

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
S.B.C. 1996, CHAPTER 473

and

British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
Review of Electricity Purchase Agreement

Vancouver, B.C.
January 19, 2005

PROCEEDINGS AT HEARING

BEFORE:

R. Hobbs, **Chairperson**

L. Boychuk, **Commissioner**

VOLUME 8

APPEARANCES

G.A. FULTON
P. MILLER

Commission Counsel

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H. CANE
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B. C. Hydro

L. KEOUGH

Duke Point Power Limited

C.B. LUSZTIG
A. CARPENTER

British Columbia Transmission Corporation

D. PERTTULA

Terasen Gas (Vancouver Island) Inc.

G. STAPLE

Westcoast Energy Inc.

R. B. WALLACE

Joint Industry Electricity Steering Committee

C. BOIS

Norske Canada

D. NEWLANDS

Elk Valley Coal

F. J. WEISBERG

Green Island Energy

D. LEWIS

Village of Gold River

D. CRAIG

Commercial Energy Consumers

J. QUAIL.
D. GATHERCOLE

BCOAPO
(B.C. Old Age Pensioners' Organization, Council Of
Senior Citizens Organizations Of B.C., End Legislated
Poverty Society, Federated Anti-Poverty Groups Of B.C.
Senior Citizens' Association Of B.C., And West End
Seniors' Network)

W. J. ANDREWS
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GSX Concerned Citizens Coalition
B.C. Sustainable Energy Association
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R. MCKECHNIE

Himself

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Himself

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CAARS

VANCOUVER, B.C.

January 19th, 2005

(PROCEEDINGS RESUMED AT 8:30 A.M.)

THE CHAIRPERSON: Please be seated.

The Commission panel is prepared to make a ruling with respect to the evidence that Mr. Weisberg wishes to file on behalf of Green Island Energy. We have reviewed Mr. Weisberg's letter of January 17th, 2005 and accept the submissions of Mr. Keough and Mr. Sanderson with respect to the filing of that evidence at this time in the proceeding, particularly as related to the issue of unfairness. And so that evidence will not be admitted at this time, Mr. Weisberg.

We may need to return to that issue with respect to matters put at issue later in the proceeding, if there are any. But for that, your evidence will not be admitted at this time.

MR. WEISBERG: May I just request one clarification, Mr. Chair. The part of the basis of the submission, in fact the essential foundation of it, was whether the Information Requests were in scope or out of scope. Is there a ruling made in that respect or not?

THE CHAIRMAN: There is not. My intention, and this was true with respect to the documents that were requested

1 from the VIGP proceeding to be part of this record,
2 was that issues with respect to relevancy, so scope,
3 would be addressed in cross-examination as they arose
4 in cross-examination. So I have not made a ruling
5 with respect to whether or not those particular IRs
6 are in scope or out of scope. I accepted yesterday
7 your release of those with the reservation with
8 respect to whether or not they were relevant. And so
9 my thinking is, unless you make submissions otherwise,
10 my thinking was to accept the approach that I thought
11 you were adopting, and that is, answer all of the IR
12 questions and deal with the issue with respect to
13 relevancy later.

14 MR. WEISBERG: Thank you.

15 **Proceeding Time 8:33 a.m. T2**

16 **B.C. HYDRO PANEL 2 - CFT PROCESS & OUTCOME**

17 **MARY HEMMINGSEN, Resumed:**

18 **CHRIS O'RILEY, Resumed:**

19 **GRAEME SIMPSON, Resumed:**

20 **ROHAN SOULSBY, Resumed:**

21 **STEVE ECKERT, Resumed:**

22 THE CHAIRPERSON: With that, unless there are any
23 other -- Mr. Sanderson?

24 MR. SANDERSON: I just have one filing this morning, Mr.
25 Chairman, and that is at transcript Volume 6, page
26 1323, Mr. Wallace asked whether some tables that were

1 referenced in the supplemental response that we
2 provided as a courtesy to him could be filed, and
3 these were some tables which responded to this
4 question:

5 "Q: Greater understanding is required
6 regarding the relationship between gas
7 prices and electricity prices utilized in
8 the QEM."

9 And there are then some tables which provide that
10 elaboration. So if that could be the next exhibit,
11 please.

12 MR. FULTON: B-62.

13 THE HEARING OFFICER: Marked Exhibit B-62.

14 ("DATA TABLES - JIESC SUPPLEMENTARY IR 2.10.0(B)", IN
15 RESPONSE TO IR AT VOLUME 6, PAGE 1323, MARKED EXHIBIT
16 B-62)

17 THE CHAIRPERSON: Mr. Sanderson, or panel, for that
18 matter, in my questions for you this morning, and they
19 will follow Mr. Fulton, of course, but in my questions
20 to you this morning I'm going to want you to have
21 access to the QEM model, particularly the portfolio
22 tab of the QEM model. And I have made a photocopy of
23 it, but on the other hand you may prefer to be working
24 off of the disk, and that's what I actually intend to
25 do. So I will make -- to expedite things I will make
26 a hard copy available to you if you wish, for your

1 counsel to photocopy, or you can come prepared with
2 the model loaded on it, on a laptop as well.

3 MR. ECKERT: A: Compared with a disk I'll find a laptop
4 between now and the time you --

5 THE CHAIRPERSON: All right.

6 MR. SANDERSON: So I'm not sure if Mr. Fulton needs that.
7 If not we'll set it up at the break, if that -- we'll
8 set up the laptop at the break, unless Mr. Fulton
9 needs that before the break.

10 MR. FULTON: Yes, I don't think I will. My questions on
11 the QEM relate more to the assumptions in any event,
12 Mr. Chairman, so --

13 **Proceeding Time 8:35 a.m. T03**

14 THE CHAIRMAN: Thank you. And the other item that will
15 be useful, and I haven't confirmed this. My
16 recollection is, it's been incorporated already in the
17 -- from the VIGP proceeding, but it's Appendix E of
18 the application volume, which is the range of GE
19 products, gas turbine products. So if you can have
20 that as well for my questions.

21 Page 115, Appendix E of, I think it was
22 Exhibit -- the first -- it's the application, it's the
23 first volume of the application.

24 You may proceed, Mr. Fulton.

25 MR. FULTON: Thank you, Mr. Chairman.

26 **CROSS-EXAMINATION BY MR. FULTON:**

1 MR. FULTON: Q: Good morning, panel. I'd like to begin
2 with some outstanding responses that arise from my
3 cross-examination of Ms. Van Ruyven, and I did
4 indicate to your counsel last night the transcript
5 references. The issue that I wish to deal with is
6 cost-effectiveness. I'd like to begin with the first
7 transcript reference at page 1186. And if you could
8 just familiarize yourself with the exchange that I had
9 with Miss Van Ruyven at page 1186 beginning at line
10 18, to 1187 line 17. And once you've done that, if
11 you could let me know.

12 MS. HEMMINGSEN: A: I've familiarized myself with that
13 section.

14 MR. FULTON: Q: All right. And I'd like to start with
15 the question that I posed at lines 18 through 24, and
16 ask you, Ms. Hemmingsen, if you can provide an answer
17 to that question.

18 MS. HEMMINGSEN: A: So that's "Can you tell us why this
19 general approach used over one that was based on the
20 unit cost of capacity from the different projects or
21 portfolios?"

22 MR. FULTON: Q: Yes.

23 MS. HEMMINGSEN: A: And I think this relates back to
24 some testimony that I made in the VIGP hearing when I
25 talked about B.C. Hydro's evaluation methodologies and
26 the various alternatives that we had. And we

1 described unit cost measures as being kind of summary
2 metrics that were, for various reasons in our opinion,
3 incomplete in representing the values of various
4 resources. And the standard evaluation methodology is
5 cash-flow analysis and net present value cash-flow
6 analysis. And that's what we do, and that's what we
7 incorporated in the model.

8 And once again, my understanding of the
9 VIGP decision is that approach was endorsed, and there
10 was some specific recommendations in the VIGP decision
11 to proceed using that type of approach, albeit to
12 simplify some of the elements of it. And that's what
13 we attempted to do in the QEM model, and there's
14 various trade-offs involved in making simplifications,
15 but it goes back to our overall balance of, you know,
16 focusing on a cost-effective outcome, making the model
17 transparent and facilitating fairness and openness in
18 the process, so.

19 **Proceeding Time 8:40 a.m. T4**

20 MR. FULTON: Q: Okay. And then the next question that
21 I had asked, would an approach based on the unit cost
22 of capacity have yielded a different outcome?

23 MS. HEMMINGSEN: A: And we've taken a look at that
24 overnight and can confirm that no, it wouldn't have
25 yielded a different outcome if you measured the
26 outcomes on a dollar per megawatt basis, once again,

1 NPV. It would not have yielded a different project.
2 It would have meant that one of the projects that was
3 bid-in actually with Duke Point Power, would have
4 prevailed over another one by a small margin.
5 MR. FULTON: Q: Thank you. Now --
6 THE CHAIRPERSON: Mr. Fulton, may I ask a question and
7 just for the purposes of the record. Do you remember
8 the list of the portfolios well enough to tell me
9 whether or not it's the third portfolio on the list,
10 and if you can't, I'll understand and we'll get to it
11 later, but --
12 MS. HEMMINGSEN: A: I think we actually answered that
13 in an IR, which portfolio on an NPV dollar basis came
14 in second, and it was one with duct firing. So that
15 portfolio comes in first on a dollar per megawatt
16 basis.
17 THE CHAIRPERSON: Can you give me that IR response at
18 some point, please?
19 MS. HEMMINGSEN: A: Sure. Not right now though.
20 THE CHAIRPERSON: Thank you. Sorry, Mr. Fulton.
21 MR. FULTON: Thank you.
22 MR. FULTON: Q: I want to next move to the topic of the
23 treatment of energy price risk in the tender
24 evaluation, and in the response to BCUC IR 1.13.3,
25 B.C. Hydro was asked how it considered gas risk in the
26 CFT evaluation. And the response was that it is

1 limited to the assessment of gas prices associated
2 with the QEM. And then the second paragraph of the
3 response states that the risk to the economics of the
4 gas-fired generator is more related to the market heat
5 rate, and parenthetically I'll say that I take that as
6 being opposed to the absolute gas prices. And then
7 the answer went on, "Or the ratio between electricity
8 and gas prices." Do you recall that response?

9 MR. O'RILEY: A: Yeah.

10 MR. FULTON: Q: Okay. Is it not possible, Mr. O'Riley,
11 that high gas prices, not just the spread between gas
12 and market electricity prices, are a risk when the
13 plant must be dispatched to meet domestic customer
14 needs? And for example, in the event of a local or
15 province-wide constraints on imports?

16 MR. O'RILEY: A: It is the case that if there was a
17 requirement to run the plant for capacity needs,
18 either for Vancouver Island or for the system in
19 general, we would have to run the plant regardless of
20 the gas price. That, as we've talked on numerous
21 occasions, that would be a relatively small number of
22 hours. Typically we would be running -- dispatching
23 the plant for energy and would turn it down if the
24 ratio between gas and power prices was such that it
25 didn't make sense to run the plant for those purposes.

26 MR. FULTON: Q: Okay. Now, on the assumption that B.C.

1 Hydro acquires energy first to meet the needs of
2 domestic customers, would you agree with that it's
3 possible that the avoided cost of new supply in B.C.
4 could be less than the market price of electricity for
5 significant periods of time?

6 MR. O'RILEY: A: Are you speaking of the avoided cost
7 of long-term supply?

8 MR. FULTON: Q: Yes.

9 MR. O'RILEY: A: Yes. It is -- there is a scenario
10 where we have high gas prices, sustained high gas
11 prices such that cost of energy from this project
12 would be higher than other alternatives. And that's
13 why in our regular forecasting process we use a high
14 gas scenario. We are concerned about that risk. And
15 that's why in the cost-effectiveness study we used a
16 high gas -- a high gas scenario to test those three
17 portfolios.

18 MR. FULTON: Q: Okay. I don't expect you to be able to
19 respond to this next question in any detail without
20 responding in the way of a written undertaking, so
21 I'll ask the question and then we can determine what
22 would be involved with -- in terms of time commitments
23 in providing this undertaking.

24 **Proceeding Time 8:45 a.m. T05**

25 Having regard to B.C. Hydro's position
26 about the importance of the spark over absolute gas

1 prices, can you tell us what exactly the spark spread
2 would be under certain price scenarios used in the
3 QEM, and the cost-effectiveness valuation; and the
4 scenarios are as follows. EIA gas price and EIA full
5 electricity scenario; secondly, EIA gas price and EIA
6 partial scenario; thirdly, EIA gas price and 90
7 percent mainland generation, as used in the cost-
8 effectiveness sensitivity; and finally, a high gas
9 scenario and average of EIA electricity price
10 scenarios as used in the cost-effectiveness
11 sensitivity.

12 And what I would be looking for as well,
13 that for each of the past ten years, what the average
14 annual implicit spark spread has been between Sumas
15 Gas and the value of electricity exports from the
16 Lower Mainland to Mid-C, and electricity imports from
17 Mid-C to the Lower Mainland.

18 MR. O'RILEY: A: Okay. So for the purpose of the --
19 sorry.

20 MR. SANDERSON: Go ahead, Mr. O'Riley. What I was going
21 to do, and probably better you do it, let's clarify
22 the question and then I want to speak to just the
23 timing implications.

24 MR. O'RILEY: A: Okay. For the first four scenarios
25 where we would put -- run different gas and power
26 prices through the QEM model, I think I would defer to

1 Mr. Soulsby in terms of the time required and any
2 issues in terms of implications for that. And then I
3 can address the latter.

4 MR. SANDERSON: Mr. Soulsby?

5 MR. SOULSBY: A: Mr. Fulton, could you repeat for me
6 the fourth scenario?

7 MR. FULTON: Q: It's the high gas scenario and average
8 of EIA electricity price scenarios as used in the
9 cost-effectiveness sensitivity.

10 MR. SOULSBY: A: Thank you.

11 MR. SANDERSON: Perhaps, Ms. Hemmingsen, you're most
12 familiar with the cost-effectiveness study, but did it
13 use EIA electricity prices in the cost-effectiveness
14 study?

15 MS. HEMMINGSEN: A: It did in valuing the energy
16 margin. However, the Mainland generation was
17 determined by reference to some of the price
18 information from our past calls. And we established a
19 price based on those past calls, and then we
20 established a 10 percent reduction as a stress test.
21 So that actually doesn't vary with the electricity
22 price assumption used.

23 And I think there was an IR that explained
24 that. Because I believe you asked this of us
25 previously, and we outlined that it didn't -- it
26 wasn't -- the analysis wasn't impacted by that price

1 assumption.

2 MR. FULTON: Q: All right. If you can refer us to the
3 IR, eventually, that would be helpful.

4 Can we next try Mr. Soulsby in terms of the
5 timing, Mr. Sanderson, and --

6 MR. SANDERSON: Sure. And let me just put this
7 qualification on it, that if Mr. Soulsby can discuss
8 what's involved in running the QEM model, that's
9 helpful. And then maybe I can discuss the question
10 with the panel over the break, and if we can come back
11 to Mr. Fulton to break with any sort of clarifications
12 of the scenarios, to make sure we're giving him what
13 he wants, in a way that works.

14 MR. FULTON: That would be satisfactory to me, Mr.
15 Chairman. Thank you, Mr. Sanderson.

16 MR. FULTON: Q: Mr. Soulsby?

17 MR. SOULSBY: A: And you're looking for comment from me
18 at this point on the time that it would take to do
19 these --

20 MR. FULTON: Q: Yes.

21 MR. SOULSBY: A: -- scenarios? I'm confident that we
22 could calculate the spark spread, if I understand that
23 to be your question, for those four scenarios through
24 the QEM model --

25 MS. HEMMINGSEN: A: Well, I'm not sure that we can
26 calculate the one that's 90 percent of the mainland

1 generation price. I think we have to investigate that
2 particular request.

3 MR. SOULSBY: A: I'm advised that we have to
4 investigate that request, over the break.

5 MR. FULTON: Q: All right. Thank you.

6 MR. O'RILEY: A: The other -- the last scenario is a
7 little more complicated. I'd probably just seek a bit
8 more clarification from you. You asked us to
9 distinguish between times when we were importing
10 versus exporting over the last ten years.

11 MR. FULTON: Q: Yes.

12 MR. O'RILEY: A: And determine the relevant heat rate
13 during those periods. That's probably a fairly
14 onerous thing to do, to go back for that length of
15 time to extract that data from systems. The fact of
16 whether we were importing or exporting.

17 **Proceeding Time 8:50 a.m. T6**

18 We could provide something based on market index
19 prices that are available and we have a good deal of
20 that information available. So that may help you in
21 terms of the information you're trying to get at.

22 MR. FULTON: Q: The market-indexed information-based
23 answer would be fine.

24 MR. O'RILEY: A: Yes. Okay.

25 MS. HEMMINGSEN: A: The other thing that possibly we
26 could do is look at any past studies we have, and they

1 may not be ten years, but we can look at what term
2 they were in terms of back-casting we may or may not
3 have done on past market prices.

