states that the three reasons for their participation in this hearing were:

1. They have a core of approximately 1,000 supporters in Manitoba;

2. They have history and experience in matters of gas deregulation; and

3. This hearing will effect future energy decisions in other Canadian and North American markets.

Energy Probe stated that they do not have a vested interest or represent a particular customer class. Their mandate stems from their interest in protecting the environment in the energy market. Their interest is in removing the barriers that prevent the maximization of economic efficiency.

6.12.1 Constraints and Concerns in Current Marketplace

Pricing inaccuracies through the use of WACOG and the PGVA were identified as constraints. The WACOG leads to inaccurate price signals being sent to consumers and the average cost pricing no longer is desirable given the advent of market based prices. The WACOG creates a need for the PGVA which adds to inefficiencies, introduces retroactive rate-making, and can lead to significantly distorted prices in the marketplace whereby current users contribute to, or benefit from, the activities of previous users. The buy/sell mechanism was also identified as a market inefficiency since it deflects from market price.

Bundled pricing also act as a constraint since this hinders the development, differentiation, and entrance of competitors to parts of the bundled service.

6.12.2 Recommended Changes

Energy Probe put forward four recommendations for Board consideration, as follows:

1. Unbundle the services and prices to enhance efficiency, enable rebundling and improve cost allocation;

2. Separate the naturally competitive activities from the natural monopoly, and in doing so, eliminate the PGVA and phase out the buy/sell mechanism;

3. Enhance pricing and reduce the time over which the PGVA is calculated; and

4. Separate the gas merchant function from the LDC through divestiture.

It is Energy Probe=s view that there is general support for the first three recommendations, but that the fourth is controversial. In supporting their argument for full separation through divestiture, Energy Probe acknowledged that while no one can guarantee that the proposals put forward by Centra will reap benefits for the consumer, there is strong evidence to support that more customer choices will bring benefits, and that the full benefits will only be achieved by a move to a deregulated merchant function.

Energy Probe argued that there is substantial agreement on the problems with the existing monopoly pricing methods, including the PGVA and WACOG and the buy/sell reference price. Energy Probe urged the Board to "turn its mind to dealing with how to correct these inefficiencies." Energy Probe argued that other jurisdictions are looking to "market-based" solutions for resource allocation, and that there is widespread support for deregulating the naturally competitive functions currently within the utility.

In Energy Probe=s view, the question is not whether to move forward, but rather how to move forward. In Energy Probe=s view separating the merchant function from the LDC through divestiture represents the cleanest way to achieve the benefits of deregulation in the Manitoba market. Energy Probe argued that total divestiture will not result in a loss of economies of scale. Divestiture would occur through the sale of the merchant function to a non-affiliated third party based on the highest price offered.

Under the Energy Probe proposal, although the merchant function would be divested, those customers who did not choose to deal with non-utility suppliers could still be supplied with system gas. System gas would be priced on as short a term as possible to spot market prices. The utility supplier would not engage in price management, since that would only be open to ABMs.

Energy Probe presented recommendations for the Board Order as follows:

X Implementing Centra=s Western Bundled T-Service proposal;
X Unbundling services and rates;
X Eliminating the PGVA, phasing out the buy/sell;
X Shortening the period of the WACOG;
X Prohibiting retail commodity options;
X Imposing cost of regulation of affiliate on the shareholder; and
X Rejecting proposals for administered market share through balloting elections or other means.

6.12.3 Transition

Energy Probe encouraged the Board to sponsor industry collaborations to work out separation issues. In terms of the market share of gas supply competitors after separation, Energy Probe advocated that the market share should be allowed to develop on its own. In the short run, the former utility affiliated gas merchant might enjoy a substantial market share, but Energy Probe urged forbearance upon the Board in using regulation to dilute that market share. Competition will cause the market share to evolve over time.

6.13 Presenters

The Board heard a presentation from the Bureau of Competition Policy. The presentation outlined the ways and means by which competition law is relied upon to enhance and protect the benefits that competition creates for the economy and for consumers. Particularly noted was the situation involving mixed regulated and competitive markets, or the phased introduction of competition where regulation leaves off and where competition law takes over. Of relevance to the natural gas industry in Manitoba were the provisions related to mergers, abuse of dominant market position, conspiracy to lessen competition unduly, and price discrimination.

The Competition Bureau noted that Canadian competition law provides an effective set of disciplines against anti-competitive abuses relating to the markets and activities to which it applies. These disciplines automatically come into play with the removal of regulation over business activity. Deregulation, therefore, does not free business from all constraints on their market behavior. Rather, it subjects them to the disciplines both of the marketplace and the guidelines for acceptable competitive conduct contained in Canadian competition law.

The Board also heard from John Bigelow and Gordon Duncan. Both presentations were in respect of issue number seven and have been dealt with in Board Order 110/96.

7.0 Statutory Considerations

7.1 Obligation to Serve

Centra contends that the primary obligation to serve is contained in the *Greater Winnipeg Gas Distribution Act* S.M. 1988-89, c.40 and its appended schedules (AGWGDA≅). Similar provisions are contained in various franchise agreements which obligate Centra to serve throughout its franchise areas.

Under clause 2 of the Schedule to the *GWGDA*, Centra shall Aprovide and maintain an adequate natural gas distribution system and operate it so as to meet the requirements for gas of the inhabitants and industries.≅ All parties agree that clause 2 imposes an obligation on Centra only to distribute gas on its system.

