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PUBLIC ACCOUNTS COMMITTEE

Legislative Assembly

November 2, 1977  
10 a.m.

Chairman: Mr. Taylor

MR. CHAIRMAN: You have the minutes of the last meeting. What is your pleasure? Moved by Mr. Young that the minutes be received. Seconded by Dr. Webber. Are you ready for the question?

(Motion carried)

MR. CHAIRMAN: We have asked the Hon. James Foster, Attorney General, and the representatives of the Public Utilities Board commissioners to be with us this morning, and I will now ask Mr. Rogers if he will outline the sections in the public accounts that deal with the board of public utilities commissioners. Mr. Rogers, please.

MR. GOGO: On a point of order. Is the Attorney General represented by Mr. Pat Toole?

MR. FOSTER: It's going to be a long day, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Gogo. No, he hasn't changed his name. He hasn't had time under The Change of Names Act. Mr. Rogers.

MR. ROGERS: Mr. Chairman, I'd like to refer to public accounts '75 -- '76, volume one, page 104. Appropriation 1251 deals with the Public Utilities Board. The legislative appropriation was \$1,018,355. There was a special warrant for \$217,500. A total of \$1,235,855, of which \$1,036,285 was expended.

On page 108 the expenditure is classified by object of expenditure, and the details for appropriation 1251 appear the last detailed column on that statement.

There's a small amount of revenue on page 110, of \$17,997.

Mr. Chairman, those are the relevant sections of public accounts dealing with the Public Utilities Board.

MR. CHAIRMAN: Are there any questions involving the statement by the Provincial Auditor? Mr. Clark.

MR. CLARK: Mr. Chairman, could the Provincial Auditor get a breakdown for us of -- under vote 1251, that portion dealing with fees and commissions -- the \$124,424? First of all could we get, perhaps, an explanation from the Public Utilities Board officials as to the kind of work done under these fees and commissions, and then if we could get the names of the individuals who did the work?

MR. CHAIRMAN: Mr. Clark, the secretary didn't hear you. Would you mind .#.#.

MR. CLARK: Very good. If we could first of all get from the Public Utilities Board official the kind of parameters they use for the fees and commissions area, and then secondly, the names of the individuals who were engaged by the Public Utilities Board to do the work, and the project or the purpose for each contract.

MR. CHAIRMAN: Do you want to have a reply to that now, or do you want to finish up with Mr. Rogers? Mr. Rogers, would you like to deal with your section?

MR. ROGERS: Was the request for a breakdown of the \$124,000? Mr. Chairman, I would have to bring that back at the next meeting. I will so do.

MR. CHAIRMAN: Any further questions to the Provincial Auditor?

MR. CLARK: There is always the possibility the Assembly may adjourn. I wonder if .#.#. (interjections) Well, it's hopeful if the Minister of Municipal Affairs doesn't bring too many more amendments.

But to get back to the Public Utilities Board. Could we have the breakdown, Mr. Rogers, prior to the next meeting? I am thinking, Mr. Chairman, if we don't meet again until the spring session, would it be possible to ask Mr. Rogers to send the breakdown of that information to the individual members who are on the committee? Would that be possible, Mr. Chairman?

MR. CHAIRMAN: I think, Mr. Clark, if the Provincial Auditor sent it to the chairman, then I would distribute it to the members of the committee, if that is satisfactory with the committee. Is that satisfactory?

Any further questions to the Provincial Auditor? If not, then, we have with us today the Hon. James Foster, the Attorney General, and minister in charge of the board of public utility commissioners, and Mr. Bill Horton, the chairman of the board of public utility commissioners, and Mr. Bill Sharon the executive officer of the board. We'd like to welcome you to the meeting, gentlemen, and at this time I'll ask the hon. Mr. Foster if he has an opening statement.

MR. FOSTER: Mr. Chairman, thank you very much. I think at the time this matter was placed on the agenda of the committee there was an interest in the committee to discover a good deal more about the PUB: how it functions, what it regulates, how many firms are involved, what is its jurisdiction, and a great deal of information like that. I think it's now a matter of public record -- but if not, let me make it so -- that since that time the PUB has prepared a very useful overview document which I have in my hand and which I think you will recognize because this has been circulated to all members of the Assembly, which answers I think a great many general concerns about the role and function of the PUB and actually how they conduct hearings and the various factors involved in their consideration. So it wouldn't be my intention, Mr. Chairman, to deal with that, other than to identify the document for the members if they haven't had the opportunity of reviewing it before now, and to note that that information has been made available to all members of the committee.

MR. CLARK: When was that made available?

MR. FOSTER: This document was prepared in the late spring and I asked my office to send it out to all members of the Assembly before the summer. You should have a copy of it, and

if there is some reason you haven't, I'll see you get it, because I wanted all members to have one.

MR. CLARK: We don't seem to have copies of it.

MR. FOSTER: Well, in that event, that's my oversight.

MR. CLARK: There's been a strange breakdown.

MR. FOSTER: Yes, it is. This document is prepared for members of the House so that they are aware of what's going on in the Public Utilities Board, and if members of the opposition, Mr. Chairman, haven't got it, that's an oversight of my office staff for which I have to assume responsibility, because it is to be available to you.

MR. CHAIRMAN: I have it. Mr. Notley.

MR. NOTLEY: Mr. Chairman, I wonder if we could move into this question that came up both last spring in the Estimates and also the other day during a resolution on the Public Utilities Board, and that is the question of the relationship between debt capital and equity capital in the private investor owned utilities.

MR. TAYLOR: The secretary can't hear you.

MR. NOTLEY: Mr. Chairman, I'll speak up.

The question really relates to the relationship between debt capital and equity capital. My question first of all to the Attorney General. It's my understanding that the rate of return is based on 15 per cent on equity capital.

MR. TAYLOR: Mr. Horton.

MR. HORTON: Mr. Chairman, if I may respond to the question. The rate of return of course requires considerable qualification, and I very rarely answer questions in respect to rate of return without requesting that the questioner define precisely what rate of return he is talking about. For example, a very common term in regulatory circles is the overall return on rate base. That may be expressed as one rate of return. There are, of course, component or sub rates of returns; there is a rate of return on debt capital; there is a rate of return on common equity capital; there is a rate of return on preferred share capital; and of course there may be other forms of capital, each of which may demand a certain rate of return or cost rate, to use a synonym which is often used in public utilities regulation, and for some forms of capital that cost rate may be determined by the board to be zero. In other words, a zero rate of return.

