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Ontario

ONTARIO ENERGY BOARD

FILE NO.:	**EB-2009-0332**	**REDACTED - PUBLIC**
VOLUME:	**1**	
DATE:	**January 28, 2010**	
BEFORE:	**Pamela Nowina**	**Presiding Member and Vice-Chair**
	Cynthia Chaplin	**Member**

EB-2009-0332

THE ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an Application by Horizon Utilities Corporation to the Ontario Energy Board for an Order or Orders approving the recovery of amounts related to a significant decrease in distribution revenue from a single Large User customer.

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Thursday, January 28th, 2010,
commencing at 9:39 a.m.

VOLUME 1

BEFORE:

PAMELA NOWINA Presiding Member and Vice-Chair

CYNTHIA CHAPLIN Member

A P P E A R A N C E S

DONNA CAMPBELL	Board Counsel
MARTIN DAVIES TED ANTONOPOULOS	Board Staff
JAMES SIDLOFSKY	Horizon Utilities Corporation
ROBERT WARREN	Consumers Council of Canada
MICHAEL BUONAGURO	Vulnerable Energy Consumers' Coalition (VECC)
PETER FAYE DAVID MacINTOSH	Energy Probe Research Foundation
ALANA SHEPHERD	U.S. Steel
JAY SHEPHERD	School Energy Coalition (SEC)

I N D E X   O F   P R O C E E D I N G S

E X H I B I T S

U N D E R T A K I N G S

Thursday, January 28, 2010

--- Upon commencing at 9:39 a.m.

MS. NOWINA: Please be seated. Good morning, everyone. Today we are hearing evidence on an application filed by Horizon Utilities under section 78 of the Ontario Energy Board Act seeking approval for the recovery of certain amounts related to an unforeseen loss of revenue from one of its large use customers to be effective January 1st, 2010.

Horizon Utilities and an intervenor, U.S. Steel, have both requested that some of the evidence filed in this proceeding be treated as confidential per the Board's Practice Direction on Confidential Filings.

On January 18th, the Board issued its decision on confidentiality matters, determining that some of the evidence in this proceeding would be held -- would become public and that this proceeding would be held in camera.

The Board noted that upon completion of the oral hearing, it will establish a process to determine which portions of the transcript can subsequently be made public.

On January 22nd, U.S. Steel informed the Board by letter that it objected to the Board's decision to place Horizon's response to U.S. Steel Interrogatory No. 4 on the public record and requested that the interrogatory response either remain confidential, or that U.S. Steel be allowed to withdraw its interrogatory.

The Board issued Procedural Order No. 6 in response to this objection. In the PO, the Board stated that it would hear submissions on U.S. Steel's objections today.

The Board also determined that until it has made a decision on U.S. Steel's objections, neither the response to the U.S. Steel Interrogatory No. 4 or Consumers Council of Canada Interrogatory No. 7 would be placed on the public record or should be disclosed by any party.

So there are two matters before us today. First, we will hear submissions on the confidentiality interrogatories in question. We will take U.S. Steel's letter of January 2nd to be U.S. Steel's opening argument, and U.S. Steel will have the opportunity to reply.

After we have dealt with the confidentiality matter, we will have cross-examination on the substance of Horizon's application.

My name is Pamela Nowina. I will be presiding in this proceeding, and with me is Ms. Cynthia Chaplin, as well.

May I have appearances, please?

APPEARANCES:

MR. SIDLOFSKY: Good morning, Madam Chair. My name is James Sidlofsky, counsel to Horizon Utilities Corporation.

MS. NOWINA: Thank you, Mr. Sidlofsky.

MR. WARREN: Robert Warren for the Consumers Council of Canada.

MS. NOWINA: Thank you, Mr. Warren.

MR. BUONAGURO: Michael Buonaguro for VECC.

MS. NOWINA: Thank you, Mr. Buonaguro.

MR. FAYE: Peter Faye for Energy Probe, and with me is David MacIntosh of Energy Probe.

MS. NOWINA: Thank you, Mr. Faye.

MS. SHEPHERD: Alana Shepherd for U.S. Steel.

MS. NOWINA: Thank you, Ms. Shepherd.

MS. CAMPBELL: Donna Campbell, Board Staff, and accompanying me is Martin Davies.

MS. NOWINA: Thanks. As I mentioned, we have decided to hear this proceeding in camera. We are now on air, but we are about to go off and go in camera.

--- Commencing in camera at 9:43 a.m.

MS. CAMPBELL: Ms. Nowina, Mr. Buonaguro has silently signalled to me that I should have indicated or perhaps there should be an indication on the record that Jay Shepherd, counsel for Schools, is not in attendance, although he is counsel for Schools and intended to be here.

MS. NOWINA: Thank you, Ms. Campbell.

All right. In terms of hearing the submissions on the confidentiality matter, Ms. Shepherd, it is all right with you that your letter stands as your opening argument?

MS. SHEPHERD: Yes.

MS. NOWINA: Mr. -- perhaps we will go to Ms. Campbell -- no, we won't. Mr. Sidlofsky, do you want to make submissions first?

MR. SIDLOFSKY: Sure. I would be happy to defer to Ms. Campbell, but I can --

MS. NOWINA: We have decided to leave her to the end.

MR. SIDLOFSKY: Okay.

SUBMISSIONS BY MR. SIDLOFSKY:

MR. SIDLOFSKY: I have a few brief comments. As the

Board is well aware, through this proceeding Horizon has attempted to avoid naming the subject customer, and I expect that in most of my comments today you will still hear me referring to the subject customer even though we are in camera.

We filed several interrogatory responses in confidence and we acknowledge that the Board has determined that a shorter list of responses will be kept confidential.

We are down to -- the issue for this morning really relates to three of them. As for CCC No. 7, which the Board noticed, in issuing Procedural Order No. 6, we would suggest that that can likely be dealt with by way of redaction as opposed to keeping that material fully in confidence.

There are a couple of lines in there that do identify the subject customer. That interrogatory related to information that was provided to Horizon's board of directors with respect to the status of the subject customer's consumption.

However, with respect to U.S. Steel Interrogatory No. 4, which I understand is the key issue for U.S. Steel, I have a couple of comments.

First of all, as the Board and the parties are aware, that response consists of a discussion of the information that Horizon Utilities had and used in determining that the subject customer's load would be declining.

In addition, Horizon provided a series of extracts from various websites, including those of the subject customer, that provided information on their business activities, [redacted]

Horizon has made what I would submit is every effort to keep the identity of the subject customer confidential. We realize that there is certain information included in the application relating to consumption and load, but we have never -- Horizon has never named the subject account customer in this proceeding.

There is no way to put the material, in response to question 4, on the public record without naming the customer. We have looked at it and it simply -- it doesn't lend itself to redaction. It seems like either the information is going on the public record or it's not.

Our concern here is that the information on those pages is integrally linked in the response to the analysis that Horizon made of that information. You can't separate the customer specific information.

And the Board has clearly determined, in agreeing that certain responses will remain confidential, that information related to the subject customer is properly considered to be confidential information. It seems inconsistent to us to take the view that certain customer-related information will be confidential, but the name of the customer and the identity of the customer and other information about their business activities, which is a necessary part of that response, should be public.

There is no question that the web pages that were provided in response to that interrogatory are in the public domain. They can be found.

The concern here, though, is the assembly of that information into a -- the assembly of the information and the analysis by Horizon and its necessary identification of the subject customer that should render the response to that interrogatory confidential.

The Board has also suggested that the identity of the subject customer's evidence can easily be determined from information already on the public record.

But, as I've said, in accordance with the Board's Practice Direction on confidential filings, Horizon has consistently treated the subject customer's identity as confidential, and we haven't disclosed it in any public submissions, filings or other fora. Horizon did not identify the subject customer in the initial application or in any subsequent public communications.

The Practice Direction itself does not reference as a criterion in determining confidentiality whether the information can be determined through independent research or study from the public record. It is simply whether it is in fact on the public record, and in this case that information is not currently on the public record.

It is not clear to Horizon that there is any evidence that a person could, in fact, easily determine the subject customer's identity as among the various large users of -- in the Horizon service area.

Horizon has 12 large use customers. They're all significant consumers. [redacted]

So our submission remains on the confidentiality of that response, that it should and, in fact, must if information related to the subject customer is to be protected, it must remain confidential in this proceeding.

Now, having said that, in the alternative, if the Board holds that the response to the interrogatory is not confidential and if U.S. Steel withdraws the interrogatory, Horizon has a concern that we need to address with the Panel.

You will recall from the U.S. Steel letter that that was one possible outcome here, that if the Board were to determine that the material is public, and should be placed on the public record, U.S. Steel would be -- would want to withdraw its question.

Schools' question 3 sought similar information to the information sought in U.S. Steel 4. And as the Board knows, Horizon's response to Schools' question 3 was a -- excuse me, was a cross-reference to its response to U.S. Steel 4.

If the Board determines that this information is public and if U.S. Steel seeks leave to withdraw its interrogatory, Horizon will, of necessity, have to simply transfer that information that's provided in response to U.S. Steel 4 over to its response to Schools 3. That is the answer to Schools 3, just as it is the answer to U.S.

Steel 4.

That said, then, if the Board determines that this information is public and should be on the public record, then it seems clear to Horizon that it will have the opportunity to simply provide that information in response to Schools 3. Procedurally it would be odd and I would suggest unfair if U.S. Steel were permitted to withdraw the interrogatory and effectively make that information -- or take that information off the record.

Once the Board determines that it is public, Horizon should be able to use that information in response to the other interrogatories.

It is a procedural issue that I need to raise with the Board, because Horizon needs an answer to that -- to the Schools' interrogatory and we have it.

I guess as a final comment -- and this is consistent with our previous correspondence in respect to the response to U.S. Steel 4 -- that information was requested in -- excuse me, that information was requested in confidence or it was requested that the information be filed in confidence. The School Energy Coalition question 3 also requested information, that the information be provided in confidence. That's the basis on which Horizon provided.

Horizon suggests that the most appropriate approach to this issue is to keep that information in confidence consistent with the way it was requested, the way it was provided and the way it was understood that it would be maintained.

Those are my comments. Thank you.

MS. NOWINA: Thank you, Mr. Sidlofsky.

Who would like to go next? Mr. Warren? Mr. Buonaguro?

MR. WARREN: It's not always my practice to begin my submissions by saying I haven't the foggiest idea what is going on, but let me begin that way right now. I am not quite sure, Madam Chair, exactly what is in issue.

We had one interrogatory, my client had one interrogatory that was the subject of some -- of a Board ruling. I thought that it was not to be maintained in confidence. That is No. 7.

But somehow -- and I thought the only issue then was U.S. Steel 4 about which we have no concern, but as I understand it there maybe some linkage between 7 and 4, the nature of which I am afraid escapes me.

MS. NOWINA: Maybe I can help you with that, Mr. Warren.

MR. WARREN: Sure.

MS. NOWINA: U.S. Steel did not request that CCC No. 7 remain confidential. However, when the Board looked at U.S. Steel's letter and the reason for them requesting that their interrogatory be -- remain confidential, it appeared that the same reasoning applied to CCC No. 7, which reveals the identity of the subject customer.

MR. WARREN: I don't have, on behalf of my client, any concern on the issue of revealing the identity of the subject customer. Our real concern with respect to No. 7

was the board of directors' materials, and the Board has ruled on that matter and it is not an in issue. So I don't take any position on that component of the debate that deals with disclosing the identity of the subject customer. I just have no position on that.

MS. NOWINA: So, Mr. Sidlofsky has suggested that that portion become redacted from your interrogatory.

MR. WARREN: I have no problem with that, Madam Chair, thank you.

MS. NOWINA: All right. Thank you.

Mr. Buonaguro, do you have any comments?

MR. BUONAGURO: No.

MS. NOWINA: No? Mr. Faye?

SUBMISSIONS BY MR. FAYE:

MR. FAYE: Madam Chair, Energy Probe had one IR or two that, in part, was filed in confidence. The response was filed in confidence by the applicant.

We don't have any objection to it being filed in confidence but it isn't one of the type that would reveal the identity of the customer, as far as I can see. And I am just not certain why revealing when they will not achieve their maximum allowable return on equity is a secret.

MS. NOWINA: We are not dealing with any of the other interrogatories. The Board has made decision on the others so we are not reviewing that decision.

MR. FAYE: Excuse me, then, we have no objections to the way it's being filed then.

MS. NOWINA: All right. Ms. Campbell.

MS. CAMPBELL: Yes.

SUBMISSIONS BY MS. CAMPBELL:

MS. CAMPBELL: Excuse me. It is not much of an opening submission, is it?

What I would like to deal with are some submissions on some procedural issues and the first thing I would like to refer to is the U.S. Steel letter of January 22nd, 2010. And the only reason that I am going to do that is it sets a framework for the submissions that I am about to make.

Does the Panel have a copy of the January 22nd, 2010 letter?

MS. NOWINA: We do.

MS. CAMPBELL: The two paragraphs that I am going to read are at the bottom of page 2.

My submissions go to chiefly the relief that the, that U.S. Steel has requested.

At the bottom of page 2 they say:

> "We respectfully request that the OEB either rescind its decision to allow that Horizon response to U.S. Steel No. 4 to be placed on the public record, or allow U.S. Steel Canada to withdraw question 4 from its interrogatories such that no response to this question is at any time placed upon the public record."

The first part of my submission is going to deal with the Practice Direction on confidentiality and the specific request by U.S. Steel that they withdraw their interrogatory.

I am going to make specific reference to section 5.1.12 of the practice direction and 5.1.14.

And the essence of my submission is that U.S. Steel cannot withdraw its interrogatory, and the reason for my submission is that, in section 5.1.12 it states that:

> "Where the Board has ordered that information that is the subject of a confidentiality request be placed on the public record or disclosed to another party in whole or in part, the person who filed the information will, subject to section 5.1.13" -- which is not relevant here -- "have a period of five business days in which it may request that the information be withdrawn."

Stopping there. Staff's submission is that the party referred to would be Horizon and not U.S. Steel.

Moving to 5.1.14 it reads:

> "If the party that made the request for confidentiality indicates, within five business days of the date of the receipt of the Board's order that it intends to appeal or seek review of the decision, the Board will not place the document on the public record until the appeal or review has been concluded."

And that section, again, I would say relates to Horizon. So the ability to appeal the decision on confidentiality within the Practice Direction specifically seek the relief of a withdrawal falls only with the party that seeks confidentiality, which at that time was Horizon.

Now, my next submission has to do with the fact that although the confidentiality Practice Direction might indicate that, with regard to the withdrawal of the interrogatory, that relief cannot be granted.

There is a larger discretion in the Board and that falls under the Rules of Practice.

And specifically the Rules of Practice indicate that:

> "The Rules shall be liberally construed in the public interest to secure the most just, expeditious and efficient determination on the merits of every proceeding before the Board."

That section or, sorry, Rule 2.01, and the second rule that is relevant is 2.02:

> "Where procedures are not provided for in these rules, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it."

[redacted] It is affected by your decision, and my advice to you is that you can, in effect, deal with the matter before you as, in effect, a motion to vary the decision that you released on confidentiality.

It is my advice that U.S. Steel cannot withdraw the interrogatory, but certainly this Board can deal with the objections that they have raised through dealing with it as though it is a motion to vary and determine whether or not the information that was provided by Horizon, in response to U.S. Steel interrogatory 4, specifically, should remain confidential.

The final matter that I wanted to deal with was whether or not there are precedents before this Board that deal with the naming of a subject customer.

And I am going to provide two -- to advise you of two particular decisions. The first one is in Oakville Hydro Electricity Distribution Inc., EB-2004-0527.

And the reason for putting this in front of you will become clear very shortly, and I am going to let my friends have a copy and -- excuse me. I am going to also, at the same time, to save on time, hand up the first seven pages of the Bluewater proposed settlement agreement of March 2nd, 2009, which became the settlement.

The Oakville decision, which I will deal with first, had to do with a change in a large use customer class. If you turn to page 2 of the decision under "Summary of the Application", the second sentence talks about the customers who have changed -- who have demand greater than 5,000 kilowatts and are changing -- and are in the large use customer class and one customer is changing operations and reducing demand, so it moves to a different class.

All throughout this decision, the two customers who were affecting the operations of Oakville Hydro and who prompted the application were not named.

The second material that I handed up -- piece of material I handed up to you, the Bluewater proposed settlement agreement of March 2nd, 2009, if I can take you to the fifth page, there is a bullet point that says "Updated application".

The first point under that says:

"The two customers (Royal Polymers and UBE Automotive) are to be removed from the forecasts..."

This had to do with two customers who no longer were going to be customers of Bluewater, and then there is an indication of what the removal of those customers were going to do to the load forecast and the revenue requirement.

Obviously, in that case, those two customers were named.

[redacted] So I can't provide you with a precedent that is on point. What I can tell you is that in certain -- in one case, the identity of the customers who were affecting the operation of the utility was withheld, and in another they were clearly named.

[redacted]

So I am not going to make -- Staff is not going to make any submissions on the substance, but simply indicate to you that it would appear that on a decision such as this, this is wholly within your discretion; that the Board has both revealed and kept secret, for whatever reason, the identity of the subject customers, and it is purely the exercise of your discretion in this case if you were to accept U.S. Steel's arguments and those made by Horizon as to whether you exercise the discretion here.

MS. NOWINA: Thank you, Ms. Campbell.

Ms. Shepherd, your reply?

FURTHER SUBMISSIONS BY MS. SHEPHERD:

MS. SHEPHERD: I will refrain from repeating any of our written submissions, which the Board has before it and has reviewed at this point.

However, I would like to direct the Panel's attention to three points by way of reply.

First, the Board noted in its Procedural Order No. 6 of January 25th that U.S. Steel's objections did not include the response to CCC Question No. 7. And U.S. Steel wishes to correct its position at this time and bring that question within the scope of its objections to the disclosure.

We would also like to agree to the solution of redacting that was proposed by Mr. Sidlofsky today.

Secondly, U.S. Steel submits in summary of its letter of January 22nd that the Board, in its decision on confidentiality in respect of U.S. Steel Interrogatory Question No. 4, was not made in accordance with the test set out in appendix B of the Board's Practice Direction on confidential filings.

Now, the test in appendix B protects, among other things, information that, in effect, could prejudice any person's competitive position, impede or diminish the capacity of a party to fulfil existing contractual obligations, interfere significantly with negotiations being carried out by a party, or which is likely to produce a significant loss or gain to any person.

[redacted]

Thirdly, I would like to direct the Board to the relief that Ms. Campbell pointed out on the bottom of page 2 of U.S. Steel's written submissions.

U.S. Steel respectfully submits that the OEB either rescind its decision to allow the impugned responses to be placed on the public record, allow U.S. Steel to withdraw its Question No. 4 in the interrogatories such that no response to this question is at any time placed on the public record, and in terms of the Schools No. 3 issue, we agree with the submissions of Mr. Sidlofsky on that point.

And barring any questions, I direct the Board to our written submissions, and I would also like to indicate that U.S. Steel does not intend to make submissions at the application today.

We would like to conclude our submissions on this point.

MS. NOWINA: Thank you, Ms. Shepherd.

MR. SIDLOFSKY: Madam Chair, I apologize. I just feel that I need to interrupt for a moment, if I could just take a moment of the Board's time.

I have no problem with my friend, Ms. Campbell, referring to the Oakville decision of May 11th, 2005. I was counsel to Oakville Hydro on that application, and I know we were also careful at that time not to identify the subject customer.

My only concern about the use of this decision is this wasn't the final version of the decision. That decision was the subject of an extensive review motion on issues that I am not prepared to identify at this point, but my only concern is that the version of the decision that should be filed in this proceeding is the amended version of the decision.

MS. NOWINA: Does it have the same effect that Ms. Campbell is looking for; that is, the subject customer was not named?

MR. SIDLOFSKY: It does. The original version of the decision had some comments about information that was provided by the applicant that turned out to be inaccurate, as the review Panel found.

But there were suggestions in the original version of the decision that there had been inappropriate conduct. Those sections of the decision were taken out following the review motion. So I would simply ask that the version that was handed out be replaced with the correct version of the decision.

MS. NOWINA: All right. Thank you, Mr. Sidlofsky.

MS. CHAPLIN: Ms. Shepherd, I just have one question.

MS. SHEPHERD: Yes.

[redacted]

MS. CHAPLIN: Okay, thank you. That's all I have.

MS. NOWINA: All right. Ms. Chaplin and I will take just five minutes to see if we can make a decision on this now. If not, we will come back and continue and tell you when we will make a decision. So we are adjourned for five minutes.

--- Recess taken at 10:09 a.m.

--- On resuming at 10:12 a.m.

MS. NOWINA: Come along, Ms. Campbell.

DECISION:

MS. NOWINA: The Board has decided to treat U.S. Steel's letter as a motion to vary our decision of January 18th. We are granting the motion. We take Mr. Sidlofsky's recommendation that CCC No. 7 will be redacted to remove the specific reference to the subject customer and that U.S. Steel No. 4 will be held in confidence.

The reason for our decision is first that the information does link the subject customer to the application, that the information may be speculative in nature, and that we've received no objections from other parties to proceeding in this matter.

Do I have to repeat all that? Sorry, I was less than five minutes. Do I have to repeat it, Teresa? It wouldn't have been captured. No. All right. Let's repeat it. Sorry about that, everyone.

MS. CAMPBELL: Can we just make sure that Patrick is back also? Patrick might have thought it was five minutes too.

MR. ANTONOPOULOS: He's got the audio.

MS. NOWINA: He's got the audio? Okay, then, I don't need to repeat it.

With that, then, I understand Ms. Shepherd, are you asking to be dismissed then?

MS. SHEPHERD: Yes.

MS. NOWINA: All right. You may do that. Mr. Sidlofsky, you want to introduce your panel and then we will have them -- well, we will have your panel sworn now.

MS. CAMPBELL: Before we do that, Ms. Nowina, I have been reminded a couple of times and I have yet to do it, to mark the two decisions that I gave you with exhibit numbers. I will be filing the amended Oakville Hydro decision as requested by Mr. Sidlofsky, so it will be the amended Oakville Hydro decision that goes on the record along with the Bluewater proposed settlement or agreement -- settlement agreement.

And the first will be -- Oakville Hydro, the amended Oakville Hydro decision, EB-2004-0527 will be K.1.