Clause 9(1) of the *GWGDA* states that Centra Ashall, during the term of this franchise, supply as much natural gas as may be required by the Municipality or the consumers≅. Centra noted that Asupply≅ is not defined and may not be limited to the obligation to supply the pipe and the means to distribute the natural gas. Therefore Centra suggested that if it were removed from the merchant function, the legislation may require amendment.

Direct examined Clause 2 of the *GWGDA* schedule and agreed that this imposed an obligation on Centra to operate the distribution system. Direct argued that Centra=s obligation to supply or deliver under clause 9(1) would be fulfilled if the integrity of the system can be maintained through proper organization of nominations and load balancing. Direct further argued that clause 9(1) seems to mandate that Centra has an obligation to ensure that there is an adequate supply. In Direct=s view, Centra could fulfill the adequacy of supply without the necessity of amending the legislation since the generic hearing could address this through other parts of the Order. Direct further argued that Asupply≅ referred only to the operation of the natural gas distribution system and not the commodity.

Enron stated that there would be no constraint under the GWGDA if the PUB exercised its authority under s.115 and 118 of the *PUB Act*, and revoked the franchise of Centra to sell gas. In accordance with s.121 of the *PUB Act*,

which permits the Board in making any order to impose such terms and conditions as it considers proper, Enron argued that the Board could make a general Order enfranchising marketers to sell gas. Those terms and conditions revoking the Centra franchise could set forth the timetable for separation and the procedures to be followed during the transition period. If the ABMs held the franchise to sell gas or purchase gas directly, then there would be no need for legislative amendments. Furthermore, Enron argued that there was nothing in the legislation that would prevent the Board from acting in this fashion.

Similarly, MTW argued that by s. 82(12) and (13) and s.115 of the *PUB Act* the Board has the authority to amend the obligation to supply and/or sell contained in every franchise agreement entered into by Centra and the municipality and approved by the Board, and place that obligation on the ABM contractually chosen by the customer. MTW argued s.17(1) of the *PUB Act* states that it shall prevail over any other act which includes the *GWGDA.* Additionally s.17(2) provides that the *PUB Act* applies in accordance with the terms of the *GWGDA*. Municipal argued that these sections place the provisions of the *PUB Act* in precedence to the *GWGDA*.

NCCL argued that under the *GWGDA*, Centra has the right to distribute and sell gas. This did not preclude sales by other parties since to do so would be inconsistent with S. 114 of the *PUB Act* which requires the permission of the Board to sell gas. Furthermore, the distinction between selling and supplying gas was canvassed by NCCL. NCCL noted that since clause 9(1) of the *GWGDA* used the terms Asupply≅ rather than Asell≅, the legislature meant the obligation to supply is limited to operationally ensuring delivery of the commodity, but not actual delivery of the commodity.

IGUA supported the view of NCCL that there is no impediment to the separation model in the legislation.

CAC/MSOS argued that there cannot be a legislated obligation to supply which is impossible to be carried out in practice. Therefore, amendments to this legislation might be required to ensure that the obligation imposed by the Board in this Order conforms to the legislation. CAC/MSOS further suggested that this might be a task for a committee of interested parties.

7.2 Lock-off Provisions

Section 104.1 of the *PUB Act* contains the provisions providing for the discontinuance of product supply or service for default in payment of rates for commercial and residential properties. Centra argued that if it were removed from the merchant function, then the legislation may require amendment or the obligation transferred to ABMs who would be the suppliers of natural gas. Centra further indicated that there was no empirical evidence before the Board to address the legislative concern that all customers may have natural gas delivered. Although Centra was not advocating legislative change to address this, it pointed out that since gas flows through the system, the determination of who should assume the risk needs to be addressed.

CAC/MSOS interpreted this section somewhat differently, noting that the supplier could exercise its ability to discontinue service through Centra physically disconnecting service. Accordingly, no legislative amendment would be necessary. CAC/MSOS argued that if gas were to be discontinued, then it must be on a non-discriminatory basis for all suppliers of natural gas.

7.3 Regulation of Rates

In considering regulation of the sale of gas within the province, Centra noted that regulatory supervision of ABMs might be necessary under s.127(1) of the *PUB Act:*

> AThe Board shall determine, from time to time, rates, tolls, or other charges to be charged by a public utility or any person for selling, delivering, distributing, storing or transmitting gas within the Province, and in connection therewith shall determine, *inter alia*, the rate base and the rate of the return on shareholder equity.≅

Direct argued that it was unclear whether s.127(1) required the Board=s regulation of rates to be changed by ABMs selling gas. Direct further recommended that the section may be amended so as to ensure that ABMs are not required to have their gas sales rates regulated.

Enron argued that given the potential for robust competition in the retail market for gas, the Board should forbear from regulating the commodity price of gas in Manitoba. However, counsel for Enron expressed uncertainty whether under the *PUB Act* the Board has the authority to forbear from such regulation.

Direct and Enron examined s.127 (1) of the *PUB Act* in light of the decision of the Federal Court of Appeal, *Telecommunications Workers Union v. CRTC* [1989] 2 F.C. 280. That decision arose out of the CRTC=s practice of exempting re-sellers of telecommunications services from the requirement to file tariffs. The CRTC justified this practice on the basis that the purpose of the governing legislation was to protect the public from the abuses of monopoly power through the establishment of just and reasonable rates, and that in the context of competitive market conditions in the resale market, the purpose of filing a tariff did not exist. The Federal Court of Appeal held that only Parliament could reconsider the regulatory scheme, not the Court nor the CRTC, and that all tariffs had to be filed with and approved by the CRTC. Therefore, applying this analysis to the decision of the Board, the Board would not have the authority under the *PUB Act* to exempt marketers from being regulated by s.127(1). Enron recommended that the Board seek an amendment to the *PUB Act* so as to preserve the Board=s power to oversee and intervene as necessary and to refrain from regulation as market conditions warrant, as provided in s. 34 of the *Telecommunications Act* S.C.1993 c.38, which expressly empowers the CRTC to refrain from exercising its rate-making powers if sufficient competition exists to protect the interest of telecommunication users.