But to answer the specific question I think the member was asking, I think his question was directed to the rate of return, or cost rate for common equity capital. That rate of return is really the product of a particular arithmetic calculation. It is really arrived at by dividing the component of the overall fair return fixed by the board, which is deemed to be required by the equity capital which finances the total rate base, and dividing that component of the total return by the total investment that is assumed to have been made in the total rate base. So it's really a calculation. In each specific case, the return on equity, or the cost rate for equity capital used to finance the rate base, is a calculation. It is not a factor which in itself is determined. But it is a factor which is derived by calculation. The board fixes a fair return. One component of

that fair return is a return to equity capital, and that return is a determination made by the board in each particular case, based on the merits of the case. In recent times the range of that return has been in the order of 14 to 15 per cent for most Alberta utilities. And this includes investor-owned utilities as well as a return to the equity portion of the rate base of municipally-owned utilities which are under the board's jurisdiction as well as the provincially-owned utility under the board's jurisdiction, the Alberta Government Telephones.

MR. CHAIRMAN: Mr. Notley, first supplementary.

MR. NOTLEY: My first supplementary question then is to Mr. Horton, and it's a follow-up from his answer. We then, in de facto terms, Mr. Horton, are looking at 14 to 15 per cent as a practice. I think that would be a fair conclusion from your comments. I'm not asking that as a question, but just to make sure that I understand your answer; that it's essentially an arithmetic formula, but it is worked out to 14 to 15 per cent in most cases. Would that be a fair statement of your answer?

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: Thank you, Mr. Chairman. Yes, I think as I said, in recent times the calculation has resulted in a range of equity rate of return in the order of 14 to 15 per cent. But I do want to emphasize that that is the result. The determination is made on the merits of each particular case after receiving a considerable amount of evidence, basically opinion evidence, from the applicant utility company and the interveners. The board makes its judgment based on its view of that evidence, after assigning appropriate weight to the evidence of all the experts who testify in respect to the rate of return question.

MR. CHAIRMAN: Mr. Notley, now your first supplementary.

MR. NOTLEY: Mr. Chairman, the question I would put to Mr. Horton then is: in determining the balance between equity and debt capital, what guidelines specifically are used by the board? The reason I raise this is it seems to me that there is going to be obviously a difference. If we're talking about a practice of 14 to 15 per cent on equity capital, on the other hand debt capital would be somewhat less, the borrowing of debt capital. So that a high ratio, a 50:50 ratio, of equity to debt is going to be good for the company and bad for the consumer.

I use the example to illustrate the point that I'm making, of the hassle we got into between the Alberta Energy Company and Syncrude on debt equity. The Alberta Energy Company wanted a very high debt equity ratio, and the company wanted a very low debt equity ratio. They wanted more debt and less equity because they were paying rates based on the composite of the two, and a composite based on high debt and low equity would mean less dollars than high equity and a lower debt ratio.

So it really comes back to the question: what are the guidelines used by the board in determining whether it should be a 90:10 ratio, a 20:80 ratio, a 50:50 ratio, or what have you?

MR. CHAIRMAN: Mr. Horton please.

MR. HORTON: Thank you, Mr. Chairman. I think I should probably precede my remarks by apologising if I perhaps go beyond the particular question. This question is one that I

could talk for whatever remaining time is available, and I will try not to do that. I'll try to be brief in my answer.

I think the first point that I would like to make is that the investor owned utilities in Alberta obtain their capital, all forms of capital, from the traditional capital markets. So it really is that market which determines the cost of capital, both the debt capital and the equity capital, and not the board. I say that as a general remark because in some cases the board must exercise its judgment in respect to the appropriateness of a particular capital structure that may exist with a particular investor owned utility.

Basically, the approach that the board takes -- and I should perhaps comment that this is covered in some detail in our overview that Mr. Foster referred to a few moments ago -- is first of all according to the direction of the statute. The board determines a rate base for the utility company. That rate base is basically the net book value of the physical assets and other assets that are used or required to be used in providing service, and an allowance for working capital.

Having determined that rate base, the statute then requires the board to fix a fair return on that rate base. What must be done as a step precedent to determining that fair return, is to determine how that rate base is financed. The first evidence that the board looks at in respect to how the rate base is financed, or how it should be financed, is the actual capital structure of the company itself. And if that capital structure is one which has been fixed by the market -- in other words, if the shares of the company are trading on the market -- then it is really the market that determines what the debt equity ratio of the company should be, because the debt financiers will not lend money to a utility company if they consider the equity portion of their capital structure to be insufficient. There is a danger, as I think you were indicating, that an investor owned utility company may be tempted to increase its amount of equity capital if it expected to receive a 15 per cent return on whatever equity capital it had, and a proportionately less return on the debt capital. As you have indicated, there would be that temptation, or may be that temptation.

So that in a utility which is looking to the traditional capital markets for its capital, it doesn't have that opportunity, because the market would not permit it in general. But there is another safeguard in that the board makes a determination whether or not the actual capital structure of the utility company is an appropriate one considering how other utility companies are financed, considering the capital structure of other utility companies. And again we receive this evidence from both applicant witnesses and intervener witnesses. The board makes a determination then what is the appropriate capital structure for the particular utility company. In most cases the appropriate capital structure is found to be the actual capital structure. Therefore the rate base can be assumed to be financed in the proportion that each form of capital bears to the total amount of capital.

As that first step in the calculation, then, we subdivide the rate base into various portions which are assumed to be financed by the various forms of capital.

In cases where the board considers the capital structure not to be appropriate -- and this may happen where the operating utility company may be a subsidiary company of a larger holding company; in some cases companies which are not subject to the board's jurisdiction, and may be engaged in non-utility activities -- the board may not consider that the capital structure of such a company is appropriate, and if it so considers, then it will impose its own judgment as to the appropriate capital structure, having heard the evidence that is adduced at the hearing, and it will deem the rate base to be financed by the appropriate capital structure, so that it will allow a return on equity capital and a return on debt capital in accordance with the capital structure which the board determines to be appropriate.

MR. CHAIRMAN: Mr. Notley, second supplementary.