4 MR. O'RILEY: A: Yes.

5 MR. FULTON: Q: Thank you.

6 MR. O'RILEY: A: And we probably -- it probably will be
7 about eight years or so that we have in terms of data.

8 MR. FULTON: Q: Thank you.

9 MR. SANDERSON: So we'll get back to the record at the
10 break and indicate an ETA for this.

11 MR. FULTON: Q: The next issue is gas price risk
12 management, and my references, although you don't need
13 to turn to them, are the CFT report at page 12, lines
14 9 through 29, and the response to BCOAPO IR 1.20.2.
15 And in the tender process, bidders could elect one of
16 three options for gas-fired fuel allocation. The
17 first was no tolling, the second was full tolling, and
18 the third was partial tolling commodity only, correct?

19 MS. HEMMINGSEN: A: That's correct.

20 MR. FULTON: Q: And in electing one of those options,
21 the proponent would presumably have examined the
22 default gas prices and transportation costs used in
23 the QEM?

24 MS. HEMMINGSEN: A: Subject to Mr. Soulsby, I don't
25 believe there was any default gas transportation costs
26 in there. Those were unique to each portfolio and we

1 had provided the information to Terasen Gas to make
2 those estimations, then they were included at the
3 portfolio level.

4 Certainly the proponents had access to the
5 price assumptions that we were using, and to the
6 extent that they had different price assumptions, that
7 would be a factor in their consideration of tolling or
8 non-tolling. And certainly some proponents, initially
9 we hadn't considered gas transportation partial
10 tolling, and we were told by some of the bidders that
11 that was an important element to them. So we revised
12 the CFT and the QEM to accommodate that option.

13 MR. FULTON: Q: To be successful a bidder who elected
14 the no tolling or partial tolling commodity only
15 option would have had to secure a long-term fuel
16 contract at or below B.C. Hydro's gas price forecast,
17 or alternatively it would have assumed the risk for
18 doing so, correct?

19 MS. HEMMINGSEN: A: Sorry, did you say they elected the
20 full tolling, or --

21 MR. FULTON: Q: No.

22 MS. HEMMINGSEN: A: -- did you say fixed cost?

23 MR. FULTON: Q: The no tolling or the --

24 MS. HEMMINGSEN: A: No tolling.

25 MR. FULTON: Q: Yes. Would you agree with that? Do
26 you want me to try the question again?

1 MR. O'RILEY: A: Yes.

2 MR. FULTON: Q: Okay. A bidder, to be successful, and
3 I'm talking only of bidders who would have elected the
4 no tolling or the partial tolling commodity only
5 options, would have had to secure a long-term fuel
6 contract at or below B.C. Hydro's gas price forecast,
7 or otherwise it would assume the risk for doing so,
8 correct?

9 MS. HEMMINGSEN: A: Right. They would have either
10 crystallized that cost or they would have assumed the
11 risk and bid that into their price.

12 MR. FULTON: Q: Okay. And according to the response to
13 the BCOAPO, none of the Tier 1 bids involve gas-fire
14 plants elected the partial or no tolling options,
15 correct?

16 MS. HEMMINGSEN: A: That's correct.

17 MR. FULTON: Q: And did that suggest anything to your
18 committee about the risk associated with B.C. Hydro's
19 gas price forecast?

20 MS. HEMMINGSEN: A: Not specifically. I think we've
21 outlined that we have a large gas portfolio, we're one
22 of the largest gas consumers in the province, and we
23 have the infrastructure set up. So, as Mr. O'Riley
24 has testified, that's existing capability that B.C.
25 Hydro has that it can offer to ratepayers to reduce
26 the costs and risk of gas-fired options.

1 MR. O'RILEY: A: I think practically we would have
2 assumed that consistent with our assessment, it's very
3 difficult to lock in a long-term gas price for a 25-
4 year product, particularly given the dispatch right
5 and the ability to turn down the plant for extended
6 periods.

7 **Proceeding Time 8:55 a.m. T07**

8 MR. FULTON: Q: Thank you. And in the reference that I
9 gave you to the CFT report, there's a statement that
10 because B.C. Hydro can use its existing portfolio to
11 manage gas price risk, B.C. Hydro did not include in
12 the evaluation methodology a risk premium above the
13 forecast market price scenarios used in the QEM.

14 Do you recall that evidence?

15 MR. O'RILEY: A: Yes.

16 MR. FULTON: Q: And even if we accept that B.C. Hydro
17 is in a better position to manage gas price risk,
18 would you agree with me that that does not mean there
19 is no residential risk to B.C. Hydro?

20 MR. O'RILEY: A: Sorry, I'm not sure I understand the
21 question.

22 MR. FULTON: Q: There's no residual risk.

23 MR. O'RILEY: A: Residual risk.

24 MR. FULTON: Q: Yes.

25 MR. O'RILEY: A: Residual risk. Yes. I mean, we've
26 already acknowledged this morning that there is a risk

1 of higher gas prices.

2 MR. FULTON: Q: Okay. And while the QEM may provide a
3 fair comparison among gas-fired projects, assuming
4 that they all have the same gas price risk, can you
5 tell us how exactly the QEM reflects the relative risk
6 to B.C. Hydro of a gas-fired tolling project versus a
7 fixed-price energy contract from a plant that would
8 not be fueled by natural gas?

9 MR. O'RILEY: A: Well, I think there are relative risks
10 with both types of projects. With the dispatchable
11 gas-fired plant, we have the ability to turn it on and
12 off. With the -- given the relationship between power
13 and gas prices. With the fixed-price project, it's --
14 those are typically take-or-pay volumes of -- fixed
15 volume of energy, and there are risks associated with
16 that in terms of market prices might be much lower in
17 the future, and there's a regret associated with that.

18 So I think, given the simplified approach
19 that we've taken, we have captured a good deal of the
20 relative risk between the different projects.

21 MR. FULTON: Q: Thank you. I'd next like to move to
22 the topic of the calculation of the energy margin, and
23 my reference here is page 11 of the CFT, lines 1 to
24 12, and I'll provide you with a summary and ask you at
25 the end of the summary if you agree with that.

26 So page 12 -- or page 11, I'm sorry, lines

1 1 to 12. In addition to other adjustments for factors
2 such as network upgrades and sale salvage value of
3 VIGP assets, each project is credited with the value
4 of its net energy margin. Correct?

5 MR. SOULSBY: A: Sorry, was that --

6 MR. FULTON: Q: Page 11.

7 MR. SOULSBY: A: -- a quotation, or was that you
8 paraphrasing?

9 MR. FULTON: Q: No, I'm paraphrasing.

10 MR. SOULSBY: A: Okay, thank you. Could you paraphrase
11 again?

12 MR. FULTON: Q: Yes. In addition to the other
13 adjustments for factors such as network upgrades and
14 sales, salvage value of VIGP assets, each project is
15 credited with the value of its net energy margin.

16 MR. SOULSBY: A: Yes, I would agree with that, subject
17 to -- that the first part, the network upgrades and
18 salvage values are all allocated after the portfolio
19 has been constructed.

20 MR. FULTON: Q: Okay. Thank you. And the energy
21 margin is calculated based on expected dispatch, which
22 may be fixed for must-run plants, or which may be
23 based on relative gas and electricity prices for gas-
24 fired tolling plants, is that correct?

25 MR. SOULSBY: A: I'm sorry, I have to ask you to repeat
26 it. I didn't follow the first part.

1 MR. FULTON: Q: The energy margin is calculated based
2 on expected dispatch, which may be fixed for must-run
3 plants, or which may be based on relative gas and
4 electricity prices for gas-fired tolling plants.

5 MR. SOULSBY: A: Yes.

6 MR. FULTON: Q: And the margin is calculated as the
7 difference between the cost of electricity from the
8 plant, which may be fixed in the case of a gas-fired
9 tolling plant based on gas costs, and the market value
10 of electricity.

11 **Proceeding Time 9:00 a.m. T08**

12 MR. SOULSBY: A: Fixed based on gas costs. The margin
13 varies based on gas costs with a fixed dispatch. Is
14 that --

15 MR. FULTON: Q: All right. Thank you for that
16 clarification.

17 MR. ECKERT: A: And I'd also add that you do also
18 include the energy charge, which is the variable
19 component of the pricing and the tender.

20 MR. FULTON: Q: Okay. The market value of electricity
21 is based on B.C. Hydro's forecast of market
22 electricity prices, correct?

23 MR. ECKERT: A: Yes.

24 MR. SOULSBY: A: That's correct.

25 MR. FULTON: Q: Does B.C. Hydro have a standing offer
26 for energy, based on that market price forecast?

1 MS. HEMMINGSEN: A: No, it doesn't.

2 MR. FULTON: Q: And do I take it from that, then, that
3 it would not accept an amount of energy from IPPs
4 under a 25-year contract that was lower or equal in
5 cost to the market forecast in NPV terms?

6 MS. HEMMINGSEN: A: Well, in determining our
7 requirements from IEPs, we will base that off of our
8 Integrated Electricity Plan and our capacity and
9 energy requirements and the timing and reliability
10 considerations. So, I'm -- and different product
11 characteristics. So we wouldn't just merely base it
12 off of the market price.

13 MR. FULTON: Q: Thank you. The Duke Point plant is
14 capable of producing approximately 2,000 -- 2,140
15 gigawatt-hours a year of energy?

16 MR. ECKERT: A: Yeah, that sounds correct.

17 MR. FULTON: Q: And I believe that the evidence was
18 yesterday that Hydro's most recent energy call was in
19 the area of about 1800 gigawatt-hours a year?

20 MS. HEMMINGSEN: A: Sorry. The 2003 call for energy,
21 and I highlight "energy", was for 1800 gigawatt-hours,
22 and that was a mix of firm and non-firm energy,
23 whereas the 2100 gigawatt-hours is firm energy. So it
24 is a higher-value product.

25 MR. FULTON: Q: All right, thank you. And what about
26 the size of upcoming energy calls. Are you able to

1 give us any information on that at the present time?

2 MS. HEMMINGSEN: A: Well, we have plans that we're
3 bringing forward to the Commission for a series of two
4 calls; one for a thousand gigawatt-hours in the fall,
5 and a second one for a thousand gigawatt-hours in
6 2006.

7 MR. FULTON: Q: Thank you. And can you tell us how
8 B.C. Hydro establishes the size of its energy calls?
9 Does it look solely at market conditions?

10 MS. HEMMINGSEN: A: Well, we look at multiple factors.
11 The first is our supply/demand balance, and
12 reliability-based requirements. And then we look at
13 some market conditions, would certainly factor in.
14 One important consideration is terms of keeping the
15 market primed in B.C., by having a series of calls so
16 that the market is ready to offer us low-cost
17 alternatives.

18 MR. SOULSBY: A: Yeah, I would just add to that that
19 there are risks and uncertainties in the existing
20 supply portfolio that B.C. Hydro has that also factor
21 into decisions for acquiring additional energy.

22 MR. FULTON: Q: And would the absence of the Duke Point
23 plant affect future energy calls, Ms. Hemmingsen?

24 MS. HEMMINGSEN: A: They certainly do, and that's why
25 in the cost-effectiveness analysis we have included
26 the volume out of the Duke Point plant, because if we

1 don't secure that volume, we need energy much earlier
2 in our system.

3 So right now, our supply/demand balance
4 includes the contribution of Duke Point.

5 MR. FULTON: Q: Okay. In your view, would the avoided
6 costs and recent energy calls, or the anticipated
7 avoided cost in calls in the near future, be a more
8 accurate estimate of the value of energy to
9 ratepayers?

10 **Proceeding Time 9:05 a.m. T9**

11 MS. HEMMINGSEN: A: Can I just pursue your definition
12 or context for avoided costs? I'm not sure I
13 understand the question.

14 MR. FULTON: Q: Okay, well, let me approach it on the
15 basis that -- did you in the recent energy calls make
16 a determination of what the avoided cost of those
17 calls would be?

18 MS. HEMMINGSEN: A: In the last series of calls that we
19 conducted, we established a ceiling price that was
20 influenced by a number of factors. Future expected
21 market prices was among them. Now that we have a
22 series of four calls underway, we can use that
23 information from the calls as a signal about the
24 prices that we can expect, and we also consult with
25 the industry and get their expectations.

26 Another driver is going to be the resource

1 options report that we're producing, which points to
2 the types of projects and options we have for supply
3 in the province that will be part of our Integrated
4 Electricity Plan and will appear in front of this
5 Commission.

6 MR. FULTON: Q: Thank you.

7 MS. HEMMINGSEN: A: Maybe just while you're waiting, I
8 did find that IR reference for the next lowest-cost
9 portfolio, and it's BCUC 11. -- or no, sorry, it's
10 B.C. Old Age Pensioner Association 11.2.

11 MR. FULTON: Q: Thank you.

12 Just moving next to the issue of greenhouse
13 gas liability, and there was a discussion yesterday
14 about the seller being responsible for those
15 liabilities, do you recall that discussion?

16 MR. SOULSBY: A: Yes, I do.

17 MR. FULTON: Q: And do the greenhouse gas liability
18 provisions contemplate all forms of greenhouse gas
19 regulation so that -- or the forms that greenhouse gas
20 regulation should take? So is it the -- are the
21 liability provisions intended to cover future changes
22 in the regulation of greenhouse gas from a liability
23 standpoint, which --

24 MR. SOULSBY: A: I would suggest that the language
25 that's included in the contract is as general as -- we
26 believe that it's general information, so that it

1 would encompass a wide range of possible
2 manifestations of greenhouse gas regulation. It
3 includes provisions whereby the seller is responsible
4 for any costs they incur as a result of their
5 greenhouse gas emissions. It also provides an
6 indemnity for the buyer to the extent that we incur
7 any cost as a result of their greenhouse gas
8 emissions.

9 MS. HEMMINGSEN: A: And just one further point. That
10 was certainly the intent of the provision, is to make
11 that as broad as possible in allocating the liability
12 to the bidder, as well as other change of law
13 provisions.

14 MR. FULTON: Q: So then on your understanding and not
15 inviting a legal opinion, but on your understanding of
16 the intent of the provision, if regulation took the
17 form of a tax on fossil fuels such as natural gas,
18 would that be to the expense of the seller?

19 MS. HEMMINGSEN: A: The intent would be based on the
20 indemnity that that would be to the expense of the
21 seller.

22 MR. ECKERT: A: I think it would, and I would defer to
23 legal counsel, but I think it would be impacted to the
24 degree by which that tax was related somehow to the
25 emissions of this project. So if it was a tax that
26 was -- I would suggest that if it was a tax that was

1 in part variable based on your greenhouse gas
2 emissions, I think it would clearly fall within the
3 bounds of the contract. If it was a general tax like
4 a motor fuel tax, I'm not in a position to suggest how
5 that might be handled.

6 **Proceeding Time 9:10 a.m. T10**

7 MR. FULTON: Q: Thank you. In terms of other risk
8 factors, you spoke yesterday of certain shelf-ready
9 projects, and certainly there are financial penalties
10 that the seller has to pay in the event that the
11 proponent fails to meet the COD. Are the technical
12 remedies that B.C. Hydro has available those shelf-
13 ready proposals that you spoke about yesterday, or are
14 there other technical remedies?

15 MS. HEMMINGSEN: A: I'm not sure what you mean by
16 "technical remedies".

17 MR. FULTON: Q: Okay, we know that there are financial
18 remedies if the proponent doesn't meet the COD. Are
19 there any other remedies that B.C. Hydro has if the
20 proponent doesn't meet the COD.

21 MS. HEMMINGSEN: A: Well, there's a range of measures
22 in terms of supporting our confidence in DPP's in-
23 service, delivery, and ability to on an on-going basis
24 deliver the dependable capacity, and that relates to
25 the design of the CFT and the assessments made about
26 their capabilities and their financial qualities. And

1 as you heard yesterday, there was extensive third
2 party expertise drawn in to make those assessments.

3 And then that's complemented by financial
4 penalties and incentives. And then there's other
5 measures which Mr. Eckert can speak to where B.C.
6 Hydro has step-in rights to remedy any technical
7 problems with the plant. So there is a whole suite of
8 measures that contribute to our confidence that Duke
9 Point will be in-service.

10 The other factors are: it's a fully
11 permanent plant and it just needs to the go-ahead to
12 get built. And the assessment is made these people
13 are capable people to do that and we've selected the
14 right machine and the contract supports that.

15 MR. FULTON: Q: All right. Well, I'll switch over to
16 Mr. Eckert then, and if you can just give us a sort of
17 broad brush on the technical aspects that Ms.
18 Hemmingsen was speaking of.

19 MR. ECKERT: A: Okay, so I think first of all there is
20 an obligation on the part of the seller to provide
21 various documents relative to the plant so that we can
22 -- we have purview as to the plant itself. We have --
23 we get regular monthly status reports on the
24 construction of the facility. We have the right to
25 visit the facility at any time subject to not being
26 disruptive.

1 There are milestones that are set out in
2 the contract which have varying cure periods.
3 Typically the earlier the milestone in the development
4 schedule the shorter the cure period. So that we can
5 assess -- we have hard triggers to know if the project
6 starts to go off track, and we believe that some of
7 the termination rights that arise if they were to miss
8 a milestone and fail to restore the schedule within
9 the cure period provides a significant incentive for
10 them to actually make up the schedule.

11 We did include -- there is a 180-day period
12 between the guaranteed COD and the start of the '07-
13 '08 winter period. So that was another factor. If
14 they are late on the guaranteed COD date, they accrue
15 penalties on a daily basis which are not
16 insignificant. They are at risk, by my calculation,
17 for about \$56,000 per day if they are late. If they
18 are late for the full 180 days, the damages due to
19 B.C. Hydro are \$10 million plus they reimburse us for
20 any fixed gas transportation costs.