EXHIBIT NO. K.1: AMENDED OAKVILLE HYDRO DECISION, EB-2004-0527

MS. CAMPBELL: And the Bluewater Power Distribution Corporation proposed settlement agreement of March 2nd, 2009, EB-2008-0221 will be K.2.

EXHIBIT NO. K.2: BLUEWATER POWER DISTRIBUTION CORPORATION PROPOSED SETTLEMENT AGREEMENT, EB-2008-0221

MS. NOWINA: Thank you. I will ask Ms. Chaplin to swear the witnesses.

HORIZON UTILITIES CORP. - PANEL 1

Kathy Lerette, Sworn

Indy Butany-DeSouza, Sworn

Sarah Hughes, Sworn

John Basilio, Sworn

Grant Brooker, Sworn

MS. NOWINA: The panel has been sworn, Mr. Sidlofsky.

Do you want to introduce them and do your examination in-chief?

MR. SIDLOFSKY: I will do that, Madam Chair. I have a few introductory remarks, if I might. I expect no more than about five minutes or so.

MS. NOWINA: All right.

OPENING STATEMENT BY MR. SIDLOFSKY:

MR. SIDLOFSKY: Madam Chair, the applicant in this case is Horizon Utilities Corporation. Horizon is the successor corporation to Hamilton Hydro Inc. and St. Catharines Hydro Utility Services Inc. Horizon owns and operates the electricity distribution systems located in the city of Hamilton and the city of St. Catharines.

On September 3rd of 2009, Horizon filed an application with the Board for approval of a proposed rate rider that would be in place from January 1st, 2010 through April 30th, 2011 and would allow it to address a significant reduction in electricity consumption by one of its large use customers.

The proposed rider would allow it to recover over $2.8 million in foregone revenue from the 2008, 2009 and 2010 rate years.

Horizon has presented two alternatives for the Board's consideration, a rider on the variable components of the bill and a rider on the monthly fixed charge. In its response to Staff Interrogatory No. 2, Horizon indicated that as the costs of servicing the subject customer remain fixed the fixed rate rider is a more appropriate recovery mechanism than a variable rider.

The application was made in accordance with the Board's policies relating to Z-factors, and it is Horizon's submission that this event meets the Board's tests of causation, materiality and prudence as those tests are set out in the Board's July 14th, 2008 report on third generation -- excuse me, third generation incentive regulation for Ontario's electricity distributors and its September 17th, 2008 supplemental report.

Horizon has not identified the customer publicly but included information in its application that would allow the Board to understand the circumstances of the reduction in are the customer's load. In the spring of 2009, the subject customer announced a temporary but indefinite shutdown at its Hamilton operations.

At the time of the application, the subject customer's load had dropped from previous levels of approximately 100,000 kilowatts per month to approximately 9,000 kilowatts per month and Horizon understood that with certain operations being restarted in the summer of 2009, monthly demand would increase to approximately 12,000 kilowatts.

The application was prepared and filed on the basis that monthly demand would be at 12,000 kilowatts for the period of July 1st, 2009 through April 30th, 2011. Horizon intends to rebase in 2011, a year ahead of schedule, and will be filing a forward test year cost-of-service application later this year.

In the course of the interrogatory process in response to Board Staff Interrogatory No. 6, Horizon updated the anticipated load for the subject customer.

Specifically, Horizon provided actual demand data for July through October 2009 and changed its forecasted demand for the November 2009 through April 2011 period from 12,000 kilowatts to [redacted].

With this change, the foregone revenue will be approximately [redacted].

Horizon acknowledges that it is possible that the subject customer's activities and load in Hamilton may change again between now and the end of April 2011. As with the changes in load to date, there may be increases or decreases in current levels -- excuse me, from current levels. And as with previous changes, any future changes will also be outside of Horizon's control.

Horizon believes that it would be inappropriate to implement the proposed rider and realize a gain in revenue through unanticipated additional load from the subject customer or a further loss in revenue due to further unanticipated load reductions. For that reason Horizon proposed the establishment of a variance account that would track the difference between the anticipated distribution revenue from the customer and the actual amount of distribution revenue received from the subject customer.

In the application, the base line volume is 12,000 kilowatts per month. With the revisions made through the interrogatory process, Horizon proposes that the base line volume be [redacted] kilowatts.

To assist the Board and the parties Horizon will be presenting one witness panel today. And in order to ensure that the hearing is completed in a timely manner, there will be minimal examination in-chief.

The identities of the panel members have been provided to the Board and intervenors.

Throughout its application, Horizon has been mindful of minimizing the impacts of this application on its customers. To put the Horizon application into that context, the application as filed contemplated a total bill impact for the average 800 kilowatt-hour residential customer of 32 cents per month, or one-third of one percent on the total bill.

Small general service over 50 kilowatt customers would -- excuse me, small general service under 50 kilowatt customers would experience bill impacts of 80 cents or just over one-third of one percent a month. Even those minimal impacts will be reduced with the increase of assumed loads for the November 2009 through April 2011 period.

Because the oral hearing is limited in both time and scope, Horizon's witness panel will not be taking the Board through its entire application. It can be said though that Horizon's objective in this application is three-fold. To recover the, first -- excuse me. First, to recover the revenue foregone between May of 2008 and April of 2011 on account of the subject customer's change in load; second, to do this through a rider that has minimal impacts on

Horizon's customers; and, third, to establish a variance account that will ensure that the amount ultimately recovered through the rider reflects the foregone revenue with no over- or under-recovery.

Horizon has been able to meet these objectives with minimal impacts on customer bills.

As a final comment, Horizon filed this application in September of last year for a rider effective January 1st of this year. It is now almost February, and the Board's timelines suggest that Horizon's new rider, if granted, may not be in place until April.

Accordingly, Horizon requests that the Board allow for adjustments to the rider that would permit the full recovery of the foregone revenue over the period ending April 30th, 2011, whenever that period may begin.

For example, if Horizon will be able to implement the rider on April 1st, then the rider would be calculated so as to recover the full amount of -- the full amount of foregone revenue for the May 2008 through April 2011 period over the 13-month period of April 1st, 2010 through April 30th, 2011.

With those remarks, I would like to introduce Horizon's witness panel.

EXAMINATION BY MR. SIDLOFSKY:

MR. SIDLOFSKY: Perhaps, beginning with Mr. Basilio, I could ask you to state your names for the record, please?

MR. BASILIO: John Basilio.

MS. CAMPBELL: Turn your mic...

MR. BASILIO: John Basilio.
MS. HUGHES: Sarah Hughes.
MS. BUTANY-DE SOUZA: Indy Butany-DeSouza.
MS. LERETTE: Kathy Lerette.
MR. BROOKER: Grant Brooker.
MR. SIDLOFSKY: And, Mr. Basilio, you are senior vice president and chief financial officer for Horizon Utilities?
MR. BASILIO: Yes.
MR. SIDLOFSKY: Actually, perhaps I should mention, Madam Chair, I filed a number of copies of the package of CVs for the witness panel. I hope the Panel has those.
It might be helpful to mark those as an exhibit.
MS. NOWINA: Yes. Let's give those a reference number.
MS. CAMPBELL: The reference number would be K.3.
EXHIBIT NO. K.3: CVS OF WITNESSES.
MR. SIDLOFSKY: Perhaps just to complete any additional filings, we also delivered a copy of an updated version of Horizon's response to School's interrogatory 14 at the end of the day yesterday. That is in confidence, as that was one of the responses the Board has maintained in confidence.
MS. NOWINA: We have received that.
MR. SIDLOFSKY: Thank you. So I assume that would be KX1.4; is that right?
MS. NOWINA: I don't think we need to change the number. It can stay with a revision to the original

interrogatory response.

MR. SIDLOFSKY: Okay, thank you. I apologize.

Back to you, Mr. Basilio. You're a chartered accountant.

MR. BASILIO: That's correct.

MR. SIDLOFSKY: Your role with respect to this application, is what?

MR. BASILIO: I have overall executive responsibility for the application.

MR. SIDLOFSKY: Perhaps I could move over to Ms. Butany-DeSouza. You are vice president regulatory and government affairs for Horizon Utilities?

MS. BUTANY-DE SOUZA: That's right.

MR. SIDLOFSKY: And your responsibility in this application?

MS. BUTANY-DE SOUZA: I was responsible for the finalization and the filing of the application.

MR. SIDLOFSKY: Ms. Lerette, you are director of engineering, operating and operational improvement for Horizon?

MS. LERETTE: Yes.

MR. SIDLOFSKY: It's a long title. And before that, I understand that you were director of construction and maintenance services for Hamilton Hydro?

MS. LERETTE: Yes.

MR. SIDLOFSKY: And you are a certified engineering technician?

MS. LERETTE: Technologist.

MR. SIDLOFSKY: Technologist, I'm sorry.
MS. CHAPLIN: Sorry to interrupt. I always forget to tell the witnesses this. Each table shares -- there are two mics, but there is only one control button for each table. So don't turn it off.
MS. NOWINA: Don't turn it off for your partner, is the point.
MR. SIDLOFSKY: And you are, I understand, responsible for project design and operations and maintenance activities across the Horizon service area; is that right?
MS. LERETTE: That's correct.
MR. SIDLOFSKY: Your role in this application?
MS. LERETTE: Is it on? There we go. I'm available to address questions related to Horizon's capital and OM&A projects as they relate to this application.
MR. SIDLOFSKY: Ms. Hughes, vice president Horizon -- vice president of finance, Horizon Utilities; correct?
MS. HUGHES: Correct.
MR. SIDLOFSKY: You are a chartered accountant. And your role in this application is what?
MS. HUGHES: I'm available to address any matters relating to the proposed Z-factor rate riders and any accounting.
MR. SIDLOFSKY: Finally, Madam Chair, Mr. Brooker is sitting here with me simply because of space issues, but I will stay away from him while he is under cross-examination.
Mr. Brooker, you are manager of regulatory compliance

for Horizon Utilities?

MR. BROOKER: Yes, that's correct.

MR. SIDLOFSKY: And a chartered accountant?

MR. BROOKER: Yes, I am.

MR. SIDLOFSKY: Your role today?

MR. BROOKER: I am to assist and be available to answer questions concerning primarily the cost allocation study.

MR. SIDLOFSKY: Thank you. Ms. Butany-DeSouza, I should have mentioned you hold an MBA, as well?

MS. BUTANY-DE SOUZA: That's correct.

MR. SIDLOFSKY: Perhaps I could address this to you, Ms. Butany-DeSouza. Was the evidence prepared by you or under your supervision?

MS. BUTANY-DE SOUZA: The evidence was initially prepared by individuals who are no longer with Horizon. It was finalized and filed, as I said before, under my supervision.

MR. SIDLOFSKY: And does the panel adopt it as its own evidence in this proceeding?

MS. BUTANY-DE SOUZA: We do, subject to certain corrections.

MR. SIDLOFSKY: I take it you will touch on those corrections a little bit later; is that right?

And do you adopt Horizon's responses to Board Staff and intervenor interrogatories in this proceeding as your evidence, as well?

MS. BUTANY-DE SOUZA: The responses were prepared by

Horizon Utilities' staff, and we adopt those responses as our own. But we wish to be clear that not all of the responses reflect Horizon Utilities' request as filed in this application nor do they provide supporting evidence to our application.

For example, one interrogatory requested Horizon staff to perform calculations based on the assignment of the foregone revenue from the subject customer entirely to the large user class.

Horizon performed the calculations and responded to the interrogatory, as we're required to do, but we do not agree that that approach is appropriate or that that is the approach that should be adopted by the Board.

MR. SIDLOFSKY: And, Ms. Butany-DeSouza, could you indicate your corrections to the evidence?

MS. BUTANY-DE SOUZA: Yes.

First, I would refer the Board to page 10 of our Manager Summary.

The materiality threshold was addressed at paragraph 3.9. In that paragraph, we advised that Horizon Utilities' OEB-approved distribution revenue for 2008 was 86,661,000, and for 2009, $87,577,000. This resulted in materiality thresholds of $433,305 and $437,885, respectively.

In the Board's report on third generation IRM, the materiality threshold was set out as half of one percent of the distribution revenue requirement for a distributor with Horizon's revenue requirement.

The figures given in the application reflected our base revenue requirement. Our distribution revenue requirement for 2008 was 93,632,000, and our 2009 distribution revenue requirement was 94,351,000, resulting in materiality thresholds of $468,160 and $471,758, respectively.

Second, in response to Schools Interrogatory No. 14, there were two figures given for the 2008 decrease in working capital allowance and revenue requirement attributable to the subject customer's load decrease. The correct values are a decrease of $1.8 million in the working capital allowance, and a decrease of approximately $158,000 in the revenue requirement for 2008.

However, Horizon has delivered an updated response to that interrogatory, and Mr. Basilio will have some comments on that updated response.

Third, I should also bring to the Board's attention Horizon's response to Board Staff Question No. 6. We were asked to provide a revised version of table number 3 from the manager's summary of this application, which was to include the updated customer demand data for July through October 2009 and the updated anticipated 2009 distribution revenue deficiency.

We provided that table in the response, but a portion of it was cut off. The full version of the table can be found in the second page of Horizon's response to VECC Interrogatory No. 4(a). It is referred to in that answer as updated revised table 3.

That aside, certain adjustments will be required to the riders proposed in the application for a number of reasons.

The application and the resulting proposed fixed and variable riders were based on actual monthly load for the subject customer for the period May 1st, 2008 through June 30th, 2009 and on an estimated monthly load of 12,000 kilowatts from the subject customer for the period July 1st, 2009 through April 30th, 2011.

The calculation of Horizon's anticipated revenue deficiency from the subject customer was shown in table 3 at page 7 of Horizon's manager's summary.

In response to Staff Interrogatory No. 6, we provided an updated calculation of the subject customer's actual and anticipated distribution revenue deficiency. This was duplicated as part of our response to VECC Interrogatory No. 4(a).

The new calculation used actual subject customer demand for the period May 1st, 2008 through October 31st, 2009 and assumed a monthly demand of [redacted] kilowatts for the period of November 1st, 2009 through April 30th, 2011.

I can confirm that Horizon proposes to use this updated data and assumptions in the calculations of its rider.

However, the proposed riders were based on implementation date, excuse me, of January 1st, 2010 for the Board's rate order. At this point, it may not be possible to implement the rider until April 1st. This will have the effect of increasing the riders but we believe that the increase will be outweighed by the reduction to the higher assumed load for the subject customer.

The final amounts of the riders will depend both on the Board's decision of this application, specifically the riders will change depending on the load assumption adopted by the Board on the implementation date of the Board's decision and on whether the Board establishes a variable or a fixed rider.

MR. SIDLOFSKY: And do you anticipate making those changes in a draft rate order?

MS. BUTANY-DE SOUZA: Yes. We acknowledge the changes will be required and we will incorporate them into our draft rate order as directed by the Board's decision.

MR. SIDLOFSKY: Mr. Basilio, would you please explain the update to Horizon's response to Schools question 14.

MR. BASILIO: Of course.

Horizon Utilities submitted a revised response to Schools' IR No. 14 late yesterday. The additional information provides direct and relevant context for otherwise conceptual results that may be suggestive of mitigating the Z-factor claim through reduced working capital and revenue requirement related to the subject customer.

Specifically, the revised response asserts the following:

> "That the methodology used to determine working capital in Horizon's 2008 electricity distribution rate application is not a valid or

even complete approach for assessing conceptual changes thereto in customer-specific circumstances such as those within the Z-factor application."

That working capital has, in fact, increased materially for Horizon Utilities through the subject period of the Z-factor claim. This, notwithstanding, Horizon Utilities Z-factor claimed does not include a component related to the amount of revenue deficiency that might be calculated from such increase.

And lastly, that it would be inappropriate to interpret the results provided in direct response to Schools 14 as mitigating the Z-factor claim and I would be pleased to address this further as cross-examination may invite.

MR. SIDLOFSKY: Madam Chair, before I make the panel available for cross-examination, I just have a few questions about a couple of aspects of the application-in-chief.

Mr. Basilio, the application provided calculations of both fixed and variable riders. Could you please explain Horizon's preference?

MR. BASILIO: Horizon Utilities would clearly accept either form of rider. However, in the application, we explain that Horizon's revenues from the subject customer have declined significantly, but the costs of providing distribution service to this customer are largely fixed, virtually entirely fixed.

The infrastructure serving the customer does not change simply because its load declines. We suggest the fixed rate rider is the more appropriate approach here because it more appropriately reflects the costs that are being foregone.

We discussed this preference in our response to Board Staff question 2(b). That approach also benefits the 800 kilowatt-hour residential customer group, in that total bill impacts are otherwise reduced.

Under the original application using an assumption of 12,000 kilowatts per month from July 2009 through April 2011, total bill impacts were 32 cents per month or 0.33 percent based on a variable rider. With a fixed rider, those impacts were reduced to 24 cents or 0.25 percent.

Small commercial customers at 2,000 kilowatt-hours per month would experience a minimal increase in the fixed rider compared to the variable rider. With the variable rider, the increase would be 80 cents per month or a 0.36 percent increase on the total bill. While the fixed rate rider would be $1.03 or 0.7 -- 0.47 percent increase on the total bill.

The bill impacts using an assumed load of [redacted] will be even lower.

MR. SIDLOFSKY: And Mr. Basilio, the application suggests that you have been experiencing declining loads from other customers as well as the subject customer.

Why focus on the subject customer in this application?

MR. BASILIO: The large user class has seen the most significant declines across our customer classes. And this is generally true of all commercial classes.

As we mentioned in paragraph 2.4 of the manager's summary, Horizon's large user revenue declined by 1.8 million over the May 2008 to June 2009 period, and just over half of that was due to the subject customer's shutdown.

Reductions in revenue from other customers did not meet the Board's materiality threshold for a Z-factor claim. There are many of them, but in aggregate, the decline in revenue, has been quite material, far more material than that of just the large user class.

As we mentioned in response to Board Staff question No. 10(b), there have been reductions of approximately 15 percent in kilowatt-hours billed and kilowatt-hours billed per customer in the general service greater than 50 kilowatt class, but those reductions have not resulted in significant impacts on our distribution revenues.

Overall, though, Horizon anticipated a total utility revenue deficiency of approximately 3.5 million in 2009 with declines in large user load being the principal reason. Horizon discussed that in its response to Staff Interrogatory No. 4.

MR. SIDLOFSKY: And finally, Ms. Lerette, Horizon's application states its loss of distribution revenue from the subject customer has made it necessary to consider which expenditures may be deferred without incurring risks to system reliability or customer safety.

And I know that in your response to Board Staff question 5(a), Horizon listed capital and operating expenditures that have been deferred; correct?

MS. LERETTE: Yes.

MR. SIDLOFSKY: The answer stated that the projects were selected for deferral based on whether or not the deferral would result in any significant business or operational risk to Horizon such as distribution system reliability and customer impacts in the very short term.

Can you comment on the need for those projects and when they should be completed?

MS. LERETTE: Yes. In our answer we indicated that these projects were deferred from fiscal 2009 to fiscal 2010 or beyond. But the fact is that they were part of our 2009 operating and capital budgets.

Horizon determined that these projects were necessary through our normal budgeting process. Most projects have been deferred to 2010 and some to 2011.

If they are not completed soon, other projects in the coming years' budgets will also be delayed and we are concerned that this will eventually lead to greater risks to reliability, customer service and productivity improvements.

As Mr. Basilio already mentioned, the decline in revenue from this subject customer is only part of the reason for Horizon's revenue shortfall, but it is a significant part of it and the recovery of the foregone revenue related to the subject customer should help us a great deal in completing these deferred projects.

MR. SIDLOFSKY: Thank you, panel.

Madam Chair, the panel is available for cross-examination.

MS. NOWINA: Thank you. As I understand it, Ms. Campbell is going to go first.

CROSS-EXAMINATION BY MS. CAMPBELL:

MS. CAMPBELL: Yes. And I would like you to first of all -- my initial references to the evidence require you to turn up the Manager's Summary.

And I would ask you to go to page 4. Paragraph 1.9. And paragraph 1.9 reads:

> "Horizon Utilities submits that it has met the Board's Z-factor eligibility criteria and that the circumstances that give rise to this application are, in the words of the Board, generally external to the regulatory regime and beyond the control of management and the Board."

First of all, would you agree with me that utilities gain and lose customers all the time?

MR. BASILIO: Of course.

MS. CAMPBELL: Okay. So it is part of the ongoing business of utilities to gain and lose customers?

MR. BASILIO: Of course.

MS. CAMPBELL: And so each of those gains and losses are events that are genuinely external to the regulatory regime?

MR. BASILIO: No.
MS. CAMPBELL: Why not?
MR. BASILIO: Basically -- my green light is on. Oh, there we go. Sorry about that.
Just as you are inferring, I mean, you know, residents come and exit cities all the time. Small business turns over quite frequently.
However, you know, to address that question as it relates to the large user and decline in our commercial revenues, I mean, what is outside of the control and management of the board is what has largely been described as a one in 100 year decline in the economy.
MS. CAMPBELL: Thank you. But that is not what I am discussing right now. We are talking about the general proposition that the gain and loss of customers is something that is an external event. We are not talking about the single large use customer that brings you before the Board in this application. I am just discussing this generally right now. We will get to the specifics of the application.
But you would agree with me that the gain and loss of each and every customer, whether it is someone who is moving from one townhouse into another and out of your franchise, that is something that is beyond the control of the management of the utility?
MR. BASILIO: Of course.
MS. CAMPBELL: It is an external event?
MR. BASILIO: Of course.

MS. CAMPBELL: And one of the things that we are here to discuss --

MR. BASILIO: However, if I might just clarify for a second, certainly when we are forecasting, there is a lot of history with respect to average customer growth for the utility, some of which we base our forecasts on.

So certainly when we are preparing budgets and forecasts, we would endeavour to predict. Although being speculative in nature, that history is often a predictor for changes in the number of customers and customer growth for a utility.

So while, I mean, I can't speak to an individual resident's motives for relocating from Hamilton, I would predict that on average our load growth will be somewhere between zero and 0.5 percent every year. So I think --

MS. CAMPBELL: I think what we have agreed between the two of us, sir, is that you don't have any control over the loss and the gain of customers?

MR. BASILIO: Correct.

MS. CAMPBELL: All right. That's my only proposition for you. Thank you.

Now I would like to move on to the specifics of why it is that Horizon believes that the loss of this customer is sufficient to fall within the Z-factor -- trigger the Z-factor criteria, and I would like to touch on something that was touched on in your opening.