MR. NOTLEY: Mr. Chairman, to Mr. Horton. What projections are undertaken by the board with respect to the impact of this debt equity ratio on power rates? Let me illustrate what I mean. The electric utilities planning council in 1975 suggests that we're going to have more than a doubling of our use of electric power between 1976 and 1986, from about 3,000 megawatts to about 7,000 megawatts; so we've got more than a doubling in that period of 10 years. I look at the projects that have been identified in the ERCB report, and in order to generate that additional amount of power, we're going to have to look at \$3 billion to \$4 billion of capital in 1975 terms. Heaven knows what that would be in 1977 terms, but at least in 1975 dollars that would be a very large amount of money.

My question relates to the projections the board does in advance to consider what this would mean to power rates, because a difference between a 50:50 debt equity ratio on this additional expansion, and a 90:10, could well mean as much as \$100 million a year in power rates on the difference between normal conventional lending rates and the return on equity. This is a hypothesis that's not obviously something that may be altered by other calculations. But the point I would like to raise, and the question I am putting to you, Mr. Horton, is: what long-term projections do you have, looking at the power requirements of the province and the impact of that debt equity ratio on the rate structure?

MR. CHAIRMAN: Mr. Horton please.

MR. HORTON: Thank you, Mr. Chairman. Once again I have to provide a little bit of background to make my answer perhaps more clearly understood.

Our board uses what is called in public utility circles, a future test year concept, in determining public utility rates. The premise for using that future test year is that we are setting rates for the future, so the information on which those rates are to be based should be future information. The future test years that we look at in a normal rate hearing are generally one or two years into the future. In the consideration of those future test years we are determining what the future rate base is in those test years, and what the future capital structure of the company will be to finance those rate bases in the future. But it is an immediately prospective future. And we also, with this immediately prospective view, take into consideration the forecast of what the cost of the various forms of capital will be in that short range.

Now once again, if the investor owned utility is obtaining its capital from the traditional capital markets, it doesn't really have the option of financing with a 90 per cent debt ratio as opposed to a 50 per cent debt ratio. So I would suggest that the question is really a hypothetical one, unless some form of guaranteeing the return of that capital to the various financiers is devised, which does not exist at the present time in the Alberta climate.

So certainly I have to agree with the hypothetical question that if you could finance your rate base with 90 per cent debt capital and debt capital cost 10 per cent, whereas equity capital cost 15 per cent, then obviously the arithmetic says that that would impose less cost on the utility customers in the future.

I had a meeting, in fact the board had a meeting, with a number of investors who are traditionally in the utility capital market, providing capital to utility companies, and they asked that question; basically the same area of questioning that you are concerned with: what would the board like to see as far as a capital structure? And my answer was, well, we would like to see every utility financed by 100 per cent debt capital, because assuming that we could get the debt capital at a 10 per cent cost that's obviously the cheapest way to finance utility plant. But, you know, that was a facetious answer,

because we're talking to the people who are putting up that capital, and there is no way that they are going to put up 90 per cent debt capital in the face of 10 equity investment by the equity owners of the utility company.

So, again, the market determines what is possible, what is real, and I think little is to be gained by philosophizing over hypothetical capital structures that our present system just would not tolerate.

I think that is probably all I should say on that subject for the moment.

MR. CHAIRMAN: Mr. Notley, third supplementary.

MR. NOTLEY: My final supplementary question. Let me just preface it by saying two things. One, even though I have a rather definite view on how I think utility companies should be owned, I don't raise this in the context of our discussion.

MR. CLARK: That's a relief.

MR. NOTLEY: But the reason I raise the question of the debt equity issue is that even if one assumes private ownership of the utility companies, the fact of the matter is that we have invested large amounts of heritage money in Alberta Government Telephones in debt capital. And one of the things that the government will have to consider, the heritage committee, and the people of Alberta, will be: is it appropriate .#.#.

AN HON. MEMBER: In that order.

MR. NOTLEY: .#.#. in that order, would it be appropriate to make debt capital available from the heritage fund to the utility companies? So I say that the question can be raised in not as hypothetical a sense as it might be raised in New Brunswick, or something, where there is not an option that will have to be seriously considered, regardless of how one views the ownership itself of the utility industry.

The question I would like to put to you, Mr. Horton, and I don't expect you to answer that because I realize that's something the government's going to have to look at, is -- I understand that the present ratio is in the case of Calgary Power now about 50:50; am I correct on that -- what is your assessment, your best guess, of the equity debt ratio that is required in order to gain the confidence of the market place and to attract the debt capital required? What's the lowest we can go? Because obviously as consumers we're interested in the lowest possible ratio. Is it 50:50? Can we get it down to 80:20? Can we get it down to 85:15? Or are we stuck somewhere around 50:50?

MR. CHAIRMAN: Mr. Horton please.

MR. HORTON: Mr. Chairman, I don't want to appear evasive, but the short answer to your question is: there is no single answer. There is no one capital structure or capital ratio that is applicable to all companies at all times and in all economic circumstances. There seems to be a clustering, though, where the market is setting the capital structures of electric utilities, for example. There seems to be a clustering of around 30 per cent equity, 15 per cent preferred share capital, which is really equity. But when I say equity I meant common equity. So about 30 per cent common equity, 15 per cent preferred share capital, and about 55 per cent debt capital.

We have some unusual factors in Alberta, for example the border flowback funds, which the board considers to be part of the capital of the company, and this is more applicable to gas utilities than electrics, but I use that as an example of things that may influence

the capital structure of a particular utility company in a particular jurisdiction. We have to consider the differences in comparing a electric utility in the U.S., for example, to an electric utility in Canada. They may both be investor owned utilities who may both be dealing directly with the capital markets for their funds. But the fact is in recent times in Canada, preferred shares have become more attractive to the investing public, and utility companies have found it advantageous to increase that portion of their capital structure in the preferred share area, and to reduce the common equity portion of their total capital structure.

The important thing is that whatever capital structure is used, a total cost of capital results. And you cannot change one element of the capital structure without, of course, affecting the other elements, because they must total 100 per cent of course. But if the debt capital is increased, if it could be increased, then of course there are terms and conditions of issuing that debt. For example, the so-called "times interest coverage test" which actually increased the amount of earnings the company must be allowed or they just won't be able to borrow any capital. So this is just an indication, and I know it's probably not very clear, but this is an indication of how the market controls what the capital structure is for a particular company.