CAC/MSOS agreed with Enron=s interpretation of s.127(1) and recommended that s.127(1) be amended to make the regulation of rates, as it relates to the seller of gas, to be a discretionary role. Amendments will be required to forbear on regulation, either in whole or in part. In the transition stage, the Board could forbear from regulating the ABMs. Upon the completion of the transition period, the forbearance could be extended by amended powers under the *PUB Act* to include all sellers of gas. Similarly, IGUA urged the Board to recommend changes to s.127(1) if the Board found that it was an

impediment to introducing the separation model. However, IGUA did not believe s.127(1) was an impediment to the separation model.

MTW, examined s.116 of the *PUB Act* and noted that it alone contains all the provisions necessary for the Board to create the entire competitive marketplace and Part IV in general grants the Board sweeping powers in the Manitoba natural gas industry.
TCGS noted in its final argument that the provisions of s.116(1) of the *PUB Act* should be sufficiently wide to support the creation of the Western Bundled T-Service option that it proposed.

8.0 Board Findings

8.1 General Comments

During the hearing it was recommended to the Board by many participants that the Board=s decisions should be in the form of broad principles and guidelines. The Board agrees with this approach, and the Board=s findings on certain generic issues take the form of broad principles and guidelines rather than detailed decisions.

The Board, in arriving at its conclusions and decisions, has considered the unique aspects of the current Manitoba marketplace, and in particular, the existence of a number of impediments to full and effective competition. The decisions set out in this Order are considered by the Board to be in the best interest of the consumers of Manitoba. Any structural or regulatory changes in the natural gas industry in Manitoba must advance the interests of the consumers and not be exclusively for the individual economic interests of market participants. The Board agrees with the statement made in Centra=s written evidence that:

> AThis hearing should define the market structure for the next phase of industry deregulation and it should do so by enabling competition for those services that are non-monopoly without diminishing customer choice, market efficiency or system security. The structure should be defined without discrimination, and without picking winners or losers. Customers will do that.≅

Throughout the hearing the Board was reminded of the uniqueness of the Manitoba natural gas market which includes a high number of residential space heating customers as compared to industrial customers with a resulting low load factor. Storage and related transportation located physically downstream of the distribution system, TCPL transportation arrangements, and relatively small volumes overall compared to other markets are other unique factors of the Manitoba market that influenced the Board. Given the public=s essential need for the natural gas commodity in Manitoba, the importance of security of supply at a stable price is paramount in the Board=s decision-making. A decision on the future of gas procurement, transportation, and storage must be based on theoretical and economic

principles, and must also be practical for the circumstances of the customers and the LDC.

The Board is strongly of the view that as long as market imperfections exist, regulatory oversight is a necessary protection for the consumer, particularly the small volume consumer. The Board recognizes that the marketplace and the industry will continue to evolve. As circumstances change, so might some of the fundamental decisions discussed in these findings. Recognizing that several of its decisions promote long-term industry change, the Board intends to monitor the evolution process through periodic discussions at various public hearings.

The Board must acknowledge the significant contribution to the process made by the many interested parties who participated in the hearings, and especially those witnesses who spent a great deal of time and effort in providing evidence of considerable insight. The high calibre of the evidence provided by the interested parties was of valuable assistance in helping the Board understand many of the complex issues. In particular, the Board acknowledges the important contribution made by the witnesses for Centra who spent in excess of eight days under cross-examination.

8.2 The Benefits of Competition

One of the main forces driving competition is a new market perception being accepted by many interested parties and market participants. The new market perception includes the view that many of the services currently provided by regulated entities are better suited, both in terms of options and prices, to be delivered in a competitive environment. Enough change has already been implemented in the Canadian natural gas markets that the transition to a fully competitive market is probable. However, the specifics of future competitive natural gas markets still defy prediction, and the additional benefits to be gained from deregulation are as yet uncertain, particularly for the small volume customers.

Dr. Hall, on behalf of Centra, articulated a three-fold test to evaluate the benefits of competition that was generally supported by others throughout

the hearing. The test is whether supply will be increased, whether prices will be decreased, and whether products and services will be improved. If the answer is yes to each of these, then competition will improve the consumer interest. If the answer is no, then there is no consumer benefit by introducing competition. The Board has applied these tests in considering the body of evidence before it, and concludes that the additional benefits to be gained from deregulation of the merchant function at the present time appear to be limited, while the potential risks appear to be significant. Throughout the hearing it was suggested to the Board that a decision to remove the merchant function from the regulated utility would require a leap of faith at this time. It is the Board=s view that such a leap of faith would be unwarranted and imprudent, and may not serve the long-term public interest.

A significant portion of large natural gas customer volumes are currently purchased in a competitive environment. The table on page 11 of this Order indicates that over 71% of large customer volumes are currently purchased from suppliers other than Centra, while less than 20% of small customer volumes are purchased from suppliers other than Centra. The buy/sell mechanism, with all of its shortcomings, has created competition in gas prices since 1991, and both large and small volume customers have benefited from the price disciplines introduced by that mechanism. In addition, the commodity price of gas is determined in a competitive market. The argument has been put forward that once the retail gas supply function is deregulated, ABMs will have more flexibility to offer a variety of customer options and choices. The evidence seems to indicate, however, that most customer classes already enjoy a variety of options and choices.