I would like to go to the specific paragraph. That is 2.4, so page 5. Specifically it states:

"The Customer's shutdown has had a significant impact on Horizon Utilities' OEB Approved distribution revenue. For the fourteen month period from May 2008 to June 2009, Horizon Utilities' distribution revenue, from its Large User class, has decreased by a total of $1,823,474, of which $926,075, or 51%, is due entirely to the Subject Customer's shutdown."

And by my math, that means that 49 percent, or $893,502, of that $1.8 million loss was due to other large user customers. And you would agree with me, sir, on the math?

MR. BASILIO: Yes.

MS. CAMPBELL: Okay. So that means, in the first sentence, the significant impact was not only that customer's shutdown, but the other large use and the other 49 percent?

MR. BASILIO: As it relates to the large user class, of course.

MS. CAMPBELL: As it relates to the large user class.

MR. BASILIO: Correct.

MS. CAMPBELL: So if I understand the opening statement that you made - and of course correct me if I am summarizing the evidence incorrectly - the evidence is the other 49 percent that were lost did not achieve materiality; is that correct?

MR. BASILIO: I believe that is correct.

MS. HUGHES: Yes, that's correct.

MS. CAMPBELL: All right. So the only large user customer -- the large user class customer that attained materiality [redacted]?

MR. BASILIO: Yes.

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: All right. And I... I am going to say [redacted].

MS. NOWINA: Ms. Campbell, if you say "subject customer", we will have fewer redactions on the transcript.

MS. CAMPBELL: I'm sorry, I do apologize. I do apologize. I had forgotten. Thank you for reminding me. I apologize.

So the materiality, when we are talking about the triggering of the Z-factor, I am going to try to understand why it is that you feel that the loss of a customer falls within the Z-factor criteria.

And it appears that the bulk of your argument rests upon the fact that it is material and that it is outside your materiality, which is in excess of approximately $450,000, and that it is an external event.

MR. BASILIO: Correct.

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: And those are the two significant facts underlying your application?

MS. BUTANY-DE SOUZA: If I can add to that, the Board's tests also include causation. So the amounts should be directly related to a Z-factor event. And in this case, and I draw your attention to our manager's summary, page 10, paragraph 3.7, as we set out there, the subject customer accounts for 30 percent of the large user load, and that decline or the shutdown of the subject customer in the Hamilton plant and what appeared to be the indefinite shutdown of the subject customer had a significant single event impact on our large user load.

And so in terms of a test for causation, as well, we believe that this event qualified under the treatment for a Z-factor.

MS. CAMPBELL: So the threshold revenue loss, in terms of dollar value or percentage that would raise the loss of a particular customer to a Z-factor, is just materiality?

MS. BUTANY-DE SOUZA: Sorry, would you mind repeating the question?

MS. CAMPBELL: So the threshold revenue loss, in terms of dollar value or percentage that would raise the loss of a subject customer into triggering a Z-factor application by you, would be materiality?

MS. BUTANY-DE SOUZA: It would have to satisfy the test of materiality, yes.

MR. BASILIO: It would have to satisfy all tests.

MS. CAMPBELL: Now, is it Horizon's position that if the loss of a customer causes a cash flow deficiency, that the Z-factor criteria is met?

MR. BASILIO: No. I mean, you would have to assess the nature of the loss in the context of all of the Z-factor criteria, materiality being one. Certainly it is a triggering point to start looking at the other criteria.

MS. CAMPBELL: So given that customers are gained and lost with some regularity, you're saying the criteria that elevates the loss of customers are any customers that would trigger all of the three Z-factor criteria?

MR. BASILIO: Yes.

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: And the loss must be in excess of the materiality amount that we discussed earlier?

MR. BASILIO: That's clearly one of the Board's criteria.

MS. CAMPBELL: And what you are also seeking is a recovery of forward-looking losses or forward-looking recovery. So you have what you say are the distribution revenue losses that you already calculated and are certain, and then you have forward-looking losses?

MR. BASILIO: We do. That's correct.

MS. CAMPBELL: And is it your position -- is it Horizon's position that the recovery of forward-looking losses is in the Board's guideline on third generation IRM?

MR. BASILIO: I don't think it falls squarely within, I guess -- and on this point, we thought this might be an expeditious approach in the -- you know, in what we're perceiving is a likely event that [redacted] -- I mean, it may ramp back up to [redacted], or whatever its load was prior to the decline in the economy, but we thought this would be an expeditious approach.

And the approach that we've outlined will not benefit the utility to the extent that, you know, the loss -- to the extent that there is a gain, then all of a sudden it turns and we're receiving more revenue than what was contemplated in our 2008 application, that that would be the subject of something that would go back to customers.

This was really to try and address, I think, you know, having to -- a likelihood in our view of having to come back before the Board in another year, year and a half's time and dealing with this again.

MS. CAMPBELL: So the application is really, what the basis of the application is, at least for the forward looking recovery, is that it is a more efficient way of dealing with what you foresee likely events going forward?

MR. BASILIO: That's correct. I mean, we drafted the application -- the recovery is really somewhat bipartite. There is a retrospective piece and then there is a prospective piece. With respect to the retrospectively piece, obviously there is certainty there we can quantify, the foregone revenue.

The prospective piece is something we see continuing to be likely. And we have - I mean loads continue to be -- I mean the prospective -- the retroactive piece ends when April of 2009? In the application?

MS. BUTANY-DE SOUZA: In the application, the retrospective piece -- so the certain piece that we had filed has already happened, would have been up until June of 2009.

So at the time of filing the application, the evidence was that July forward 2009 would be prospective.

In the interrogatory responses that we filed late last year, the prospective piece is from November 2009 onwards, because we had revised our load data.

MR. BASILIO: Since July, in any event, loads have continued to be well below the basis underlying our 2008 cost-of-service application.

MS. CAMPBELL: But they have increased?

MR. BASILIO: But they have increased, that's correct.

MS. CAMPBELL: In fact they have gone up to [redacted], I think, is what you now contemplate they will be.

MR. BASILIO: Correct.

MS. CAMPBELL: And the application had 12,000.

MR. BASILIO: That's correct.

MS. CAMPBELL: So they have [redacted].

MR. BASILIO: That's correct.

MS. CAMPBELL: And they could gain, again, and continue to increase?

MR. BASILIO: They could.

MS. BUTANY-DE SOUZA: They could gain again and continue to increase. But even at [redacted], which was the last filed actual load data, if I look back at the actual loads for [redacted], the last time that the load for [redacted] was [redacted], would have been [redacted].

So it has -- it is taking [redacted] to get back up to that same point. So --

MS. CAMPBELL: That's right. And you're forward-looking to 2011. So you are looking ahead for yet another year?

MS. BUTANY-DE SOUZA: And we've allowed for a variance account, as well. So as Mr. Basilio has stated, we are not looking to over-recover. We have put the prospective piece forward for regulatory efficiency, if you will, but recognizing that what seems to be the trend is that this loss is going to continue.

MS. CAMPBELL: Now, just getting back to what we were discussing about the fact that you are forward-looking.

You are asking the Board to assess, in essence, the prudence of a forward looking Z-factor adjustment. The historical -- they have hard numbers.

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: We have just had a discussion which indicates that the forecasts that you base the application on has now changed [redacted]. I mean I appreciate your point that they're [redacted], but they are [redacted] the forecasts that you filed with the initial application.

How is the Board going to assess what essentially becomes a moving target?

MR. BASILIO: We offered this for the consideration of the Board. I am not going to pursue the prospective piece aggressively under cross, I mean if the Board is uncomfortable with that, if Staff are uncomfortable with the notion of dealing with what we think are -- is a continued likely deficiency through the period prospectively, I think we understand that.

This was an offering, again, with the intention that it might be efficient and that there would be a true-up to actual.

If there's some discomfort, again, it is not something I would pursue aggressively if the Board ordered that, you know, it does not want to grant a prospective rider. We don't take serious issue with that. We would, you know, it puts us back in the position of having to come back with another Z-factor claim in a year and a half if, in fact, events play out as we have continued to see since the amount of -- since the retroactive amount that is in the application, and as we think are likely to continue to unfold.

I mean we are hopeful [redacted] comes back to [redacted], certainly our utility has a vested interest in that, a community interest, but you know the likelihood of that, we think, is -- we think it is low.

MS. CAMPBELL: I want to clarify something that you just stated because in fairness to you I want to make sure that we have your position clear.

You are not indicating that you are withdrawing the request for forward recovery?

MR. BASILIO: No.

MS. CAMPBELL: All you are doing is indicating to the Panel that if the Panel -- because I am suggesting to you that, given the past history from 12,000 to [redacted], there would be, perhaps, some difficulty in deciding how far forward the Board can comfortably project and permit a prospective recovery. And what you are saying is, you understand that.

But I want to just confirm you are not withdrawing the request for that relief?

MR. BASILIO: No. Maybe I can just clarify.

Again, [redacted] the subject customer's future load is speculative.

Back in 2004 and prior to that, [redacted]. And it was our view that that was going to happen. And on a separate matter, we had written to Board Staff, we visited with just about every agency, including, I believe, the Ministry of Energy that were very likely to realize a very material loss.

And that was -- those discussions started, [redacted] I think that is, you know, all I could offer really is context that, you know, our view of the future is they're going to be materiality short of the load that we hope -- had hoped for in our 2008 electricity distribution rate application, which was based on historical information. So it was probably the wrong way to describe that.

But that's the basis on which we are asking for the variable rider. We think that condition is going to persist and it is going to have a material impact on cash flow and revenue through to our 2011 rate application. But we are not withdrawing it.

MS. CAMPBELL: I note by looking at the clock that it is now 11 o'clock and I am going to be going into a different area. And I am wondering if this might be the appropriate time for the morning break.

MS. NOWINA: I thought we might skip morning break unless someone feels a need to have it, and break for lunch at 11:45.

MS. CAMPBELL: That's fine. I am prepared to keep going. I assume the court reporter is all right.

MS. NOWINA: All right.

MS. CAMPBELL: As we know from her exit, she is one of the key people that we need to have in the room.

All right. I would like to -- oh, one moment please.

Just one further question. Do you have any explanation or any information to assist in why the number went from 12,000 to [redacted] kilowatts?

MR. BASILIO: Do we have any information we can share?

MS. CAMPBELL: Oh, yes. Preferably only the sort you can share.

MS. BUTANY-DE SOUZA: No. Anything would be speculative. We have simply been watching our load as it changes.

MS. CAMPBELL: All right.

MS. BUTANY-DE SOUZA: Or their load, rather, the subject customer's load as it changed.

MS. CAMPBELL: Thank you. Now I would like to shift, I would like to go to the application, please. And I would like to take you to paragraph -- I'm sorry, page 6.

I am at the top of the page and it is the second full sentence in the paragraph. And it reads:

> "The applicant submits that the loss of distribution revenue for the rate years 2008 and 2009 in the amount of $1,794,254 is significant to its regulated operations and cash flow. This has made it necessary for the applicant to review its expenditures in order to determine which projects may be deferred without incurring any risk to system reliability or customer safety."

And you touched upon that slightly in your opening, and now I would like to -- I would like to discuss the general -- in a general sense how it was that you made some of the decisions you made concerning what was deferred to 2010 and to 2011.

Typically - and this is a general question - when Horizon is looking to either make cuts or to defer projects, does Horizon generally look at the utility as a whole?

MS. LERETTE: Yes, we do.

MS. CAMPBELL: All right. So typically you would --

is that because one customer's load can decrease, another can increase, and so by only looking at the whole do you have an idea if those cuts or deferrals are necessary?

MR. BASILIO: That's correct.

MS. CAMPBELL: And when I -- in your opening, you made a discussion to the -- there's a chart of projects. I apologize. I have the reference to them...

MS. HUGHES: I believe it is Board Staff 5(a).

MS. CAMPBELL: Thank you. Yes. And that is a confidential interrogatory. It is found on page 10 of 20.

It was indicated that -- this chart has a description, the amount, and then whether it relates to OM&A or capital, and it states the following projects were deferred from fiscal 2009 to fiscal 2010 or beyond.

I believe in the opening, you indicated that some have been deferred to 2011?

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: All right. So in the list of all of these projects, was it after an assessment of the utility as a whole that you determined that all of these projects had to be deferred because of the loss of load by the subject customer?

MS. LERETTE: Yes.

MR. BASILIO: Sorry, I thought I heard a couple of things there. I mean, I will take you through the process. We are looking at forecasts for the utility as a whole.

To the extent that there are shortfalls relative to our expectations, we need to consider whether we need to somehow mitigate.

With respect to the subject years, the retrospective subject years, we've seen, as we I think largely outlined in our opening remarks, material declines, and so on an enterprise basis we are looking at cash flow, principally cash flow. You know, don't like to say you can't pay your bills with net income, but principally cash flow, and revenue is a direct contributor to cash flow. So on an enterprise basis we make those assessments.

If one customer is providing us with more revenue and another one is providing us with less and the two net out, that is not going to have any impact on our decision. So it is an enterprise view that starts to drive the decision. It is not narrowly focussed on a subject customer, per se, the need to mitigate, but on the broader enterprise results.

MS. CAMPBELL: So just in a general -- just a general question, first of all.

Is it Horizon's position that every single one of these projects was deferred because of the 51 percent of the $1.8 million revenue loss occurring because of decline in load by the large user class?

MR. BASILIO: That would have been a contributor, but, more broadly, to the general decline in commercial loss, those deferrals.

MS. CAMPBELL: So, in other words, what you're saying to me is it is a contributing factor, the loss of approximately $900,000 worth of income, in that specific time period?

MR. BASILIO: Exactly. It is a contributor.

MS. CAMPBELL: I appreciate you're saying forward, but you're saying that that is one of the losses?

MR. BASILIO: That's right. As you will note, the magnitude of the deferrals is less than the foregone revenue of the subject, is greater than the foregone revenue of the subject customer.

Certainly it is a contributor, but, again, it is addressing a broader issue within the utility, as well, of a large decline in commercial load.

MS. CAMPBELL: But it's not the only contributor?

MR. BASILIO: The subject customer is not the --

MS. CAMPBELL: That's right.

MR. BASILIO: -- not the only contributor, no.

MS. CAMPBELL: Now, I would like to ask you --

MS. NOWINA: Ms. Campbell, before you move on, I would just like to get a correction on the record. I believe you said this interrogatory 5(a) was confidential. I don't think it is, as a result of our decision on confidentiality.

MS. CAMPBELL: I apologize. I am working from two different binders. Thank you for the reminder, Madam Chair. I appreciate it.

One of the reasons I am interested in that is of course we discussed there's a general decrease in the large user class.

I would like to know whether -- and from what you have said, I think you would agree with me, that the losses related to the reduced revenues from the other large use customers also factored into the decision to defer the projects?

MR. BASILIO: Into a decision to defer a basket of projects, yes, that's correct.

MS. CAMPBELL: And if I could ask you just a few questions about the chart.

So it appears, if my math is correct, that $1,490,000 worth of OM&A or capital projects were deferred and -- sorry, OM&A were deferred and $670,000 capital projects were deferred. That is approximately $2.2 million?

MS. HUGHES: Correct.

MS. CAMPBELL: Okay. And can you tell me which of all of those projects have now been deferred to 2010 as opposed to 2009?

MS. LERETTE: All of the projects, except the very first one, ERP implementation, that is deferred to 2011.

The other ones have been deferred to 2010.

MS. CAMPBELL: Have any of them been done in 2009?

MS. LERETTE: No.

MS. CAMPBELL: So there was no change in that?

MS. LERETTE: That's right.

MS. CAMPBELL: So the first, the ERP implementation, will be done in 2010?

MS. LERETTE: 2011.

MR. BASILIO: It is planned to be done in 2011.

MS. CAMPBELL: All right. Thank you for that. It is planned. This is, again, forward-looking?

MR. BASILIO: Yes.

MS. CAMPBELL: It is what you anticipate will be done?

MR. BASILIO: Exactly.

MS. LERETTE: Yes.

MS. CAMPBELL: All right. And the remainder of those listed are 2010?

MS. LERETTE: That's correct.

MS. CAMPBELL: Now, if I could take you to the text that is immediately beside the chart, so we are now at the top of page 11. It says:

> "Please note that the capital expenditure deferrals of .7m are expected to be offset by 2m in higher distribution system capital expenditures for 2009."

Does that mean that the net effect is that the capital program has increased in size in 2009?

MS. HUGHES: Yes, that is correct. We were trying to highlight that although we took mitigation efforts identifying specific capital programs, there were other capital programs in our distribution plan, customer reactive, I believe --

MS. LERETTE: Yes.

MS. HUGHES: -- capital programs, where we actually spent more than we had originally anticipated in 2009. So we thought that was important to highlight. Although we mitigated this 600,000, it was offset by additional capital expenditures in 2009 that we hadn't planned to incur.

MS. CAMPBELL: But you were able to do them despite the loss of revenue occasioned by the large use customer?

MS. HUGHES: That's correct. But they were, you know, because they're reactive maintenance, and maybe Kathy could sort of speak to that.

MS. LERETTE: Yes. We saw a significant increase in reactive maintenance. When we say "reactive maintenance", we talk about a car hitting a pole, something we have to address immediately due to the power being out or a public safety issue.

So we have seen an increase in that. The Electrical Safety Authority also contributes to our unplanned expenditures with regards to reactive replacements through their due diligence reports. And we also had two large capital projects that were -- that came in over budget which contributed to that, as well. But it is primarily due to the reactive maintenance.

MS. CAMPBELL: Thank you.

I would like to ask you -- staying on the same page, I am now going to go to the next paragraph. It says:

> "With respect to the commercial smart meter capital expenditures, these expenditures are a component of the smart meter variance accounts and are outside the scope of the revenue sufficiency and deficiency."

And I look -- I read that paragraph. I look at the bottom of the chart on page 10, and there is $2.9 million for smart meter customers listed.

First of all, the sentence that I read, it says it is outside of the scope of the revenue sufficiency, deficiency. Does this mean this has nothing to do with the application? In other words, smart meter has not been deferred? This has not been affected by the large user customer decrease in load?

MS. HUGHES: So -- so the smart meter, we highlighted it as an area that we did initially mitigate. We had planned to do a rollout of the smart meter commercial within 2009, given the overall financial impact of the distribution revenue and our overall cash flow, we made a decision to defer the rollout of the commercial smart meter. It was also pending a separate rate application for a smart meter adder.

So we've highlighted it just as an item that we did defer for cash flow purposes subject to when we received the rider, which was I believe late in October or November --

MS. BUTANY-DE SOUZA: November.

MS. HUGHES: -- or November of 2009. So it was a specific capital program we had planned, that we did in fact defer from a cash flow perspective.

MS. CAMPBELL: Could you clarify, was that because of the revenue deficiency? Or because you didn't have the smart meter rider?

MR. BASILIO: Both. We had planned or we had -- I mean, you know best plans laid. We had planned to start to commence a rollout of commercial smart meters. It just made sense as you are changing out meters, to start replacing them with smart meter technology.

At the time it was not -- I believe they were excluded from the minimum functionality requirements for smart meter investments that would qualify for the variance accounts and related riders.

So we put in an application to clarify that and I believe there was some precedence, there had been some precedents set in applications sent just priors to ours that those things were starting to be included.

That decision came quite late in the year. But we were going to proceed, it was our plan to proceed in any event based on our projections of revenue and cash flow for 2009 originally.

So it is a combination really of both.

MS. CAMPBELL: Now I would like to -- staying on page 11, go to another sentence and that sentence is the third sentence down on the page, it says:

"As previously noted, despite these mitigation efforts Horizon Utilities will not achieve its regulated rate-of-return on regulated rate base."

My question is: Is it Horizon's position that under an IRM a utility is supposed to make its regulated rate-of-return?

MR. BASILIO: Yes.

MS. CAMPBELL: So it is your position that if the utility doesn't make the return, the Board should provide the utility with a means to get its rate-of-return?

MR. BASILIO: It depends on the circumstances.

In this circumstance, we are filing a Z-factor application. In all? No. Because we recognize that, you know, the regulated rate-of-return includes a risk premium to deal with the pluses and minuses that generally occur of some of those things that occurred during the year that, you know, in isolation are not necessarily material.

But generally speaking, and I think lenders and rating agencies would be relying on regulation that provides for a sustainable return. One that just doesn't happen in a cost-of-service year, but that in the interim period there is some stability of cash flow.

So I am -- I am asserting, yes. I hope the answer is "yes" but, yes, that would be our contention.

MS. CAMPBELL: I would like to now turn to the Manager's Summary.

I would like to go page 11 of the Manager's Summary. Specifically, page 11, and specifically paragraph 3.11. And it is the second sentence I would like to discuss with you it reads:

> "The Z-factor adjustment which Horizon Utilities again notes is related only to revenue lost and anticipated to be lost from the subject customer is required to provide the cash necessary to finance Horizon Utilities' investment in capital, operations and maintenance and to ensure that the projects deferred from 2009 are completed in 2010

in addition to 2010 projects."

Is Horizon, in that paragraph is Horizon stating that if the Board doesn't grant the application, that the utility won't have enough cash to run the utility?

MR. BASILIO: There will be a continued need, if conditions -- if general conditions persist as we continue to see, both with respect to the subject customer and more broadly with respect to the commercial class, then we will continue to have to make some pretty hard decisions about deferring projects, which is not our preference, but, you know -- and we will do that on a priority basis, again, and hopefully Kathy, you will get a chance to address some of the risks related to the deferrals. But at the end of the day, you've got to balance, you know, the utility requirements with fiscal prudency.

And those are very tough decisions. I think our track record over the last two years has been that any mitigation we've applied is far and away less than what we've suffered with respect to foregone distribution revenue.

MS. CAMPBELL: Has Horizon given any thought to seeking some other means of funding the capital expenditures?

MR. BASILIO: Well, we are advancing our 2011 electricity distribution application. To the extent we haven't mitigated, we are financing those things.

You will -- I would note that our, you know, our bank indebtedness has gone up something like $30 million over the last year. That's the change -- the changes in working capital have been significant over -- as we have explained in the IR. Some of that related to foregone commercial load. Some of it related to other elements of rate design, such as you know the disposition of regulatory variance accounts.