But I think the important thing is that what the board is trying to do and what the board insists that the utility companies do, the investor owned utility companies in particular, is that they obtain the minimum cost of total capital. Now that includes having an appropriate capital structure. It also includes ensuring that they are doing some hard-nosed bargaining when they go to the capital markets to make sure that they get the best deal they can when they obtain that capital.

So the board is interested in having the lowest possible cost of total capital. And one of the elements that affects that is the capital structure. In fact in the document that we have prepared there is a relatively simple illustration of how a change in debt ratio from 55 to 60 per cent actually results in a higher cost of total capital. And that is not by any means the total answer, but it is an illustration of one of the components that affect the cost of capital to utility companies.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Gogo.

MR. GOGO: Thank you, Mr. Chairman. I would like to address my questions to Mr. Horton, if I might. In view that there are many members I am sure who have questions, I'll be satisfied if the answer is in numbers, whether yes or no.

I have no qualms about some of the decisions made by the PUB in the past because I happen to be one of those who believe that the protection of society is in many ways served by investor owned utility. And I don't see many Albertans beating a path to the doors of the stock market to buy shares in Calgary Power. Therefore I would suggest that the majority of the decisions by the PUB regarding increases of Calgary Power have certainly not been giveaways at the expense of Albertans, because the earnings of Calgary Power haven't been that great. So I would submit for the benefit of members that indeed the cost base that they have used indeed has been justified.

My question, Mr. Horton, is: under your jurisdiction, that is, the PUB jurisdiction -- and perhaps at no other time in Alberta's history to my knowledge have Albertans as a group been so concerned with utility rates and increases in rates, and I think it's a particularly important time, Mr. Chairman, to have the PUB here -- how many utilities come under your jurisdiction, approximately, within a hundred or so?

MR. CHAIRMAN: Mr. Horton.



MR. HORTON: Again, this information is contained in the document, but from memory, it's in the order of 1,000. Mr. Foster has just pointed to the number. It's 1,003 utilities. That really is not the total answer, because under The Gas Utilities Act virtually every oil and gas company operating in Alberta is also subject to the jurisdiction of the board because they are defined as a gas utility, and therefore subject to The Gas Utilities Act. So that number can be expanded considerably beyond 1,003. But we do have 1,003 companies that we are dealing with. Some of those are, of course, municipally owned utilities, one is a provincially owned utility, most of them are investor owned utilities, and not all of them are perhaps what most of you and perhaps most of the public think of as utilities if you confine your definition to distribution utilities. There are a lot of other types of utilities which are, of course, included under our jurisdiction by definition.

MR. CHAIRMAN: Mr. Gogo, first supplementary.

MR. GOGO: Does that include a municipally owned water system, Mr. Horton?

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: Thank you, Mr. Chairman. Both The Public Utilities Board Act and The Gas Utilities Act have a provision whereby a municipally owned system can by specific by-law submit their utility system to the jurisdiction of this board. In fact most of the municipally owned gas utilities have done so in order to obtain the benefits of the government's natural gas price protection plan.

In other words, municipally owned utilities are specifically excluded from our jurisdiction unless they pass a by-law submitting to our jurisdiction. However, the Public Utilities Board does provide the possibility of an appeal from any consumer, any customer, of a municipally owned utility if he considers that he is receiving discriminatory rate treatment at the hands of the municipally owned utility. So there is a recourse to the board on appeal, but unless the municipally owned utility passes a by-law submitting to our jurisdiction we do not have jurisdiction over such utilities.

MR. CHAIRMAN: Mr. Gogo, second supplementary.

MR. GOGO: Yes, Mr. Chairman. Well, a specific example, Mr. Horton. Last year Calgary Power, which wholesales power to the city of Lethbridge, had an increase of 15 per cent. The city of Lethbridge, which retails it to the citizens of Lethbridge, increased it a further 15 per cent. Now for clarification, the city of Lethbridge could oppose the increase by Calgary Power. Could the citizens of Lethbridge oppose the increase by the city of Lethbridge to the Public Utilities Board?

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: Thank you, Mr. Chairman. I think I can answer that briefly. The city of Lethbridge, as a wholesale customer of Calgary Power, certainly can oppose the proposed increase by Calgary Power to it. But the citizen of the city of Lethbridge, who is really being served by the Lethbridge utility, has no status before our board in that hearing. As I have mentioned, he can complain independently to the board under -- I don't know the exact section of The Public Utilities Board Act -- if he feels aggrieved by the rates imposed by the municipally owned utility. That citizen can complain to the board if he considers that he is receiving discriminatory rate treatment.

MR. CHAIRMAN: The hon. Mr. Foster.

MR. FOSTER: If I could supplement that for the benefit of my colleague from Lethbridge and suggest to all members, and indeed to the citizens of those communities whose municipal governments establish rather high rates on utilities, that the most effective mechanism for appeal is the locally elected members of city council and the mayor who make that policy, and who make that decision, and who oppose those rates on the consumers in those governments.

MR. CHAIRMAN: Mr. Gogo, third supplementary.

MR. GOGO: I wonder if the recent municipal election in Red Deer wasn't indeed that very thing, Mr. Chairman.

MR. FOSTER: I'd be quite happy to debate that, Mr. Chairman, if you want.

MR. NOTLEY: You won't get out of that (inaudible)

MR. GOGO: Finally, Mr. Chairman, to Mr. Horton. Were there many citizen interveners in the year 1976 with regard to both Calgary Power, Alberta Government Telephone Telephones and the natural gas?

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: Thank you, Mr. Chairman. It is of considerable concern to the board that although our hearings are public hearings and although the notice of such hearings is widely published and served on persons whom we know to be interested in the matter, including generally all municipal governments as well as consumer interest organizations that have appeared before the board, it has been of concern to the board and remains a great concern of the board that our public hearings generally seem to be boycotted by the public. The public just does not come to the hearings, with a few exceptions. We have had, I would say, certainly fewer than 10 individual consumers appearing before our board during the year 1976. We encourage their attendance. We of course have considerable flexibility in the conduct of our proceedings so that they can appear and can be heard. The counsel for the applicants are generally very lenient in respect to the attendance and appearance at the hearings by these people. In other words, they don't insist that they adhere to strict rules of legal evidence in the techniques of cross-examination.