21 If they are subject to termination, we have
22 a number of options available to us short of
23 termination, one of which is that we can step into the
24 facility. One of the reasons that we wanted all the
25 documents relative to the plant is that we would be
26 familiar with the facility. If we were to step in,

1 there are certain provisions that organize how that
2 happens, but it ultimately allows us to -- if it's a
3 circumstance that we feel we're in a better position
4 to remedy, and it's an option for us, not a
5 requirement, then we can step in and we can remedy the
6 circumstance and then return control of the facility
7 at such time that the seller is in a better position
8 to perform.

9 Proceeding Time 9:15 a.m. T11

10 MR. FULTON: Q: Right, thank you.

11 I'd like to turn to EPA terms and
12 conditions next, and the first term that I'd like to
13 deal with is the unlimited liability term which is
14 referred to in the response to BCUC IR 2.61.1. And
15 that response indicates that bidders face unlimited
16 liability in several cases, including a replenishment
17 of securities. Do you recall that response?

18 MR. SIMPSON: A: I do recall that response.

19 MR. FULTON: Q: And would you agree with me that
20 unlimited liability can increase the financing of a
21 project?

22 MR. SIMPSON: A: Well, I think the answer to the IR
23 suggests that if the seller were to fail to perform
24 and then continue to fail to perform and a termination
25 event did not arise, that they would continue to incur
26 penalties. I think at any given time, there is

1 effectively a limitation on liability in that the
2 seller can choose to continue not to perform so long
3 as they're not violating -- so long as they're not
4 acting in a willful or grossly negligent manner, and
5 the remedies available to us in termination are
6 defined.

7 We also provided that the facility could be
8 structured in a special purpose company, and the
9 expectation -- and there is no obligation for any
10 external support to that entity. So I guess I think
11 the answer is technically correct, but I think as
12 bidders evaluated the terms of the contract, they
13 could take those other factors into consideration.

14 MS. HEMMINGSEN: A: And just at a broader level, at
15 several points through the design of the EPA terms, we
16 did present that to bidders, get their comments back,
17 and carefully consider some of the concerns about the
18 liability provisions. We did reduce some of the
19 penalties and unlimited liability provisions, and then
20 we also engaged the services of Expertise to test the
21 financeability and to the extent the contract created
22 onerous terms for proponents that were not
23 financeable, and made some further amendments to the
24 form of that EPA reflecting that.

25 So throughout the process, we were very
26 cognizant of that, and balancing the terms to make

1 sure we had the reliable product delivered at the time
2 that we needed it, but in a way that was commercially
3 appropriate.

4 MR. FULTON: Q: Thank you. I'd like to next turn to
5 the issue of the gas supply arrangements, and this
6 issue was canvassed yesterday in particular with Mr.
7 Simpson at a number of places in the transcript. And
8 first of all, I'd like to speak to the status of the
9 TGVI negotiations. Would you agree with me, Mr.
10 Simpson -- let me back up and ask you this.

11 You were present during the course of most
12 if not all of the TGVI LNG CPCN application?

13 MR. SIMPSON: A: I was.

14 MR. FULTON: Q: And have you read the argument of TGVI
15 in support of its application?

16 MR. SIMPSON: A: Yes, I have.

17 MR. FULTON: Q: And you would therefore agree with me
18 that TGVI, during the proceeding and in its final
19 argument, made it clear that it would not proceed with
20 major capital additions on its system to service gas-
21 fired generation on Vancouver Island, without a long-
22 term contractual commitment from B.C. Hydro?

23 MR. SIMPSON: A: I agree that's what they've said, yes.

24 MR. FULTON: Q: And those major capital additions that
25 they were referring to included the LNG storage
26 facility or compressor or pipe facilities or a

1 combination of them, correct?

2 MR. SIMPSON: A: I think they're -- I'm not sure
3 exactly what they meant by "the facilities", but I do
4 believe it included the LNG facility. Certainly they
5 couldn't -- I don't believe they were willing to
6 proceed with the LNG expansion absent a long-term
7 agreement.

8 **Proceeding Time 9:20 a.m. T12**

9 MR. FULTON: Q: I'm going to produce and show to you an
10 extract from the TGVI argument, pages 38 and 39, and
11 just so that we can be clear on what TGVI appears to
12 be speaking of.

13 And I'm particularly referring to paragraph
14 120, Mr. Simpson.

15 MR. SIMPSON: A: Yes, I have that.

16 MR. FULTON: Q: Okay. So would you not agree with me
17 that TGVI appears to be saying there that the capital
18 additions would include compression or pipe
19 facilities, along with the LNG storage facility or any
20 combination thereof.

21 MR. SIMPSON: A: Yes, I agree, that's what it says.

22 MR. FULTON: Q: Okay.

23 If that document might be marked the next
24 exhibit, Mr. Chairman, A-39.

25 THE HEARING OFFICER: Marked A-39.

26 (PAGES 38 AND 39 FROM TGVI ARGUMENT, DECEMBER 21,

1 2004, MARKED AS EXHIBIT A-39)

2 MR. FULTON: Q: Now, the response in the IRs to the
3 alternatives that B.C. Hydro might pursue included the
4 process of obtaining an Order from the Commission for
5 TGVI to provide service?

6 MR. SIMPSON: A: Yes.

7 MR. FULTON: Q: Okay. And has, to your knowledge, B.C.
8 Hydro used that process in the past?

9 MR. SIMPSON: A: I believe in the case of Island co-gen
10 there was a dispute over when the commercial operation
11 date of that plant occurred, and B.C. Hydro had
12 negotiated an agreement with Centra Gas at the time,
13 and Centra was unwilling to execute the agreement, and
14 B.C. Hydro filed the agreement with the Commission. I
15 can't recall if we actually sought an Order to have
16 TGVI -- or Centra Gas execute the agreement at the
17 time, but that came very close to the situation where
18 B.C. Hydro made an application requesting that Centra
19 provide service to Hydro.

20 MR. FULTON: Q: How long would you -- the application
21 for an Order would contemplate some form of hearing in
22 any event, correct?

23 MR. SIMPSON: A: I believe it would, yes.

24 MR. FULTON: Q: And so how long would you contemplate
25 that that process would take?

26 MR. SIMPSON: A: I'm not sure --

1 MR. FULTON: Q: And if you don't know --

2 MR. SIMPSON: A: I don't know.

3 MR. FULTON: Q: Okay. There was a discussion yesterday
4 about dual fuel capacity for the plant. Is this a
5 technically feasible option?

6 MR. SIMPSON: A: My understanding is yes, it is
7 technically feasible.

8 MR. FULTON: Q: Okay. How long would it take to
9 install and commission the dual fuel capacity?

10 MR. SIMPSON: A: I believe we had an undertaking to
11 estimate the time that the permitting might take. My
12 understanding is that the critical thing would be to
13 ensure that the machine that's ordered, the gas
14 turbine that's ordered, would have dual fuel
15 capability, and I believe that decision would have to
16 be made fairly quickly in order to accommodate the
17 construction schedule.

18 MR. FULTON: Q: If you went with the dual fuel capacity
19 generator, would there be amendments to the EPA
20 required?

21 MR. ECKERT: A: Yes there would be.

22 MR. FULTON: Q: Okay. And would then the amended -- I
23 take it then the amended EPA would be filed with the
24 Commission.

25 **Proceeding Time 9:25 a.m. T13**

26 MR. ECKERT: A: Well, just -- I'm not sure that it

1 would necessarily be done as an amendment to the EPA.
2 It might be done as a separate agreement.

3 MR. SANDERSON: And we'll deal in argument, if it's
4 relevant, with what the filing requirements might be
5 associated with, either an amendment or a new
6 agreement.

7 MR. FULTON: Q: Thank you. Next, there was a
8 discussion of LNG yesterday with Mr. Quail and as I
9 took your evidence, Mr. Simpson, there wouldn't
10 necessarily need to be an LNG terminal to accommodate
11 this option.

12 MR. SIMPSON: A: Are you referring to direct delivery
13 LNG, Mr. Fulton?

14 MR. FULTON: Q: I'm talking to the LNG facility that
15 you spoke about yesterday at 1592 to 1594 of the
16 transcript, where you said that you wouldn't
17 necessarily need an onshore terminal, that you could
18 pipe the LNG from offshore.

19 MR. SIMPSON: A: Right. And I believe this has to do
20 with delivery of LNG via barges or ocean-going vessels
21 directly to the plant and then vaporizing the LNG for
22 combustion at the plant. And our understanding from
23 some proponents of these types of systems is that they
24 can do that offshore by providing a pipeline that
25 would actually deliver -- a submarine pipeline that
26 would actually deliver the LNG or perhaps vaporize gas

1 to the plant. It wouldn't actually have -- the vessel
2 wouldn't actually have to dock at the plant.

3 MR. FULTON: Q: Okay, now, when you are talking about a
4 submarine pipeline then, you would be talking about
5 environmental permitting, NEB permit.

6 MR. SIMPSON: A: Again, I don't know the specifics of
7 the situation. It could be a very short pipeline
8 that's involved, and whether that would involve NEB
9 regulation, I'm not sure.

10 MS. HEMMINGSEN: A: Yes, I think it's probably
11 appropriate to bring it back to our preferred course
12 of action, which is to seek arrangements with Terasen
13 and we're quite confident that we can do that. What
14 we've outlined is we have a number of contingency
15 measures which allow us to be confident that there is
16 a basis to have gas to fuel the facility.

17 MR. FULTON: Q: And what I'm trying to test at this
18 point, Ms. Hemmingsen, is how feasible those
19 contingency measures are within the time frame that
20 you are looking at to meet the needs that there are on
21 the Island.

22 MS. HEMMINGSEN: A: Right. Then I think you need to
23 ask the question about what we need at what point,
24 because as Mr. Simpson has testified, we can use
25 compression and we can proceed with funding
26 compression to meet the requirements in the early

1 years on a short-term basis.

2 MR. FULTON: Q: But the compression would be on the
3 TGVI system.

4 MS. HEMMINGSEN: A: Right.

5 MR. FULTON: Q: And we know that TGVI's position is
6 that they are not going to proceed with that without a
7 long-term contract.

8 MS. HEMMINGSEN: A: Right. But we've proceeded with
9 them on compression with us funding, on a short-term
10 contract, previously.

11 MR. SIMPSON: A: Yes, we did do that with the Texada
12 compressor. So I think there is a parallel there and
13 that whole thing, that whole negotiation, including
14 the approval to get the compressor in took less than a
15 year. So, I mean, there is a precedent for doing an
16 expedited compression project on the TGVI system.

17 MR. FULTON: Q: Thank you.

18 MR. SANDERSON: Mr. Chairman, I rise too just because
19 this does trouble me a bit, the line of cross, in that
20 it's assuming that this panel has knowledge of the
21 position that Hydro has taken generally in this
22 proceeding which is that what Terasen does or doesn't
23 build is a matter ultimately a matter that can be
24 determined by this Commission. In other words, Mr.
25 Fulton's questions are premised on the assumption that
26 a long-term firm contract is needed.

12 MR. FULTON: Q: I take it at this point Mr. Simpson,
13 though, that the LNG supply isn't lined up in event
14 that no arrangement could be made with TGVI.

15 Proceeding Time 9:30 a.m. T14

16 MR. SIMPSON: A: No. All we have at this point are
17 some preliminary proposals from proponents, but we
18 certainly have no agreements in principle or anything
19 like that.

20 MS. HEMMINGSEN: A: And just further to what Mr.
21 Sanderson said, nor do we think it needs to be. What
22 we need to have is a basket of options in the event
23 that we can't reach an accommodation with Terasen, but
24 that's the preferred course and we're confident that
25 we can.

26 MR. FULTON: Q: Thank you.

1 If the LNG route is the necessary route,
2 then how is the payment for that accommodated in terms
3 of the arrangements you have with Duke Point Power
4 Limited Partnership? They have a tolling -- they've
5 taken the tolling option with you. Does B.C. Hydro
6 then pick up the cost, those additional costs of the
7 LNG?

8 MS. HEMMINGSEN: A: Well, they may not be additional.
9 That's assuming they're additional. But B.C. Hydro is
10 responsible for the gas transportation to the
11 facility.

12 MR. FULTON: Q: All right.

13 MR. SIMPSON: A: And we're responsible for both the
14 commodity and the transportation, so presumably if it
15 was a direct delivery arrangement, that would just be
16 a commodity arrangement that Hydro would make to
17 deliver the gas to the plant gate.

18 MR. FULTON: Q: Is anyone on the panel familiar with
19 the 2004 CFT Fuel Supply Certainty Guidelines for
20 bidders for a no tolling case? Would that be you, Mr.
21 Eckert?

22 MR. ECKERT: A: Yes, it is.

23 MR. FULTON: Q: Okay. And those guidelines required
24 that a bidder for the no tolling case have
25 arrangements for firm transportation? And if I could
26 help you with the reference, Mr. Eckert, I'm looking

1 at Part 4 Fuel Supply Certainty Guidelines, revised
2 June 30th, 2004, paragraph 3(b). Do you have them, Mr.
3 Eckert?

4 MR. ECKERT: A: Yeah, I probably have it in a different
5 form. I'm just trying to locate the specific
6 language.

7 MR. FULTON: Q: Well, why don't I provide my copy, a
8 copy to you, and you can see whether or not --

9 MR. ECKERT: A: That'd be very helpful.

10 MR. SANDERSON: And Mr. Eckert, when you do find them,
11 maybe you could indicate, if you know, whether they
12 form a part of the record; that is, whether the part
13 of anything that's been previously filed or not,
14 because quite frankly, I think neither Mr. Fulton or I
15 are confident as to whether or not they're buried in
16 the material somewhere or not.

17 MR. FULTON: And when I looked in the CFT documents, Mr.
18 Chairman, I couldn't locate them. They may be there,
19 but I just couldn't find them.

20 MS. HEMMINGSEN: A: I believe we may have filed
21 something that summarizes how the technical committees
22 reviewed the projects, and I'll just see if I can
23 locate that.

24 MR. ECKERT: A: There is another IR that is BCUC IR
25 119.2 --

26 MS. HEMMINGSEN: A: That's it.

1 MR. ECKERT: A: -- which I think includes some of
2 the --

3 MS. HEMMINGSEN: A: -- technical and financial
4 evaluation procedures.

5 MR. ECKERT: A: -- some further information on how we
6 implement the -- yeah, I'm ready.

7 **Proceeding Time 9:35 a.m. T15**

8 MR. FULTON: Q: Okay. So did those guidelines, then,
9 require bidders on the no-tolling case to have
10 arrangements for firm transportation?

11 MR. ECKERT: A: They did not. As I read paragraph two
12 of page three under "Assessment of new dependable
13 capacity for fuel supply certainty," we -- the bidder
14 was to -- the assessment would be made whether or not
15 the bidder had secured or can secure, sufficient firm
16 and non-firm transportation arrangements and on-site
17 fuel storage capability to deliver and store, as the
18 case may be, the primary and alternate fuels.

19 So we would take into consideration if
20 there was sufficient non-firm gas transportation
21 capability, we would look at that. If there was dual
22 fuel capability, we would look at that. And so it was
23 not a binary decision that they had to have firm
24 transportation for the term of the agreement.

25 MR. FULTON: Q: All right, thank you. And Mr. Eckert,
26 in terms of your answer, were you reading from the

1 document that I provided you?

2 MR. ECKERT: A: Yeah, I was, actually. It was the
3 second -- it was item number two that I was reading
4 from.

5 MR. FULTON: Q: So maybe you could help me. I've got
6 -- is that the one that states, "A bidder tendering a
7 hydroelectric project will be required to..."?

8 MR. SANDERSON: I didn't think it was -- was it page
9 three, Mr. Eckert, paragraph two?

10 MR. ECKERT: A: I'm looking at part four, "Fuel supply
11 certainty guidelines" --

12 MR. FULTON: Q: All right, thank you.

13 MR. ECKERT: A: -- issued on -- or revised June 30th,
14 2004. And it is the third page of that document, it's
15 under the heading -- it's under the heading of
16 "Assessment of new dependable capacity for fuel supply
17 certainty".

18 MR. FULTON: Q: Yes. I'm with you now, thank you.

19 MR. ECKERT: A: Okay. So if I -- and I was reading
20 that item number two.

21 MR. FULTON: Q: If you go back to the top of that page,
22 paragraph (g), the non-tolling bidders were required
23 to demonstrate that they had fuel arrangements
24 sufficient to satisfy its fuel requirements. Correct?

25 MR. ECKERT: A: That's correct.

26 MR. FULTON: Q: Okay. All right.

1 Mr. Chairman, if that document might be
2 marked the next exhibit, A-40.

3 THE HEARING OFFICER: A-40.

4 ("PART 4 - FUEL SUPPLY CERTAINTY GUIDELINES, ISSUED: 6
5 JANUARY 2004 (REVISED 30 JUNE 2004)", MARKED AS
6 EXHIBIT A-40)

7 MR. FULTON: Q: And just a question on the N-1, post-
8 contingency scenario. For that scenario, on Vancouver
9 Island, can you confirm that ICP is currently
10 included, and has been included in the past, in the
11 pool of firm resources that are used to supply the
12 peak demand on Vancouver Island?