Aside from security of supply, the most important consideration for the residential customer is price, and a variety of choices will not appeal to most residential customers if they do not have access to the lowest possible price. No evidence has been presented at the hearing to indicate that there is the potential for significant price reductions if Centra is removed from the merchant function. In fact, most participants agreed that the potential for cost savings was minimal at best.

The Board recognizes the varied interests presented by participants in this process to change the retail natural gas business towards a more

competitive model. However, it is important to remember that 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.

The Board believes that ultimately the market should allow natural gas consumers to choose the products and services they want from a broad range of competitors. The Board is also of the view that most customer categories are already experiencing many of the proposed benefits of competition, including competitively determined gas prices and choices. If the potential additional economic benefits to customers are minimal , the Board questions the wisdom of expediting the process of deregulation with unnecessary haste. The Board believes that necessary changes to bring about an increasingly competitive commodity market should occur gradually so that customer protection and public interest concerns are properly and adequately addressed.

Dr. Hall urged the Board upon a course of action to seek to remove the impediments in the structure of the market, including the problems of access, the problems of limited market information, and the problems of poor price signals. Once these problems have been removed, then competition may be achievable and the consumers can decide what advantages they value. The Board was urged to focus on establishing the rules of competition and to let the customers decide the winners. In making its decision, the Board has considered the barriers to a fully competitive market structure, and in this Order has sought to remove several of the short-term impediments so as to promote a long-term fully competitive market structure.

8.3 Regulatory Considerations

One of the Board=s concerns is that any transition to a more competitive market proceed without negative consequences. All customers, particularly the residential customers, must be well informed of the changes taking place

and the options available. In addition, the delivery system must continue to be operated in a safe, reliable, secure and non-discriminatory manner. To achieve these objectives, the Board has a significant role to play in facilitating change and ensuring that access to and pricing of monopoly services is and continues to be fair. The Board and other market participants must also ensure that the regulatory framework is responsive to the new directions the natural gas industry takes.

In making its decision the Board has considered the justifications for regulation in principle. The natural monopoly of the natural gas distribution system is one justification for imposing regulation. Theoretically the natural monopoly only applies to the transmission and distribution system and related operating functions. Other justifications for imposing regulation include a response to market failure, inadequate information available to the consuming public to make informed choices, the allocation of scare resources, and the furtherance of social policy objectives. Each justification for regulation must be tested against the various functions of Centra, and if a justification exists for imposing regulation on any of Centra=s functions, then that function should be regulated.

The natural gas industry is in a period of change, and the distinction between natural monopoly services and competitive services is not always clear. Some activities that were once accepted as part of the natural monopoly may now be considered by some to be competitive. In the short-term, the current natural gas industry and the merchant function in particular is somewhere between monopoly and competitive, and still requires some level of regulatory oversight.

The Board supports the principle of deregulation where it is in the public interest. The Board also recognizes that certain aspects of the natural gas industry are not conducive to market forces and therefore will require ongoing regulation. The Board notes the evidence of Dr. Hall where he stated:

> AIn energy markets throughout the world, and particularly in North American natural gas markets, we have seen a remarkable shift from reliance on direct governmental regulation to protect the public interest

> to reliance on competition...Increasing competition and decline of tight monopolies are creating new, challenging and difficult tasks for regulators. Among these tasks are the need to harmonize competition with the residual oversight responsibilities of the regulator.≅

Regulation should continue to protect consumers= interests in dealings with monopoly and dominant position service providers. However, where there is sufficient competition, more emphasis should be placed on the market to satisfy the consumer interest. Some aspects of the natural gas operation of Centra which are currently regulated may benefit from being driven by market forces rather than regulatory directives. However, competition is not a goal in itself. Competition in the natural gas market should be encouraged only if it will advance the interests of the natural gas end user. Centra and the Board, therefore, must carefully consider in which areas competition could exist, and if such competition will be to the benefit of the consumers, prior to moving those areas from regulation.

Throughout the proceeding the Board was reminded by parties that the customers= wishes must be paramount in whatever the Board decides. In making its decisions the Board must determine whether the interests of the consumers are advanced through the various proposals. Most interested parties indicated that the Board should examine each proposal by the tests of increased convenience of service; increased supply options and products; and decreased price. The Board has considered each of these tests in determining its findings.

8.4 The Merchant Function

The fundamental question which the Board must address is what, if any, changes should or could be made to the role of Centra in the gas procurement, transportation, storage and sales functions. The natural gas industry has changed dramatically since the Halloween Agreement was signed in 1985, and continues to change. It is now timely and appropriate for the Board to reconsider what role Centra should play in the Manitoba market given the current environment and what will be in the public interest.

The evidence strongly suggests that the North American natural gas market upstream of the City Gate exhibits many characteristics of a well functioning competitive market, and is expected to continue to evolve into the future. The Board believes that the current market structure is stable and sustainable and that security of supply issues can be provided for adequately by the marketplace.

Within Manitoba, the evidence indicates that the majority of residential customers continue to have their gas supplied by Centra, while larger volume industrial and commercial customers have been active in choosing competitive suppliers other than Centra. By selecting a variety of suppliers, customers benefit from a competitive marketplace and realize some economic benefits and service options. While not all Manitobans have chosen to purchase their gas requirements through ABMs, all consumers have benefited from the evolution of the natural gas marketplace.