So the climate is there, and the opening is there. However, the public, I'm afraid, when they do attend they may attend for a few minutes and then they are either over-awed by the atmosphere or perplexed by the complexity of the issues being discussed and really all they wanted to do in the first place was register their discontent with increasing utility rates. And of course we already know that. We know that nobody likes increases in utility rates. So they feel quite impotent to actually actively participate in the hearing, and really their representation can best be accomplished by some form of group action.

Our feeling is that the municipalities which grant franchises to these investor owned utilities have a considerable responsibility to represent the citizens in whose interests they signed the franchise contract, and we look to those municipalities to attend our hearings and to represent their citizens. There is a problem, of course, when a municipal government chooses to attend our hearings that if they are a wholesale customer of the utility company there is some problem as to whether or not they are representing the

citizens of their municipality, or whether they are representing some other interests of that municipality.

But, just one further point that I would like to make: all municipal governments, I think without exception -- certainly the vehicle is there; whether they are using it or not I'm not completely certain -- but I'm quite sure that all municipal governments impose a franchise tax on investor owned utilities, either in the form of a works tax or a revenue tax. So our feeling is that there could be no better use made of such funds than to finance interventions before the Public Utilities Board ensuring that the franchise agreement that they have entered into on behalf of the citizens of that municipality continues to be a valid and appropriate franchise agreement, including the rates that are fixed for utility services for that particular municipality.

MR. CHAIRMAN: Mr. Clark.

MR. CLARK: Mr. Chairman, I planned this morning to ask some rather general questions with regard to the Public Utilities Board, but in light of the information here perhaps we could hold those questions until the next time the group appears before the committee.

I would like to ask, though, with regard to a specific hearing. I don't have the exact name here, mainly because I didn't think we'd get to that stage today, but it's the hearing that dealt with the price of natural gas in the area right around Edmonton, the price of natural gas that I think Celanese Canada Ltd. is buying natural gas from -- members of the Assembly will be quite familiar with a gentleman by the name of Robert Dickson from Calgary who has written members of the Assembly on a variety of occasions.

To you, Mr. Horton: I'd like you, if you could today, to trace what happened there. If you can't, and I fully appreciate you have thousands of hearings before the board, if you could go back and then prepare for the chairman the sequence of events, also the costs involved, and any consultants the board may have engaged, and things like that.

Because my understanding of the events -- and please correct me if I'm wrong -- was that an application was made by a small Alberta company to have an adjustment in the price of natural gas. The hearings commenced, and then the government introduced legislation during the period of time that, I believe, we're looking at Public Accounts now. What I really want to get at, Mr. Horton, are two things: what happened during that period of time? I know that you aren't responsible for what happened in the government as far as legislation is concerned, but what happened from the time the application came to you people to review the rate until the legislation went through the House which, in fact, said then you have no more jurisdiction in this area unless you're asked to look at it by the government?

Secondly, Mr. Horton, I'd like to know the costs involved. Now if you could give kind of a general overview of the thing now, but I fully appreciate that this might be an issue that you'd like to reflect upon and then I would appreciate, though, if you'd give us the information in some detail.

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: Thank you, Mr. Chairman. As the member anticipated, I think it would be inappropriate for me to try to extemporaneously recite in any detail the events surrounding that particular application, and I would like to just take the question under advisement and I will provide the information that you have requested.

MR. CHAIRMAN: Mr. Clark.

MR. CLARK: Without unnecessarily trying to put you on the spot, Mr. Horton, could I ask you, in general, though, that basically was the sequence of events as I outlined?

MR. HORTON: I think in general the sequence that you have outlined is correct. But I would have to check the files to be sure that it was completely accurate.

MR. CHAIRMAN: Mr. Clark, first supplementary.

MR. CLARK: To Mr. Horton, Mr. Chairman. Mr. Horton, would it be possible for you to pull the information together and then get it to the chairman, and the chairman use the same approach he has in the past to get the information in the hands of members?

MR. CHAIRMAN: Mr. Horton.

MR. HORTON: That would be acceptable to the board, Mr. Chairman.

MR. CHAIRMAN: The hon. Mr. McCrae.

MR. McCRAE: I am confused as to the cost guesstimate that the hon. leader would like the witness to bring to us. It's cost to whom? There were a number of people before the board, a number of interveners, are we talking about cost to the board? I'm totally confused as to what he is after.

MR. CHAIRMAN: Mr. Clark.

MR. CLARK: Mr. Chairman, this isn't an unusual situation for my colleague.

MR. McCRAE: Mr. Chairman, I'd like to respond. It is not unusual when I'm listening to his questions. I'm very often confused, I would agree with him.

MR. CLARK: We'll drop it there.

MR. McCRAE: Carry on.

MR. CLARK: We'll drop it there. Your confusion may grow deeper.  
Mr. Chairman, to the chairman of the board: pretty obviously, Mr. Horton, you'd be in no position to give an estimate of the cost to all the intervenors -- anyone else. I wouldn't expect the Public Utilities Board to go out and get information other than the costs to the taxpayers of Alberta the Public Utilities Board incurred as a result of this abortive hearing.

MR. CHAIRMAN: Satisfactory? Are you through, Mr. Clark? Dr. Webber.

DR. WEBBER: Thank you, Mr. Chairman. My first question to Mr. Horton is the following: does the Public Utilities Board establish standards for measuring productivity and service quality when applicants come to the board for rate increases?

MR. CHAIRMAN: Mr. Horton, please.

MR. HORTON: I would like to respond to the member's question again in a fashion that may appear somewhat evasive, but I assure you that I'm not trying to be evasive. The board

certainly has the responsibility to ensure that utility customers receive safe and adequate service at just and reasonable rates. Those terms, by their very nature, imply that productivity should be one of the criteria that is uppermost in the minds of utility management in conducting the utility's affairs.

In recent times both in our jurisdiction and in other public utilities' regulatory jurisdictions productivity measurement has become a very topical issue. We are beginning to receive some evidence both from applicants and interveners in respect to productivity measurement. Like most subjects in the field of economics, the question becomes quite ethereal in a very short period of time and little light and little assistance has been provided to the board in this entire area of productivity measurement. I would also add that this is true in other jurisdictions as well. There is no simple measurement of productivity.