13 MS. HEMMINGSEN: A: ICP's included as dependable
14 capacity to serve Vancouver Island, yes.

15 MR. FULTON: Q: And would you agree with me that the
16 availability of ICP has been somewhat lower than the
17 92 percent in the past?

18 MS. HEMMINGSEN: A: ICP is a different contract, and
19 it's not -- that doesn't represent a binding
20 obligation to deliver. So it may have been, but it's
21 not the same contract, and not the same product.

22 MR. FULTON: Q: And is that the reason why ICBC -- ICP
23 has been included in the post-contingency firm
24 resource stack? Because it's a different contract?

25 MS. HEMMINGSEN: A: I'm not sure what you're referring
26 to in terms of post-contingency resource stack.

1 MR. FULTON: Q: Okay. If you look at the Gold River IR
2 1.5.33(2)(i) --
3 THE CHAIRMAN: Mr. Fulton, maybe we should take a 15-
4 minute break now.
5 MR. FULTON: Thank you.
6 **(PROCEEDINGS ADJOURNED AT 9:40 A.M.)**
7 **(PROCEEDINGS RESUMED AT 9:54 A.M.)** **T16**
8 THE CHAIRPERSON: Please be seated.
9 MR. FULTON: Q: Ms. Hemmingsen, I apologize. I gave
10 you the wrong reference for the resource stack, and I
11 did provide it to your counsel but I'm not sure that
12 it got to you in the interim.
13 MS. HEMMINGSEN: A: They haven't had the chance to
14 advise me.
15 MR. FULTON: Q: Okay, so if you look at the CFT report,
16 page 15, Table 5.
17 MS. HEMMINGSEN: A: Yes.
18 MR. FULTON: Q: And two lines above the line item Total
19 Supply.
20 MS. HEMMINGSEN: A: Yes.
21 MR. FULTON: Q: Does that not show that the ICP is
22 included in the post-contingency firm resource stack?
23 MS. HEMMINGSEN: A: Yes, it's a permanent resource in
24 our system that we rely on for dependable capacity.
25 MR. FULTON: Q: Okay.
26 MS. HEMMINGSEN: A: And so then, given that the

1 availability of ICP is less than -- has historically
2 been less than 92 percent, and that 92 percent would
3 you agree with me is the year-round availability
4 threshold of the CFT? And if I can help you with a
5 reference there, BCUC IR 1.44.1.

6 MS. HEMMINGSEN: A: Okay, and Mr. Soulsby can confirm
7 that.

8 MR. SOULSBY: A: Yes, that's correct.

9 MR. FULTON: Q: Okay. So, given that the availability
10 of ICP is less than the 92 percent, why is it that ICP
11 is still included in the post-contingency firm
12 resource stack?

13 MS. HEMMINGSEN: A: The amounts that we've included for
14 ICP have varied over the years, and I think some of
15 these questions on ICP were ruled out of scope. But I
16 think it's also common knowledge that ICP has been
17 plagued by technical difficulty since its
18 establishment. Unfortunately, in contrast to Duke
19 Point, they picked the wrong turbine, so they had a
20 number of problems that have impacted its availability
21 rating. They have subsequently been fixed, and the
22 units have been fitted with dual fuel capabilities.
23 And as a consequence, we've revised our estimates up
24 for ICP's dependable capacity contribution and its
25 availability is also expected to increase on that
26 basis.

1 **Proceeding Time 9:57 a.m. T17**

2 But an important distinction that I raised
3 before the break is ICP is not a contract for
4 dependable capacity. It 's a different contract and
5 they don't have the same obligations to make available
6 their product as the Duke Point Project does. So
7 that's an important distinction.

8 MR. FULTON: Q: I do next want to go to another
9 exchange that I had with Ms. Van Ruyven which was
10 outstanding from Monday, and it's page 1195 of the
11 transcript. And the reference was to GIE IR 1.11.10
12 in that discussion.

13 MS. HEMMINGSEN: A: Yes. I'm familiar with that one.

14 MR. FULTON: Q: And so if you need to then read the
15 exchange that I had with Ms. Van Ruyven at page 1195
16 line 8 to line 26.

17 MS. HEMMINGSEN: A: Yes. So this IR provides a low
18 duration curve which represents a composite of the
19 last four years and it does identify that on that
20 basis there is approximately 20 hours that would not
21 be served. However, for N minus 1 reliability
22 criteria that's not how we plan our system. We plan
23 our system on the basis of a peak design day, and
24 that's not reflected in this response, and as a
25 consequence of applying a peak design day to replace
26 this load duration curve, we would expect the gap to

1 increase quite significantly.

2 MR. FULTON: Q: Okay. And is that the basis of the
3 technical committee's justification of the high
4 capacity contract? And I wasn't sure whether your
5 answer captured the second question that I'd asked Ms.
6 Van Ruyven at line 17 to 23 of the transcript, page
7 1195.

8 MS. HEMMINGSEN: A: "Can you tell us what the
9 rationale of senior management to justify
10 how high utilization capacity contracts
11 that's greater than 80 percent, between 25
12 and 35 years, can deliver the most cost-
13 effective solution to a one or two year
14 capacity shortfall?"

15 So I can answer that question.

16 MR. FULTON: Q: Pardon me?

17 MS. HEMMINGSEN: A: I can answer that question. I'm
18 not sure where the technical committee reference comes
19 in though.

20 MR. FULTON: Q: Well, the committee that you were
21 involved in. Ms. Van Ruyven said that senior
22 management didn't address the issue, or didn't discuss
23 the issue. So that would mean that it would fall down
24 to you, I suppose, as the presenter to senior
25 management, so.

26 MS. HEMMINGSEN: A: Okay. So in terms of the

1 requirement that we had, we have a requirement to add
2 capacity to our system to meet its future capacity
3 requirements. It so happens that that capacity
4 requirement is triggered first on Vancouver Island
5 where we have the deficit in 2007, but that capacity
6 remains able to support the system over the entire
7 duration.

8 **Proceeding Time 10:00 a.m. T18**

9 Another important factor in establishing
10 the high capacity requirement and availability
11 requirement is that we were replacing current or
12 existing infrastructure that offered that level of
13 availability. So the HVDC cable that we were
14 replacing had in excess of a 97 percent availability.
15 So we needed to replace like for like.

16 In setting up the design of the contract,
17 we looked at alternative generating technologies and
18 whether they were capable of offering that level of
19 reliability, and we determined that there was a number
20 of technologies that could offer that up, among them
21 coal and gas, biomass. So we were satisfied that that
22 was the appropriate way to proceed to secure a long-
23 term capacity resource that would offer the system
24 that capacity for the long term.

25 MR. FULTON: Q: Thank you. Mr. Simpson, I'd like to
26 turn back to you and your evidence, and in particular

1 if you need to look at them, the responses to BCUC IRs
2 1.23.5 and 1.25.1.

3 And while you're looking there, the
4 response to 1.25.1 provides copies of B.C. Hydro's
5 responses to several Information Requests from the
6 TGV I LNG CPCN hearing.

7 MR. SIMPSON: A: Correct.

8 MR. FULTON: Q: And the first response, that is to BCUC
9 IR 1.3.4 in the TGV I proceedings, states that the
10 natural gas requirement for Duke Point Power is 44.6
11 terajoules a day for the 252 megawatts of capacity.

12 MR. SIMPSON: A: That's correct.

13 MR. FULTON: Q: Does the 44.6 terajoules a day
14 translate to 31 gigajoules per minute? Approximately,
15 subject to check? Would you agree with that?

16 MR. SIMPSON: A: Subject to check, yes.

17 MR. FULTON: Q: And in Table 1.23.5, did B.C. Hydro use
18 the 44.6 terajoules a day as the firm contract demand
19 for Duke Point?

20 MR. SIMPSON: A: Sorry, could you give me the table
21 reference again?

22 MR. FULTON: Q: 1.23.5. So it's page two of the
23 response to 1.23.5.

24 MR. SIMPSON: A: That's the one that shows the
25 calculation of the gas transport cost?

26 MR. FULTON: Q: Yes.

1 MR. SIMPSON: A: Yes.

2 MR. FULTON: Q: And can you tell us what the firm
3 contract demand was used for ICP in that table? Was
4 it 45 terajoules a day?

5 MR. SIMPSON: A: Yes.

6 MR. FULTON: Q: Okay. If you turn to the table at IR,
7 BCUC IR 2.47.1, in Exhibit B-16.

8 MR. SIMPSON: A: Yes,

9 MR. FULTON: Q: Would you agree with me that that table
10 shows the present value of the cost of TGV service to
11 Duke Point as 131,598 million in 2006 dollars?

12 MR. SIMPSON: A: That's correct.

13 MR. FULTON: Q: And is that the gas transportation --
14 is the gas transportation cost in that table the gas
15 transportation cost that was used for the cost -- for
16 DPP in the QEM?

17 MR. SIMPSON: A: I believe it's very close to the
18 number that was used in the QEM.

19 MR. FULTON: Q: Okay. Do you know whether there were
20 any adjustments or offsets to those costs in the QEM?

21 MR. SIMPSON: A: I believe what was provided in the QEM
22 -- and I think there perhaps is a separate information
23 response that deals with what was exactly used in the
24 QEM -- but I believe that what we did in the
25 information we got from Terasen was calculate the
26 total gas transportation cost for both Island co-gen

1 and Duke Point together.

2 **Proceeding Time 10:05 a.m. T19**

3 And then what was used in the QEM involved backing out
4 the Island Co-gen component of the gas transportation
5 cost, and that wasn't necessarily done at the same
6 toll that was used for this particular portfolio. So
7 it deviated slightly from the toll that was used for
8 this particular portfolio.

9 MR. FULTON: Q: Thank you. Next I'd like to turn to
10 the response to BCUC IR 247.11.

11 That's also in Exhibit B-16, Mr. Chairman.

12 THE CHAIRPERSON: Thank you.

13 MR. SIMPSON: A: Yes.

14 MR. FULTON: Q: And that response states that with one
15 compressor addition at Station B2 and possibly one
16 other compressor addition and 240 hours of fuel
17 switching at ICP, about 40 terajoules a day of firm
18 gas supply could be provided to Duke Point. Correct?

19 MR. SIMPSON: A: That's correct, yes.

20 MR. FULTON: Q: And ICP is not currently able to
21 operate with 240 hours of curtailment, is it?

22 MR. SIMPSON: A: I believe we have provided -- in those
23 responses you referred to earlier from the LNG
24 proceeding, we provide some discussion on what it
25 would take to get ICP to operate at 240 hours. Right
26 now, with the single tank and the proposed method of

1 filling the tank, we think that it's only feasible to
2 rely on 53 hours of fuel switching at ICP.

3 MR. FULTON: Q: And call you tell us what would be
4 required in terms of more distillate storage or
5 otherwise to permit the 240 hours of curtailment?

6 MR. SIMPSON: A: Yes, and again I believe this is
7 explained in those IR responses. But what would be
8 involved, one option would be to build a second
9 storage tank similar to the one that's already there.
10 And we've had some discussions with Calpine about
11 that, and they've indicated that there is sufficient
12 room on the site to build a separate tank. And we
13 provided some estimate of what the costs might be to
14 put a second tank in.

15 And having two tanks and having them both
16 filled prior to the commencement of the winter season
17 in November, we believe that we could manage the
18 operation of two tanks such that we could provide the
19 full 240 hours of distillate operation, even though
20 there wouldn't be 240 hours of on-site distillate
21 storage. But we believe it could be managed by using
22 one tank and preparing the second one such that we had
23 a full 240 hours.

24 Another option would be to utilize a barge
25 delivery to the site. And as long as we can pre-
26 certify that the distillate that's in the barge will

1 meet the specifications required for ICP, it would
2 then be feasible to pump the distillate from the barge
3 up to the ICP plant. And a barge would have
4 sufficient storage to allow the full 240 hours of
5 operation.

6 MR. FULTON: Q: Does B.C. Hydro have an agreement with
7 Calpine regarding further curtailment?

8 MR. SIMPSON: A: Well, our contract with Island Co-gen
9 contemplates 240 hours under the Electricity Purchase
10 Agreement. The question is whether they can actually
11 do that with the facilities that are there if we had
12 to operate continuously for 240 hours. And we think
13 that that may not be achievable unless one of those
14 other options is implemented.

15 Now I would add that the existing tank that
16 is there is designed so that it can be operated in a
17 so-called fill and burn mode. So if you can -- as
18 long as the fuel that you provide to the tank meets
19 the specifications that are required by the turbine,
20 then it's feasible to simultaneously fill and burn the
21 tank. And so in that situation you wouldn't require
22 necessarily any additional distillate storage on the
23 site.

24 MR. FULTON: Q: But apart from the agreement that
25 contemplates the 240 hours curtailment, there are no
26 other agreements that you're aware of?

1 **Proceeding Time 10:10 a.m. T20**

2 MR. SIMPSON: A: Not at this point, no.

3 MR. FULTON: Q: Okay. Now, with station V2, compressor
4 station V2, and 53 hours of curtailment at ICP, how
5 much firm supply would be available at Duke Point?

6 MR. SIMPSON: A: I'm going by memory on the information
7 that Terasen provided, but I believe it's of the order
8 of 30 terajoules per day, in that situation.

9 MR. FULTON: Q: Okay. And can you tell us what maximum
10 amount of dependable generation capacity would result
11 from that supply?

12 MR. SIMPSON: A: I'm -- approximately 150 megawatts, I
13 believe, from 30 terajoules.

14 MR. FULTON: Q: Okay. And would that take into account
15 -- well, let me back up and ask you this. Do you know
16 if TGVVI has a tariff constraint that limits the
17 maximum hourly gas delivery to 5 percent of the
18 delivery amount -- or of the daily amount, sorry?

19 MR. SIMPSON: A: I do not believe that's in their
20 tariff, no.

21 MR. FULTON: Q: Okay. At this point, from your
22 evidence, can I take it that B.C. Hydro is not
23 concentrating on a bridging arrangement with TGVVI at
24 the present time for 2007/2008?

25 MR. SIMPSON: A: I'm not sure what you mean by a
26 bridging arrangement.

1 MR. FULTON: Q: Well, in order to be able to supply
2 Duke Point, if you don't have a long-term supply
3 contract with them, you're not anywhere in terms of
4 them adding compression or pipe to their system.

5 MR. SIMPSON: A: We don't have a -- if what you mean
6 is, do we have an agreement with them, no, we don't,
7 at this point. We don't have any kind of an agreement
8 with Terasen, either a long-term or a short-term
9 agreement.

10 MR. FULTON: Q: Okay. And I apologize if you've
11 already given this evidence, but are the negotiations
12 continuing at the present time with TGVI? They had
13 stopped before Christmas, as I recollected.

14 MR. SIMPSON: A: Yes, and I believe the only thing that
15 has happened since that time is there's been meetings
16 of executives of Terasen and B.C. Hydro, but to my
17 knowledge there hasn't been any further progress on
18 the negotiation of a contract, either short-term or
19 long-term.

20 MR. FULTON: Q: Okay. Now, just returning to the fuel
21 supply certainty guidelines, the response to BCUC IR
22 2.49.3, and this may be you, Mr. Eckert. BCUC IR
23 2.49.3 states that -- and I'll wait for you to have it
24 before -- states that under those guidelines, biomass
25 bidders were required to demonstrate that their --
26 that the bidder's fuel arrangements or strategies were

1 sufficient to satisfy its fuel requirements, assuming
2 the project is operated at bid capacity.

3 If the Duke Point bid had not been on a
4 fully tolling basis, and by that I mean if Duke Point
5 had been responsible for arranging the transportation
6 of gas to the plant, would the same Fuel Supply
7 Certainty Guidelines apply?

8 MR. ECKERT: A: Could you repeat the question, please?

9 MR. FULTON: Q: Right. You've looked at the response
10 to 2.49.3, as it relates to biomass bidders?

11 MR. ECKERT: A: Okay.

12 MR. FULTON: Q: Okay. And my question is, if the Duke
13 Point proposal had not been a fully tolling -- had not
14 been on a fully tolling basis, would the same Fuel
15 Supply Certainty Guidelines apply?

16 MR. ECKERT: A: I'd suggest that they would. In fact,
17 the way that we evaluated the fuel supply -- we did
18 evaluate the fuel supply certainty for the portfolio
19 -- on the portfolio for tolling projects, so there was
20 an assessment of the fuel supply certainty for Duke
21 Point Power, with B.C. Hydro providing that gas. So
22 we did evaluate the gas transportation and we looked
23 at all the information that was available to us.

24 **Proceeding Time 10:15 a.m. T21**

25 We looked at the contingencies that were available.

26 Likewise, if they were to have bid a non-

1 tolling project, we were prepared to use the same
2 evaluation on that basis. Likewise with respect to a
3 biomass or a coal plant, we looked at all of the
4 information that was provided from the bidder, and we
5 looked at what the availability of fuel was, what the
6 likelihood of them being able to secure contracts was,
7 what the number of suppliers were, what the different
8 means of transportation were.

9 So there was no obligation for -- there was
10 not necessarily any obligation to have firm contracts
11 in place, but we took all those factors into
12 consideration when we determined whether or not they
13 met the mandatory criteria with respect to dependable
14 capacity with respect to fuel supply certainty.