Large volume consumers, using their purchasing power and knowledge base, have been able to participate in the marketplace in a competitive spirit by choosing a supplier of natural gas under terms and conditions suitable to their own needs. Without question, the changes to date have brought many benefits of competition to this segment of the Manitoba consumers, resulting in lower energy costs, and allowing businesses to compete more effectively.

Because of different economics, small volume customers have not developed the same level of knowledge or understanding as have large volume customers, nor do they have the same level of purchasing power. Through the process of aggregation, ABMs have been able to bring some benefits of the competitive market to these consumers. While these arrangements may have brought lower natural gas costs to these consumers through rebates, the current ABM customer arrangements do not reflect a fully competitive marketplace with freely negotiated market prices and terms of arrangements for all classes of customers.

There is general consensus among the interested parties as to the constraints and concerns in the marketplace, as discussed in Section 6 of this Order. Many interested parties sought to resolve the constraints by removing Centra from the merchant function, even though many of the interested parties admitted that the constraints could be resolved by other

methods. Centra further submitted that while there were imperfections in the current marketplace, these imperfections could be rectified by implementing some relatively minor changes. TCGS stated in rebuttal evidence that APresumably, a party that is proposing a market restructuring will design its proposal as a response to the constraints or concerns that the party identifies as adversely affecting the current marketplace. If the proposed restructuring is not one that will resolve those problems, or is not necessary for that purpose, there is no basis for making the proposal in the first place.≅ The Board agrees with the statement of TCGS.

In the opinion of the Board, there is little connection between the identified constraints in the current marketplace and the recommendation by some parties to remove Centra from the natural gas supply marketplace. Resolution of the constraints does not require a dramatic restructuring of the natural gas marketplace, nor the immediate removal of Centra from the merchant function. This Order reflects the Board=s decision that many of the impediments to a fully competitive market can be resolved without removing the merchant function from Centra. The Board also believes that an increasing reliance on a competitive market for the provision and supply of natural gas, instead of regulation, requires a redefinition of the role to be played by Centra, which definition and role will evolve over time.

The Board agrees with the proposition put forward by many of the interested parties that the natural gas merchant function is not a monopoly function, and should ultimately be available in a fully competitive market. In the Board=s view, however, many of the necessary conditions for a fully competitive market currently do not exist, including better price discovery, full price transparency and reliable market information, a wider range of reliable supply choices, choices in pricing options, a sufficient number of strong competitors and the ability to switch suppliers. There are also a number of customer protection and public interest issues including customer education, dealing with matters such as treatment of system supply customers who may not want to switch suppliers, high credit risk customers, security of supply, long-term storage, transportation and supply arrangements, and legislative issues that mitigate against the immediate removal of the merchant function from Centra.

The Board has previously stated its view that the changes required to bring about a fully competitive commodity market will need to occur gradually over time, and managed so that customer protection and public interest concerns are satisfactorily addressed. Other impediments to a competitive unregulated merchant function include Centra=s long-term storage, transportation and supply contracts. The industry must take a leadership role in the process of addressing these issues. The removal of these impediments will likely occur in the long-term as the natural gas industry evolves.

The Board further accepts that many of Centra=s customers would insist that Centra have a presence in any new competitive environment. The relationship Centra has with its customers and customer concerns about security of supply and service are two important factors. Given a structure that meets all the necessary characteristics of a free and open competitive market, customers should have the ability to make choices based upon price and various service offerings, and Centra, or other ABMs including a Centra affiliate, should be available options. The Board is of the belief that consumers may benefit with more, rather than fewer, competitive options. This would include Centra offering an alternative to the unregulated ABMs.

While the Board is of the firm view that customers should have many natural gas supply options available in a fully competitive market, the Board is of the opinion that allowing a multiplicity of options within the regulated environment at the current time will be of limited benefit to the consumer. The related difficulties with the treatment of the PGVA balances would be exacerbated, and the confusion respecting price transparency and price signals would likely be magnified as would the regulatory burden.

In making this decision the Board has had to weigh the possible outcomes and effects that allowing the utility to offer various supply and pricing options would have on the development of the competitive market. The Board is of the belief that the variety of service offerings by the utility could be an impediment in the development of the competitive retail market of natural gas. At the same time, the existence of a regulated merchant function with one service offering will do little to impede the development of the competitive retail market. This regulated commodity gas price could not only serve as a benchmark price against which ABMs must compete for

customers, but could also serve as a basis for enhanced price transparency which is necessary for enhanced competition. As a consequence, the Board will require Centra to maintain the status quo in offering only a single regulated gas supply option and price. Customers will be able to choose between this offering and any number of ABM supply options which may result as the competitive market continues to develop.

Dr. Hall indicated that the basic competitive handicap of Centra is the pricing of its supply based on the WACOG and PGVA, which is not only inflexible, but is also inherently inefficient and sends incorrect price signals to end users. Removing these impediments as ordered by the Board in this Order will assist Centra in competing with ABMs even though Centra is limited to one commodity price option.

Many interested parties expressed concern that Centra=s dominance in the distribution function might unduly advantage it in other markets or functions, in particular, the merchant function. The Board agrees that there are advantages for Centra in the merchant function by virtue of its monopoly distribution function. However, at this time, these advantages do not warrant the removal from Centra of the merchant function and terminating the gas purchasing relationship between Centra and its customers. With the restriction to Centra offering one regulated commodity service offering, the competitive ABMs have flexibility not available to Centra.