Now beyond that, however, I think all members should be aware, and certainly I would like to think that the general public would be satisfied that utility companies are run as economically as possible by the management of those companies -- and I'm talking about investor-owned utilities now, primarily, but not excluding municipally-owned and government-owned utilities in my comments -- but certainly there is pressure on the management of a utility company to conduct the affairs of that company in the most economical fashion, in other words, the least-cost fashion. And that is really what we're talking about when we're talking about productivity.

Most of the larger utility companies have sophisticated techniques to measure various types of productivity, various factors in the total quality of service. And the board reviews those studies and reviews that information, both in the context of its public rate hearings and also in the context of its annual reviews of the affairs and accounts of the various utilities. By reviewing that information we are satisfied that the company is being properly managed and is providing safe and adequate service to the customers of the utility at just and reasonable rates.

But the subject of productivity measurement in itself is relatively new to public utilities' regulation and there's a great deal of controversy over how to measure productivity, and certainly since it will be largely opinion evidence, it is my view that the controversy is not likely to be solved in any jurisdiction in the near future.

MR. CHAIRMAN: Dr. Webber, first supplementary.

DR. WEBBER: Thank you very much, Mr. Horton. I'd like to move to Alberta Government Telephones for a moment, if I may. The distinction has been made between basic and non-basic services. I also understand -- and maybe I'm wrong on this -- but I understand that there's a contribution test that is referred to to make sure that the non-basic services aren't subsidized by the basic services. My question is: in the last rate .#.#. I guess I shouldn't say the last rate hearing, the hearing is still under way, but in the current AGT rate case is there any evidence to show that the basic services are, in fact subsidizing the non-basic services, which I suppose could be interpreted to lead to interference in the competitive or free enterprise market where there's competition in the non-basic services?

MR. CHAIRMAN: The hon. Mr. Foster.

MR. CLARK: That's like asking the Public Utilities Board to inspect themselves.

MR. FOSTER: The question with respect to the AGT hearing I don't think should be pursued at this time because the hearing is under way and I think that it would be inappropriate

to do so. Moreover, that response would apply to any question relative to any hearing currently before the board.

MR. CHAIRMAN: Dr. Webber.

DR. WEBBER: I will continue with another question then, Mr. Chairman. One of the concerns that all of us as MLAs have encountered in the last while and has been mentioned here today is the rate increases -- constituents being concerned about the increasing cost of utilities. One question that often comes up is: because of the Anti-Inflation Board guidelines, how can the Public Utilities Board allow rate increases to go beyond those guidelines? I would like to hear the chairman of the Public Utilities Board state publicly at this time how the PUB treats the guidelines of the AIB in their public hearings.

MR. CHAIRMAN: The hon. Mr. Foster.

MR. FOSTER: Mr. Chairman, I'm sure that the chairman of the board .#.#.

(Mr. Foster rose)

MR. CLARK: The new chairman of the board.

MR. FOSTER: Yes.

MR. NOTLEY: We suspected that.

MR. FOSTER: I'm sure the chairman of the board will want to supplement my remarks. No doubt I may go astray here and there, as I sometimes am inclined to do, and he will want to correct me.

This question has been discussed in the House on several occasions and perhaps I could simply say again generally that the anti-inflation program in Canada does not control all prices, all wages, and all costs. And the role of the Public Utilities Board is to consider a fair rate of return, and indeed the increased costs to the various applicants. So recognizing that the federal program does not control all cost inputs, you surely cannot then argue, Mr. Chairman, that the Public Utilities Board should in any sense be fully bound by the specific guidelines of the Anti-Inflation Board.

Let us recognize that the Public Utilities Board is in fact a regulatory agency in itself. It is composed of several citizens of this province who were charged with the responsibility of, among other things, protecting the rights of the consumer and ensuring that the costs and charges that utility companies assess to the consumer are indeed fair and reasonable. So it is in fact, in that sense, a body that is carrying out some of the same kinds of functions anticipated by the Anti-Inflation Board.

It is simply illogical and impossible, Mr. Chairman, to have a board such as the Public Utilities Board be fully bound by the precise guidelines of the Anti-Inflation Board, recognizing as I've said earlier that not all cost factors and price increase factors are controlled by the anti-inflation program. It may be that the chairman of the board can add to that as he chooses.

MR. CHAIRMAN: Mr. Horton, please.

MR. HORTON: Yes, I think I have very little to add, Mr. Chairman. However, I think two or three points should be made. One is that energy prices were specifically excluded from the federal/provincial agreement in respect to the AIB guidelines, and of course the energy component of utility rates is a significant element. That is one of the cost factors that is therefore not specifically subject to AIB guidelines.

Utility companies, and particularly the larger utility companies -- those having more than 500 employees -- are of course subject to the AIB guidelines in respect to wages. They must comply with the guidelines in respect to the wages and salaries of their employees. Similarly, the investor-owned utilities are subject to the AIB guidelines in respect to dividends. And the board, of course, in the course of its rate hearings and in the course of its reviews ensures that the utility companies are complying with those provisions of the guidelines which are applicable to them. But as Mr. Foster has indicated, the board is also responsible to ensure that the utilities are able to recover their reasonable costs of providing utility services through the rates charged to the customers, and those reasonable costs include a fair return on the investment made by the utility companies in order to provide that service.

MR. CHAIRMAN: Dr. Webber, third supplementary.

DR. WEBBER: Thank you, Mr. Chairman. I understand that the two items of public hearings and interim rates tend to be unique features of the Public Utilities Board in Alberta here, as compared to what it's like in other regulatory agencies in the country. And you mentioned the public hearing process a few minutes ago and that they weren't well attended. With regard to that particular item I wonder if one of the reasons would be in terms of the reasonable costs being borne by the utilities being such that not all the costs are recoverable? I would like to make a comment on that.

Also on the interim rates -- one of the things that bothers me as a politician is that you read in the newspaper headlines a rate increase, and then a few months later the same headline is there and it's relating to the same increase. There's an interim increase and these interim increases make it appear as though overall there's been half a dozen increases taking place when, in fact, possibly there's only one overall large increase.

Are there any methods or revisions of methods that the board is considering with regard to making the regulatory process more expeditious? I realize that you mentioned that there's over 1,000 different utilities that make application to your board, but I wonder if you'd make some general comments on that line if there are certain methods that could make the whole process more expeditious and not drag it out over such a long period of time.