15 MR. FULTON: Q: If Duke was not a tolling plant and it
16 was in the same situation that B.C. Hydro is today in
17 terms of gas transportation arrangements, would its
18 bid still have been considered?

19 MR. ECKERT: A: Its bid certainly would have been
20 considered. We would have evaluated the circumstances
21 around their plan to secure transportation, the
22 availability and non-firm transportation, what options
23 were available to them, in very much the same way that
24 we looked at the portfolio when we looked at the
25 tolling project.

26 MR. FULTON: Q: And during the course of the evaluation

1 process, can you tell us the extent to which B.C.
2 Hydro assessed the risks related to gas transportation
3 for tolling bids?

4 MS. HEMMINGSEN: A: Well, Mr. Simpson chaired that
5 panel, so he's probably the best to address that.

6 MR. FULTON: Q: Thank you.

7 MR. SIMPSON: A: And I would point out, Mr. Fulton,
8 that if you look at the response to BCUC IR 1.23.5,
9 you'll see there's two documents attached to that
10 response from Terasen Gas, and the second attachment,
11 Attachment 2, is an assessment of development risk for
12 CFT gas transportation requirements, and that is the
13 information that was used to evaluate the physical
14 risk with respect to getting gas delivery to the
15 proposed -- or the tolling plants that were proposed
16 or bid into the CFT process.

17 So there is a fairly comprehensive document
18 there that Terasen has put together to indicate the
19 construction schedule risks and the permitting risks
20 and so on for the various different options that they
21 were looking at that would provide the necessary gas
22 requirement.

23 MR. FULTON: Q: And Mr. Simpson, was the assessment of
24 the risks related to gas transportation the same
25 assessment as it was for the non-tolling bids? I'm
26 talking about as compared to the tolling bids.

1 MR. ECKERT: A: And if I can take that question, the
2 answer to that is yes, we did -- we sought to apply
3 the same standards, although the information -- it was
4 -- the information for a different kind of bids, much
5 different. But we took into account all the
6 information and we tried to apply the same standard
7 regardless of whether it was tolling. We didn't have
8 any non-tolling gas bids but we would have applied the
9 same standards and we applied the same standards for
10 non-gas-fired projects as well.

11 MR. FULTON: Mr. Chairman, the last item I have then is
12 to file as an exhibit the redacted confidential
13 questions, and to provide -- I have provided Mr.
14 Sanderson with the unredacted version yesterday. I've
15 got a cosmetically, I'd like to think, improved
16 version of the one that I gave him yesterday that I
17 will provide him, but if the redacted questions --
18 there are two series of questions. The first relates
19 to network upgrade costs and the second relates to the
20 definition of Tier 2. If those could be marked the
21 next exhibit, I believe that's A-41.

22 **Proceeding Time 10:20 a.m. T22**

23 THE HEARING OFFICER: A-41.

24 ("CONFIDENTIAL BCUC STAFF QUESTIONS FOR PANEL 2",
25 MARKED AS EXHIBIT A-41)

26 MR. FULTON: That concludes my cross-examination of this

1 panel, Mr. Chairman. Thank you, panel.

2 COMMISSIONER BOYCHUK: Good morning, panel.

3 MS. HEMMINGSEN: A: Good morning.

4 COMMISSIONER BOYCHUK: I have a question for you that
5 relates to some of the -- to the topic of greenhouse
6 gas emissions, which has been pursued by some of the
7 other parties, and it may just be a matter of
8 clarification that I require. Under the EPA that's
9 been filed as Appendix N, we've had some discussion
10 about Article 8.10, which transfers the responsibility
11 for greenhouse gas emissions to the seller, is how
12 we've understood that. And I was looking at the
13 responses to -- by DPP, Duke Point Power, to a number
14 of the other intervenors last evening, and I was
15 looking at the responses that suggest or indicate that
16 -- and I'm looking right now at DPP's response to the
17 BCUC, 1.10, and there's also a response, DPP to GSX
18 CCC -- I'll just give you the exhibit numbers. The
19 first one is Exhibit C17-13, that's DPP's response to
20 BCUC, and GSX -- DPP's response to GSX CCC is Exhibit
21 C17-12, number 1.13.

22 I'll start with the GSX -- the response to
23 GSX CCC. They suggest or indicate that all future
24 liability associated with GHG, greenhouse gas
25 emissions, other than the 50 percent offset commitment
26 to 2010 rests with DPP. And the question asked to DPP

1 is, do they agree that all future liability associated
2 with greenhouse gas emissions rests with DPP, and
3 their response is to refer to BCUC question 1.10,
4 which reiterates that under the terms of the asset
5 transfer agreement, B.C. Hydro is committed to offset
6 50 percent of greenhouse gas emissions up to and
7 including the year 2010.

8 Now, I'd just like to ask you what exactly
9 that means in B.C. Hydro's perspective. Are they
10 going to commit to offset 50 percent of greenhouse gas
11 emissions up to and including 2010?

12 MR. HILL: Q: And Mr. Soulsby can answer that question.

13 COMMISSIONER BOYCHUK: Thank you, Mr. Soulsby.

14 MR. SOULSBY: A: Thank you, Commissioner. Under the
15 terms of Schedule B of the Environmental Assessment
16 Certificate, VIEC for VIC -- B.C. Hydro's committed to
17 offset, as you said, 50 percent of its increase in
18 emissions for -- from VIGP through the year 2010. And
19 it also goes on to say that it's through new energy
20 efficiency and renewable energy efforts.

21 B.C. Hydro's efforts in these areas
22 allotted to fulfill that commitment before the notion
23 of a CFT was even contemplated. Therefore, the net
24 present value of the incremental cost associated with
25 the 50 percent offset commitment through 2010 relating
26 to Duke Point Power is, in fact, zero.

11 MS. HEMMINGSEN: A: The requirement and voluntary
12 commitment to offset 50 percent of the GHGs was
13 something that was put forward in securing the
14 environmental approval certificate. So it was
15 committed to much before the CFT was even designed.
16 And B.C. Hydro retained that commitment, and those
17 assets have been transferred to Duke Point Power for
18 \$50 million, so they purchased that commitment to B.C.
19 Hydro.

26 And then furthermore, to the extent that

1 GHG change of law provisions come into place, Duke
2 Point is responsible for that. And what Mr. Soulsby
3 was outlining is that the efforts of B.C. Hydro may or
4 may not recognized in offsetting Duke Point's
5 responsibilities.

6 COMMISSIONER BOYCHUK: So the point then is simply that
7 because B.C. Hydro has already met that offset
8 requirement, there won't be any more liabilities or
9 responsibilities --

10 MS. HEMMINGSEN: A: That's right.

11 COMMISSIONER BOYCHUK: -- if there are change of laws or
12 any --

13 MS. HEMMINGSEN: A: That's right.

14 COMMISSIONER BOYCHUK: -- any liability imposed between
15 now and 2010.

16 MS. HEMMINGSEN: A: That's right.

17 COMMISSIONER BOYCHUK: Okay, thank you.

18 In terms of the gas transportation
19 arrangements, which has also been discussed by a
20 number of parties so far, am I to understand that B.C.
21 Hydro's position is that you're confident that by
22 November 2005 -- I think that's the date that you'll
23 be able to enter into some arrangements with TGVI?

24 MS. HEMMINGSEN: A: That's our preferred course of
25 action and we're confident that we have the mechanisms
26 to put that in front of this Commission, air our

1 differences, and get agreement.

2 COMMISSIONER BOYCHUK: And you've also, even as early as
3 this morning, been discussing a number of other
4 options including -- well, I guess one would be to
5 come in -- to enter into a long-term transportation
6 service agreement, which we're hearing that there may
7 be questionable likelihood of that or -- and we're
8 also -- other options that were presented is that B.C.
9 Hydro might, as it did with ICP, convince TGVVI to add
10 compression to their system perhaps at B.C. Hydro's
11 cost. And that takes that type of a situation. And
12 some other options, like direct LNG delivery including
13 barging.

14 There's a number of options here on the
15 table. Do you have a sense of -- is November 2005 a
16 date that we'll have a better sense of what it is that
17 you're going to be doing to facilitate the
18 transportation arrangements for this proposed plant?

19 MS. HEMMINGSEN: A: I think I'll turn that over to Mr.
20 Simpson --

21 COMMISSIONER BOYCHUK: Mr. Simpson, yes, I'm sorry.

22 MS. HEMMINGSEN: A: -- because he is most directly
23 acquainted with that.

24 MR. SIMPSON: A: Well, I think the magic about November
25 2005 is that our understanding is that a compressor
26 facility proceeding on a normal schedule can be done

1 within two years. So that means if we were to select
2 the option or negotiate an arrangement with Terasen to
3 do a compressor expansion under a short-term
4 agreement, that as long as the agreement was in place
5 by November 2005, there shouldn't be any physical
6 problem in terms of getting the necessary facilities
7 in place.

8 I think our desire, depending on the
9 outcome of this proceeding, would be to attempt to put
10 any arrangements in place as quickly as possible. So
11 we wouldn't necessarily wait until November 2005. I
12 think we would move ahead more quickly than that.

13 COMMISSIONER BOYCHUK: Thank you, and you testified that
14 B.C. Hydro and TGVH are continuing to meet to try to
15 resolve their differences and negotiate some form of
16 agreements that will facilitate this project and other
17 needs that B.C. Hydro has?

18 MR. SIMPSON: A: That's correct, yes.

19 COMMISSIONER BOYCHUK: Okay, then just one other area
20 that I'd like to just discuss with Ms. Hemmingsen, and
21 it relates to your direct testimony at page 11, and
22 that of course is in Exhibit B-35, Panel 2. Your very
23 last statement is that -- and I'll read it into the
24 record:

25 "If the result from it is nevertheless
26 disallowed,..."

1 That's the CFT process.

2 "...a strong adverse signal will be sent to
3 market participants concerning B.C.'s
4 commitment to the Energy Plan's objective of
5 fostering competitive outcomes."

6 And I'd just like to broach with you, is it possible
7 or conceivable that if the Commission, in considering
8 this EPA, and if in the context of the scope that we
9 have set out, if this Commission Panel were to find,
10 for example, that some of the terms perhaps led to
11 design bias or what-have-you, and the EPA were
12 ultimately not accepted as filed, but the Commission
13 were to give directions in terms of what the
14 Commission would consider to be appropriate -- is it
15 conceivable that that could better, or foster, a
16 competitive bidding process in the future, going
17 forward?

18 **Proceeding Time 10:30 a.m. T24**

19 MS. HEMMINGSEN: A: I think it all depends on how we
20 respond to that, and I think it could help mitigate
21 any concerns, and we would certainly have to look at
22 possibly changing the process by which we design,
23 develop and execute EPAs, and possibly look at getting
24 a lot more up-front direction from the Commission on
25 the form of the EPA, and not -- I mean, I've said this
26 before, but we did attempt to do that in the case of

1 this contract, and for various reasons it didn't
2 happen. So we were left to interpret the directions
3 that were provided, or the recommendations or
4 comments, and the like.

5 So I think, depending on the decision, we
6 might have to change the way that we develop those
7 types of contracts, going forward. So does that
8 answer your question?

9 COMMISSIONER BOYCHUK: Yes, that's helpful. Thank you,
10 Ms. Hemmingsen. Thank you, panel. Those are my
11 questions.

12 THE CHAIRMAN: I'll begin my questions, Mr. Soulsby, with
13 the model. And I'm at the portfolio tab.

14 MR. SOULSBY: A: As am I.

15 THE CHAIRMAN: Good. And just take a quick glance at
16 column B --

17 MR. SANDERSON: If you don't mind, I'm going to join Mr.
18 Soulsby at the witness table.

19 THE CHAIRMAN: Yes.

20 MR. SANDERSON: But that doesn't mean that I'm thinking
21 these questions are directed at me.

22 MR. SOULSBY: A: Whisper in my ear.

23 I should confirm, I have a fully-populated
24 version of the model. Is that --

25 THE CHAIRMAN: Yes.

26 MR. SOULSBY: A: -- also the version you're looking

1 for?

2 THE CHAIRMAN: Yes. I think we're looking at the same

3 thing.

4 MR. SOULSBY: A: Okay.

5 THE CHAIRMAN: I really just want to identify for you the

6 issue, and so I'm going to do that by identifying

7 column B, rows 56 to 62.

8 MR. SOULSBY: A: Yes.

9 THE CHAIRMAN: Okay. Now I want to move across to the

10 summary results, and I'm looking at column AB.

11 MR. SOULSBY: A: Yes.

12 THE CHAIRMAN: Is the third portfolio better value to

13 customers than the first portfolio?

14 MR. SOULSBY: A: Are you asking me if the values in the

15 cells related to the third portfolio are higher or

16 lower than the first portfolio?

17 THE CHAIRMAN: Well, no, I know the answer to that

18 question. I'm asking you if the value of that

19 portfolio is better value to customers than the first

20 portfolio.

21 MS. HEMMINGSEN: A: I think that would be an

22 appropriate conclusion.

23 THE CHAIRMAN: Thank you.

24 MS. HEMMINGSEN: A: Because you get 28 megawatts of

25 capacity for a low price.

26 THE CHAIRMAN: Right. Then, Mr. Sanderson, you can take

1 your seat.

2 MR. SANDERSON: Not on the witness panel right now.

3 THE CHAIRMAN: I want to pursue this issue, and I think
4 in order to pursue this issue I need to do it *in*
5 *camera*, which I think unless there are objections to
6 me doing that, I need advice as to how best to do
7 that.

8 MR. SANDERSON: Well, Mr. Chairman, my suggestion would
9 be that we deal with all other matters that the panel
10 has, or that need to be dealt with with this panel
11 here; that when that's done, my understanding of the
12 *in camera* arrangements would be that the only people
13 present would be those people from Hydro needed to
14 support or that -- the panel, and the panel itself,
15 counsel, and counsel for the Commission, and
16 Commission staff. That, as I've said on previous --
17 or as I've submitted on previous occasions, you know,
18 the more that the panel can do to indicate the area of
19 questioning, and clearly you've given a pretty strong
20 hint of what you want to talk about already, I think
21 this is -- this line is pretty clear, the better for
22 the record.

23 **Proceeding Time 10:35 a.m. T25**

24 And the more that that's elaborated in the final
25 decision as to what reliance, if any, was placed on it
26 as previously submitted, the better for the record.

1 But with those two caveats, I think the
2 procedure that I'm suggesting is the only one I can
3 think of in order to move forward with the line of
4 questioning that you're introducing.

5 MR. QUAILE: Mr. Chairman, I would ask for the convenience
6 of intervenors who may be required to remove
7 themselves for that portion, that if it's possible,
8 organize that block of time contiguous to the lunch
9 break, that at least would make it useful time for us
10 in organizing our affairs.

11 THE CHAIRPERSON: And if there are no objections to that,
12 I'll try to do that.

13 MR. SANDERSON: Sure, Mr. Chairman, and if that means an
14 early lunch that's fine with us, and then we'll
15 assemble Panel 3 right after lunch.

16 THE CHAIRPERSON: Mr. Andrews.

17 MR. ANDREWS: Just briefly, because for the intervenors
18 and people who didn't have access to the materials
19 that you were questioning from, it's not clear to
20 those who were not looking at laptop computers what
21 the questions are. Mr. Sanderson indicated that it is
22 clear to those in the know what the questions are.
23 Perhaps you could characterize in a sentence or two
24 the topic for the record so that it will be clear to
25 people who are not privy to the confidential
26 information, what specifically the topic is.

1 THE CHAIRPERSON: I don't want to breach confidences.

2 MR. ANDREWS: No, no, absolutely not. I'm asking for a
3 characterization, and perhaps that's better coming
4 from counsel. But since it was the Commission Panel's
5 questions, I'm just asking for some description that
6 can be used for people to understand what it was that
7 these confidential matters concerned.

8 MR. SANDERSON: Mr. Chairman, if I might, I think I might
9 be able to help characterize the questions. I take
10 Mr. Andrews' point, and if I don't get them accurately
11 from your perspective, obviously I'll hear about it.

12 It seems to me the nature of your questions
13 were to address results from the QEM that are apparent
14 from the model in terms of some of the total
15 valuations of different portfolios that were analyzed
16 in the model, and inquire as to from a ratepayer
17 impact perspective, the comparative impacts between
18 one particular portfolio and another particular
19 portfolio were, and what conclusions that the
20 Commission could properly draw from those differences.
21 And you wanted to explore, as I took it, in more
22 detail the explanation of the differences and the
23 ranking that the QEM model then placed on the
24 different portfolios in light of those differences.

25 THE CHAIRPERSON: Is that helpful, Mr. Andrews?

26 MR. ANDREWS: Yes, it is, thank you.

1 THE CHAIRPERSON: And at the end of the *in camera*
2 session, I will do my best to disclose as much as
3 possible with respect to the line of questioning that
4 I had.

5 That then, I think, what that suggests is I
6 will deal with my other questions, and then very
7 likely it's going to be I think probably an early
8 lunch break, with the *in camera* session at the
9 beginning of the lunch break. That's what I -- which
10 is what may be most convenient. And then when --

11 MR. SANDERSON: Certainly, Mr. Chairman. The only other
12 thing maybe we should touch on is redirect, if any,
13 which I'm quite happy to do before or after your *in*
14 *camera* session, whatever you please. But there might
15 be one or two questions on redirect.