The Board concludes that all aspects of the merchant function including natural gas supply procurement functions should remain within the regulated entity and that the regulated utility is to offer one supply option at a regulated price. The Board further finds that although gas procurement should remain within the regulated utility, such a decision is based on the current circumstances. Should circumstances change fundamentally, the Board would be prepared to reconsider this matter only if the change provides economic benefits to the Manitoba consumers with limited risks.

8.5 Price Transparency

The Board supports the statement of Dr. Mathewson that Athe first principle of economics is in order to make a rational decision you need to know what the price is.≅ Under the current gas pricing system, the real price of natural gas is not readily available in a timely fashion.

The Board is of the view that price transparency is required for a fully competitive market to develop, and notes that all interested parties also expressed this view. The Board considers that the maximum benefit will accrue to customers when more services are unbundled and each of these services is separately priced and billed. By segregating cost components to the greatest extent practical, the customers will be made aware of the various cost components of gas service which they are receiving. Educating consumers about the competitive aspects of the natural gas industry will also be important and can only be achieved through greater price transparency. The Board holds the view that, in the current circumstances, the gas bill should, at a minimum, be segregated into distinct components that would define and indicate each of the commodity, transportation, storage and distribution costs.

In response to Board Order 107/96, discussions with ABMs in Manitoba and internal initiatives, Centra has taken some preliminary steps in the process of redesigning its bill to customers to show the commodity cost of gas and transportation charges as separate components of the customer=s bill. However, by letter dated April 18, 1997, Centra advised the Board that it was not practical to proceed any further with this project until the direction in this Order is known. The Board will now direct Centra to proceed with redesigning its bill to customers so that the four component costs of commodity, transportation, storage and distribution are separately shown and priced on the bill. The Board will direct Centra to determine and to define the type and nature of costs which will comprise each of the four cost components to be shown on the natural gas bills and to submit recommendations to the Board for review by no later than August 1, 1998.

Indexed pricing and the PGVA also bring considerable imprecision and lack of price transparency such that it is difficult for customers to determine whether the ABMs can compete with Centra=s price. The Board recognizes

that the PGVA balances could be cleared on a more frequent basis which would contribute to the customer=s increased awareness of the price. However, clearing of the PGVA more often would result in frequent rate changes which would increase rate instability. The Board agrees that the PGVA causes confusion and uncertainty to market participants and will direct Centra to consider options to eliminate the inaccurate price signals caused by the PGVA, and to present such options to the Board for consideration so that January 1, 1999 rates will reflect such changes.

The Board is of the view that to achieve a more fully competitive market, customers require the ability to be mobile to exercise their decision-making depending on their contractual arrangements. The Board is also of the opinion that ABMs should only require residential and other small general service customers to enter into contracts where the term of the contract is the same as the term over which the ABM is prepared to offer a fixed price. For existing arrangements which exceed the term over which the ABM offers a fixed contract price, the Board expects ABMs to address the Board=s concerns by either shortening the term of contract with the customer or extending the term of a fixed price gas supply. The Board also expects that all current buy/sell arrangements will be discontinued by October 31, 2000.

The Board notes the experiences of and introduction of deregulation and competition in the telecommunications industry. Initially long distance competitors offered percentage discounts off the incumbent telephone company=s long distance rates; this has changed to the exact per minute prices currently advertised. The Board would view such a parallel development in the natural gas industry to be an enhancement to competition and a favourable achievement of price transparency, and therefore such pricing by the ABMs is to be encouraged. In the long term such pricing will only enhance the vitality and robustness of the market.

8.6 Western Bundled Transportation Service

The Board agrees with the opinion expressed by most interested parties that the pricing mechanism within the existing buy/sell mechanism is flawed. False price signals are being sent to the consumer because the reference price is based on the LDC=s WACOG and emphasizes savings as a discount off this WACOG. Current variable priced supply contracts have resulted in the creation of the PGVA, which requires periodic balancing and further complicates the determination of the real commodity cost of gas.

The Board will direct that the Western Bundled T-Service as proposed by Centra be developed and application be made to the Board for rate approval by August 1, 1998. The current buy/sell arrangements should be replaced by this offering as the current buy/sell arrangements expire, but no later than October 31, 2000. The Board will also direct Centra to develop an appropriate tariff for an optional billing and collection component related to the offering of a Western Bundled T-Service, and apply to the Board for approval as soon as possible. Once this tariff has been approved by the Board, Centra should offer it to any ABM requesting the service. The Board directs that the Western Bundled T-Service tariff and terms and conditions of service be developed and applied for to the Board by August 1, 1998 for implementation as soon as possible but no later than November 1, 1998.

With these decisions made on the need to correct the inaccurate price signals caused by the PGVA, the introduction of the Western Bundled T-Service, elimination of the buy/sell arrangement, and a new bill design with unbundled components, the Board has addressed various of the impediments to a more competitive market.

In ordering Centra to continue with the regulated merchant function, the Board wishes to emphasize the distinction made in the evidence of Dr. Stalon that Centra not structure the merchant function as a tied-in service, namely that the customer is required to purchase the gas commodity from Centra. Rather, the merchant function is to be viewed as bundled - there is a choice exercised by the consumer to purchase an extra service from a package of services so as to reduce the inconvenience of buying. Tied-in selling removes that freedom of choice from the purchaser; whereas bundled services present the consumer with choices. In structuring the bill and implementing Western

Bundled T-Service, the Board wishes to ensure that Centra makes customers aware that the merchant function is merely a bundled service which customers may choose to purchase as a basket of services, but that it may be purchased from competitors. In moving towards a more competitive market this is fundamental.