But -- and, well, obviously advancing capital programs without adequate cash flow. Bank indebtedness is rising. These are things -- it's a complex balancing act. But they're very difficult decisions when we are deferring what we believe are much needed investments. Not just in keeping the wheels on, but in productivity improvements.

You will note in that list that there are some investments and productivity improvements that we've got to make a cash outlay upfront but we feel very strongly those things will yield benefits down the road.

And so when we are making decisions around capital prioritization, it is always going to favour the keeping the wheels on step.

MS. CAMPBELL: So is it Horizon's evidence that the large -- the loss of revenue from the subject customer has impaired Horizon's ability to raise capital or has increased the cost in the availability of capital?

MR. BASILIO: With respect to the subject customer, it is a contributing factor to putting pressure on our balance sheet.

If we continue to fund the programs as we hope to, it will put pressure on the balance sheet. Those things, you know, if we can't recover, that will have long-term implications.

I mean, any utility only has so much capacity to borrow against its capital on operating programs.

MS. CAMPBELL: And you indicated it is a contributing factor. Again, it is not the only factor.

MR. BASILIO: It is a very significant contributing factor. It is 50 percent of, you know, our revenue from the large user class. We continue to have to support those costs. To the extent there's margin, those are things that generally go into financing expansion programs, productivity initiatives, those sort of things.

But, again, it is a very material component of a general decline in commercial load.

MS. CAMPBELL: So just to distil what you are saying to me, is that Horizon is not experiencing difficulty in getting the capital, if they in fact need it, but what you are saying is it impacts and increases your costs?

MR. BASILIO: It will cost us more.

MS. CAMPBELL: I understand, but you are not saying you can't?

MR. BASILIO: I am not saying that immediately -- I don't have a liquidity event if I don't get the revenue, if that is sort of the threshold for determining whether this -- you know, or whether that is a criteria for recovery. But as we look forward and do projections, I mean, the loss of that -- the loss of a material amount of revenue, you know, in finance terms, is lost equity against which we borrow.

And to the extent that you can -- we continue to find ourselves with millions of dollars of unanticipated declines in income, that does have an impact.

If we can't recover those things, that will have an impact, and it could have a medium-term impact. It hurts things like debt-to-equity ratios and interest coverage ratios and those sorts of things. It is a detriment to the utility. It is not supportive of a sustainable utility with a view towards the long term.

And as a finance executive, that is really where my eye is.

MS. CAMPBELL: I take it that your statement about sustainability going forward is a general statement; that it is not your evidence that this application and the decrease in load means that Horizon is not sustainable going forward?

MR. BASILIO: No. No, that's not the case. But, you know, if we were to quantify over the last three years the amount of foregone revenue generally related to the commercial class -- which we would submit is largely related to the economic decline. These aren't terribly weather-sensitive customers. We are talking about millions of dollars.

That is very significant to Horizon's ability to invest in operating and capital programs and productivity improvements.

So, you know, that's the context within which we are looking for some recovery.

MS. CAMPBELL: I would like to discuss the fixed rate rider with you for a little bit.

MR. BASILIO: Sure.

MS. CAMPBELL: You covered, again, in your opening and you indicated why you preferred a fixed over a variable, and my understanding was that the preference was because the fixed costs 22 cents and the variable costs 33 cents to the ultimate customer, I believe?

MR. BASILIO: Subject to check, I believe that is what we --

MS. CAMPBELL: I believe that's what you said.

MR. BASILIO: Okay.

MS. CAMPBELL: All right. So you indicated that of course whatever the Board orders is whatever you get and you accept, but you have indicated the preference for the fixed rate rider.

Is there anything else about this particular loss, this particular application, that makes the fixed rate rider necessary or appropriate, aside from the evidence you have given me which suggests that you think that it is in fact more cost-effective -- I apologize -- it reduces the impact going forward.

Is there anything else that makes the fixed rate rider necessary or appropriate in this circumstance?

MR. BASILIO: Sorry, just to recap, I mean, there's some benefit, customer benefit, as you had outlined. But, generally speaking, the reason is we would submit that the nature of servicing, more broadly, most of our customers are fixed in nature.

What gave rise -- what has given rise to, you know, broadly, a commercial decline in revenue and that of the subject customer is the fact that so much of our recoveries of principally fixed costs are volumetric, are attached -- you know, they're volumetric. They're attached to consumption and demand.

And, you know, that's principally the reason why we think fixed is more appropriate. No reason other than that.

MS. CAMPBELL: But the concept of the fixed costs that are attached to customers, that's true of all customers?

MR. BASILIO: That's true, I would say, generally speaking. You know, in a nutshell, what we do is we lease wires and poles.

MS. CAMPBELL: Right. And those are fixed costs?

MR. BASILIO: Yeah.

MS. CAMPBELL: So using your argument, fixed is always preferable to variable?

MR. BASILIO: Very much, yes.

MS. CAMPBELL: So that is an argument that is not unique to this particular application?

MR. BASILIO: No, no.

MS. CAMPBELL: That is an argument that would be generally made by you?

MR. BASILIO: It is an argument that would be made by me, and I suspect it is an argument that most LDCs would assert, as well. It is just a statement of fact. Most of our costs are fixed.

Over the long term, certainly there is some variability as, you know, loads change or grow or those sort of things. But, you know, again -- and I cannot do that math off the cuff, but I would suggest that the portion of variable -- you know, that currently the variable component of our rates is far and away greater than the amount of variability in a distribution -- in the costs of supporting a distribution system.

MS. CAMPBELL: And just one other thing, unless you want to --

MR. BASILIO: No, it's okay. It was just a response to -- your questions are far more important than these right now.

MS. CAMPBELL: That only happens in this room.

[Laughter]

MR. BASILIO: I am sure I will be reminded of that later.

MS. CAMPBELL: We initially discussed the fact that -- at the beginning when you were giving your evidence, that you are going to use the [redacted].

And your application, as we discussed, was based on 12,000 kilowatts.

MR. BASILIO: Yes.

MS. CAMPBELL: Could you give us an undertaking to file the forecast using [redacted]?

MS. BUTANY-DE SOUZA: Yes.

MS. CAMPBELL: Because what we have right now in the application is 12,000. So if the forecast for the lost revenue was formulated on the 12,000 kilowatt load, could you please do one based on [redacted]?

MS. BUTANY-DE SOUZA: I believe that we addressed that in our response to VECC Interrogatory 2(a), which is cross-referenced to Board Staff No. 6, where we revised table 3, which was part of the Manager's Summary, and I believe it is table -- Board Staff -- oh, VECC 4(a), excuse me, yes. I'm sorry, in VECC 4(a), the second table.

So the first table presented shows revised table 3. The second table shows updated revised table 3.

And in that, we have updated the consumption data.

MS. CAMPBELL: Using [redacted]?

MS. BUTANY-DE SOUZA: Yes. So up until -- if we follow the column -- I am sorry the print is so small, but if you follow the column down, up until October 2009 we have reflected the actuals to that date, and then from November 2009 onwards, we have projected based on [redacted].

MS. CAMPBELL: Thank you. That is very helpful. Just one request going forward.

Could the 25-year old who put in these tables please be persuaded to use 12 point the next time they file. Mr. Battista, I am looking at you.

[Laughter]

MS. CAMPBELL: Those are Board Staff's questions. Thank you.

MS. NOWINA: Thank you, Ms. Campbell.

Can I get a sense of the length of the cross-examination from the other parties?

MR. BUONAGURO: I am in the half-hour range, I think.

MS. NOWINA: Okay. Mr. Warren?

MR. WARREN: Certainly no more than -- certainly no more than that, Madam Chair, and depending on what Mr. Buonaguro does, I may be a lot less.

MS. NOWINA: All right. Mr. Faye?

MR. FAYE: I think I will be about a half an hour, as well.

MS. NOWINA: All right. Mr. Buonaguro, why don't you -- were you planning to go next?

MR. BUONAGURO: Yes.

MS. NOWINA: All right. Why don't you get started? We do want to break before 12:00. So if there is a logical place...

MR. BUONAGURO: I was going to start with clarifying some of the numbers, so maybe I could do that for 15 minutes or so.

MS. NOWINA: For 15 minutes, that would be great.

CROSS-EXAMINATION BY MR. BUONAGURO:

MR. BUONAGURO: Good morning, panel.

MS. HUGHES: Good morning.

MR. BUONAGURO: I am going to start with where we left off, which is VECC 4(a), just to confirm my understanding of it.

So I think, in a nutshell, this is what you are claiming in terms of the 2008-related revenue deficiency, the 2009 forecast and the 2010 forecast deficiency.

This is the latest numbers; right?

MS. BUTANY-DE SOUZA: Right, yes, the latest filed numbers.

MR. BUONAGURO: And the only thing you really could do, I guess, would be to update the actuals that appear in the 2009 table. You could update those to actuals, as well, now that November and December have gone?

MS. BUTANY-DE SOUZA: Right.

MR. BUONAGURO: Perhaps I can get an undertaking to update those two months?

MS. BUTANY-DE SOUZA: I can provide the consumption data. I obviously can't update the table. I can provide the consumption data now. I obviously can't update the table.

MR. BUONAGURO: Okay. Perhaps you can give us the consumption data to see how it compares to what you forecast.

MS. BUTANY-DE SOUZA: Okay.

So November's consumption data is [redacted] and December was [redacted].

MR. BUONAGURO: Thank you. Now, as I understand it these figures -- so for 2008, you have [redacted]. That is what you are claiming with respect to 2008 rates; 2009 you are claiming [redacted]. 2010 you're claiming [redacted], both okay a prospective basis and that is where you get the 2.3 million that we were talking about earlier today?

MS. BUTANY-DE SOUZA: Yes, that's correct.

MR. BUONAGURO: Okay. Now, there was some discussion about SEC Interrogatory No. 14, so perhaps you can turn to that.

Although I don't want to flip back and forth to the old one versus the new one, I think the difference between the old one and new one is everything after the initial calculation, that there is a calculation that is strictly in accordance with what was asked and then you have added explanation and then a recalculation essentially.

MR. BASILIO: I think perhaps a couple of wording changes such as results of this conceptual recalculation.

But I mean not really any substantive change to the -- no substantive change or no change at all to the numbers --

MR. BUONAGURO: Okay.

MR. BASILIO: -- in the three bullets.

MR. BUONAGURO: So starting with the original answer and the original numbers that are in accordance with the actual question. If the Board were to accept this is an appropriate adjustment, you would be deducting from the 2008 figure in revised table 3, you would be deducting [redacted] for the 2008, you would be deducting [redacted] for 2009, and you would be deducting [redacted] for 2010 if the Board were to accept what's implicit in the question.

MR. BASILIO: If the Board were to accept it, yes.

MR. BUONAGURO: Okay. Now, my understanding of this updated response is that you are saying, no, no, no, don't accept that as formed. But you have gone and recalculated the way you would do it at the end of this interrogatory response.

So if we go to page 4 of 5, and you have described it as -- at line 16:

"The above recalculation adjustment would have a pro rata reduction to the amount of revenue requirement decrease under the recalculation with the following result."

So for 2008 instead of [redacted], you are suggesting [redacted]. For 2009, instead of [redacted], you're suggesting [redacted]. And for 2010 instead of [redacted], you are suggesting [redacted].

MR. BASILIO: Well, what I am suggesting or what I am submitting, in my response, is that the recalculation as I have defined it should be disregarded.

I've offered that it is, in any event, it is incomplete. My modification is still very much conceptual. But what I would like to focus on is the actuality with respect to working capital changes for Horizon Utilities.

MR. BUONAGURO: I just want to interrupt, just for a second to understand it. When I read this --

MR. BASILIO: Late last night?

MR. BUONAGURO: -- early this morning, it sounded like, it sounded to me and I may be wrong, and you will correct me if I am wrong, it sounded to me like you were maybe conceding the idea but didn't like the way it was calculated and gave an explanation for why it was calculated differently in providing new numbers, and I don't think that is what you are telling me now.

MR. BASILIO: No. No. If the response portrayed that, let me just clarify. No, that is not what I am suggesting. Submitting.

MR. BUONAGURO: Okay. Perhaps you can go on. I think you were going to explain why, why even though you have recalculated it, even that you wouldn't accept.

MR. BASILIO: Well, I laid out why I think the recalculation -- the methodology used to, in direct response, is invalid. It is very much conceptual. And it doesn't reflect the actuality that working capital for -- and those are real. I did provide working capital numbers in the response from May first to, for the rate years and sort of to date, that the actuality is working capital has gone up quite materially.

So if we were seeking to, you know, try and come up with some sort of methodology of considering, well, you know, for working capital changes how much should be allocated to a customer? The reality is that working capital has gone up. It hasn't gone down for Horizon as a whole.

And so, you know, on that basis we would submit that it is not appropriate to accept something that is quite conceptual in nature that doesn't reflect reality to somehow mitigate our Z-factor claim which, again, for the retrospective piece, it is based on hard cash numbers.

I mean, and hard numbers working capital has gone up for this period. Related costs have gone up. We are not seeking to recover any of those costs related to working capital. We did not seek to recover those costs. I think that is the nature of my response, Michael, if that helps or Mr. Buonaguro.

MR. BUONAGURO: Okay, thank you.

Now you say -- at its core, at least the way I viewed the application, the problem that's been raised is that the forecast for this particular customer, as it is embedded in your base rates, turns out to be very wrong. Is that fair?

MR. BASILIO: Correct.

MR. BUONAGURO: And I think directly you are seeking in this application to fix it, fix that forecast.

MR. BASILIO: That was an approach that we had discussed with Board staff early on. Whether that would be -- I mean at the heart of the matter -- and again more broadly speaking -- we have suffered a material decline in commercial load. Again, that we think is, you know, related to a 1 in 100-year financial event. Something that is wildly out of our control to either manager or predict in a financial forecast, certainly with regard to economic information that was available at the time we prepared our 2008 rate application. But that, you know, to fix it, I don't -- I mean in a sense, sure, I guess that's, I guess that's correct.

MR. BUONAGURO: Well, to be fair, you are tracking or you are asking the Board to look at the deviation from the amount that is embedded in rates for this particular forecast, quantify it and give it back.

You are maybe not going into the rate application and actually fixing the forecast and then regenerating your rate schedule, but you are tracking the difference between what was embedded in rates for this forecast and what has actually happened and what your updated forecast is for this customer and you are looking at the impacts and trying to adjust what you recover in rates as a result, which is, to me, in short form you are fixing the forecast for this one customer. The impact, the rate impact of the difference in the forecast rate versus what is happening.

MR. BASILIO: One difference might be, though, that if we had experienced -- we did experience a $750,000 or thereabouts loss [redacted] with respect to the 2008 rate year.

If for one much our other large use customers we would have picked up $750,000 of revenue such that the two washed, no enterprise level impact, we would have not sought this correction. No.

MR. BUONAGURO: Really?

MR. BASILIO: That's correct.

MR. BUONAGURO: Sorry to sound surprised, but it is interesting that you say that, because I think you were asked a number of interrogatories and this is spilling into one of my other topic areas but it is apropos, you were asked, for example, I think it was a VECC interrogatory, actually. I think it is VECC -- I think VECC 7(a), (b) and (c).

VECC (c) -- VECC 7(c) says, and this was nonconfidential. I know that because it is on my computer as opposed to in a binder in front of me.

And there is a reference related back to (b) but in essence the question is:

"Should utilities be required to report and apply for Z-factor adjustments in cases where the gain in revenue from a single customer relative to that included in the rebasing application e.g., through expansion of an existing customer, addition of a new customer is sufficient to meet the materiality criteria? Please explain your answer."

The answer is --

MR. BASILIO: The answer was no to B --

MR. BUONAGURO: Right.

MR. BASILIO: -- essentially.

MR. BUONAGURO: I think the part that addresses the substance of C is:

"Horizon Utilities further submits that the Board's approach to Z-factor events as set out in the three generation IRM report and previous Board statements with respect to Z-factors have consistently addressed the Z-factors in the context of material adverse events."

I took it from that that you were saying that -- you just gave me the example where we have the subject customer who has, in round numbers, around $750,000 deficiency in 2008.

If you had a corresponding increase of $750,000 related to a new customer, they would have, in your mind, offset and you wouldn't have had to make the Z-factor application. I think I am summarizing what you just said.

MR. BASILIO: That's right. I mean, just again to provide context, what the utility is seeking to extract, in terms of revenue requirement on a sustainable period, is that, you know -- and with all due regard to fairness in what customer -- different customer classes are charged, so that might have been too generic an answer that I gave you.

What we are seeking to recover on a sustainable basis is the revenue requirement that delivers our regulated rate of return, recognizing that we have to put forward efforts to obtain that, including productivity under IRM, continuous improvement, all of those things.

I am not saying that should be an easy thing, but where we present a cost-of-service application and it provides for a level of revenue requirement, we rely on that to deliver our programs. That's what we're seeking. That's what we're seeking to achieve at the end of the day.

So perhaps with respect to a large user, that is too generic an answer. But with respect to, you know, households, if Ancaster is consuming more and Stoney Creek is consuming less, and assuming that those things could somehow be the subject of a Z-factor application, we wouldn't seek such.

Again, you know, from a financial perspective, we are seeking to hit that revenue requirement.

MR. BUONAGURO: Okay. You are confusing me a little, because at first you were saying that if the subject customer loss was offset by a new large customer addition, you wouldn't have sought Z-factor treatment, because even though in isolation the -- I am adding in the implications of that answer -- that even though the subject customer loss meets the materiality threshold, it was offset by something else.

MR. BASILIO: Not a new customer. Just to clarify, Michael, not a new customer, because a new customer brings new costs, potentially. But if the subject customer, an existing customer, if their revenue were down for a period of time - and there are other considerations here - and another large user or a few commercial customers make that up such that there is no net impact on revenue, I don't think we would file a Z-factor application.

Again, we are trying to achieve our revenue requirement on a sustainable basis.

Now, if it is going -- if that circumstance, if sort of looking forward because you can't count on those offsets every year, you know, then we may have had to file some sort of application, but, again, at the end of the day, we are not looking to extract any more revenue requirement out of our customers, nor do we think we really should on a sustainable basis than that which affords us our regulated rate of return.

MR. BUONAGURO: Okay. Just before we break, I will take you to one --

MS. BUTANY-DE SOUZA: Sorry, if I can add? But the fact is that this is a single -- the point is this is a single massive loss of load - and, to go back to Mr. Basilio's point - on which we had counted based on our 2008 EDR. And the fact is that the Board sets out the qualifying requirements for a Z-factor treatment.

And it is in the context of that Z-factor treatment and of those tests that this particular loss of load of this particular subject customer that has put us before the Board today.

MR. BUONAGURO: I take it from that answer, though, that you are somewhat disagreeing with the initial answer, which was that if there had been a similar -- see, I am getting mixed signals now, and I will explain what I am hearing.

I understand in this case you have a subject customer. They have a $750,000 loss. That meets the materiality threshold, at least in your view. And that, in your view, qualifies you for a Z-factor and you are applying for it?

MS. BUTANY-DE SOUZA: Right.

MR. BUONAGURO: Then I got an answer which suggested that: But - and this is maybe hypothetical -- if there had been in the same period a new customer that offset that amount, we probably wouldn't have applied for a Z-factor, because we would have been held whole, generally speaking.

Then I got an answer, and you corrected it, I think. You said, No, no, not a new customer, because a new customer may bring new costs, but if generally within the rate class or within the commercial distribution revenue that particular $750,000 loss was offset by a general range across the rest of the class, then maybe you wouldn't have applied for a Z-factor.

Then I have this last answer which says, But, remember we have a $750,000 loss. It is related to a specific event. It qualifies for materiality. Therefore, we can apply for a Z-factor, which seems to disregard all of these potential offsetting things that you may have done.

So perhaps -- and maybe this is a good time to break.

MS. NOWINA: I was going to say let's live with the ambiguity through the lunch break and deal with it when we come back.

MR. BUONAGURO: Okay.

MS. NOWINA: We will break until 1:15.

--- Luncheon recess taken at 11:48 a.m.

--- On resuming at 12:59 p.m.

MS. NOWINA: Please be seated. Mr. Buonaguro, we can hardly wait.

MR. BUONAGURO: Thank you.

CROSS-EXAMINATION BY MR. BUONAGURO (CONTINUED):

MR. BUONAGURO: Before we go back to what we were talking about I am just going to ask you a quick updated question before I forget.

This is VECC IR No. 4(b), and we went through the updated revised table number 3 already, and it was suggested to me it might be useful for the rider table on the same page, revised table 5. My understanding is the new proposal based on the timing of the application is to do the rider effective April 1st, 2010. Is that correct?

MS. BUTANY-DE SOUZA: Yes. We had offered that, in our original submission, we were looking at a January 1st, 2010 implementation and so clearly now that's impossible. So April 1st potentially.

MR. BUONAGURO: So to update this table, you would base it on consumption/demand over 12 months.

MS. BUTANY-DE SOUZA: Thirteen months.

MR. BUONAGURO: Thirteen months. So do you want to update that table for the new proposal?

MS. BUTANY-DE SOUZA: Sure. So we will take that as an undertaking.

MS. NOWINA: All right. Let's get an undertaking number. J1. It would be my guess.

MS. CAMPBELL: Clearly you have some experience in these matters. Thank you.

UNDERTAKING NO. J1: TO PROVIDE UPDATED TABLE TO REFLECT NEW PROPOSAL

MR. BUONAGURO: Thank you. And I guess going back to where we left off, I had summarized what I had -- I had perceived to be three different positions on what the company would do or not do with respect to an offsetting increase in load due to new customer, I think that's basically what I was confused about and we were going to give you the lunch time to think about what the answer should be.

MR. BASILIO: I appreciate that.

I mean we're talking about scenarios. There are many considerations with respect to these applications, of course, but let me try and answer it like this.

With respect to the subject customer, there are allocated costs related to this customer that we are not recovering and we cannot otherwise mitigate with regard for prudent investment.

This condition has created a material loss for us, which is the subject of the application. And this condition is expected to persist based on our view of the future.

We can't mitigate and without, you know, there are no yes or no answers here. But if we, you know, could somehow mitigate, I mean, again, using the example of, you know, if revenues were really leading to windfall profits in a particular year, and the following year you expected life to go back to normal, then that might be a consideration in not filing a Z-factor claim.

But really, whether or not to file is very complex and respectfully, I think it is going to be very difficult to give a definitive answer on that. But certainly one consideration would be, you know, whether there are mitigating circumstances.