MR. CHAIRMAN: Mr. Horton, please.

MR. HORTON: Thank you, Mr. Chairman. I think the member has touched on a number of subjects and I hope that I have jotted down notes that will remind me of all of them.

MR. CHAIRMAN: I think he got three questions in that last supplementary.

MR. HORTON: At least three. First of all -- I'm sure it was unintentional -- I think you may have given the impression that the concept of public hearings is unique to Alberta. I think most regulatory agencies do conduct their rate reviews in the form of public hearings. However, the board has been quite innovative and I think is generally accepted as a leader in public utilities regulation in Canada in respect to many of the features of

regulation that have been adopted by this board which are currently only being considered by many other boards.

One of the features is the use of interim rates. Many jurisdictions do not grant interim rates. Our board has taken the consistent position that if the evidence supports an interim rate increase on a prima facie basis then it is more equitable to the customers, considering both current customers and future customers, to have the rates imposed at the earliest possible time. As I mentioned, generally the evidence is in respect to a future test year, but it is an immediately prospective test year. Therefore if a company, for example, submits an application in the fall of 1977 one of its test years would be the year 1978. And it would generally accompany its overall application by an application to impose interim rates effective January 1, 1978. The board considers that since it has an opportunity to review all of the evidence relevant to the main rate hearing -- although it doesn't have the opportunity to submit it to full cross-examination and full testing -- but at least on a prima facie basis, if the board is satisfied that that evidence supports the imposition of interim rates on January 1, the board considers it's more equitable to do that than to wait until the hearing is finally concluded, which may be late in 1978, and if the rates are then found to be reasonable it is not the customers who were using the service during 1978 who would then be paying for the service but it would be the customers from 1979 onward.

Now you may say well, they're the same customers. Well, they're not exactly the same customers. They may not be the same people and they certainly will not have the same usage. So this term that we have used in respect to this issue -- a very fancy term which we call 'intergenerational equity' -- really means when you are satisfied that there is going to be an increase, that an increase is justified, then the earlier you can implement that increase the fairer you are treating all customers, considering the customer of today and the customer of tomorrow.

The other points I think that you invited comment on were some of the other innovative steps that the board has taken to try to shorten the hearing process and to try to provide equitable treatment to customers and the owners of the utilities alike. One of the steps the board has taken is the requirement to file all the evidence in advance. This has greatly shortened the public hearing time by providing all the details supporting the rate application to all interested parties, well in advance of the public hearing, so that everyone, including the board, can be well prepared to deal with the evidence in the public hearing process basically by cross-examination techniques and by board examination. This has been a great saving and it is not followed by many other jurisdictions.

I mentioned the use of future test years a little while ago as another innovation. Many other jurisdictions are using historical test-year data and while it has some merits it, as I mentioned earlier, seems rather inappropriate to try to fix rates for the future by looking backwards.

The third item -- adhering to the chairman's categorization of the questions into three areas -- I think the third question was in respect to costs. The Alberta board has had a unique practice of awarding costs to effective and responsible interveners and allowing the utility company to recover those costs through the customer rates. The basis or foundation of that practice has been that the board considers that the applicant's case must be tested. We consider, as I mentioned earlier, the testing should be done by the customers or the representatives of the customers who are receiving that service. If the case is to be tested and it is to be tested by those customers, then the board considers that that testing is of benefit to the customers. And as long as the testing is of benefit to all the customers of the utility, then the board has approved the reasonable costs -- and I should say by a careful scrutiny of the costs, ensuring that they are reasonably and necessarily incurred in the first place -- but then subjecting those costs



to the further test that they have been incurred in respect to responsible and effective intervention and have benefited all the customers of the utility then the board has approved those costs being paid by the utility company and recovered by that utility company through the rates.

There are a number of alternatives: the obvious alternative is not to award costs. That may have the effect of discouraging intervention and that is certainly not an objective of the board. The interveners would be required to look elsewhere for their funding, and that elsewhere generally would be to the government. The board does not endorse government funding of interventions because it seem to conflict with the basic premise that the case should be tested by the customers and not by the taxpayers. And if the government fund interventions then it is the taxpayers who are testing the utility company's case, and our board has considered that not to be appropriate.

We think the cost-awarding system that is used in Alberta is unique. There are a number of other jurisdictions who are now looking at our system and have, in fact, moved somewhat in that direction. But most of the jurisdictions, particularly the U.S. jurisdictions, just refuse outright to consider any applications in respect to costs of interveners being awarded against an applicant.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Stewart.

MR. STEWART: Thank you, Mr. Chairman. My question is to Mr. Horton: in this very complex business of establishing rates of different utilities, do you have the opportunity to compare with other jurisdictions their method of arriving at it? And have you had the opportunity and the benefit of the experience of other jurisdictions in how you are arriving at some of the complex things that you have to do to justify each utility company's application?

MR. CHAIRMAN: Mr. Horton, please.

MR. HORTON: Thank you, Mr. Chairman. I think the question provides me the opportunity of again bragging about the initiative and leadership of this board. Our board has been instrumental in creating a very loose organization which we call CAMPUT, which is the Canadian Association of Members of Public Utility Tribunals.

AN HON. MEMBER: Sounds like a disease.

MR. HORTON: I emphasize the looseness of the association and the association of the members. This organization has been functioning now for approximately two years and as a matter of fact, our board will be hosting the annual meeting of the association next April. We generally meet twice a year; once in respect to telecommunications matters and once in respect to all matters.

This organization provides an opportunity to consult with members of other public utilities' regulatory boards in all the other provinces of Canada, and gives us an opportunity on an information exchange basis to learn what is going on in other provinces and learn how other regulators are coping with, in many cases, similar problems. There are many different configurations of regulatory boards across Canada, so not all the problems are the same and not all the solutions are applicable to every jurisdiction. But it does provide an excellent opportunity for dialogue so that our board can take advantage of any innovative steps that are being taken in other jurisdictions in Canada.

We are also a member of another association called NARUC, which is the National Association of Regulatory Utility Commissioners, which is basically a U.S. organization. But that organization permits members of boards such as ours to be associate members, and we do obtain a considerable amount of information from that organization by attending various conferences and seminars that they sponsor, workshops and constructive programs that are established for both members and staffs of public utility regulatory boards by the exchange of information.