16 THE CHAIRPERSON: Okay. Thank you.

17 I would like to --

18 MR. SANDERSON: Sorry, Mr. Chairman, Mr. Fulton has
19 reminded me that the one thing I would like to do is
20 excuse this panel, yes, and this actually may bear on
21 what you just said. As I think I've indicated in
22 previous correspondence, one member of the panel is
23 unavailable between noon and 3:00, and so if we can do
24 the *in camera* session before noon, that would be a
25 great convenience.

26 THE CHAIRPERSON: I think we're going to be able to

1 easily accomplish that.

2 I would like to address the issue of the
3 credit for the VIGP assets, and I'm going to
4 paraphrase your evidence, Ms. Hemmingsen, but I
5 understood you to say that you were going to look at
6 it from a perspective of incremental cash flows, and
7 because there's an incremental cash flow, it's
8 appropriate to have the credit in the model.

9 **Proceeding Time 10:40 a.m. T26**

10 And that suggests to me, and I'd like your
11 views on this, that in order for it to in fact be
12 incremental, then those funds, and the determination
13 with respect to those funds, necessarily needs to be
14 completely independent of any issue with respect to
15 the recovery of the initial investment.

16 MS. HEMMINGSEN: A: I agree with that.

17 THE CHAIRMAN: Thank you. There was evidence that was
18 given by you during the VIGP proceeding with respect
19 to dependable capacity, and the peak demand balance
20 for the system. And I'd like to take you to the
21 decision, the VIGP decision, at page 78.

22 The section 9.1, first paragraph, last
23 sentence. The first part of that sentence:

24 "The evidence in this hearing suggests that
25 the appropriate next resource addition
26 should be on-Island generation."

1 MS. HEMMINGSEN: A: Right.

2 THE CHAIRMAN: I'd like you to tell me whether or not
3 there have been any circumstances material to that
4 determination, any change in circumstances material to
5 that determination, since the time of this -- since
6 the VIGP's proceeding.

7 MS. HEMMINGSEN: A: To the determination that the next
8 resource should be on-Island generation? Or to the
9 deficit triggering the on-Island generation?

10 THE CHAIRMAN: I think -- well, that's a good question in
11 response. The deficit has changed. And we will hear
12 evidence from Panel 4 with respect to that deficit,
13 but I understand your position is that the deficit has
14 changed since the VIGP proceeding. It doesn't
15 necessarily follow, I don't think, that that's a
16 change in circumstance that's material to the decision
17 as it's stated there, that the next on-Island -- well,
18 I'll quote it.

19 "That the evidence suggests that the
20 appropriate -- that the next resource
21 addition should be on-Island generation."

22 And I guess to put the question differently, although
23 the load forecast has changed, that load forecast
24 change is not material to the determination that the
25 next logical step is on-Island generation.

26 MS. HEMMINGSEN: A: Right. Could I just offer one

1 comment, though? I think it impacts the risks of non-
2 Island generation. So it perhaps doesn't impact the
3 requirement for on-Island generation, but it certainly
4 flavours the assessment of some of the risks of not
5 having on-Island generation. Because the deficit has
6 increased, and potential alternatives need to bridge a
7 really significant volume, going forward. So I would
8 just put forward that that reinforces the requirement
9 for on-Island generation.

10 THE CHAIRMAN: Right.

11 MS. HEMMINGSEN: A: But going back to your original
12 question, the need for on-Island generation, when we
13 started the CFT process, the load requirement was
14 identified by you to be 115 megawatts, and a buffer to
15 150 megawatts, and then we subsequently updated our
16 load forecast and it showed 180 megawatts of deficit,
17 which pointed to the fact that a larger outcome than
18 that, such as the large gas-fired facility, could
19 actually defer the transmission requirements. And as
20 it ultimately turned out, the load requirements were
21 such that no portfolio of 300 megawatts would in fact
22 defer that need for either additional on-Island
23 resources or a cable option.

24 **Proceeding Time 10:45 a.m. T27**

25 So the circumstances possibly changed in
26 terms of on-Island generation. However, this is a

1 capacity contribution not only for Vancouver Island
2 but for our system, and to the extent that we don't
3 get it on the Island, we have to add it to our larger
4 system requirements. And we believe that Island
5 reliability is critically important, and there's some
6 factors that currently influence the reliability on
7 Vancouver Island with a deficit of generation relative
8 to demand.

9 So we're still convinced that the on-Island
10 requirement is there, and that this is the appropriate
11 addition going forward.

12 THE CHAIRPERSON: Thank you. Your evidence during the
13 VIGP hearing, if I recall it correctly and we can
14 check the record easily enough, was that for '08-09
15 the system required additional capacity. It was
16 capacity constrained starting in that winter. And I
17 seem to recall the energy requirement being similar to
18 what it is now for the system 2010.

19 Has the capacity requirement for the system
20 changed -- that the magnitude of it has changed, of
21 course, but for the respective winter has it changed?

22 MS. HEMMINGSEN: A: The capacity requirements for the
23 system have changed somewhat because we have
24 identified some additional Resource Smart options that
25 we're considering proceeding with. There's 325
26 megawatts associated with upgrades at GMS that can

1 contribute cost-effective capacity to our system.

2 So that has, relative to the VIGP hearing,
3 deferred the need for new capacity on the system, with
4 the result that now the energy requirement is earlier
5 than the capacity requirement, although in the absence
6 of the CFT the capacity requirement is triggered
7 earlier because this adds 252 megawatts of capacity
8 that we've reflected in our balance right now.

9 THE CHAIRPERSON: What year is it without the CFT?

10 MS. HEMMINGSEN: A: Mr. Soulsby is probably more
11 familiar with that number.

12 MR. SOULSBY: A: In terms of energy was it, or
13 capacity?

14 MS. HEMMINGSEN: A: No, capacity.

15 MR. SOULSBY: A: I'd have to check that for you.

16 MS. HEMMINGSEN: A: We have a number of uncertainties,
17 too, that we have to reflect. For example, the status
18 of Burrard, in terms of Alcan has given us
19 notification of recall for 2010, and that removes 147
20 megawatts of capacity from the system. So it speaks
21 to the points Mr. Soulsby was making earlier, that
22 there's a number of uncertainties even inherent in our
23 current capacity balances.

24 THE CHAIRPERSON: Yes, you don't need to get that number
25 for me, thank you.

26 I would like to confirm with you that the

1 -- and I think I can do this on the record easily --
2 well, I know I can do this on the record easily
3 enough.

4 On the summary results that we were just
5 looking at in the QEM model for the CPCN benchmark,
6 does that NPV that's shown there include the direction
7 from the Commission with respect to greenhouse gases?

8 MR. SOULSBY: A: Yes, it does.

9 THE CHAIRPERSON: Okay. And when you calculate the
10 saving relative to the CPCN benchmark, are you taking
11 the difference between the numbers that I'm seeing
12 here for the first column and the second last column?
13 Is that how you get to that calculation?

14 **Proceeding Time 10:50 a.m. T28**

15 MR. SOULSBY: A: I'm sorry, you lost me with the first
16 column and second-last column. If you --

17 THE CHAIRMAN: Yes. It's row 57, and 61. Are you simply
18 taking the difference between row 61 and 57 to
19 calculate the benefit relative to the CPCN benchmark?

20 MR. SOULSBY: A: Yes.

21 THE CHAIRMAN: Okay. And I think really just want to
22 make the record correct here. Your position is is
23 that there's been a saving against the CPCN benchmark.
24 Is it also your position that there's been a saving
25 against B.C. Hydro's VIGP project? And I guess what
26 I'm really saying is, is the CPCN benchmark, in your

1 opinion, reflective of the costs that would have been
2 borne by B.C. Hydro if the project had been owned by
3 B.C. Hydro?

4 MR. SOULSBY: A: With the exception that the GHGs that
5 we included at the direction of the Commission may not
6 have been -- although we would have included
7 something, wouldn't have been the same as what B.C.
8 Hydro would have included.

9 THE CHAIRMAN: Okay. So you don't dispute the directions
10 that we're -- not "dispute". In your opinion, the
11 direction that you received from the Commission with
12 respect to the CPCN benchmark are close -- but for
13 greenhouse gases, are close to the cost that it would
14 have been for VIGP?

15 MS. HEMMINGSEN: A: And even in fact on the greenhouse
16 gases, the direction that you gave is consistent with
17 the range that other utilities use to reflect that
18 liability in their planning, and acquisition
19 processes.

20 THE CHAIRMAN: Now I'd like to really just have a little
21 fun speculating with you. I need to go to -- and this
22 is one of the documents identified earlier, but I need
23 to go to Appendix E of the original volume of -- the
24 first volume of the VIGP evidence.

25 MR. SANDERSON: And Mr. Chairman, we've headed up a page
26 at that -- are you aware, Mr. Chairman, of whether

1 that is in fact in any of the documents incorporated
2 into the record of this proceeding? We couldn't
3 quickly find it.

4 THE CHAIRMAN: I thought it was, but maybe it was
5 Appendix G that you had incorporated.

6 MR. SANDERSON: Correct. We had put in Appendix G, but I
7 think this is Appendix E.

8 THE CHAIRMAN: Yeah, fair enough. So it's not, then.

9 MR. SANDERSON: So we should probably mark, then --

10 THE CHAIRMAN: Yes.

11 MR. SANDERSON: -- this exhibit as it won't otherwise be
12 on the record.

13 THE CHAIRMAN: Yes. I was -- yeah, I'll wait till this
14 is distributed.

15 THE HEARING OFFICER: Exhibit A-42.

16 ("APPENDIX E: RATED OUTPUTS AND EFFICIENCIES OF GE
17 CCGTS", MARKED AS EXHIBIT A-42)

18 THE CHAIRMAN: Thank you. I was quite interested, Ms.
19 Hemmingsen, in your comment that you were surprised
20 that a VIGP-type project won. And I see that that's
21 because of the design of the QEM model that's
22 reflecting, as you suggest, directions from the
23 Commission, with respect to lowest NPV and no
24 transmission deferral credit. When I -- and this is
25 why I call this a little bit of fun, it's idle
26 speculation, I suppose, but when I look at the units

9 So it's -- it would seem -- did you ever --
10 I guess this is the question for you. Did you ever,
11 and maybe in your idle moments, ever run one of these
12 other, smaller projects through the QEM model to see
13 the comparison in NPV terms vis-à-vis a VIGP type
14 project?

Allwest Reporting Ltd., Vancouver, B.C.

1 expected, that typically you'd see the 150 to 175
2 megawatt unit win.

3 MS. HEMMINGSEN: A: And that's exactly what we saw.
4 And then it depended on bidder dynamics in terms of
5 what was the outcome, like who ended up staying in the
6 game and being in the final mix of the portfolios.

7 THE CHAIRPERSON: Right. Was the permitting that was
8 done, would it have accommodated a unit that 150 to
9 175 megawatts or so?

10 MR. ECKERT: A: My understanding is that the permitting
11 that was done was around a specific unit, and so to
12 the extent that you had a significant change in the
13 equipment you'd at least have to revisit the
14 permitting. You may have to get an amendment, but I
15 think -- I don't think it's as straightforward as
16 saying that if we just made the plan 150 megawatts,
17 the same permit would hold.

18 You know, the NOX emissions from different
19 units are different, quite a bit different, for
20 example, and that could change and that may be
21 measured on a volumetric basis. So I think it would
22 assist you that you had a permit and that you were,
23 you know, you were making an amendment. It would be
24 hopefully easier than starting out from scratch, but I
25 don't think you can make the inference that just
26 because the unit is smaller it would fall within the

1 envelope of that permit.

2 THE CHAIRPERSON: I'll return to the questions that
3 Commissioner Boychuk asked you with respect to the
4 regulatory dynamic at play in this process and simply
5 give you an opportunity to comment on where there
6 might be room for improvement from your perspective.

7 And I guess the first thing that one needs
8 to give consideration to is the constraint that we
9 have, that we shouldn't fetter the ultimate decision
10 and until we receive the EPA we're not in a position
11 of making a decision, because after all there's
12 nothing before us to make a decision about. And so if
13 we comment during the CFT process in the manner that
14 you requested us to -- this is subject to legal
15 argument; but it might not be possible because of that
16 constraint regarding fettering, and certainly more
17 regulatory certainty is presumably to your benefit.
18 And to make some comments in the B.C. Hydro Revenue
19 Requirements decision with respect to the terms and
20 conditions, ones that I'm expecting you are familiar
21 with.

22 So with that wide-ranging comment, do you
23 have any comments that you would like to make?

24 MS. HEMMINGSEN: A: I certainly appreciate your
25 perspective on fettering your ultimate jurisdiction.
26 I think we have to come up with a solution where there

1 is some more certainty for the market, because it
2 benefits ratepayers in terms of proponents knowing the
3 terms and conditions that they need to bid in and
4 there will be relatively expeditious process at the
5 end.

6 I am aware that other commissions work more
7 closely with the utilities upfront and work to define
8 some of those terms and agree on the processes that
9 will be followed.

10 **Proceeding Time 11:00 a.m. T30**

11 And then the ultimate review process is merely what
12 did the utility achieve what it set out to do at the
13 beginning. And there is a common understanding of
14 what those objectives are.

15 I think one of our challenges is we haven't
16 been working together for ten years on this front, and
17 we've undertaken a series of calls to date which have
18 informed what the process needs to look like. I think
19 we're building a relationship with the independent
20 power producers of trust that will be important to
21 continue forward, and I think both of us need to work
22 on that so that it achieves low-cost electricity
23 outcomes for the ratepayers through competitive
24 tendering. I think competitive tendering is very
25 important because I think we've produced some really
26 good results out of that. This contract is evidence,

1 as well as the series of four calls that we've
2 undertaken to date.

3 This process has been very -- even though
4 we've attempted to simply and pre-prescribe, it's been
5 very unwieldy. It's been expensive for B.C. Hydro to
6 develop the model and the terms and conditions, and it
7 has some shortfalls potentially, or gaps in it, in
8 terms of some tradeoffs between a cost-effective
9 outcome and simplification. You know, you've pointed
10 to that in the question that you're going to pursue
11 with us in confidence. We understood that that was
12 one of the tradeoffs that would necessarily have to be
13 made in achieving a model that could be provided to
14 all bidders.

15 I think I'm rambling a bit, but --

16 THE CHAIRPERSON: So did I. That's okay.

17 MS. HEMMINGSEN: A: I think we need to use this
18 experience and decide what works from it and what
19 needs to be modified going forward towards creating
20 some more regulatory certainty about what will be the
21 outcome of these competitive processes, and we
22 probably need to do that working together.

23 THE CHAIRPERSON: Right. And the B.C. Hydro revenue
24 requirements decision contemplates something earlier,
25 at least as it relates to the terms and conditions of
26 the subsequent purchase agreement.

1 MS. HEMMINGSEN: A: Yeah.

2 THE CHAIRPERSON: What were your impressions on that
3 notion?

4 MS. HEMMINGSEN: A: Well, I think one area we could
5 work on is defining, and perhaps the REAP is the
6 appropriate form to do it, is what product
7 requirements B.C. Hydro needs. So if that's part of
8 our submission, say this is what we need for our
9 supply/demand balance, this is the type of product.
10 Potentially we could outline the approach that we will
11 proceed with to secure that, maybe some key principle
12 agreements, say generally this is how we're going to
13 proceed. We're certainly committed to getting the
14 market and the IPP input into designing the terms and
15 conditions so they're efficient.

16 I mean, part of our overall approach is to
17 design a contract that balances the risk allocation so
18 that the ratepayer benefits. And that's actually
19 something I'm struggling with a little bit in this
20 context, is if B.C. Hydro has an ability to mitigate
21 the risk of something like gas towards a situation
22 where it encouraged more bidders to be competitive,
23 and it produces a better outcome for ratepayers, I
24 think that has to be paramount to did it mean that
25 certain projects possibly were more advanced and could
26 be more cost-effective in our analysis?

1 He was asking you about the inferences that you could
2 draw from the fact that nobody chose the non-tolling
3 option. That is, that all the gas price bidders chose
4 the tolling option. And I think what he asked you
5 was, was there any inference that you could draw from
6 the fact that everyone chose the tolling option, and
7 no one chose the non-tolling option, with respect to
8 the veracity, if I understood him, of your gas price
9 forecast.

10 But that led me to want to ask you whether
11 you think that anyone -- any bidders might have taken
12 the gas price risk if they had known Hydro's forecast
13 was either significantly higher or significantly lower
14 than the one that was actually presented to the QEM
15 procedure?

16 MR. O'RILEY: A: Well, I think generally taking the gas
17 price risk for an individual IPP proponent would be a
18 very difficult thing to do, given the capital
19 structure and the infrastructure that would be in
20 place. So I would not expect someone to take that on
21 regardless of the level of B.C. Hydro's forecast using
22 the model.

23 MR. SANDERSON: Thank you. That was the only question I
24 had, Mr. Chairman.

25 THE CHAIRMAN: Okay. We're adjourned --

26 MR. SANDERSON: Oh, I'm sorry, I'm sorry, I'm sorry.

1 THE CHAIRMAN: Yeah.

2 MR. SANDERSON: Mr. Kleefeld has been wanting to remind
3 me of this for the last half-hour, and it's good that
4 he prevailed. And this is for Mr. Soulsby.