MR. BUONAGURO: All right. So now this line of questioning came up because you had brought up, you had brought up the possibility that if there had been that kind of a customer around, you would do the offset. So I was exploring what kinds of offsets you would look at.

And going back to, I guess, "reality", and I can confirm that updated revised table 3 on VECC 4(b) is what you are actually asking for in this case; right?

MS. BUTANY-DE SOUZA: Yes.

MR. BASILIO: That's correct.

MR. BUONAGURO: And what this represents is only and simply the deviation in the load for this particular subject customer, relative to what was embedded in rates in 2008; correct?

MS. BUTANY-DE SOUZA: Correct.

MR. BUONAGURO: So -- and there is no offsets. There is nothing, nothing has been said, Well, is that what we're going to lose for that customer, but there is something else that may be offset a little bit. There is nothing like that going on here. It is simply the deviation in the load relative to the load forecast that is embedded in 2008?

MS. BUTANY-DE SOUZA: Yes.

MR. BUONAGURO: Okay. And the load forecast that was embedded in 2008 for this particular customer also caused a cost in the working capital. I think that is the point of SEC number 14. Right?

MR. BASILIO: Well, I mean, I don't want to infer what the point of SEC number 14 was. I mean, I didn't write the question so I don't know.

MR. BUONAGURO: Okay. But when you calculate the working capital requirements which then become a revenue requirement item, one of the things is cost of power and cost of power is based on the load forecast, the total load forecast which would include as a subset of that the load forecast for a particular customer including the subject customer.

MR. BASILIO: One component of working capital is cost of power, right.

MR. BUONAGURO: Right. And SEC 14 isolates the impact of -- isolates the impact of the reduced actual load for that customer.

MR. BASILIO: It isolates the impact --

MR. BUONAGURO: On working capital, sorry.

MR. BASILIO: One of the things it does is it isolates the cost -- I guess the change in cost of power for the customer relative to what was in the load forecast for 2008.

MR. BUONAGURO: So if, in 2008 when you applied for 2008 rates, or sorry, in 2007 when you applied for 2008 rates, you had used the forecast consumption that is in updated revised table number 3 in VECC number 4(b). Your working capital requirement and therefore the revenue requirement related to working capital would have been reduced by the amounts calculated in the first part of Interrogatory No. 14 from SEC. I think that is what it says.

MR. BASILIO: Had we had that information then, yes.

MR. BUONAGURO: Right, okay. Thank you.

MR. BASILIO: Yeah.

MR. BUONAGURO: Now, I have a question about one of the things that you went through with Board Staff this morning, Ms. Campbell, and this is at Board Staff interrogatory 5(a) which is a table of deferred costs that you went through this morning.

It is at page 10 of 22 of the Board Staff interrogatory responses.

MS. HUGHES: Hmm-hmm.

MR. BUONAGURO: This may be a question I have to ask because I wasn't listening carefully enough, so forgive me if it is.

Under human resources, new hires and filling of vacant positions, you have an amount of $515,000 that was deferred.

MS. HUGHES: Yes.

MR. BUONAGURO: I'm sorry, I couldn't hear. I don't know if your mike was on.

MS. HUGHES: I'm sorry, yes.

MR. BUONAGURO: And the table says at the top: "The following projects were deferred from fiscal 2010 or beyond," which suggests to me that reading the table, you had planned to spend $515,000 on new hires and the filling of vacant positions, and that you didn't and you are going to do it later.

MS. HUGHES: Correct.

MR. BUONAGURO: That $515,000, does that relate to new hires and vacant positions that were supposed to occur in 2008 i.e., were they included in your 2008 filing?

MS. HUGHES: I am not sure -- I don't know definitively.

MR. BASILIO: Sorry, could you --

MS. HUGHES: He wants to know if any of these were in the 2008 EDR filing.

MR. BUONAGURO: So for example, it may have been -- and I don't know off the top of my head -- that in your 2008 filing you had position X, $100,000. And it may have been vacant at the time, but you had said in the application that you have to fill it for 2008 and therefore made up part of your 2008 application even though it was unfilled.

What I am trying to figure out is if that carried over into 2009 so you were -- maybe you weren't able to fill that position in 2008, it got carried over into 2009. So now it was in your 2008 rates but hadn't been filled in 2008 so it is still in your 2009 planned expenditures, you are going to fill in 2009 but now you have decided well we're just going to defer it until later so that $100,000 won't be filled -- compensation won't be paid out until sometime in 2010 or 2011.

I am trying to figure out how much of that $515,000 is that situation where, in 2008 for 2008 rates you had said we're going to spend a half million dollars in salary on new hires and vacant positions, and you didn't -- and you didn't in 2009 and you are going to do it sometime in 2010, 2011.

MR. BASILIO: I think we would have to go back and make that determination.

MS. HUGHES: Yes.

MR. BASILIO: But, I mean...

MR. BUONAGURO: Can I get that undertaking?

MR. BASILIO: Yeah.

MR. BUONAGURO: So that would be --

MS. NOWINA: Is that all right? Can you give the undertaking?

MS. HUGHES: Yes.

MS. NOWINA: You are able to get it?

MR. BASILIO: Yes.

MS. NOWINA: All right. Get a number.

MS. CAMPBELL: J2.

UNDERTAKING NO. J2: TO ANSWER WHETHER NUMBER OF NEW HIRES AND FILLING OF VACANT POSITIONS IN THE AMOUNT OF $515,000 ARE DEFERRALS FROM 2008 TO 2010 OR BEYOND, BOARD STAFF INTERROGATORY NO. 5(A).

MR. BUONAGURO: I don't know if I have to describe it again, but with respect to Interrogatory No. 5(a) from Board Staff at page 10 of 22, there appears a number, $515,000, of deferred human resources costs for new hires and filling vacant positions, and the question is to provide information as to whether those -- whether the hires and vacant positions that that $515,000 represents were included in 2008 rates and are not only being deferred from 2009 to 2010 or beyond, but actually are deferrals from 2008 to 2010 or beyond. Thank you.

Now, at the risk of stating the obvious, you have --

or your current rate position, as I would put it for context, is this, I think. You have a 2008 base year which is based on cost-of-service; correct?

MR. BASILIO: Correct.

MR. BUONAGURO: And following that, you are supposed to - and I put that in quotes - have three years of IRM rates. 2009, 2010 and 2011 are supposed to be incentive rate mechanism years; correct?

MS. BUTANY-DE SOUZA: Yes.

MR. BASILIO: Well, that's the duration -- that's the maximum duration through which -- I think this is on.

MS. NOWINA: No, it is not.

MR. BASILIO: It's tough to tell with the light. That's the maximum duration through which an IRM period can apply before the next cost-of-service application. But we can, and it is our intention, to file a cost-of-service application in advance of that.

MR. BUONAGURO: I wanted to ask you about that, because you said you can; i.e., you have the implicit ability to do that. I am just wondering. I am assuming there is nothing in the Board report that says if you want to come in earlier, you can. You don't have to do it for three years.

I don't think it says it that way, at least; correct?

MR. BASILIO: I don't believe there is anything in the Board report that -- if I can consult with my panel, I don't believe there is any -- I don't believe that is addressed specifically in the IRM report.

MS. BUTANY-DE SOUZA: No.

MR. BASILIO: Notwithstanding, it is my understanding - and somebody please clarify for me - that the Board will review -- I mean the Board will consider applications made by distributors.

MS. NOWINA: I think I can confirm that.

MR. BUONAGURO: Well, looking at the Board report, and this is at page 7, this is the report of the Board on third generation IRM dated July 14th, 2008. Under "Term", it says under "Policy and Rationale" on page 7:

> "The Board has determined that the plan term for third generation IRM will be fixed at three years (i.e., rebasing year plus three years)."

Which we talked about, and that:

> "...rates of the distributor are not expected to be subject to rebasing before the end of the plan term other than through an eligible off-ramp."

That's what the Board report says at page 7.

What you are talking about, though, is some other ability to come in for cost-of-service essentially whenever you want, I think?

MR. BASILIO: Yes.

MR. BUONAGURO: And I guess to confirm, your plan now is to come off obviously for 2011 rates, so you are terminating the plan one year early; correct?

MR. BASILIO: We are coming one year prior to the duration of the IRM period.

MR. BUONAGURO: Right.

MR. BASILIO: Yeah.
MR. BUONAGURO: That's not based on the consideration of any off-ramp eligibility, I don't think.
MR. BASILIO: I just can't remember -- the nature of why we're coming is because -- because our costs are rising, and obviously our revenues that we're realizing are well below that which is provided for in our 2008 application.
Circumstances have changed relative to our expectations for the IRM period, to such extent that we don't believe we have any chance of realizing our return, or close to it, and we need to adjust.
MR. BUONAGURO: Okay. Now, the off-ramp -- and this is at page 38 of the report, and I think you know this. I am not going to read it word for word, but the off-ramp eligibility in the Board report talks about a dead band of plus or minus 300 basis points.
Do you recall that as per the report?
MR. BASILIO: I don't. I mean, no.
MR. BUONAGURO: I'm sorry, no?
MR. BASILIO: Could you read it?
MR. BUONAGURO: Sure. This is at page 38 of the same report, the July 14th, 2008 Board report under "Policy and Rationale:
"The Board has determined that the third generation IR plan will include a trigger mechanism with an annual ROE dead band of plus or minus 300 basis points. When a distributor

"performs outside of this earnings dead band, a regulatory review may be initiated."

And then it talks about the reporting requirements. I am paraphrasing here. At the end of the paragraph it says:

"Any such review would be prospective and could result in modifications to the IR plan, a termination of the IR plan or the continuation of the IR plan."

MR. BASILIO: Okay. I mean, I am reading it. I guess what I can't recall off the top of my head is the nature of the review contemplated in that line. Is that a cost-of-service review or is that some sort of prudency review of a distributor situation?

MR. BUONAGURO: Well, I mean, from the text that I just read, it appears there is a review, and then at the review there is to be a decision as to what is to be done, depending on the circumstances.

MR. BASILIO: Well, okay.

MR. BUONAGURO: Any such review would be prospective and could result in modifications to the IR plan, termination of the IR plan or the continuation of the IR plan. So, for example, that contemplates a termination of the IR plan and the cost-of-service application, I would think.

MR. BASILIO: As I read that, without the benefit of recalling all of the context around it, it seems to me that is a triggering event. It doesn't serve to limit our ability to provide an application otherwise before -- to put an application otherwise before the Board. Is that...

MR. BUONAGURO: I think you are right. It doesn't say: And thou shalt not apply for cost-of-service, if one doesn't apply for an off-ramp. Although I think you would agree with me the first section I read about the term suggests that the Board isn't expecting people to come in for cost-of-service unless they triggered an off-ramp. That was the first part I read on term.

MR. BASILIO: The reports -- I guess I don't read all of that here. And, again, without the benefit of full recollection of what's in here, it seems that the Board is certainly contemplating a maximum three-year IRM period. They provided for an off-ramp, a review, should a distributor's return be plus or minus 300 basis points. But that's about -- that's the extent to which I could comment at this point.

MR. BUONAGURO: Okay. Let me put this to you. Taking the fact that A, the term as I read out for the IRM is supposed to be cost-of-service plus three years, and taking the Board's comment at the same part of the report at page 7 that it doesn't expect distributors to come in unless they're eligible for an off-ramp, they're not -- I can read it to you again.

At page 7:

> "The rates of the distributor are not expected to be subject to rebasing before the end of the plan term other than through an eligible off-ramp."

MR. BASILIO: Not expected to be.
MR. BUONAGURO: I take that point.
MR. BASILIO: Yes.
MR. BUONAGURO: But there is no expectation they're going to come in unless there is an off-ramp. Take that. You combine it with what the off-ramp actually says, which is that a review, under the off-ramp mechanism, is triggered by a plus or three minus basis point -- when the distributor performs plus or minus 300 relative to their ROE, to the approved ROE, it suggests to me that the Board report contemplates a situation where its utilities throughout the IRM are performing up to or close to 300 basis below their ROE before the Board is going to be pushed to any action.
MR. SIDLOFSKY: I'm sorry, I am not sure if that is a question or asking Mr. Basilio for an opinion on the report.
I am not completely sure what the point of the question is.
MS. NOWINA: Neither am I, Mr. Buonaguro.
MR. BUONAGURO: Well, there was an earlier answer from Mr. Basilio, I believe, where he was suggesting that the Board should be doing things to help it achieve the embedded ROE, the ROE, the allowed ROE.
MR. BASILIO: No. I think my suggestion was - and I think the Board does provide, you know, a framework for this - is the opportunity for utilities to achieve their rates of return on a sustainable basis, you know, broadly

speaking.

And that is -- again, without trying to be presumptuous, the Board has created such framework because it believes that's in the best interests of a sustainable approach to distribution infrastructure in the province, a balanced, sustainable approach.

I don't think the Board should -- I mean, I certainly don't interpret that framework as a guarantee for that return. And I don't believe I said that. But you know the framework should provide for returns in support of sustainable distribution infrastructure investment.

MR. BUONAGURO: All right. Thank you.

Could I take you to an IR response. This is response to Board Staff interrogatories, page 14. It is Interrogatory Response No. 10.

You were asked to complete a table that compares your actual return on equity in the years 2006, 2007 and 2008 to the Board-approved return on equity for those same years.

MS. HUGHES: Yes.

MR. BUONAGURO: I think there is a mike off. Okay.

And for 2008, you are reporting an actual return on quit of 8.59 percent which is 0.02 percent higher than the Board-approved return on equity for 2008. Do you see that?

MS. HUGHES: Yes.

MR. BUONAGURO: And then because I know what you are going to say -- over the page or beyond that and as part of the answer you talk about what you call one-time occurrences which, if you exclude that from the calculation of the actual return on equity, you have a reported return on equity would have been 6.11 percent. That's at page 2 of that response.

MS. HUGHES: Yes.

MR. BUONAGURO: So -- and I am interested in this in comparison to this 300-point dead band that is referred to in the Board report when it comes to off-ramps. It appears to me that even in your adjusted figure of 6.11 percent, that you are within that 300-point dead band. Am I correct, for 2008?

MS. HUGHES: He is just doing the math between here and here.

MR. BASILIO: Right. Well, for 2009, of course, that was a forecast at the time.

MR. BUONAGURO: Sorry. I don't think 2009 -- I don't think that table refers to 2009. For 2008, it has an actual return in the table of 8.59 percent and then the Board approved return of 8.57 percent. Then you make several adjustments to bring it down to 6.11 percent for 2008.

MR. BASILIO: Yes.

MR. BUONAGURO: So for 2008, it appears that -- relative to the band I am talking about, the 300 basis point band, you're within that band for 2008 even with your adjustments?

MR. BASILIO: I mean, I think that is a fair observation. Again, you know, looking back, I think that is how we would calculate it.

I don't know, you know -- I think that is right.

MR. BUONAGURO: Okay.

MR. BASILIO: I think that's right.

MR. BUONAGURO: Are you able to provide any insight as to where you would be for 2009?

MR. BASILIO: No. Just to clarify though on the numbers. The 6.29 -- I mean there are a lot of adjustments in here. I'm not sure that the Board would necessarily -- I guess I am not sure at the end of the day how the Board might compute that, but I guess what I would say is having done the analysis now and been reminded of the dead band, certainly I think the answer is "yes."

That was adjusted to reflect the approved capital structure, those numbers.

So and what that means is, if we move to the approved -- our structure is more conservative. We have more equity in our structure than the deemed structure. So if you adjust to the regulated structure, more interest, right, less income. And a lower level of, a slightly bit of a lower level of equity. On an unadjusted basis, it is close to the 300 but it is not quite there on an unadjusted capital structure.

But certainly it is close, and obviously that is cause for concern.

MR. BUONAGURO: Can you give me any sense of how close to the 300-point dead band you would be in 2009 or 2010?

MR. BASILIO: Well, 2010? No. I think we are forecasting around seven, but I just can't remember off the top of my head.

MR. BUONAGURO: Okay. So --

MR. BASILIO: Clearly a cause for concern for us. We are in a situation where revenues are much lower again. I would also like to point out that we have conferred with Board Staff with respect to our Z-factor application. And, you know, the best approach to address some of these shortfalls, I mean one suggestion was, is there a way to perhaps file an application to adjust the load forecast and have rates apply on that basis.

MR. BUONAGURO: Hmm-hmm.

MR. BASILIO: And, you know, I mean without total -- I don't want to place any undue reliance on Board Staff but after having the discussion, probably not a good approach.

MR. BUONAGURO: Can you tell me why?

MR. BASILIO: Well, I think it brings into question -- why don't you just file -- you know, so many things have changed. Your load forecasts have changed. Well perhaps your cost structure has changed. Those things are generally, you know, trying to deal with those things holistically is generally the subject of a cost-of-service application.

And so the path that we determined after, you know, having visited with Board Staff, is the best approach was: File a Z-factor application to recover some of the shortfall, and accelerate the cost-of-service application by a year.

MR. BUONAGURO: See I just -- this is the last bit of questioning so I am just going to finish it off, because you mentioned the possibility or the suggestion that you just simply adjust the load forecast and they're suggesting that is not -- that's somehow not a good idea. But from my perspective, and we've gone through this in some of my questioning, it appears to me that what you are essentially doing is adjusting your load forecast for the one customer as a Z-factor with the possible exception of not accounting for the impact that has on working capital requirements as a result of the change in the forecast.

And that, and above that and beyond that what you are doing is doing on a prospective basis and then putting into a deferral account or suggesting a deferral account to capture the differences, which means that you are not only suggest adjusting the load forecast for 2008 and carrying it through until you rebase for 2011 but you are also -- you are taking out any risk that you might have in that forecast by truing it up at the end.

MR. BASILIO: Well, I think what we're doing is trying to recover costs related to the subject customer. That's the subject of the application.

The prospective mechanism aligns closely to what you are suggesting. It takes the risk out of, you know, variance and load relative to the 2008 application.

But again just coming back to -- I mean this is not -- we are not recovering costs related to this subject customer.

And with respect to working capital -- and those are real, real costs. Those are real reductions in revenue related to the subject customer.

With respect to working capital, in actuality our working capital has gone up. What was it $20 million for the 2008 rate year and $17 million from May 1, 2008 to -- what's that to year end?

MS. HUGHES: To year end, yes.

MR. BASILIO: So, you know, I mean our understanding of Z-factor applications is they're to deal with real costs, real -- you know, and whether it is, I mean at the end of the day whether you are suffering a decline in revenue or have some unforeseen cost, it is the same thing from a cash perspective.

MR. BUONAGURO: I want to ask one follow-up question in terms of the working capital requirements. And you talked about I think in SEC 14 and just again now that you are saying that your total working capital requirements have gone up $20 million for 2009 and --

MR. BASILIO: $20 million for the 2008 rate year, just let me -- and 17 million? Was it 17? Yes. That's the change for the -- sorry, can I just confer for a moment.

MS. NOWINA: Yes.

[Witness panel confers]

MR. BASILIO: Sorry, this is May 1 to December 31 in this column?

MS. HUGHES: That's correct.

MR. BASILIO: May 1 to April 30th, 2008, an increase of $20 million in working capital. May 1, 2009 to year end, a reduction of 3 million in working capital. Cumulatively $17 million from May 1, 2008 to 2009 year end.

Those are the real changes in working capital.

MR. BUONAGURO: I just want to understand how that is calculated. My understanding - and I may be deficient in my understanding, so I am sure you will correct me if I am wrong - the revenue requirement impact of your working capital requirements is calculated by taking your total OM&A expenses, plus your cost of power expenses, and giving it rate base treatment, essentially. Is that how it is calculated?

MR. BASILIO: My interpretation -- right, but --

MR. BUONAGURO: That's how it is calculated, though. What goes into revenue requirement, representing your working capital requirements, is total OM&A, plus cost of power, as a rate base amount which is then -- attracts --

MR. BASILIO: Well, with --

MR. BUONAGURO: Sorry. Sorry --

MR. BASILIO: -- the 15 percent component.

MR. BUONAGURO: Sorry, the 15 percent.

MR. BASILIO: And that is an important number, the 15 percent.

MR. BUONAGURO: Okay.

MR. BASILIO: Because what that endeavours to do is then to take those aggregate outflows over the year and determine how often they turn over in the year, to average them, in effect, right, as to the amount of working capital that will attract a cost of capital.

MR. BUONAGURO: What I am trying to figure out, when you say that your 2008 working capital requirements went up $20 million, okay, what I am trying to figure out, is that because the OM&A expense in 2008 was higher, or the cost of power was higher or the 15 percent factor was higher, because those are the three components, the base components, which produce a revenue requirement related to working capital.

MR. BASILIO: Well, working capital, from a balance sheet perspective, comprises changes in short-term receivables and payables, and that's what the working capital calculation endeavours to portray, to take those outflows and consider how often they turn, with the benefit of the inflows afforded under rate-making policy.

This is a bit fuzzy. The way you compute working capital, which is the way we have computed it, is by taking changes in things like short-term accounts payable and receivables, regulatory variance accounts, you know, tax liability accounts, those sort of things. That, by definition, is working capital, and that's what the working capital allowance should endeavour to estimate, I guess, based on the rate-making formulas.

So that is how we have computed it.

MR. BUONAGURO: But from a regulatory perspective - and that's the only perspective I really have - when you are talking about working capital, you're talking about a calculation, from a revenue requirements perspective. You want to figure out how much you recover in rates in order to support your working capital requirements, and that has three components, your OM&A expenses, plus the cost of power, and you take --

MR. BASILIO: Fifteen percent.

MR. BUONAGURO: -- 15 percent of that.

MR. BASILIO: In the aggregate.

MR. BUONAGURO: That goes into rate base, and that has a revenue requirement impact; right?

MR. BASILIO: That is how it is calculated.

MR. BUONAGURO: Right. And when you say, but working capital requirements for 2008 have gone up, is that because one part of those components has gone up, or is it because when you talk about working capital requirements in reality, aside from the regulatory -- aside from what the regulatory regime gives you for working capital requirements, something has changed? You calculate it differently?

MR. BASILIO: Cost of power would have gone down for those years.

MR. BUONAGURO: Right.

MR. BASILIO: But, I mean, if you were to ask finance people, generally speaking, what working capital is and what attracts capital charges on working capital, it is the financing. And, generally speaking, we have positive working capital, meaning that there is something that is a financing requirement.