In addition to general reading of the public utilities regulatory literature, including judgments of the courts -- both the appellate division of the Alberta Supreme Court and the Supreme Court of Canada -- as well as judgments from other jurisdictions including the U.S. jurisdictions, the board keeps itself very well informed of developments in other jurisdictions.

MR. CHAIRMAN: Mr. Stewart, first supplementary.

MR. STEWART: Thank you, Mr. Horton, I have one supplementary. Do you feel that the expanded use by industry of our utilities in a province such as ours which is experiencing very fast expansion in the use of energy -- of electric and natural gas -- do you feel that this has a tendency to increase our rates at a faster scale than if we were more stabilized such as possibly the rest of Canada? The other provinces are not experiencing the rapid growth that we are and I wonder if this escalation of use is having the effect of pushing our rates up a little faster than other jurisdictions?

MR. CHAIRMAN: Mr. Horton, please.

MR. HORTON: Again the question really can't be answered in any simple manner. I think it can be said that generally -- it not only can be said, it can't really be argued that we do have considerable growth in Alberta, in fact this government is encouraging growth. Growth demands more services. More services demand more investment -- more plant -- and more plant entails more cost; and therefore costs increase.

To analyse then the effect of growth and the effect of costs incurred during inflationary times on various groups of customers really I think would require much more time and detailed study than I can provide extemporaneously here today. However I think it is still generally true that by increasing the size of a utility there are economies of scale to be gained which would redound to the benefit of all customers. In other words, if there is growth, and that must be accepted, then there must be utility services.

Now how are those services going to be provided? First of all a monopoly utility company has an obligation to serve any customer within its franchise area. That's one of the terms of obtaining the franchise. So they don't have a choice, they must provide the service. In the case of some industrial customers there may be an opportunity for that industrial customer to provide its own electrical power, in other words, the self-generation alternative. The utility companies can still obtain benefits for all their customers by competing for such loads. In other words, the larger your load the more you can distribute the fixed costs; so by adding that customer they've added somebody else that they can distribute fixed costs to. So they still are actively competing for industrial accounts, industrial loads, where it is economically viable to compete. Now they will not impose burdens on their existing customers just to grow, just to obtain that industrial load. That is not the basis on which the investment decision is made. It must be made, and the board must ensure that it is made, that any investments that are made in respect to providing utility services are investments in plant that is used or required to be used to serve the customers.

I think there is one other dimension to the question and, again it is a very argumentative one, and that is -- and I think you were alluding to the argument that has been made in many cases that we should treat one generation of customers differently than we treat another generation of customers. That is perhaps an over-simplification of the no-growth philosophy. But basically it says, all right, we have a certain amount of plant and it serves these customers. So let's just set a rate for those customers based on the investment to this period, and any new customers who come on the system -- who are coming on because of the growth -- we'll charge them a new rate. We'll charge them today's cost. To introduce that kind of philosophy into the rate-making procedure I think leads to conclusions and leads to paths that generally would be unacceptable by the public because, to its logical conclusion it means basically that everyone -- and certainly every generation, and perhaps I can even restrict the generation to the customers of record in every year -- if it's thought that they have some unique claim on low-cost plant and therefore they should have the lower rates, we would have a tremendous problem in respect to discriminatory treatment of various utility customers in the province. I don't think there's any easy solution to that problem.

MR. CLARK: Mr. Chairman, having regard to the fact that several of us have some questions left, would it be agreeable to members of the committee if we ask Mr. Foster and his associates to come back next Wednesday, on the presumption, Mr. Chairman, that the House is going to go for some time after that?

I would move, Mr. Chairman -- and if I do this clearly enough I'm advised my colleague to my left is going to second this motion -- that we adjourn until next Wednesday, and that the chairman consult with the members of the committee in the early part of the week, having regard with the business of the House, as to whether we go ahead with the meeting next Wednesday or whether it's cancelled. That would then make it possible, if we cancel it, to bring the PUB people back, perhaps Public Accounts next year sometime.

AN HON. MEMBER: Agreed.

MR. McCRAE: Mr. Chairman, the member has expressed himself with such unusual clarity that I would like the honor of seconding his motion.

MR. CLARK: Oh my gosh! Mark on the wall.

MR. CHAIRMAN: Satisfactory to the witnesses?

MR. HORTON: Mr. Chairman, this is next week at the same time?

MR. CHAIRMAN: This would be, as I understand the motion, it would be next Wednesday if the House is still in session.

MR. CLARK: If it looks like the House is (inaudible) for some time.

MR. CHAIRMAN: Yes. So it would be next Wednesday morning at 10 a.m.

MR. McCRAE: Subject to further consultation with the members if things are .#.#.

MR. CHAIRMAN: If the House should adjourn of course we'll let you know.

MR. McCRAE: I'm sure the house will be in session, Mr. Chairman.

MR. CHAIRMAN: You have heard the motion. All in favor?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Against, if any?

(Motion carried)

MR. CHAIRMAN: I'd like to thank the witnesses and hope to see you next Wednesday morning.

MR. YOUNG: Mr. Chairman, I have .#.#.

MR. CHAIRMAN: Mr. Young.

MR. YOUNG: I have one brief matter which was raised in the minutes of the last meeting and which I think we should deal with.

I would like to move that this committee authorize the chairman, in consultation with the office of the Clerk of the Assembly to arrange for the retention and storage of such records as they may decide, and conforming to the guidelines normally observed in the keeping of records of the Legislative Assembly.

I would understand that to mean that the basic records could be kept and that would be the responsibility, if you so indicate to the Clerk, for the Clerk to undertake that work. My understanding now for members of the committee is that the chairman has in his possession all of the records of this committee going back about six years. I don't really believe that that's something that the chairman ought to have the responsibility for. So that's the reason for my motion.

HON. MEMBERS: Agreed.

MR. CHAIRMAN: You've all heard the motion?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Is there a seconder?

MR. NOTLEY: Seconded.

MR. CHAIRMAN: Seconded by Mr. Notley. All in favor? Against, if any?

(Motion carried)

MR. CHAIRMAN: Motion to adjourn would now be in order. Moved by Mr. Gogo, seconded by Mr. Wolstenhome. The meeting stands adjourned.

(The meeting adjourned at 11:35 a.m.)