5 MR. SANDERSON: Q: There is a transcript reference, Mr.
6 Soulsby, to page 1399 of yesterday's transcript. You
7 took a question from the Chair, actually, subject to
8 check, and that had to do with the -- or no, it --
9 yes. It was a question with respect to the rating of
10 500 kV lines, and the length of times for which they
11 were not available, at page 1399.

12 Were you able to check that, and can you
13 provide the result of that check?

14 MR. SOULSBY: A: Yes, I was able to check it, and I was
15 uncertain at the time if it was a 200 megawatt
16 overload rating for one hour, or a 100 megawatt
17 overload rating for two hours. And it is in fact the
18 latter, and I think that can be referenced in some
19 material that counsel, I believe, has entered into
20 evidence from the VIGP proceeding, and it would be the
21 staff IR 2.48.1, from the VIGP proceeding.

22 MR. SANDERSON: Right. Thank you.

23 THE CHAIRMAN: We'll adjourn now for five minutes for our
24 *in camera* session, and we will return at -- we will be
25 finished with this panel then. We will return at --
26 I'm hesitating because I'm not sure how long I'm going

1 to need.

2 We will return at 2:00. That risks us
3 sitting longer, but let's return collectively at 2:00.

4 **(PROCEEDING ADJOURNED AT 11:09 A.M.)**

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7 **(PAGES 1741 TO 1758, VOLUME 8, IN CAMERA SESSION)**

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1 **(PROCEEDINGS RESUMED AT 1:59 P.M.)** **T40**
2 THE CHAIRPERSON: Please be seated.
3 Are there any preliminary matters before
4 you begin with your panel, Mr. Sanderson?
5 MR. SANDERSON: Yes, I do. I guess first let me just
6 report on this morning's *in camera* session.
7 At the conclusion of that session, Mr.
8 Fulton and I had undertaken to discuss together the
9 best means of making as much of that session available
10 generally as possible. We've commenced that
11 discussion but not concluded it, and so with your
12 leave, I'll report back or Mr. Fulton will tomorrow
13 morning.
14 THE CHAIRPERSON: That will be fine, thank you.
15 MR. SANDERSON: Second, there are some procedural filings
16 or some undertaking filings. The first is a request
17 that Mr. Bois made at Transcript Volume 7, page 1406
18 and 7. He asked:
19 "What is the longest power contract for EPA
20 that Hydro has right now?"
21 And there's a response to that, which I'll circulate.
22 MR. FULTON: B-63.
23 THE HEARING OFFICER: Marked Exhibit B-63.
24 (RESPONSE TO QUESTION AT TRANSCRIPT VOLUME 7, PAGE
25 1406, MARKED AS EXHIBIT B-63)
26 MR. SANDERSON: The second one is a response to Mr.

1 Wallace, Volume 6, page 1245 and again 1250. The
2 question, as we've summarized it at least, is:

3 "Please provide the unit energy cost for the
4 EPA for 20 percent, 40 percent, 60 percent
5 and 80 percent dispatch scenarios, excluding
6 gas commodity costs."

7 And if that could be the next exhibit.

8 THE HEARING OFFICER: Marked Exhibit B-64.

9 (RESPONSE TO QUESTION TRANSCRIPT VOLUME 5, PAGES 1245
10 AND 1250, MARKED AS EXHIBIT B-64)

11 MR. SANDERSON: And I'll just distribute that, and if Mr.
12 Bemister could swear in Panel 3 while I do that, that
13 would be great.

14 **Proceeding Time 2:02 p.m. T41**

15 **B.C. HYDRO PANEL 3 - PROCESS INDEPENDENT REVIEWER**

16 **WAYNE OLIVER, Affirmed:**

17 **PETER SORENSEN, Affirmed:**

18 **LEON CENDER, Affirmed:**

19 **MARK HODGSON, Affirmed:**

20 MR. SANDERSON: Mr. Chairman, Panel 3 has now been sworn
21 and, as I indicated in my opening, this panel is here
22 to speak to the role of the independent reviewer. I
23 did discuss with the panel beforehand that we may have
24 a bit of a terminology issue. They are fond of
25 referring to themselves as the IR, and intervenors and
26 the Commission are fond of referring to questions as

1 IRs. So they've determined to do their best to come
2 up with another name for that acronym and, I guess, if
3 counsel as well could consider the potential for
4 confusion, from our end we'll try and talk about
5 information responses rather than IRs as well.

6 As I outlined in my opening, as I say, this
7 panel will deal with the role generally, and it
8 consists of three members of the independent reviewer
9 team, we'll introduce in a moment, and Mr. Cender, who
10 is with B.C. Hydro. He'll serve as Chair of the
11 panel, and I'll just start my direct examination with
12 him.

13 **EXAMINATION IN CHIEF BY MR. SANDERSON:**

14 MR. SANDERSON: Q: Mr. Cender, maybe you could just
15 confirm your full name for the record.

16 MR. CENDER: A: Leon Cender.

17 MR. SANDERSON: Q: And I understand you to be the
18 Manager of Decision Support and Analysis in the Power
19 Planning and Portfolio Management Group?

20 MR. CENDER: A: That is correct.

21 MR. SANDERSON: Q: You've submitted pre-filed testimony
22 in this proceeding that I believe can be found at tab
23 4 of Exhibit B-35?

24 MR. CENDER: A: I believe that's correct.

25 MR. SANDERSON: Q: I'm sorry, it's tab 3, I think. My
26 mistake. Tab 3.

1 **Proceeding Time 2:04 p.m. T42/43**

2 And you indicate there that you were a
3 member of the Project Management Office and were
4 primarily responsible for liaison with the independent
5 reviewer, is that right?

6 MR. CENDER: A: That's correct.

7 MR. SANDERSON: Q: If you would just turn to that
8 testimony for a moment, are there any corrections or
9 amendments that you want to make to that prefiled
10 testimony?

11 MR. CENDER: A: I just have the usual caveat as
12 previously put forward by Ms. Hemmingsen, that some of
13 the information responses that were attributed to my
14 name were reassigned, so just with that caveat.
15 Otherwise the evidence is fine.

16 MR. SANDERSON: Q: And with that caveat can you adopt
17 the evidence as your direct testimony in this
18 proceeding?

19 MR. CENDER: A: Yes, I can.

20 MR. SANDERSON: Q: Thank you.

21 Mr. Hodgson, let me turn to you if I might,
22 and Mr. Hodgson is on the left of Mr. Cender. I
23 understand you hold the position of Director at
24 PricewaterhouseCooper.

25 MR. HODGSON: A: Yes.

26 MR. SANDERSON: Q: And can you elaborate your specific

1 responsibilities and areas of interest at
2 PricewaterhouseCooper?

3 MR. HODGSON: A: I lead an advisory practice in the
4 Pacific Northwest. It's referred to as
5 Infrastructure, Government and Utilities, and it
6 provides financial and procurement advice to clients
7 involved with large capital projects. I specialize in
8 utility and transportation infrastructure.

9 Globally the firm is a leading advisor in
10 the area of infrastructure, financing and procurement,
11 and in the lead tables PwC is acknowledge as having
12 successfully completed 200 transactions with a value
13 of over \$40 billion.

14 MR. SANDERSON: Q: Thank you, Mr. Hodgson, and am I
15 right that that's elaborated in your prefiled
16 testimony which is filed in this proceeding, also at
17 tab 4 of Exhibit B-35?

18 MR. HODGSON: A: Correct.

19 MR. SANDERSON: Q: Thank you. Sorry, I keep saying tab
20 4. I mean tab 3.

21 If I could just take you there for a
22 moment. Am I also correct that you've attached to
23 that testimony additional correspondence between PwC
24 and B.C. Hydro that was not otherwise filed in the CFT
25 report?

26 MR. HODGSON: A: Correct.

1 MR. SANDERSON: Q: Are there any corrections or
2 amendments that you'd like to make to your prefiled
3 testimony?

4 MR. HODGSON: A: No.

5 MR. SANDERSON: Q: Can you adopt it as your evidence in
6 this proceeding.

7 MR. HODGSON: A: Yes.

8 MR. SANDERSON: Q: Thank you.

9 Mr. Oliver, if I could turn to you, and Mr.
10 Oliver, Mr. Chairman, is sitting closest to you. You
11 are the principal and founder of Miramac Energy Group
12 inc. as I understand it?

13 MR. OLIVER: A: That's correct.

14 MR. SANDERSON: Q: And you've again filed prefiled
15 testimony at tab 3 of Exhibit B-35?

16 MR. OLIVER: A: That's correct.

17 **Proceeding Time 2:07 p.m. T44**

18 MR. SANDERSON: Q: And in that testimony you explain
19 you were a sub-contractor to PwC in respect of some
20 specific responsibilities associated with the
21 independent review exercise?

22 MR. OLIVER: A: Yes.

23 MR. SANDERSON: Q: Can you just summarize your
24 qualifications and experience as it relates to your
25 role in the CFT and independent reviewer process?

26 MR. OLIVER: A: Sure. I have over 25 years' experience

1 in the energy field, working primarily in the oil --
2 ah, the electric and gas industries. And by way of
3 summary, I've been involved in over 25 competitive
4 bidding processes in the power sector dating back to
5 the late 1980s, in the U.S. and Canada. In these
6 assignments, I reviewed hundreds of power supply
7 proposals encompassing a range of technologies,
8 project structures, and different fuel arrangements.
9 I've also served as an independent evaluator or
10 independent observer in a number of IRP processes.

11 Schedule A of my testimony provides more
12 information regarding the clients I've served, the
13 role I provide and the type of services that Mirimac
14 Energy provides in relation to competitive bidding.

15 MR. SANDERSON: Q: Thank you, Mr. Oliver. Do you have
16 any corrections or amendments to the pre-filed
17 testimony at tab 3?

18 MR. OLIVER: A: Yes, I have one correction. And that's
19 on page three of my testimony. Line 27. The first
20 full sentence, there's a word missing. The sentence
21 starts "In an IRP process, the lowest...", it should be
22 "the lowest cost bidder may not necessarily be the
23 one...". So the word "cost" follows the word "lowest"
24 in that line.

25 MR. SANDERSON: Q: Thank you. And with that revision
26 can you accept -- adopt that evidence -- sorry, can

1 you adopt the pre-filed testimony as your evidence in
2 this proceeding?

3 MR. OLIVER: A: Yes.

4 MR. SANDERSON: Q: Thank you. And finally, Mr.
5 Sorensen, if I could turn to you. You are the
6 president and principal consultant of PRP
7 International Inc., is that correct?

8 MR. SORENSEN: A: Yes, I am.

9 MR. SANDERSON: Q: And you've filed pre-filed testimony
10 in this proceeding also at tab 3 of Exhibit B-35?

11 MR. SORENSEN: A: Yes.

12 MR. SANDERSON: Q: And again, you were retained as a
13 subcontractor to PwC with some specific
14 responsibilities?

15 MR. SORENSEN: A: Yes.

16 MR. SANDERSON: Q: Like Mr. Oliver, I wonder if you
17 could briefly elaborate your qualifications and
18 experience in connection with the responsibilities you
19 carried out for the independent review.

20 MR. SORENSEN: A: I have over 40 years of experience in
21 what I would consider observing and judging on the
22 applications of rules and laws and processes, notably
23 a number of years in the public service of Canada in
24 the law enforcement and regulatory area, and then
25 about 16 years of acquiring services and products
26 through a competition and the application of

1 procurement policies or processes in the Government of
2 Canada.

3 **Proceeding Time 2:10 p.m. T45**

4 Past eight years I've been in the business
5 of advising on procurement and contracting,
6 principally in a wide range of sectors and in the last
7 five years I've been actively in the fairness and
8 independent monitoring role on major procurements, and
9 with the independent reviewer mechanism, which is
10 really only evolving in Canada, I started with one of
11 the major projects, the Highway 407 sale, and really
12 it was in infancy in terms of what are the processes
13 and standards for fairness monitoring.

14 MR. SANDERSON: Q: When you talk about -- sorry, Mr.
15 Sorensen. When you talk about the Highway 407 sale,
16 can you just elaborate what Highway 407 is, for those
17 of us who don't live in Toronto?

18 MR. SORENSEN: A: That was the Ontario government's
19 toll highway which they put up for sale in 1998, and
20 which was successfully sold for over three billion
21 dollars. And that was my first substantive engagement
22 in working together with PricewaterhouseCoopers, where
23 I was the lead fairness advisor on that team too.

24 MR. SANDERSON: Q: Thank you.

25 Do you have any corrections or amendments
26 you wish to make to your pre-filed testimony?

1 MR. SORENSEN: A: Yes, I do. On page five of my
2 testimony, line 27, would submit -- would substitute
3 the word "bidders" at the last of the line with
4 "submissions". "Number of pre-qualified submissions."
5 And on line 28, insert the word "submissions" after
6 "tenders".

7 MR. SANDERSON: Q: Sorry, the second correction on line
8 28 would cause it to read "...and tender submissions"?

9 MR. SORENSEN: A: Right. So, "...in terms of the numbers
10 of pre-qualified submissions and tender submissions."

11 MR. SANDERSON: Q: Right.

12 Now, Mr. Sorensen, just one additional
13 question for you, and that is -- well, let me get you
14 to adopt your testimony first. With the correction
15 you've just made, do you adopt the pre-filed evidence
16 as your testimony in this proceeding?

17 MR. SORENSEN: A: Yes I do.

18 MR. SANDERSON: Q: Just one additional question for
19 you, Mr. Sorensen and that's in terms of your
20 involvement in the process involved with this CFT,
21 could you just quickly indicate when it began, and the
22 level of intensity or of effort that was -- you were
23 personally involved in in connection with the process,
24 and over what period.

25 MR. SORENSEN: A: I believe that Pricewaterhouse was
26 advised that they had successfully been selected, and

1 my first conversation was on August the 21st, 2003, and
2 within the week we were meeting with the B.C. Hydro
3 team, and I've been actively involved up until the end
4 of October, 2004. I took up permanent or temporary
5 relocation to Vancouver in October 1st of 2003, I was
6 here until the end of October, 2004.

7 MR. SANDERSON: Q: Thank you. Thank you, Mr. Sorensen,
8 those are my questions on direct.

9 THE CHAIRMAN: Thank you. Mr. Wallace?

10 MR. WALLACE: Mr. Chairman, I have no questions for this
11 panel.

12 THE CHAIRMAN: Thank you. Mr. Bois?

13 MR. BOIS: Mr. Chairman, initially I thought I would have
14 no questions, but I have two, actually, conferring
15 with my client.

16 **Proceeding Time 2:15 p.m. T46**

17 **CROSS-EXAMINATION BY MR. BOIS:**

18 MR. BOIS: Q: And I'm going to -- Mr. Cender, I'm going
19 to relieve you of any obligation to answer these
20 questions and direct it to the experts on the panel.

21 Would you agree that in a tendering
22 process, bidders have a different perspective and
23 different requirements than the owners do? Just on a
24 generalized statement. I'm not going to get into
25 specifics on this tender, but just generally speaking,
26 would you agree that bidders have different views and

1 different needs than owners?

2 MR. SORENSEN: A: The competitive process is aimed at
3 bringing two parties together to deliver the product
4 or the service that's desired by the owner on the
5 terms and conditions that both parties can feel that
6 they can deliver on and be obligated to.

7 MR. BOIS: Q: Well, that's a good answer, I like that
8 except it doesn't answer my question, so let me
9 rephrase it. If you were acting for a bidder and you
10 received a tender document such as this, would your
11 advice to that bidder be equal to and consistent with
12 the advice you gave to the owner on a tender document
13 like this?

14 MR. SORENSEN: A: If I was acting for a bidder I would
15 understand the terms of the process. It is a
16 competition and I would try and advise my client to
17 first of all be compliant in all aspects where
18 mandatory is; and then to best represent their
19 qualifications and credentials and their services or
20 products in a way in which they can maximize the
21 evaluation process. Some evaluation processes are
22 pass/fail. Others you can build best value points by
23 the way you put your proposal together. And the first
24 thing I'd advise my client, as I have on a number of
25 occasions, read the mandatories, be complaint. You
26 don't even get in the game until you pass that gate.

1 MR. BOIS: Q: Okay, I appreciate that and I'll maybe
2 narrow my scope a little bit further then, because you
3 seem to be still not answering my question.

4 Would you agree then, if there are tensions
5 between an owner's interest in a CFT process and
6 tensions in a bidder's interest in a CFT process, your
7 advice to either side would be different depending on
8 their perspective?

9 MR. SORENSEN: A: As a consultant your advice is
10 tailored to the scope of your engagement and the
11 responsibilities that you're signing onto.

12 MR. BOIS: Q: So do I take that as a yes? I mean it's
13 a simple yes or no answer, I think.

14 MR. SANDERSON: Well, no, it's not. It's a very
15 generalized question. I can rather sympathize with
16 the witness in trying to determine exactly what the
17 question is. So despite Mr. Bois' complaints that
18 he's not getting an answer, I'm having trouble
19 understanding how it can be made as simple. But the
20 witness is trying, but yes or no, I don't think so.
21 It's a much more general question than yes or no.

22 MR. BOIS: Okay. I'll move.

23 MR. BOIS: Q: Would you agree then also that certainty
24 in bid terms are essential not only to the owner but
25 also to the bidders, and that addendums either through
26 the process -- which do happen and I'm not criticizing

1 anyone for issuing addendums. I am suggesting,
2 though, that addendums that vary that process
3 throughout create uncertainty?