The difference between receivables, you know, cash you expect and cash that you have to pay out, that is -- you know, it is -- what that's meant to portray is the difference between receivables and payables and changes thereto.

I mean, how it's calculated, um..., it's looking at, you know, cash flow -- cash outflows over the course of a year, and then applying a percentage as far as how often they turn, and I think for us that turned out to be $60 million and change. Sarah?

So, you know, $60 million, something like that --

MS. HUGHES: That's right.

MR. BASILIO: -- into rate base. And so based on what we had, based on, you know, for the same period as we've suffered a decline in the subject customer revenues with respect to working capital, like, working capital in real terms, those have gone up by $20 million.

And the corollary to that is draws on our credit facility have gone up $26, $27 million, some of that related to working capital, some of it related to unmitigated costs that we've continued with, you know, from revenues.

So, I mean, that's the reality.

MR. BUONAGURO: I will only ask one clarifying question, though. If you were to go back and recalculate your working capital based on the Board's formula, OM&A expenses, plus cost of power, 15 percent of that goes into rate base, and then gets a -- produces a revenue requirement impact.

If you were to recalculate that on 2008 actuals, from all of the evidence I've seen - and I don't need the number - your working capital revenue requirement element would have gone down, because cost of power went down and your OM&A expenses, you had deferred OM&A expenses.

MR. BASILIO: But, Michael --

MR. BUONAGURO: I understand --

MR. BASILIO: Sorry if I am -- somebody stop me if I am just giving too much context, but in isolation of a whole pile of -- I mean, if we could beam ourselves back to the 2008 rate application, there are probably a variety of things you would do different with the benefit of knowing what's transpired over the last, you know, however many months.

So, again, you know, to use the analogy of, if we went back and did our 2008 cost-of-service application over again, sure, working capital might -- you know, according to the formula might be a little bit lower at that point in time, but that would trigger a number of other things.

Again, that triggers a cash flow impact, and that cash flow impact cascades into, you know, an affordability issue with respect to programs and capital expenditures, you know, that the distributor can afford to undertake.

So, I mean, the simple answer to, you know, sort of the conceptual, you know, and forensic approach to working capital is, yes, if we went back today with the benefit of hindsight, it would have that isolated effect.

But, again, I am trying to deal with the actuality of what I've lost forward from 2008 with respect to the subject customer, and I haven't gained anything in terms of working capital. I haven't collected the revenue.

How can I be mitigating costs when I haven't been collecting revenue from this customer? Sorry, I shouldn't be posing questions, I'm sure. I'm supposed to be answering them.

MR. BUONAGURO: I'm not allowed to answer questions, I'm sorry. It's outside my retainer.

MR. BASILIO: It was rhetorical.

MR. BUONAGURO: Not to mention my qualifications.

Okay. It sounds to me like -- and maybe I'm wrong, but it sounds to me that the reality, the big R "reality" of working capital, is such that the Board formula for calculating the revenue required impact related to working capital doesn't work for you, in any event?

MR. BASILIO: It works in the context of a point-in-time rate determination, based on what you are projecting costs to be, loads -- all of those things. Sorry to be colloquial, but it has to all hang together at a point in time, and if you try to start picking at pieces of it, it falls apart.

Again, the working capital -- if we just step back one piece of that, 15 percent of the change in cost of power and OM&A, the delta, we also haven't collected any revenue from this customer.

Not having collected revenue from the customer - and I outline this in my revised response to School's 14 - it has one of a few impacts, but one of them obviously being, if you continue with the level of expenditure, it is going to create a draw on your credit facility. It is going to draw down a bank line. That by its very nature attracts a capital cost.

So that formula, it is incomplete when you are trying to, you know, make it reflect reality for a set of circumstances such as those in the application.

MR. BUONAGURO: All right.

MR. BASILIO: I don't know. Maybe that doesn't help. I don't know.

MR. BUONAGURO: No. Thank you. Those are my questions.

MS. NOWINA: Mr. Warren.

CROSS-EXAMINATION BY MR. WARREN:

MR. WARREN: Panel, I would like to start with the chronology of this matter, please, if I could. My starting point, as I understand it you wrote to the Board on December 23rd, 2008.

MS. BUTANY-DE SOUZA: Yes, that's correct.

MR. WARREN: Now, I presume your letter to the Board on December 23rd, 2008 wasn't the first time you thought about the effect of declining load from this customer; is that right?

MS. BUTANY-DE SOUZA: Sorry, one second. Can you repeat the question?

MR. WARREN: My question was that when you wrote to the Board on December 23rd, 2008, that wasn't the first time you had thought about the fact that the load was declining for this customer; right?

MR. BASILIO: December 23rd, 2008?

MS. BUTANY-DE SOUZA: Well --

MR. BASILIO: It may not have been.

MR. WARREN: wouldn't think it was a difficult question, panel. When was the first time you became concerned about declining load from this customer, let me put it that way.

MS. BUTANY-DE SOUZA: From the decrease in consumption in 2008, it was most marked towards the end of that calendar year and it is at that point that we wrote the letter to the Board.

MR. WARREN: Okay. Can you turn up, please, the response to VECC Interrogatory No. 3, filed in confidence. I am looking at the third page: Updated revised table number 3.

Do you have it, panel?

MR. BASILIO: Just a moment, please.

MS. BUTANY-DE SOUZA: No.

MR. BASILIO: Sorry, number 3 was it?

MR. WARREN: Yes.

MR. BASILIO: Yes, I have it.

MS. BUTANY-DE SOUZA: I don't have it.

MR. WARREN: I am looking at page 3 of 7, question 4. Sorry.

MR. BASILIO: Oh, question 4.

MS. BUTANY-DE SOUZA: It's question 4?
MR. WARREN: Updated revised table 3.
MS. BUTANY-DE SOUZA: Okay, yes. Yes.
MR. WARREN: Have you got it now?
MS. BUTANY-DE SOUZA: Yes, I do.
MR. WARREN: Now, if I look at this table, panel -- correct me if I'm wrong -- when you wrote to the Board the consumption for December of 2008 was approximately 50,000 kilowatts; correct?
MS. BUTANY-DE SOUZA: Yes that's correct.
MR. WARREN: That was slightly less than half what you forecast in your rate application your cost-of-service rate application; correct?
MS. BUTANY-DE SOUZA: Yes.
MR. WARREN: And thereafter, it steadily declined to the point where, in April, it was approximately 20 percent of what you had forecast in your rate application.
MS. BUTANY-DE SOUZA: Yes, that's correct.
MR. WARREN: When it was at 20 percent of what you forecast in your rate application, you didn't apply for a Z-factor, did you? Or Z-factor treatment, did you?
MS. BUTANY-DE SOUZA: It was at that time that we -- you're referring to April 2009?
MR. WARREN: Yes.
MS. BUTANY-DE SOUZA: It was at that time that the preparation of the application was underway.
MR. BASILIO: We commenced -- maybe I could just elaborate. We commenced the process of preparing the

application. We had two other applications, I believe, that we were trying to prepare concurrently.

MS. BUTANY-DE SOUZA: Smart funding application and the LRAM SSM application.

MR. BASILIO: And needless to say, resources were pretty taxed and we lost a key resource shortly thereafter which delayed.

The plan originally was to try and get -- and we spoke with Staff just before that. We were trying to get it in earlier.

MR. WARREN: Panel, I don't recall asking whether you had any excuses for that. I simply asked you that in April when it was at 20 percent of the forecast, you did not, then, apply for Z-factor treatment. Yes or no?

MR. BASILIO: We were preparing for Z-factor. The application did not go in in April. That is a statement of fact.

MR. WARREN: When it got to May, when it was 10 percent or less than 10 percent, you didn't apply for Z-factor treatment then, did you?

MR. BASILIO: We were in the process of preparing an application for Z-factor along with two other applications.

MR. WARREN: And you didn't apply for a Z-factor treatment until September of 2009. Correct?

MR. BASILIO: The application went in in September of 2009.

MR. WARREN: Okay. And September of 2009 -- correct

me -- when your 2008 fiscal year ended, when?
MR. BASILIO: Our fiscal? December 31st, yeah.
MR. WARREN: Okay. So for purposes of ratemaking, your year end is when?
MR. BASILIO: Well, ratemaking? Our rates are effective May 1st, generally, yeah.
MR. WARREN: Okay. So for the 2008 rates, the 2008 ratemaking year would have ended when?
MR. BASILIO: April 30th, 2009.
MR. WARREN: So am I right then that the application for Z-factor treatment was filed four months after the end of the ratemaking year for 2008. Is that correct?
MS. BUTANY-DE SOUZA: Four months after the --
MR. WARREN: End of the ratemaking year 2008. Is that right?
MS. BUTANY-DE SOUZA: Yes.
MR. BASILIO: After the end of the ratemaking year, right.
MR. WARREN: And as I heard the chronology this morning, what you are anticipating is if this Panel were to render a decision, you're anticipating having the rate ride of some form in place in approximately April of 2010; is that correct? That's what you talked about this morning as I recollect.
MS. BUTANY-DE SOUZA: Yes. We estimated that likely the earliest would be April 2010.
MR. WARREN: So do I have it right, then, that after -- that the rate rider in respect of 2008 rates would come

into effect just about a year after the end of the 2008 ratemaking year. Is that right?

MS. BUTANY-DE SOUZA: Yes.

MR. WARREN: Okay. Now, can I ask you to turn up a response to my client's Interrogatory No. 7, which is -- part of which is going to be redacted, but this question asked you for the process that Horizon went through seeking approval of its board for the Z-factor application.

It asked you for the materials provided to the Board when it sought that. And the first reference you've got here in the answer in the second full paragraph is a --

> "Horizon Utilities mentioned its first report of potential regulatory mitigation mechanisms to the Horizon board on May 14th, 2009."

Am I to understand that answer, that the issue of the decline in this customer's usage and the possibility of a Z-factor application was not mentioned to the Board until five months after you'd written to this regulator to give them notice of the concern? Have I got that right?

MS. BUTANY-DE SOUZA: That we didn't notify our own board until May?

MR. WARREN: Right.

MS. BUTANY-DE SOUZA: Yes. According to the Z-factor criteria, a LDC is required to notify the board as soon as it becomes aware of an event being underway. And we noted that in December and it is in December that we sent in the letter.

That doesn't necessarily mean that that is what we needed to communicate to the Horizon board.

MR. WARREN: Sorry. You've got what you described repeatedly in your prefiled materials and in the oral testimony today, as a major concern with a major customer, and you didn't raise the concern with your own board until four months after you wrote to the regulator, is that what I am supposed to understand?

MR. BASILIO: No. That's not right. I mean we do -- well, we forecast regularly. We meet with our board of directors quarterly.

Our board would have been aware of a forecast, general decline in commercial consumption. It would have been aware of a concern with respect to the subject customer. As well as, you know, based on what was in the media at the time where things might go from there. But no, our board of directors is kept up to date quite regularly on where we think, you know, financial forecasts and the like, particularly as it relates to --obviously as it relates to material events.

MR. WARREN: I have, I take it, two answers then from the panel.

MR. BASILIO: I was getting confused on --

MR. WARREN: I want to understand, panel, which is the correct answer. When did you first notify clear own board of the concern about the drop in usage by this particular customer? When was the first time you notified them?

MR. BASILIO: I mean, I can't recall specifically when the first time off the top of my head. You know that's over a year and a half ago, but I can tell you it would have been at the earliest possible time where we had identified a significant drop in consumption.

But -- and of course we can go back and look at board minutes and things of that nature to determine the exact time.

But the Board was aware very early in the year that we were not realizing the level of commercial consumption that we were anticipating under the 2008 electricity distribution rate application and that that could have a very material impact on revenues and income for the year. That would have been early.

MR. WARREN: Well, witness, you were asked to go back and look for the board materials in this interrogatory.

MR. BASILIO: I am trying to -- Well, the question isn't about when we notified our board that we had an issue with respect to the subject customer.

The Board is -- please provide all materials provided to the Horizon board of directors in relation -- when it sought approval of the Z-factor application.

We don't need the approval of our board of directors to file an application. That authority is vested with our CEO.

But in terms of informing the -- if your question is, when was the board of directors made aware of concerns with respect to the subject customer, that would have -- that's not the question that was asked here in the interrogatory, nor was it --

MR. WARREN: When did you first notify the board about the possibility of a Z-factor application to deal with what you were telling them was a serious problem?

MR. BASILIO: It would have been well before this, and it would have been -- again, I will go back and look at minutes, but I suspect it is before when we started the process to apply for the application, which was very early in 2009.

MR. WARREN: Sorry, you began the process to prepare the application early in 2009?

MR. BASILIO: I believe we've already stated, you know, May/June 2009 we started to prepare the application in conjunction with two other applications.

MR. WARREN: Was it early in 2009 or was it May in 2009?

MR. BASILIO: May/June 2009. I don't have the exact dates.

MR. WARREN: And that's the first time you notified your board --

MR. BASILIO: No, that's not what I said. We would have notified the board much earlier than that.

MR. WARREN: Can you tell me when you notified the board that --

MR. BASILIO: No, I can't. I don't have the exact date in front of me, but I can certainly look back in minutes and --

MR. WARREN: Give me an undertaking to determine when you first notified your board about the Z-factor application, and provide me with any materials that you provided to your board in connection with that. Can I get an undertaking on that?

MR. BASILIO: Sorry, we provided you with board materials related to the Z-factor application. We provided you with all of those things.

With respect to informing the board, our board of directors, that we were having -- and, again, I am working off memory here, but with respect to a general decline in commercial load and a decline related to the subject customer, it would have been earlier than that.

I don't have the exact date, but you certainly have the materials, formal materials, where we would have been describing Z-factor applications.

MR. WARREN: I am asking for an undertaking, panel, to advise when it is you first notified your board, first, about the decline in usage by this customer, and, as a second part of this, when you first notified your board about a possibility of a mitigating exercise and a Z-factor application.

Can you give me that undertaking?

MR. BASILIO: Sure.

MR. WARREN: Okay, thank you.

MS. CAMPBELL: That would be undertaking J.3.

UNDERTAKING NO. J3: TO ADVISE WHEN HORIZON BOARD OF DIRECTORS WAS FIRST NOTIFIED ABOUT Z-FACTOR APPLICATION, AND TO PROVIDE ANY MATERIALS THAT PROVIDED TO BOARD IN CONNECTION WITH THAT

NOTIFICATION.

MR. WARREN: Now, I have dealt with 2008 in passing, which is that you are asking this Board, this regulator, in this application for a relief in relation to 2008.

In relation to 2009, you are also asking for a rate rider to deal with the effect of the drop in revenues in relation to this particular customer for 2009, as well; is that right?

MR. BASILIO: Yes. It is sort of a bipartite approach. Again, there is a retrospective piece, and then a prospective piece, and the crossing line occurs within 2009.

MR. WARREN: Okay. If the rate rider were to come into effect in April of 2009, we would have a retroactive effect for 2008 and 2009 and a prospective effect for 2010; is that right?

MR. BASILIO: A piece of 2009 and 2010, yeah.

MR. WARREN: And as I understood your testimony this morning, my note of it was that you were not aggressively pursuing the prospective aspect of this application; is that right?

MR. BASILIO: Well, that's correct. That's correct.

MR. WARREN: So do I take it from that that you are largely indifferent to whether or not the Board grants that relief, because you are going to be filing a cost-of-service application sometime this year? Is that a fair gloss on the answer you have given?

MR. BASILIO: No, I don't think so. I think we would like to receive that prospective piece, but recognizing that -- and I believe it is unprecedented, and recognizing that it is something very difficult. You know, we have provided our evidence with respect to supporting it. I think we will stop there.

We are not going to press, recognizing, for lack of a better word, the softness of that request, but certainly, you know, we are continuing to make outlays. It would be good to have that cash sooner or later. We think these conditions are going to persist.

MR. WARREN: Sorry, you would like to have that cash from your ratepayers sooner than later?

MR. BASILIO: In support of providing them with a sustainable distribution system infrastructure, absolutely, and perhaps bringing online some of the deferrals that we've had to make, yes.

MR. WARREN: Now, I just want to follow up on some answers you have given to Ms. Campbell and Mr. Buonaguro at various points.

I take it that you would agree - and I think these are your various words - that a return on equity is supposed to recognize a certain component, among other things, of business risk; correct?

MR. BASILIO: That's correct.

MR. WARREN: One of the risks that a business faces is that they may lose revenue; is that fair?

MR. BASILIO: That's fair.

MR. WARREN: And one of the risks that a business faces is they may face an increase in cost; correct?

MR. BASILIO: That's correct.

MR. WARREN: And you are getting a return on equity, in part, to deal with the loss of a major customer; is that correct? Is that not fair, then, on business risk?

MR. BASILIO: No. No. Again, the Board outlines Z-factor criteria, including materiality, and, again, without trying to be presumptuous, it would be our contention that that level of materiality is set to reflect events that are outside the risk premium afforded in return on equity.

MR. WARREN: You would agree with me, I take it, witness, that most -- that no business in the private sector - that is, the unregulated sector - can go to any regulator and ask to be compensated for a loss of revenue while still expecting a fixed level of return on equity? That makes you different, doesn't it?

MR. BASILIO: It makes us different, but there are two differences. The other difference is we don't have control over our ability to set revenues and the private sector does.

MR. WARREN: Now, in terms of the options that you have placed before the Board, which is a fixed versus variable rate rider, is it that combined with a variance account -- I take it that you are, in terms of your revenue at the end of the day, indifferent to which one of those mechanisms is used; is that fair?

MR. BASILIO: We are not indifferent, but, again, recognizing how these things are typically dealt with, it is not going to be our hill to die on, I guess.

It is our view that the nature of our costs are largely fixed, particularly in the medium term, and the way to recover those costs and how a private sector business would recover those costs would be by way of a fixed charge, not unlike an automobile lease.

I mean, we are a leasing business. We lease wires and poles.

MR. WARREN: So in that respect, you want to be analogized to the private sector; is that right?

MR. BASILIO: No, not in its entirety.

MR. WARREN: Now, you said this isn't your hill to die on. Is it fair for me to characterize this as a soft request, like your soft request for prospective relief? Are they in the same category of softness?

MR. BASILIO: Correct.

MR. WARREN: Okay. My final question, sir, is in relation to your 2008 costs.

Can you tell me -- sorry, 2008 and 2009 to date. Are there any of the costs that you forecast in your rate application, cost-of-service application, that are lower than what it is you had forecast, or do you know?

MR. BASILIO: I don't know, but let me answer it like this --

MR. WARREN: It is just a straightforward question. Do you know or don't you know?

MR. BASILIO: No, I don't know.

MR. WARREN: Okay. Thanks. Those are my questions.

MS. NOWINA: Thank you, Mr. Warren. Mr. Faye.

CROSS-EXAMINATION BY MR. FAYE:

MR. FAYE: Thank you, Madam Chair.

Panel, I would like to take you to an area that hasn't been covered yet and I wonder if your technical specialist could just describe for the Board what are the facilities that feed this subject customer?

MS. LERETTE: They are currently fed through multiple feeders and breakers out of Hydro One transformer stations.

MR. FAYE: So Hydro One would own the transformer station and Horizon owns the feeder; is that right?

MS. LERETTE: Yes.

MR. FAYE: And for the 100 megawatts of load that you used to have from this customer, how many of these feeders would be involved?

MS. LERETTE: I have an exact number.

MR. BASILIO: Respectfully, Madam Chair, it's just -- is there any way to have these shades lowered; do you know? The temperature is going up. I thought it was the intervenor questions, but, in fact, it is the sun radiating through the window.

MS. CAMPBELL: It is up at the front, I believe.

MS. NOWINA: Oh, it's on this thing. Heaven help us. It may be beyond my technical expertise.

MR. WARREN: If there is a button that is marked eject, don't hit it.

[Window shades go down]

MR. BASILIO: Thank you.

MS. LERETTE: There are currently [redacted] feeders.

MR. FAYE: So are any of these dedicated feeders?

MS. LERETTE: Most of them are, yes.

MR. FAYE: Most of them are.

What voltage is it supplied at?

MS. LERETTE: This is at 13,000.

MR. FAYE: Thirteen. So now that the load has dropped to [redacted] as sort of the current situation, you would have, then, [redacted] of those dedicated feeders idle; is that right?

MS. LERETTE: No. The feeders currently in service now just have lower amperage running through them.

So there's -- they're all in use either as a permanent feeder or a backup. The load is just lower on these cables.

MR. FAYE: Okay. I heard you say backup. Does that mean you have redundant supply at the feeder level to this customer?

MS. LERETTE: There are some redundancies for maintenance purposes. So when [redacted] wants to take pieces of equipment down, we can feed them through an alternate source.

MR. FAYE: Okay. Do I take it, then, that the subject customer's facility [redacted] and you have [redacted] separate entrance points to that facility?

MS. LERETTE: We have [redacted] separate feeders, not necessarily [redacted] separate entrance points to the plant.

They may -- multiple feeders may go into one station in the plant.

MR. FAYE: All right. So when we get to the station end, now we come to a station that's going to step the voltage down and from that point on it is their control; is that right?

MS. LERETTE: Yes.

MR. FAYE: All right. How many of those stations do you have and who owns them?

MS. LERETTE: Any stations inside the customer's property would be owned by the customer.

MR. FAYE: Are all of the stations that feed them inside the property?

MS. LERETTE: Any stations on their property would be owned by them. I don't have a number of how many there are.

MR. FAYE: Okay. Are there any stations outside their property that feed them?

MS. LERETTE: Just the transformer stations owned by Hydro One.

MR. FAYE: All right. So let me pose to you a hypothetical question, here. If two-thirds of their load isn't there anymore, and if you only have a certain number of stations receiving these [redacted] feeders, is it not possible to shut down [redacted] of the feeders and just mothball them?

MS. LERETTE: I would say no, because currently all the feeders that were in service at 100 megawatts are still in service just with lower ampacity running through them.

MR. FAYE: Yes, I understand that that's what you're doing. What I am proposing is that if you don't need some facilities, why maintain them? With a few sort of technical fixes, could you not transfer that [redacted] kilowatts on to, [redacted] -- so you need [redacted] feeders and then some backup. Put all the rest to bed and wait for the load to come back and then you are not incurring any maintenance expenses on them?

MS. LERETTE: No. We would -- first of all, we don't know when the load is going to come back up again. So we are assuming that these cables are still required for the future.

[redacted]

MR. FAYE: Have you looked into the possibility of doing that, though?