During the hearing there was much discussion on the importance of educating customers, particularly small volume customers, about the changes that are happening and will continue to happen in the natural gas industry, and the choices that are available now, and may be available in the future. The Board believes that the customer information process is the responsibility of all market participants, and it would be inappropriate to assign responsibilities solely to one party. However, as opportunities such as the proposed introduction of the Western Bundled T-Service and the redesigned bill to customers present themselves, Centra should consider how it could assist in the customer information process in a cost effective way. At a minimum this is to consist of a bill stuffer to explain the Western Bundled T-Service, the customer=s options, and the cost components of the re-designed gas bill. This information process may also extend to periodic updates of market developments as they occur.

It is the Board=s belief that as customers receive more and better quality information on price, supply terms and options, they may make better choices as to the supplier of their gas commodity needs. This can only enhance the development of a more competitive market which should result in increased supply, decreased prices, and improved products, thereby benefiting customers.

8.7 Storage, Related Transportation and Load Balancing

In the previous section of its Findings, the Board has provided a short-term process to address many of the impediments to a more competitive market as identified by the interested parties. In the long term, however, there exist other impediments, primarily long-term arrangements of supply, storage, and transportation that should be considered for future changes in the natural gas industry. By addressing these impediments on an industry-wide basis, the market participants may create the necessary pre-conditions for full competition within the natural gas industry.

Load balancing is critical to the provision of gas to customers. Load balancing consists of forecasting the future daily, seasonal, and annual requirements and prearranging for adequate capacity to meet those requirements, managing the portfolio throughout the year to ensure that the market needs are met, and forecasting the next day=s load requirement based upon weather and the nominations of the various portfolio components to satisfy the forecast requirements. Centra balances all system supplies daily through in-transit accounts. Long-term downstream storage and related transportation arrangements are critical to affecting efficient load balancing. Without these arrangements, daily load balancing could only be achieved with short- term arrangements entered into with pipeline operators and independent storage operators, which could be at a greater cost to ratepayers.

Centra=s current storage and transportation arrangement with ANR, TCPL and GLGT form an integral part of its gas supply portfolio. These arrangements have allowed significant reductions in demand charges related to upstream transportation, have enhanced security of supply and transportation for the Manitoba market and have allowed greater flexibility for load balancing. In Order 149/91, the Board found that the process leading to the agreement with ANR was reasonable and prudent.

Some interested parties suggested that there may be an opportunity to utilize the storage arrangements more efficiently and that the related functions should be removed from the regulated utility to be dealt with by the competitive market. These parties also suggested that Centra=s current storage capacity and transportation could be assigned to other parties without causing stranded asset costs to be incurred. The Board is of the view

that the specifics of the multi-party arrangements for storage and transportation were not reviewed in sufficient detail at this proceeding to determine if capacity assignment is possible or potentially beneficial to the consumers of Manitoba. Other participants suggested that the storage and related transportation arrangements are areas of potential significant stranded assets and costs for the utility. The Board recognizes that the parties to these arrangements with Centra have made significant capital expenditures and have entered into long-term contracts with Centra to protect these assets. The Board also recognizes that if these functions were removed from Centra, there is risk of stranded asset costs to the utility which may eventually have to be borne by the customer, in whole or in part.

The Board remains convinced that some form of storage to increase Manitoba=s supply load factor and mitigate upstream demand charges to ensure reasonably priced gas and to maintain supply security is critical and must be provided in some fashion. The Board also considers that the issue of storage and related transportation must be resolved before the merchant function could become an unregulated activity. The future resolution of the storage and related transportation issues is not solely a Manitoba issue, but rather is a significant industry wide issue and one that must be addressed by all market players as the industry moves to a more competitive market.

The Board considers that in order to properly and efficiently operate the distribution system under the existing circumstances, a single entity must retain the responsibility for storage, related transportation and load balancing. The Board recognizes that there may be further developments in the deregulation of the gas industry. Should Centra or other industry participants consider that storage and load balancing can operate more effectively in the future in a competitive marketplace, then such studies supporting any proposed changes to storage and load balancing procedures can be brought to the Board for consideration. Until then, the Board will direct that Centra continue to be responsible for storage, related transportation and load balancing until otherwise determined by the Board. The Board will monitor future developments that will encourage a more competitive solution for storage, related transportation, and load balancing. To assist the Board and the market in this regard, Centra will be required in the future General Rate Applications to file the costs related to downstream

storage and transportation and the component of the sales rate recovery to recover those costs.

8.8 Nominations

All parties at this proceeding indicated that Centra would be the best entity to perform nominations to ensure effective delivery of gas on a daily basis. The Board considers that a single party, one familiar with all aspects of the gas supply portfolio, transportation and distribution arrangements and storage components, is the most logical party to nominate the daily market requirements. Therefore the Board will direct that the responsibility for nominations will continue to be performed by Centra.

8.9 Backstopping

The Board views backstopping as an integral component to ensuring the adequacy and security of supply for the consumers of Manitoba. Centra can only provide backstopping if it has access to natural gas supply. If Centra is not in the merchant function, its ability to provide backstopping is physically impossible since it no longer has access to gas supply unless it were to enter into a contractual obligation with another party to provide this service. Since Centra is to remain in the merchant function, it follows that the Board will direct that Centra continue to provide backstopping as it has in the past.

Recognizing that the merchant function may ultimately be deregulated, parties seeking to step into the unregulated merchant function should be prepared to offer appropriate backstopping arrangements as a precondition to such deregulation.