MS. LERETTE: No, we have not.

MR. FAYE: Do you think it would be a good idea to do that?

MS. LERETTE: Something like that would be facilitated from a request from the customer to either tell us that they are permanently shutting down load and we can get rid of cables. But currently we're assuming that they will not -- they have not made that request, so...

MR. FAYE: You mentioned cables a couple of times. Am I to understand that your [redacted] feeders are buried feeders?

MS. LERETTE: Yes, they are.

MR. FAYE: From the transformer station to the customer?

MS. LERETTE: I'm sorry, could you repeat that?

MR. FAYE: All [redacted] from the transformer station and owned by Hydro One to the customer, those are all buried cables?

MS. LERETTE: Yes, they are.

MR. FAYE: They are.

There's no incentive in your rates for a customer to come to you and ask to be -- to eliminate some of their feeders; is that right? They don't get a lower rate if they take up less feeder capacity.

MR. BASILIO: Well, maybe there's a more specific answer, but we are in an environment where the Energy Board's expecting us to find one percent of efficiency a year. So certainly is there an incentive on the part of the utility to try and reduce its costs for its customers, generically.

Kathy, I don't know if we have --

MR. FAYE: I might have misstated the question or not been clear enough.

In one of the previous questions, your witness said that you really wouldn't go about doing a study to eliminate some of these lightly loaded feeders unless the company came and said, Well, we're shutting down. We don't need anything any more.

I am suggesting is there any incentive in your rates for them to come and tell you, well, we're dropping [redacted] of our load off, why don't you make some economies. Is there anything in your rates that gives them an incentive to do that?

MR. BASILIO: No.

MS. LERETTE: I don't believe so.

MR. FAYE: Okay. Is there any reason why you couldn't go to them and say, We've lost a lot of revenue. We've got to cut our costs, and one way we're going to do that is to try and combine feeders and put some of them on idle until such time as they're needed? Is there any reason why you couldn't do that?

MS. LERETTE: You know, from our point of view the way we managed these assets, I would say under the certain circumstances, a customer would tell us that their load is significantly changing on a permanent basis. We would do a study to say, yes, you've got [redacted] cables right now feeding your plant, and we can reduce those number of cables. And we would undertake that study if we know that there was a permanent load change. Because in this situation with so many underground feeders running to a plant, it is difficult to rearrange those cables.

So unless there was a permanent shutdown or permanent load change, we would not undertake that.

MR. FAYE: But I think I heard you say there is less than [redacted] distribution stations that these cables feed into.

Did I get that right?
MS. LERETTE: I don't know the number of stations inside the customer's premises.
MR. FAYE: Would it be [redacted], do you think?
MS. LERETTE: It would be probably be less than [redacted].
MR. FAYE: Okay. So logically speaking, then, more than one of those [redacted] cables goes into the same station.
MS. LERETTE: Yes.
MR. FAYE: Okay. So does it make any sense to idle one of the cables put all of the load on the other one?
MS. LERETTE: Not necessarily. Because a plant of this nature requires backup.
So if they have a critical load that they need fed, it is usually fed with one cable plus a backup cable. And for maintenance activities. So when they want to shut down part of their station to do maintenance on it, we can flip them over to another feed.
MR. FAYE: You don't have any standby charge that you apply to customers like this, do you?
MS. LERETTE: I don't know if they would be being charged one. I don't think in this case they would be.
MR. BASILIO: Not the subject customer, I don't believe.
MR. FAYE: Is there any reason why you can't, in the face of them leaving Hamilton and leaving you with a great revenue shortfall, could you not go to them and say, Well, you're not our best customer anymore. We want to charge you a standby fee if you want all of these [redacted] feeders to

continue to feed you.

MR. BASILIO: I don't know the answer to that. That would be the subject of an application, I'm sure, to be changing how we charge a large user.

MR. FAYE: What I'm suggesting is that as a way of opening a negotiation with such a customer, that you don't have to wait for them to come to see you and say, We're dropping a lot of our load off because is there really no incentive for them to do that. They don't care. They would rather have the [redacted] feeders, I'm sure. But if you go to them and say: Because your load has declined dramatically, we're experiencing costs that now exceed our revenue, we need to make some economies and here is what we propose, would that be a reasonable way of approaching it to cut your costs?

MS. LERETTE: We would approach the customer if it was time to start replacing these cables due to age or fault levels on these cables and the load was very low or we had an opportunity to combine cables, probably at that time we would contact the customer to look at how the plant is being fed and what their future plans are and we would eliminate cables at that time, if it was practical.

MR. FAYE: All right. Then just to summarize that whole area.

Horizon doesn't, by itself, take the initiative to try and find any cost savings on that kind of plan. You wait for the customer to come and say, I don't need as much service as I used to; is that right?

MS. LERETTE: No. We do undertake regular studies doing our asset management planning and we look at our system in total.

This particular customer, you know, used to have [redacted] megawatts of load on these cables and has been decreasing.

We wouldn't specifically target this customer unless we knew there was some permanent changes. But generally throughout our system we do look for areas where we can remove redundant equipment so it doesn't have to be maintained in the future. We do that across our whole system.

MR. FAYE: Let me just pursue the sort of communication you have with a large user.

Do you have a dedicated customer service department that corresponds and meets regularly with large users?

MS. LERETTE: No, we don't.

MR. FAYE: So there is not a representative of your staff that would know what's going on in that plant at any given time?

MS. LERETTE: So we don't have, for example, a key customer representative, but our -- the manager of our control room and joint meetings with engineering, and Hydro One regularly meet with our large customers to review system issues, operating issues and things like that. But we don't have one dedicated person in Horizon that just looks after large customers.

MR. FAYE: But it sounds like you do meet with them regularly to discuss their service and various technical

issues; is that right?
MS. LERETTE: Yes, we do.
MR. FAYE: Is the subject of load ever part of those discussions?
MS. LERETTE: Yes, it is.
MR. FAYE: At the time that they started to decrease their load, was there a meeting in close proximity of that, that you are aware of?
MS. LERETTE: We have had some general discussions with [redacted] regarding their load and trying to obtain some future load forecast numbers from the customer, because through our discussions with Hydro One, because they own the transformer stations, they try to look out many years ahead to do their system planning, as well.
But to date, we have not got any concrete information from those customers on their future load forecasts, but we have requested that.
MR. FAYE: Did they give you forewarning that a lot of this load was leaving Hamilton?
MS. LERETTE: I would say not through our meetings.
MR. FAYE: So load really wasn't much of a subject of discussion there? If you asked them, What's happening with your load, what would they say?
MS. LERETTE: Well, we wouldn't quite ask it in that context. We would ask -- probably Hydro One would have initiated these discussions based on future work that they have to do on their transformer stations, and they're looking for five-, ten-, 15-year load forecasts from these

customers, which this particular customer has not provided us.

MR. FAYE: Well, from your high of [redacted] megawatts -- I have just made a few notes off one of your tables here, but for the record, it is page 5 of 22 of Board Staff interrogatories. It is one of those fine print charts.

But that shows [redacted] as the subject customer. If I look down that long column of numbers which commences in January of 2006, it looks like about June of 2007 you were down to 77 megawatts. Do you agree with that figure?

MS. LERETTE: I don't think I can even read this one.

MS. BUTANY-DE SOUZA: June of?

MR. FAYE: June of 2007. I get 77,399 on the chart I am looking at. Is that right?

MS. LERETTE: Oh, yes.

MR. FAYE: Okay, so -- sorry, do you see that?

MS. LERETTE: Yes, barely.

MS. BUTANY-DE SOUZA: Sorry, can you just clarify? It is Board Staff interrogatory on page 5 of 22; is that correct?

MR. FAYE: That's correct.

MS. BUTANY-DE SOUZA: Okay, thank you.

MR. FAYE: There might be a better chart to look at that is a better font, but this is the one that I have.

MS. LERETTE: That's okay.

MR. FAYE: This is a drop of 25 percent. In your meetings -- which I neglected to ask you. How frequently would those meetings be with Hydro One, yourself and a large user like this?

MS. LERETTE: Usually it is an annual meeting.

MR. FAYE: Annual meeting. Would this 25 percent decline in load be enough to create a certain circumstance where you would ask a question about it of the customer?

MS. LERETTE: Probably not.

MR. FAYE: How far down does it have to get before you ask them what they're doing?

MS. LERETTE: I don't think there is an actual number, but through our discussions with them, we did see that their load was decreasing, and that's when we started requesting some future load forecasting information from them.

MR. FAYE: And that's the stuff that they refused to give you; is that it?

MS. LERETTE: Yes.

MR. FAYE: Did that cause any alarm bells to ring?

MS. LERETTE: Yeah. I would say yes.

MR. FAYE: So can we put a date around this somehow? At what point, [redacted], where along that continuum did the alarm bells start to go off?

MS. LERETTE: I couldn't say, because I don't know when -- I haven't got the dates of when our meetings with Hydro One and the customer were.

MR. FAYE: But they would be annual meetings, you said?

MS. LERETTE: Yes.

MR. FAYE: So the annual meeting for 2006, say it was at the end of the year. You're down to 74,000 -- 74 megawatts at that point. That's a 25 percent decline. But do I understand you to say that that wouldn't be big enough of a variance to trigger any concerns?

MS. BUTANY-DE SOUZA: Sorry, if I can just clarify, you are saying end of 2007. You just said 2006. And at the end of 2006, the subject customer would have been at 94,000 -- 94,000 kilowatts, and then --

MR. FAYE: You're right. Thank you. I was taking the 2006 total line as a heading for the following, but you are right.

MS. BUTANY-DE SOUZA: Okay.

MR. FAYE: Let's revise that question, then. December of 2007, you are down to 74,148 kilowatts. And is that low enough for you to ask the customer what's happening?

MS. LERETTE: I cannot comment, because I wasn't at the meetings in 2007 and 2008, so...

MR. FAYE: Well, if you were to go into -- do you attend the meeting personally?

MS. LERETTE: I attend the meetings now, but I didn't in 2007 and 2008.

MR. FAYE: Okay. Do you have a rule of thumb under which you start to ask the customer where their load is going?

MS. LERETTE: No. We would look at each customer individually.

MR. FAYE: All right. Let's look at customer [redacted] then. Maybe that is a more dramatic example. At the beginning of 2009, they're at [redacted], and at the end of October they look like they're at [redacted]. Have you asked that customer where their load is going?

MS. LERETTE: Well, I don't know who [redacted] is. I can't answer that specifically, that every one of these 12 customers, those questions would be asked on a regular basis.

It depends on how the customer is served, whether this equipment is coming up for replacement. It could have a lot of variables to it before we would start asking questions like that.

MR. FAYE: All right. Well, maybe I will just ask one final question on that subject, and that is: Have you ever asked a customer whose load is declining where their load is going?

MS. LERETTE: Just because of the reason that their load is dropping?

MR. FAYE: Yes.

MS. LERETTE: I have not.

MR. FAYE: All right. In the case of the subject customer, have you considered asking them to either post some sort of a surety to guarantee their load or to charge them a reconnection fee as the load ramps back up? After all, you are losing a lot of money on this customer.

Have you considered trying to find creative ways to get them to pay for it, rather than the rest of your customers?

MS. LERETTE: No, not that I am aware of.

MR. FAYE: Okay.

MR. BASILIO: But we have asked [redacted] and, you know, we've done this with other -- I mean, we have other large users that are concerns for the utility -- You know, [redacted] -- where not for reasons of -- well, it would be load, but more for reasons of paying their bills on time, the prospect of extracting security from them for those items. And it's a resounding "no".

I would suggest that based on our experience, asking our larger customers that have come on challenging times for security, that they will not do that, and with good reason. Their lines of credit are already strained, and the cost of posting surety is very expensive for them. So...

MR. FAYE: Okay, thanks for that. At various times during the morning, one or more of the witnesses have alluded to the fact that your costs are fixed. I take that to mean your distribution capital and OM&A costs are fixed. And I wonder about that.

Like, if you don't have to do any maintenance on a circuit, does that mean your OM&A cost stay the same for that circuit, or does it go down?

MS. LERETTE: Well, we always have to do maintenance, so we have some regulatory requirements to inspect our plant, one-third of our plant every year, and we have regular maintenance that we do on equipment.

MR. FAYE: Even equipment that is idle?

MS. LERETTE: Yes. We still need to inspect it.

MR. FAYE: If it is off potential? It is so-called field inventory, it is a transformer hanging on a pole isn't even in service and has no wires connected to it, would you go out and I expect that thing?

MS. LERETTE: Yes, we would.

MR. FAYE: Okay. And so that's why you're saying that your costs are fixed, do I understand that right, that you do the same amount of maintenance irrespective of load?

MS. LERETTE: Yes.

MR. FAYE: Then can I conclude, then, that your maintenance is -- strictly follows the age of the equipment and Board regulations for regular inspections?

MS. LERETTE: Yes. There is a couple of things. There's the general plant, visual plant inspections that we're required to do on our plant, one-third of our plant every year. And whether it is a transformer or a breaker or a switch, we have regular maintenance intervals that we undertake for that equipment.

Now, in this particular customer's case, the breakers are owned by Hydro One so they would have their own maintenance schedules, but we would inspect all of the manholes in the vaults that these cables go through.

MR. FAYE: So over and above the line assets that appear to start at the Hydro One breaker, and terminate at the customer's service entrance, is that the extent of your distribution assets serving this customer?

MS. LERETTE: Yes.

MR. FAYE: Let me ask you, I wasn't involved with your rate application or cost-of-service. What is your revenue-cost ratio for large users?

MR. BASILIO: Do we have that information handy? Anyone? It is information we could provide.

MR. FAYE: If you have an estimate.

MR. BASILIO: We don't have the rate application.

MR. FAYE: Was it greater than one?

MR. BASILIO: Well, I mean it should be greater than one if we're excluding things like interest, taxes and return on equity. If you are just talking about depreciation and OM&A, revenue-to-cost ratio, is that what you would -- sir would you view as --

MR. FAYE: Not being any kind of a financial expert on this I am talking about the revenue-to-cost ratio that you usually put in your cost-of-service.

MS. NOWINA: Your rate application.

MR. BASILIO: Don't want that.

MS. NOWINA: Do you want an undertaking on it, Mr. Faye.

MR. FAYE: Yes if I could, please.

MS. NOWINA: Let's do that.

MS. CAMPBELL: That would be J.4.

MS. NOWINA: So revenue to cost relationship for -- the ratio for the large customer class.

MR. FAYE: That's correct. Thank you.

MS. NOWINA: We can get it as an undertaking.

MR. BASILIO: We thought we had it here but there is a few numbers so we need to nail it down to the right one.

MR. FAYE: Okay. I am going to follow along this line of questioning without knowing the answer to the question. I would prefer to have that answer on this questioning but I will follow it anyway.

When you do your cost allocation studies, you have some guidelines from the Board as to what those revenue-cost ratios ought to be or within what band is acceptable. Am I right there?

MR. BASILIO: Yes.

MR. FAYE: Okay. Within that band, how do you make a decision on what the revenue-cost ratio, in this case for large users, would be?

MR. BASILIO: They need to be within a band of I believe 80 to 120 percent, at least -- I am thinking back to our 2008 application. I believe the guideline then was within 80 to 120 percent but with a migration to 100 percent.

We came partway, and I am thinking -- I'm sorry, I'm guessing that our revenue-to-cost ratio at the time was between 80 and 100. We will get you the exact -- unless somebody has it, 90 and change. Something like that. Do you have it, Michael?

MR. BUONAGURO: Yes. I just pulled it up from the decision in your 2008 rate case and in your application, you are proposing for the large use customer class, 92.1.

MR. BASILIO: 92.1.

MR. BUONAGURO: So presumably any movement would have been higher somewhere between 92 and 100.

MR. BASILIO: Yes.

MS. NOWINA: Thank you, Mr. Buonaguro.

MR. FAYE: Yes, thank you. That helps.

The point of my question is that there is some management discretion exercised in what numbers you propose there for revenue-cost ratios.

MR. BASILIO: Yes, there is. But moving towards the 100 percent which we had intended to do in our next, I think we were thinking -- we'll have to go through that process, but in our 2011 cost-of-service application, we would be trying to migrate the rest of the way to 100 percent for most classes.

MR. FAYE: All right.

MS. NOWINA: Mr. Faye, do we no longer need the undertaking?

MR. FAYE: Yes, we can forget the undertaking, thank you Madam Chair.

The last couple of questions relate to a subject that was referred to a couple of times this morning and I believe it is page -- sorry, page 10 of 22 of the confidential responses to Board staff IRs, Question No. 5. Have you got that?

MS. LERETTE: Yes.

MR. FAYE: Now, all of the numbers on here, none of them apply directly to this customer, do they? These are all general projects that benefit all customers.

MS. HUGHES: Yes.

MR. FAYE: Are there any projects that were specifically planned to serve this customer included in your last cost-of-service?

MS. LERETTE: That, I don't know.

MR. BASILIO: We can certainly get -- deal with that through an undertaking, if that would be your preference. We don't have the information.

MR. FAYE: All right. Could I have an undertaking to just elaborate what projects in your last cost-of-service applications, were directly related to (a), this specific large customer; and (b), the large customer group.

MS. NOWINA: That would be J.4.

UNDERTAKING NO. J4: TO ADVISE WHICH PROJECTS WERE DIRECTLY RELATED TO THIS SPECIFIC LARGE CUSTOMER AND THE LARGE CUSTOMER GROUP

MR. FAYE: And my last question, I think, is page 11 of the Manager's Summary.

Have you got that up?

MS. BUTANY-DE SOUZA: Yes.

MR. FAYE: I am looking at paragraph 3.10 and this talks about the need of Horizon to provide a reliable distribution system to the subject customer, despite its corporate decision to shut down indefinitely. That seems to be a contradiction in terms to me.

But notwithstanding that, the costs associated with the projects we just looked at, they seem to be very ambiguous as it directly relates to this customer.

How does cancellation of those projects affect the reliability of your system to this customer?

MS. LERETTE: I would say they would not.

MR. FAYE: Okay. So I would take this statement then applies to your general ability to serve all customers, is that a better understanding of this?

MS. LERETTE: Yes. If you look at, for example, you know one of the initiatives for cost savings was tree trimming, deferring $100,000 of tree trimming. Well, depending on where those grids are, what we deferred may hamper the reliability of the people in that area.

MR. FAYE: All right. And one more final last question. This is a follow-up to one of Ms. Campbell's questions of this morning. I believe you were discussing the idea that the acquisition or loss of customers on a distributor's system is something that is beyond the control of management.

Did I understand that right, that that was the subject matter?

MR. BASILIO: I would just like to clarify the nature of management's control.

So management's control, with respect to its business, includes being able to forecast its costs in relation to customers, and that includes some estimation.

So with information available, there is some ability to predict under normal conditions how load may grow, you know, net change in customers, and usually we are not that far off in those predictions.

With respect to what's precipitating a decision in an individual customer's mind to enter or leave the service territory, that is out of our control, but certainly our ability to, again, under normal conditions, control our financial situation, we do have some of that.

But with respect to the subject customer, again, why we're asserting that that is out of our control and that is somewhat unique is it relates to what has widely been described as a one in 100-year financial event that had very broad and sweeping economic implications across the globe.

That is out of our control, and that is somewhat unique compared to the notion of a few residential customers moving in and out of our service territory.

MR. FAYE: Thanks for that. The intent of my question was that most municipalities have an economic development department. Does Hamilton have one of those?

MR. BASILIO: Yes, it does.

MR. FAYE: And in my experience, the economic development function is to attract new large customers, not necessarily for the benefit of the hydro, but to expand the tax base in the town; right?

So a lot of municipalities provide some sort of incentives to lure the Toyotas and the Hondas to the municipality. Does Hamilton provide that kind of incentive, as well?

MR. BASILIO: I don't know what specific incentives the City of Hamilton provides to attract.

I know that, generically speaking, they have had, on and off, low-interest-loan programs. I think those are largely related to small businesses.

I think, generally speaking, the populace would suggest that business taxes are subsidized by residential taxes, if that is an incentive. But I am not aware of any specific incentives.

MR. FAYE: Does Horizon get involved with the local economic development department in an attempt to attract customers to Hamilton?

MS. LERETTE: Once in a while. We've had some recent discussions with them regarding developing brownfield developments in Hamilton, and we've been trying to work with them to provide information that would be helpful to them from, you know, reliability stats or anything that would help them attract customers to Hamilton.

MR. FAYE: Okay. Those are all sort of soft incentives that you have a reliable system, for instance. Do you provide any hard incentives, like free connection if you move into our territory, a special rate class that you would have to have the Board approve? Anything of that nature?

MS. LERETTE: No.

MR. BASILIO: Not related to the distribution system, but there are OPA-funded conservation and demand management programs of which Horizon participates within, and it has a conservation and demand management department that has met with some of our larger users to help them qualify for some of the incentives under those programs.

I don't have specifics, but I know we have had some success.

MR. FAYE: It sounds to me, though -- would it be fair for me to say that Horizon doesn't take a proactive approach to either attracting new customers or retaining old ones? You are sort of indifferent to it?

MR. BASILIO: We are not marketing our distribution business, no, but we certainly -- personally, I don't meet with the economic development department. I know that our CEO and other executives do.

So we are working with or meeting with Economic Development somewhat regularly, discussing, um..., you know, whether it is issues between us or, you know, local issues, those sort of things. There are regular meetings with Economic Development in Hamilton on a variety of issues, but I don't know the specifics of any of those.

I suspect they're along the lines of some of those things you are alluding to, that if a new customer is coming to town, a new WalMart, how can we help them with the connection, those sort of things. So certainly we are in regular contact with --

MS. LERETTE: From a retention point of view, though, we do pay attention to our customers' needs from an operational standpoint. So if customers are experiencing issues with their equipment or, you know, during an outage they can't contact our control room, get the information they need, for example, we spend time with our customers, especially our larger customers.

As they contact us with issues, we do have a lot of conversations with them on how we can make their experience better.

MR. FAYE: Do you think developing a program of proactively finding out what your customer is up to, attracting new customers, you know, if necessary, providing incentives that may or may not need to be approved by the Board, would that give management a little bit more control over new customers coming in or leaving the system than you have right now?

MR. BASILIO: There's always opportunity to become more proactive. We do engage our customers, some of them directly, as Kathy has referred to. We conduct a customer survey every year. We have had very favourable results, relatively speaking, over the last few years with an improving trend.