Centra indicated that as customers make choices as to suppliers, they must bear the consequences of their choice in regard to backstopping. The Board concurs with this view and notes that it was also agreed to by other interested parties. As the supply of natural gas moves towards greater deregulation, consumers must take the responsibility of choosing their supplier and must bear the consequences of those choices. There should be nothing to distinguish the backstopping of natural gas supply from other

competitive functions. Just as customers may be able to benefit in terms of price from suppliers that have different degrees of supply, those customers will also have to suffer the consequences if the supply fails. The Board notes the evidence that the security of supply both currently and into the future is more than adequate.

8.10 Legislative Issues

Since the date of the hearing there has been a legislative amendment that may facilitate entrance of further competition and deregulation in the natural gas industry. The Board notes that s. 74.1 of the *PUB Act* was amended in 1997 to provide the Board with, amongst other things, the ability to refrain from exercising its power or any duties that must be performed under the *PUB Act*. This extends to not only public utilities and persons that are subject to the *PUB Act*, but also to products or services rendered by a public utility or person subject to the *PUB Act*. However, the refrain from exercising powers and performing duties only arises when the Board is satisfied that there is sufficient competition to protect the public interest, and the Board may not refrain if it finds it will likely impair unduly the competitive market for that product or service.

Section 74.1 states:

> **Board may refrain from exercising power**
> **74.1(1)** The board may make a determination to refrain, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty under this Act
>
> (a) in relation to any matter before it; or
> (b) in relation to
> i. any public utility,
> ii. any person who is subject to this Act, or
>
> iii. 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 subclause (ii), that is subject to this Act;

where the board finds as a question of fact that the public utility, person, product, class of products, service or class of services is or will be subject to competition sufficient to protect the public interest.

Exception
74.1(2) The board shall not make a determination to refrain under subsection (1) in relation to a public utility, product, class of products, service or class of services, if the board finds as a question of fact that to refrain would be likely to impair unduly the establishment or continuation of a competitive market for that public utility, person, product, class of products, service or class of services.

Imposition of conditions on associated person
74.1(3) Where the board considers it appropriate in relation to a determination under subsection (1) to refrain from exercising any power or performing any duty in relation to a product or class of products supplied or service or class of services rendered by a public utility or by a person referred to in subclause (1)(b)(ii), it may impose conditions on any person or company associated, in supplying the product or class of products or rendering the service or class of services, with

(a) the public utility;
(b) the owner of the public utility; or
(c) the person.

Through s. 74.1 the Board will have the power to forbear from regulating certain aspects of a utility=s operations if there is sufficient competition. The Board intends to exercise its powers under this section only after sufficient debate occurs in the public process to ensure that the conditions of competition and existence of a competitive market are met. However, as the power is conditional upon the Board determining that sufficient competition exists, then the Board notes that it can in the future reintroduce its ability to exercise its powers. Therefore, the Board=s powers under this section of the *Act* can be exercised both ways; namely, the Board can choose to regulate or not, or can choose to re-regulate, depending upon market conditions.

In a dynamic and changing environment, regulation should encourage, not impede, the provision of efficient, innovative, and affordable natural gas services. Regulation should be concerned with those services supplied on a monopoly basis or where full and effective competition does not exist. Where markets are sufficiently competitive, then the Board will defer to market forces for the provision of natural gas services to consumers and will not regulate those areas. Until such time as full and effective competition is achieved, the Board will continue to regulate the gas procurement functions of Centra in the same manner as it does now.

The Board agrees with Dr. Hall that if the Board finds that competition is adequate to protect the public interest, then engaging in forbearance would be highly desirable. For the many reasons set out in the Board Findings, competition cannot currently protect the public interest and therefore the Board will not exercise its powers under s.74.1 of the *PUB Act.*

The Board is of the view that no other legislative changes are required for its decision in this Order. But, as the natural gas industry evolves and circumstances in Manitoba alter, there may be a need for future legislative amendments as required to implement more competition. Many of these requirements have been identified by interested parties in this hearing, and include the *GWGDA* and the *PUB Act*.

IT IS THEREFORE ORDERED THAT

1. All aspects of Centra=s merchant function including natural gas supply procurement functions should, based on current market conditions, remain within the regulated utility.

2. Centra redesign the bill to customers and Centra determine and define costs of each component and submit recommendations to the Board for review by no later than August 1, 1998 to separately show and price commodity, transportation, storage and distribution costs. The redesigned bill should be implemented by no later than January 1, 1999.

3. Centra consider options to eliminate the confusion and inaccurate price signals caused by the PGVA, and present such options to the Board for considerations for rates to be effective by no later than January 1, 1999.

4. Centra should develop a Western Bundled T-Service tariff and terms and conditions of service, and apply to the Board for approval by August 1, 1998, for implementation as soon as possible but no later than November 1, 1998.

5. Centra should determine an appropriate tariff for an optional billing and collection component related to the Western Bundled T-Service and apply to the Board for approval by August 1, 1998.

6. Centra should consider how it can assit in the customer information process for each of the Board directives no. 1 to no. 5, and advise the Board by August 1, 1998.

7. Centra continue to be responsible for storage, related transportation and load balancing.

8. Centra continue to be responsible for nominations and backstopping.

9. Centra, in future General Rate Applications, should file the costs related to downstream storage and transportation and the component of the sales rate necessary to recover those costs.

THE PUBLIC UTILITIES BOARD

Chairman

Acting Secretary

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"H. Singh"
Acting Secretary

Certified a true copy of
Order No. 15/98 issued by
The Public Utilities Board

Acting Secretary