So I would not want to leave the Board with the notion that we do not engage our customers in terms of what their issues are, concerns and needs.

But certainly we can always be more proactive, and some of the things you have suggested to us through your questions are things we will take back and certainly consider.

MS. LERETTE: There is one area, actually, where we do spend a little time with the developer community, more of a feedback forum, so they can give us feedback if we are easy to do business with, if they want to build a subdivision, for example, in our service territory, and we do hold regular meetings with the developer community to look at how we can be easier to do business with.

MR. FAYE: Okay. If I could have just a moment?

Thank you. Those are all of my questions.

MS. NOWINA: Thank you, Mr. Faye. Mr. Sidlofsky, re-direct?

MR. SIDLOFSKY: Thanks, Madam Chair.

RE-EXAMINATION BY MR. SIDLOFSKY:

MR. SIDLOFSKY: Just a few questions, panel.

Mr. Buonaguro, I believe it was before lunch -- no, possibly after lunch, Mr. Buonaguro was asking you about your returns in 2008, and I think he referred you to your response to Board Staff Interrogatory No. 10.

I don't need to take you to that response, but I believe that my friend was also asking you about 2008 and 2009, and I just wanted to -- I think your answer was that you didn't have information on that.

And I just -- to be fair to you, I just wanted to refer you to one other interrogatory response and see if that helps you with your recollection, and that would be your response to Board Staff question 5(d), which was part of the confidential package. That's at page 13 of 22 in that package.

And I noticed that there were some figures given at the paragraph that starts at line 14. Could you advise the Board whether that -- those figures, ranging from 6.11 for

2010 to 6.59 and 6.29 percent for 2009 or 6.86 unadjusted, do those represent your estimates of your returns for 2009 and 2010?

MR. BASILIO: They're estimates, yes. They're estimates as they relate to the pure distribution utility, one -- and isolating for one-time recoveries that relate to prior periods, such as LRAM/SSM recoveries, those sorts of things, both adjusting for the difference between our actual capital structure and the deemed structure, and then on an unadjusted basis for the same.

MR. SIDLOFSKY: Mr. Warren asked you a question about the prospective aspect of your application.

I think, Mr. Basilio, your comment was that you would still like the prospective piece, and Mr. Warren's question back to you was: So you would rather get the cash sooner than later?

If the prospective piece is dropped out and that would cover the period from - well, anything beyond what you have actual data for, so let's say anything beyond the end of 2009; correct? Anything beyond that would be part of your prospective piece?

MR. BASILIO: Did we adjust our -- I don't know that we file on that basis but if it is possible to restate numbers, if the Board were to grant, then that would be preferential to deal with, you know, retroactive from, you know, all of 2009, that would be preferential. Yes.

MR. SIDLOFSKY: My question though is: If the prospective portion of this application were to drop out and you were simply to rebase for 2011, do you get the cash that you are missing for 2010?

MR. BASILIO: No. No. What we would be contemplating, then, I suppose -- and I would likely be consulting with you -- is another Z-factor application, if that is appropriate.

I mean what the prospective piece brings is given our ongoing concern with respect to the subject customer -- and again, their load despite coming up to [redacted] kilowatts is still well short. I mean that is what, [redacted]?

MS. HUGHES: Yes.

MR. BASILIO: We expect that condition to persist. What that provides us is, you know, a higher level of certainty of cash flow, which drives decisions around, you know, accelerating or sticking with capital and operating programs as contemplated.

We would rather not mitigate further.

MR. SIDLOFSKY: So then the only way -- if I understand your answer, the only way you would get that, the cash for the prospective period later is by bringing a different application to recover that cash; is that right?

MR. BASILIO: That's my understanding based on -- I don't know if you can, you know if that's within the scope of a cost-of-service application, I suppose.

Our thinking was another Z-factor, if the prospective piece was not granted and, you know, a material condition, you know, looking forward to April 30th, 2011, you know, we have another material condition related to the subject customer, another large commercial customer, I suppose.

MR. SIDLOFSKY: And finally, I think this would be - well, either Mr. Basilio or Ms. Lerette. Mr. Faye gave you I guess a bunch of ideas about how you might attract customers and keep your customers.

And he was asking you whether that kind of program would give management any more control, but my question is more about this application.

Does anything in your exchange with Mr. Faye change your view with respect to your ability to control the circumstances with the subject customer?

MR. BASILIO: No. And trying as best as possible to be respectful to the subject customer, they're clearly very concerned about sharing load information, particularly load information that would suggest a decline in business activity.

I think we heard from the subject customer, they're a public entity. Such information is terribly sensitive. Clearly they had some concerns about our use of that information originally, and although, you know, we would like all of our customers to feel they can be forthcoming as possible with respect to their operations, the reality is that is very sensitive information.

So I think the answer is "no."

MR. SIDLOFSKY: Thank you. Those are my questions, Madam Chair.

MS. NOWINA: Thank you. Ms. Chaplin.

QUESTIONS BY THE BOARD:

MS. CHAPLIN: Thank you. First of all, if I could ask you, you probably have it there, turn to Board Staff Interrogatory 5(a).

I am looking at the table that appears under 5(a), these were the projects that were deferred. Have you got that?

So what I would like to understand here is if there's a distinction between some OM&A savings versus some OM&A deferrals.

Would I be correct in looking down this list and thinking there is a bit of a combination? In other words, for example, I will just take one. I don't know if this would be correct. But asset management planning.

Are some of these projects for which the amount is sort of an absolute amount and, therefore, if it is deferred, the same total amount is going to be spent on the project but in a different time period? Would that be an accurate assessment of some of these costs?

MS. LERETTE: Well, if I can just speak to the asset management piece. This $50,000 that is identified for asset management planning is part of a five-year plan that we have with, in partnership with a consultant to help us develop a comprehensive asset management plan.

So this work is actual work that needs to be deferred into 2010 so we can realize on our five-year plan.

MS. CHAPLIN: Okay. And maybe just for the sake of the hypothesis, if it is five years and 50,000 so it is

maybe a $250,000 in total, just for the sake of --
MS. LERETTE: It is more like $200,000 every year to $250,000 every year.
MS. CHAPLIN: I guess the point I am trying to understand is, some of these are truly deferrals in the sense that the total amount that's going to be spent either in a single year or over a period of years is going to be the same. It is not an absolute -- there is no absolute -- there is not an absolute savings associated with it, as opposed to perhaps some other components here where, for example, if you are postponing hiring somebody, that is an absolute permanent reduction.
That $100,000 isn't deferred. If you were originally going to hire the person this year, and you are not going to hire them until next year, that's a permanent savings.
MS. LERETTE: Yes.
MS. CHAPLIN: Do you understand the distinction -- I am trying to see if there is a distinction and am I at least explaining it in a way you understand?
MS. HUGHES: Yes, I understand the distinction.
And in terms of the human resources, the elements of the human resources in making up this 515, some are positions that, you know, we had planned to hire and have not yet. So we have deferred.
And in terms of the savings, they're sort of immediate because you are not spending the money but you plan to hire. But there are elements of this where we've now made the hire, but we didn't make the hire at the time we

planned to make the hire.

MS. CHAPLIN: Okay.

MS. HUGHES: So it is -- this particular one is a combination.

MS. CHAPLIN: Okay. Now, is there any way that you could perhaps -- and I don't need it sort of per item -- but of the total OM&A that you have identified here of the $1.4 million, I would be interested to know if you could segregate that sort of into the two categories. One which are things that are truly just deferrals. In other words, you are not going to be able to achieve any net savings. You are merely changing the period in which the costs are going to be incurred versus the other category which is, because you are taking some action, there is a savings.

MR. BASILIO: Sorry, I just want to -- can I just confer for a minute?

MS. CHAPLIN: Sure.

[Witness panel confers]

MS. HUGHES: So just, I wanted to clarify on the human resources piece, because I think it is important to understand.

When we identified these, we did define them as being just deferrals. And particularly when we look at the skilled trades and the apprentices within this 515,000, we need to make those hires, and if we are not hiring our apprentices and our skilled trades, then in fact we are not undertaking some -- other than the maintenance programs or capital programs underlying those hires.

So in fact even though this particular hire has not been made, one could argue you didn't pay the salary, the reality is we do need to hire them and the jobs on which they were going to work on will, in fact, be incurred and their costs will be incurred as part of those jobs.

So if --

MS. NOWINA: Because you will contract out for the work?

MS. HUGHES: That's correct.

MS. CHAPLIN: Okay. So if for the sake of argument we are to look at it and say it is really only salary and the associated costs that are the savings, you are saying those would be totally offset by external costs that you will incur in any event to complete the work?

MS. HUGHES: Yes. I mean -- generally speaking, I would say yes.

MR. BASILIO: That is one way.

I guess -- sorry if I am a bit confused, but this cost pool here is simply shifting into another period.

So in terms of the outlay, it would be our intention to have that happen. It is just going to happen in a future period, whether that is the staffing or the consulting, as opposed to permanent savings, which I might have defined as something we're simply not going to spend, ever.

MS. CHAPLIN: I guess I was not trying to distinguish between permanent savings. What I am trying to distinguish is if a project you were going to expense costs $30,000 and you defer it to the next year, that just means the expenses next year go up 30,000. You are still doing the project. The total cost is not changing.

If, however, you are going to hire someone for $30,000 and you don't hire them for one year, you hire them a year later, you have saved $30,000 from what you would have otherwise spent. But I can see you're not...

MR. BASILIO: I'm sorry, I am just not seeing the difference.

MS. NOWINA: Let me try. Perhaps there is another way of explaining it. I don't know.

So obviously you have deferred the projects and, in Ms. Chaplin's scenario, those are deferred costs, and it would cost the same amount of money.

With human resources, for the current year you are not spending $30,000. That will never be spent, because that employee will not be hired for this year. You will pay him $30,000 next year, but his salary for this year is never going to be paid.

Now, if that is offset with contractual work, then there is no net savings, but if it isn't and you have just delayed the hire, then this year's savings is this year's savings, and you are not going to have to spend this year's savings next year. Next year, your costs will go up to pay a salary.

MR. BASILIO: Yes.

MS. NOWINA: Does that help?

MR. BASILIO: Thank you. That does. Sorry.

MS. NOWINA: So I guess back to Ms. Chaplin's question.

MS. CHAPLIN: I still have this question about whether or not the $1.4 million can be segregated into those two categories.

MS. NOWINA: And you can take it as an undertaking. You don't have to figure it out now.

MS. HUGHES: I mean, other than the human resources, I know definitively all of the other ones are just a move. So I can say definitively on that. On the HR piece, I would have to look to see which positions and what projects they would be working on to determine...

MS. CHAPLIN: It would be some portion of the --

MS. HUGHES: Some portion of the HR, but the others would be strictly projects moving from one fiscal to another.

MS. LERETTE: Yes, yes.

MS. CHAPLIN: Would it be a significant amount of work or -- I mean, could you give an estimate sort of subject to check, or would you prefer to -- I would like some sense of this, if it is most of that or none of that.

MS. HUGHES: I would say my estimate is probably about 275 would be positions that are trades people and that would actually be contracted out as part of other projects. So we would be looking to contract those wages out. If we hadn't -- if we don't do these hires, we would be contracting out the work.

MS. CHAPLIN: So about half of that amount, or a bit more, is essentially offset by other expenses and the other slightly less than half of that amount.

MR. BASILIO: Or other revenue shortfalls. I just wanted to point out, of course, that the value of mitigation is far and away -- I mean, the value of the mitigation is far and away less than the overall loss of commercial load that Horizon has experienced for the subject periods, so...

MS. CHAPLIN: Yes. That's helpful. Actually, that sort of takes me to my next question. Just over the page on that same interrogatory - it is page 12 of 22 - the information that's provided below the heading "With Postponement", again, this is -- I will just read this:

"Horizon Utilities forecasts 2009 net operating and capital expenditure postponements of $1.5 million and $1.6 million, respectively. Assuming a financing mix based on the approved capital structure, these 2009 postponements mitigate the 2009 forecast cash flow impairment by $2.1 million."

So I am correct that that 2.1 million exceeds the revenue shortfall from the subject customer, but you don't view that as mitigation for that material loss, do you?

MR. BASILIO: No.

MS. CHAPLIN: And perhaps you could help me with why you don't see that linkage.

MR. BASILIO: Because we have mitigated with respect to an enterprise-wide issue, some of which is contributed by the subject customer.

So when I am -- when we are identifying, you know, postponement of expenses, we are doing it on that basis, an enterprise-wide view. We are not deferring expenses specifically related to the subject customer, although that's obviously a factor in the magnitude of the postponement.

MS. CHAPLIN: Okay. Thank you.

And then the table where you have the revenue losses by year as revised, is that in --

MS. HUGHES: VECC 4(a).

MS. CHAPLIN: VECC 4(a)? Right, the updated revised table 3; is that correct?

MS. BUTANY-DE SOUZA: That's correct.

MS. CHAPLIN: Okay. So essentially your application is seeking -- Horizon is seeking to be kept whole for the revenue loss for that customer. And you have explained your reasons for why you don't feel an adjustment, for example, for working capital would be appropriate, and also why these other mitigation measures you have taken wouldn't be appropriate. So I believe I understand that.

Now, included in this revenue loss, is there -- would a component of that be Horizon's return on equity for this customer and for the costs associated with this customer? That would be included in this revenue loss?

MR. BASILIO: Right. That reflects foregone revenue requirement, which is, you know, everything, interest, taxes, return on equity.

MS. CHAPLIN: And would you be able to estimate, for example, the return on equity component embedded in those revenue loss figures? Would you be able to provide that to us? By way of undertaking of course is fine.

MR. BASILIO: Sure.

MS. CHAPLIN: Thank you. I would like that.

MS. NOWINA: Undertaking number?

MS. CAMPBELL: J.5.

UNDERTAKING NO. J5: TO PROVIDE ESTIMATE OF EQUITY COMPONENT EMBEDDED IN REVENUE LOSS FIGURES IN VECC INTERROGATORY NO. 4(A), UPDATED REVISED TABLE 3.

MS. NOWINA: J.5.

MS. CHAPLIN: Just finally in this area of working capital and sort of the differentiation between the working capital allowance as it's designed and implemented for rate-making purposes versus the working capital requirement that you in running your business have to address, In your answers to Ms. Campbell you were referring, of course, to the fact that your cash flow and working capital requirements were quite significant.

And you made a reference. I think it was in relation to your discussion about the working capital requirements, the impact that some of the dispositions the deferral accounts had on that.

Could you maybe just explain that a bit more to me so I can understand how that is working?

MR. BASILIO: I am not an expert on the various deferral accounts, but, generally, we have net regulatory variances that have been in a large liability position for a prolonged period, and those things are now being disposed of, you know, through customer bills.

And so I think, Sarah, you have a calculation for me. But, essentially, a component of the growth in working capital from May 1st, 2008 to December 31st, 2009 relates to the disposition of those accounts. So you've got a liability going down. There's a cash outflow.

MS. CHAPLIN: So these were credit balances in those deferral accounts that are being returned to customers?

MR. BASILIO: Exactly, and that credit is being returned to customers.

MS. CHAPLIN: Because you are having to return that money to customers, this is providing an influence on your working capital requirements and your cash flow requirements?

MR. BASILIO: Absolutely, yes.

MS. CHAPLIN: Thank you. I find that helpful.

Thank you. Those are my questions.

MS. NOWINA: Thank you. I have a couple of questions, which are largely just to make sure that I understood your responses to Mr. Faye. First, you said that you started -- that you have requested load forecasts from the subject customers that they have refused to give. Can you tell me when you first asked for those?

MS. LERETTE: I am aware -- I am personally aware of requests during 2009. It may have been late 2008, but it was really initiated from Hydro One doing some long-term planning on Gage DS.

MS. NOWINA: All right. So Hydro One made the request as well or in conjunction with Horizon.

MS. LERETTE: Yes. Because we normally meet the subject customer with Hydro One and Horizon together.

MS. NOWINA: Were there any subsequent requests from Horizon for forecasts?

MS. LERETTE: Yes. We have asked a few times. Hydro One has asked directly and we also asked on their behalf, as well.

MS. NOWINA: Thank you. I am sure you've -- I know you filed this, but I am sure you know it off the top of your head so I don't have it look it up. What is the percentage of revenue you get why your large customer class?

MR. BASILIO: Sorry, it is not off the top of our head.

MS. NOWINA: I'm sorry.

MR. BASILIO: But we do have the number, I know that, and we can simply divide it. Do you have that handy?

MR. BUONAGURO: Using 4(b), could you calculate it based on the ratio in the rider application?

MS. NOWINA: They are going to have to start paying you, Mr. Buonaguro.

MR. BUONAGURO: Is that one quick way to do it?

MR. BASILIO: Is that 4(b)? Do you have that handy, Kathy? Grant?

MR. BUONAGURO: Revised table 5 you are asking for

$2.9 million total and large users you are allocating 770,000 total. Is that a ratio that you could use to -- to provide the total revenue.

MS. NOWINA: I was sure it was in your application somewhere.

MS. HUGHES: I saw it.

MR. BASILIO: That seems high as a percentage of distribution.

MS. NOWINA: Just an estimate would be fine for the purposes of me going on. But if you don't have it, that's fine. I am pretty certain it is in the application. If it isn't you can put it in your submission.

MR. BASILIO: We will. I regret to say we will have to get it for you.

MS. NOWINA: All right. Okay. I will move on from there, but it was related. I am assuming it is a large percentage.

MR. BASILIO: Of distribution revenue? I am thinking it is less than 10 percent. Of total billings, it is a great portion of our total billings. It would be -- a very high portion.

MS. NOWINA: Yes. Distribution revenue. Not commodity revenues.

MR. BASILIO: It is approximately $3 million out of $88 million of distribution revenue.

MS. NOWINA: Thank you. Thank you. Then that -- then my next question was, and Mr. Faye asked you this, you don't have a department that is responsible for large customers? You don't have a large customer department and people who are specifically responsible for your relationships with your large customers, is that how I understand your response to Mr. Faye?

MR. BASILIO: We don't have a dedicated key account customer. It is something we are contemplating.

We do have a vice president of customer service that is responsible generally speaking for all of our customers. And the operations folks have interaction, as Kathy, Ms. Lerette outlined.

MS. NOWINA: All right. Do you have programs specifically for large customers, other than conservation programs or demand management?

MS. LERETTE: No.

MS. NOWINA: No?

MR. BASILIO: No.

MS. NOWINA: Okay. Thank you. Those are my questions. Thank you very much, witness panel. I think that completes the examination of this panel.

PROCEDURAL MATTERS:

MS. NOWINA: In Procedural Order No. 6, we had an order of submissions or scheduled for submissions so I think everyone is aware of that.

Mr. Warren, I see your finger going towards the mike there. Did you have a question?

MR. WARREN: No. I don't, I have a little cris de coeur at the end of the day and this is with respect to the argument schedule. It is now scheduled for intervenors' submissions on the 9th. And that arrives towards the end of a cluster of obligations including the Hydro One Networks' distribution argument.

The Toronto-Hydro hearing application is the 4th, 5th and 8th. The Veridian Technical Conference is on the 8th and our factums are due on the Hydro One Transmission motion on the 10th. So, in light of that, there's some concern just about being able to get it done and we were wondering if we could impose on the Board for a slight extension of a few days on that delivery date of the 9th.

MS. NOWINA: You are suggesting, then the 9th --

MR. WARREN: The 9th is the delivery date. If we could extend it for perhaps three or four days, it would be very helpful, Madam Chair.

MS. NOWINA: What day of the week is the 9th? Staff, do you know?

MS. CAMPBELL: The 9th would be a Tuesday.

MS. NOWINA: The 9th would be a Tuesday. Mr. Sidlofsky, if we extended the time for the intervenors, could you still get your submission done, which means we would take it out of your time. How would you feel about that?

MR. SIDLOFSKY: Well, I felt okay about the extension until I heard that.

MS. NOWINA: It's a question.

MR. SIDLOFSKY: I would appreciate -- unfortunately I just don't have --

MS. NOWINA: 16th is the date of your response which I take also to be a Tuesday.

MR. SIDLOFSKY: Sorry, the 16th?

MR. BASILIO: Should counsel be asking his client?

MR. SIDLOFSKY: I was actually going to suggest that, if Mr. Warren was looking for the - sorry, the 12th? I would appreciate a bit more time than that, a similar extension.

My heart might not be quite as heavy as Mr. Warren's but my concern is still there. Unfortunately I've been involved in many proceedings in these couple of weeks at the Board and I have a number of items due to you.

MS. NOWINA: All right. Well, why don't we extend the deadline to both of you until the Friday of the same week.

MR. WARREN: Thank you very much.

MS. NOWINA: All right. The other thing that I wanted to mention before we adjourn today is the redaction of the transcript. I certainly --

MS. CAMPBELL: Madam Chair, I'm sorry, but on the -- just sticking with the dates, are you including Board Staff and intervenors have the same date? Is Board Staff going to be given the extension or not?

MS. NOWINA: Do you need it Ms. Campbell? Do you want it? I am concerned about the end point, Ms. Campbell.

MS. CAMPBELL: We have the same issues because I am involved in the Toronto Hydro case also. So I have the same time frame and so is Mr. Davies.

MS. NOWINA: Let's not say in my last case, I wasn't even-handed, so you may have the same extension.

MS. CAMPBELL: Thank you very much. Your graciousness is noted on the record.

MS. NOWINA: All right. Can I go to the area of the transcript. I think -- my opinion today is that much of what was said today can be put on the public record except when people slipped and called the subject customer by its name. But there are other reasons for confidentiality and I understand that.

I would appreciate it if Horizon would have a careful look at the transcript. Please keep as much on the public record as possible. Provide us -- and redact it based on the two decisions we made on confidentiality, the one today and the one earlier based on those principles.

If you could, then, share it with the subject customer, I would appreciate that. And get their opinion. And then provide the redacted version to Staff who will also give us their opinion on whether or not the redactions are appropriate.

I am not feeling a great need to involve intervenors in that process because I know Staff will be more than diligent about what needs to go on the public record, unless you have some concerns about that.

All right. So as soon as possible we would like that transcript. We would appreciate that. Are there any further matters?

We are now adjourned. Thank you very much.

MR. SIDLOFSKY: Thank you.

--- Whereupon the hearing concluded at 3:30 p.m.