4 MR. SORENSEN: A: Or they may create certainty.

5 MR. BOIS: Q: Or they may create certainty. Fair
6 enough. Would you agree then also that a large number
7 of addendums in a process could be a symbol or an
8 indication that there is uncertainty in the process?

9 MR. SORENSEN: A: No, not as a general comment or a
10 response. I think you'd have to deal with each
11 addendum --

12 MR. BOIS: Q: Okay.

13 MR. SORENSEN: A: -- case by case.

14 MR. BOIS: Q: And would you then agree that if you
15 start out with a base criteria in the first go-round
16 or first issuance of the tender, and then a couple of
17 months later you change that, would you agree that
18 that creates uncertainty from the potential of a
19 bidder of, say, a small-scale project, medium-scale
20 project, large-scale project, to entering the process
21 and then deciding halfway through to stop? Would you
22 agree that that causes some confusion?

23 MR. SORENSEN: A: It may very well lead to more
24 transparency, more --

25 MR. BOIS: Q: But would it also cause confusion?

26 MR. SORENSEN: A: -- more -- more fairness. I don't

1 believe that -- if they're clear and specific in their
2 purpose and intent and they're communicated at the
3 same time to all interested parties, there should be
4 no confusion.

5 MR. BOIS: Q: Okay, thank you. Those are my questions,
6 Mr. Chairman.

7 THE CHAIRPERSON: Mr. Weisberg.

8 **Proceeding Time 2:19 p.m. T47**

9 THE CHAIRMAN: Mr. Weisberg, I did intend to establish
10 time allotments for this panel. We're moving much
11 faster than I anticipated. How long do you think you
12 might be?

13 MR. WEISBERG: I believe I will need in the order of half
14 an hour.

15 THE CHAIRMAN: Fine. You may proceed. But I will hold
16 you to the 30 minutes, though.

17 **CROSS-EXAMINATION BY MR. WEISBERG:**

18 MR. WEISBERG: Q: Good afternoon, gentlemen. I'd like
19 to begin by having you turn up Exhibit B-35, which is,
20 I believe, the evidence of this panel. Specifically
21 within that, Schedule C to the evidence of Mr. Hodgson
22 and, within that, the supplemental to the second
23 report of the independent reviewer. That's the one
24 dated March 11th, 2004. And I want to take you to page
25 three of that document.

26 THE CHAIRMAN: Mr. Weisberg, I'm a little bit behind you.

1 Which schedule?

2 MR. WEISBERG: Certainly. It's within B-35, which is the
3 Hydro witness panel evidence, at tab 3, which is this
4 panel. Within that is Mr. Hodgson's evidence.

5 THE CHAIRMAN: I'm with you. Which schedule?

6 MR. WEISBERG: Schedule C.

7 THE CHAIRMAN: Thank you. And page three?

8 MR. WEISBERG: That's correct.

9 THE CHAIRMAN: Thank you.

10 MR. WEISBERG: Q: My interest on that page is the
11 discussion of the second decision tier, and I'll read
12 in a quote from that letter.

13 "Addendum 10 introduced the second tier to
14 the quantitative evaluation methodology,
15 where no cost-effective portfolio is
16 determined under step 5 of the quantitative
17 evaluation methodology.

18 **Proceeding Time 2:22 p.m. T48**

19 It is our view that this additional decision
20 step does not impact the fairness or
21 transparency of the evaluation process, and
22 may be viewed as a constructive approach in
23 contrast with simply terminating the CFT.
24 However, B.C. Hydro will need to clearly
25 define and apply appropriate processes to
26 give effect to this second tier of decision

1 making. Specifically, the IR intends to
2 review the decision rules for moving from
3 the first tier to the second tier."

4 Mr. Hodgson, do you agree that the
5 proscriptive recommendation of the independent
6 reviewer, and the specific intention to review those
7 rules, indicates that those decision rules and
8 processes were an essential part of the CFT process?

9 MR. HODGSON: A: I'd like to ask Mr. Sorensen to
10 respond to this question, since we worked as a team,
11 but individually we looked at different issues. This
12 is an issue in particular I think Peter could respond
13 to.

14 MR. SORENSEN: A: We understood this to be a privative
15 clause, and we understood that it was a right that
16 B.C. Hydro could enact, and we were putting forward
17 the fact that, should the exercise right at the time
18 it might be exercisable, we would wish to see the
19 prescribed or pre-established decision rules. And in
20 our final report, if I may refer to that, of October
21 the 29th, which was part of the filing, I believe, of
22 the CFT report by B.C. Hydro, in Appendix B, under our
23 methodology, section B, on page 18, there's a list of
24 key fairness principles and practices. Item number
25 six addresses the reference in our March the 11th
26 letter, and that we would expect to see the decision

1 criteria that was pre-established before the tenders
2 were brought or tabled.

3 MR. WEISBERG: Q: So those decision rules were an
4 essential part of the CFT process, in your view?

5 MR. SORENSEN: A: Yes, in terms of preparation, yes, we
6 considered that the CFT could go to Tier 2, but it
7 could also terminate at Tier 1. But we wanted to be
8 prepared. We did not want to get to a position that
9 rules were made up after consideration of Tier 1.

10 **Proceeding Time 2:25 p.m. T1A**

11 MR. WEISBERG: Q: And you would agree that if those
12 decision rules weren't clearly defined in advance, or
13 were not appropriately applied, then the fairness of
14 the CFT outcome would be put in question?

15 MR. SORENSEN: A: I'm not sure of "put in question".
16 Our report would have dealt with it. We would have
17 rendered a finding and a judgment on how B.C. Hydro
18 exercised those rules.

19 MR. WEISBERG: Q: Can you identify all of B.C. Hydro's
20 responses then in whatever form they may have been to
21 the independent reviewer's recommendation to clearly
22 define and apply appropriate processes to give effect
23 to this second tier of decision-making?

24 MR. SORENSEN: A: I'm sorry?

25 MR. WEISBERG: Q: I want you to identify all of B.C.
26 Hydro's responses in whatever form, oral or written,

1 to the independent reviewer's recommendation to, and
2 I'm quoting, "clearly define and apply appropriate
3 processes to give effect to this second tier of
4 decision making."

5 MR. SORENSEN: A: Yes, it was done formally at the
6 Project Management Office meeting of August the 12th,
7 at which time the Project Management Office conveyed
8 to our team their approach to -- or their rules for
9 moving from Tier 1 to Tier 2. And I understand that
10 there were minutes, as there were for all the Project
11 Management Office meetings, and our records show that
12 they're defined in those minutes.

13 MR. WEISBERG: Q: I believe there was an undertaking
14 requested yesterday in this respect, but I don't want
15 to duplicate the undertaking. I haven't seen those
16 minutes yet.

17 MR. SANDERSON: No, and I was provided with them just
18 before we came in, and -- Mr. Weisberg has disappeared
19 on me, but I can have those to him very soon. I just
20 have to find them and then get some copies made. But
21 certainly in the context of the minutes Hydro has been
22 able to find in response to the undertaking I can find
23 that, and the witness can indicate whether he has any
24 other paper.

25 MR. WEISBERG: Q: Is that, Mr. Sorenson, the only
26 written record of those rules?

1 MR. SORENSEN: A: Yes.

2 MR. WEISBERG: Q: And you were completely satisfied
3 that those rules were complete and appropriate?

4 MR. SORENSEN: A: Yes. We were able to -- we
5 understood and were able to go forward to be able to
6 observe and monitor should that occasion arise, and we
7 were quite comfortable that we could deal with what
8 findings or observations we may be required to report
9 on.

10 MR. WEISBERG: Q: So is it fair to say that the
11 independent reviewer's review of those rules took
12 place in the meeting that you described?

13 MR. SORENSEN: A: Yes.

14 MR. WEISBERG: Q: And there was no further review or
15 follow-up, because you said that you were satisfied
16 with what was presented in that meeting.

17 MR. SORENSEN: A: Yes. We want it -- if I may, we want
18 it to -- as an outset from the start, we established
19 the standard of practices that we were going to follow
20 throughout the engagement. And the reference I made
21 to our final report, the appendix, outlines some of
22 the basic principles. And this was declared or
23 presented prior to the release of the CFT in October
24 of 2003. And as we expected Hydro to represent the
25 bidders, a set out practices and procedures, we
26 followed our same practice of, "Well, here's the

1 standard we're going to hold you to," and they did so.
2 And so there are a number of practices there, and one
3 of them was that "Tell us how you're going to make the
4 decision, and we'll observe whether or not you
5 followed through on that." And that --

6 MR. WEISBERG: Q: When did the independent reviewer
7 determine whether those decision rules should have
8 been applied?

9 **Proceeding Time 2:30 p.m. T02A**

10 MR. SORENSEN: A: There was a clear, as we understood
11 it, it was a privative clause in the terms of the CFT,
12 and that B.C. Hydro would specifically need to say we
13 are invoking Section 17.3 of the CFT, which in effect,
14 in our language, was, they would abandon the result of
15 Tier 1 and if they had done so our report would have
16 covered their application of their decision and their
17 process in judging what EPAs may flow out of Tier 2.
18 But the fact that they did not exercise that privative
19 clause, our assignment ended with the determination
20 and acceptance of the Tier 1 recommendation.

21 MR. WEISBERG: Q: So there was no determination made by
22 the independent reviewer of whether they perhaps
23 should have invoked that clause?

24 MR. SORENSEN: A: None whatsoever. Our role is
25 independent. We were not a party to the decisions
26 that flowed from the CFT process. It was B.C. Hydro's

1 intent to operate and conduct the CFT, and we were to
2 judge and observe on their performance.

3 MR. WEISBERG: Q: And is it correct that the
4 independent reviewers' reports, and all correspondence
5 to or from B.C. Hydro subsequent to March 11th, 2004,
6 made no further mention of this issue of the decision
7 rules for moving from an evaluation of Tier 1 to Tier
8 2.

9 MR. SORENSEN: A: I do not recall any correspondence,
10 but at regular steps through the process, once we got
11 into the tender phase and we started to observe the
12 preparation and the processes being established by
13 B.C. Hydro for the tender phase, as you do in any
14 competitive or independent observation process, you
15 have sort of a watch list, and as the time comes in
16 the process, you sort of see is it being attended to.
17 And we had the -- from -- we had sort of brought
18 forward, or BF'd, our March 11th letter to the point
19 that it was appropriate or necessary for Hydro to deal
20 with that observation, and that was dealt with before
21 tenders closed on August the 13th.

22 MR. WEISBERG: Q: I'd like you to turn to Exhibit B-1,
23 Appendix K. And that is -- you may have it in your
24 other materials, I'm not sure, it's the October 29th,
25 2004 report of the independent reviewer, that's report
26 number four. And at page 21, that's the final page of

1 that document, you'll find Appendix D, titled "B.C.
2 Hydro CFT Decision Flow Chart". Can you tell me when
3 the independent reviewer received that chart?

4 MR. SORENSEN: A: The final version was presented at
5 the project management office meeting of August the
6 12th. Our records indicate there was some discussion
7 by the committee, and that there were minor changes to
8 be made, and it was approved, and then within the day
9 we received the final form.

10 MR. WEISBERG: Q: So what we're looking at was received
11 in final form when?

12 MR. SORENSEN: A: I would -- my recollection is within
13 24 hours.

14 MR. WEISBERG: Q: So on August 13th.

15 MR. SORENSEN: A: Yes.

16 MR. CENDER: A: I think from a B.C. Hydro perspective,
17 it should be noted that there were drafts of this
18 particular chart, as with all the tender guidelines
19 and processes, forwarded to the independent reviewer
20 prior to that August 12th meeting. So there were
21 successive drafts. So they were kept informed, and
22 this represents the final version that was approved by
23 the project management office.

24 MR. WEISBERG: Q: Mr. Sorensen, what's the objective of
25 a -- or purpose of a decision flow chart like this?

26 MR. SORENSEN: A: The objective was to clearly

1 understand the basis or how the decisions were going
2 to be made by B.C. Hydro, and the various critical
3 steps -- it had factored in a number of committees.
4 Some were going to work sequentially, and some might
5 have worked in parallel, and it was clear from our
6 perspective that we needed to understand clearly what
7 the decision flow was, and we wanted B.C. Hydro to be
8 able to demonstrate or to clearly articulate how it
9 would work so that we could observe and monitor their
10 compliance.

11 **Proceeding Time 2:35 p.m. T3A**

12 MR. WEISBERG: Q: Should the attachment then of this
13 appendix to the independent reviewers final report be
14 viewed as the independent reviewers endorsement that
15 it accurately and completely identifies all of the
16 essential decision points in the CFT process? In the
17 CFT decision process?

18 MR. SORENSEN: A: No, it accurately reflects how B.C.
19 Hydro was going to proceed with the process and the
20 findings of our report indicate whether or not they
21 followed this flow.

22 MR. WEISBERG: Q: And will you agree with me that on
23 that flow chart there is no reference of any kind to a
24 decision process for moving from an evaluation of Tier
25 1 to an evaluation of Tier 2?

26 MR. SORENSEN: A: Yes.

1 MR. WEISBERG: Q: And do you consider that omission to
2 be a significant defect in the decision flowchart?

3 MR. SORENSEN: A: No, because the rule was identified
4 within the PMO box at the bottom. This was where the
5 decision was going to be taken.

6 MR. WEISBERG: Q: That's not indicated on the face of
7 this document at all. That was evidence given
8 yesterday, sir, but where prior to the evidence given
9 yesterday was there any indication that that's the
10 case?

11 MR. SANDERSON: Well, just to be fair to the witness, I
12 think the testimony this afternoon from this witness
13 has been, with respect to the decision-making that
14 would go on in the PMO with respect to the Tier 1/Tier
15 2 step. It wasn't just from yesterday, it was
16 evidence from this witness in the last ten minutes.

17 MR. WEISBERG: Q: You don't see that as a defect then?

18 MR. SORENSEN: A: No.

19 MR. WEISBERG: Mr. Chairman, I just note, I'm waiting for
20 -- or I'm expecting those minutes and I think it --

21 MR. SANDERSON: Copies are being made as we speak. They
22 will be here in second, I hope.

23 MR. WEISBERG: I'm not trying to rush B.C. Hydro and Mr.
24 Sanderson. What I am suggesting --

25 MR. SANDERSON: Yes, you are.

26 MR. WEISBERG: Well, I'm not because I actually don't

1 wish to be put in the position that when I'm at the
2 podium I'm given something essential to my cross-
3 examination of the panel, and I'd suggest that it may
4 be more efficient for all concerned if I stood down at
5 this point and received that, reviewed it and returned
6 to the podium after other counsel. Either that or
7 return after I've had a reasonable time to review
8 that. And by "that", I don't know how long the
9 minutes are. I think it would be ten or fifteen
10 minutes.

11 MR. SANDERSON: Mr. Chairman, I have seen the document.
12 The minutes are very short and I'm quite happy to
13 accommodate my friend and his suggestion of
14 interruption makes perfect sense to me.

15 MR. WEISBERG: Thank you.

16 THE CHAIRPERSON: That will be fine, Mr. Weisberg.

17 MR. WEISBERG: Thank you.

18 MR. SANDERSON: And for the record, here they come, so.

19 THE CHAIRPERSON: So you are going to stand down now for
20 fifteen minutes. I'll call someone else, they can
21 cross-examine and that will give you an opportunity to
22 review it and then you can return if you wish.

23 MR. WEISBERG: I appreciate your accommodation.

24 THE CHAIRPERSON: Mr. Lewis.

25 MR. LEWIS: Good afternoon. Thank you very much.

26 THE CHAIRPERSON: Mr. Lewis, how long do you expect to

1 be?

2 MR. LEWIS: Oh, I guess some of that depends on the
3 brevity of the answers of the panel, but I'll try and
4 be as brief as I can. Mr. Weisberg is dealing with
5 some of my concerns, so I would say maybe 20 minutes.

6 THE CHAIRPERSON: Okay, you have 20 minutes.

7 MR. LEWIS: Thank you. I guess I should have asked for
8 more.

9 **CROSS-EXAMINATION BY MR. LEWIS:**

10 MR. LEWIS: Q: Just so the panel understands, I have no
11 legal background whatsoever, so I'm sometimes forced
12 to seek clarification with regard to your status.

13 MR. SANDERSON: But don't let that deceive you.

14 MR. LEWIS: I'll take that as a compliment.

15 THE CHAIRPERSON: You should.

16 MR. LEWIS: I think was a shot at all lawyers. Thank
17 you.

18 MR. LEWIS: Q: So at this time with some of these
19 questions I am in no way questioning the judgment that
20 you or your firm demonstrated in carrying out your
21 duties. Your firm was retained by B.C. Hydro,
22 correct?

23 MR. HODGSON: A: Correct.

24 MR. LEWIS: Q: And as such, without having to explain
25 all the details, I expect that you have some form of
26 obligations to them as your client?

1 **Proceeding Time 2:40 p.m. T4A**

2 MR. HODGSON: A: The terms of reference of the

3 assignment was for an interview review, and we were

4 going to conduct that review in an unfettered manner.

5 MR. LEWIS: Q: But also in terms of a professional

6 obligation, they retained you; you have an obligation

7 to them as your client, correct?

8 MR. HODGSON: A: Correct, but we took measures to

9 separate the corporate relationship, and I think in my

10 testimony we indicate the team structure, and we

11 actually identified a business relationship partner,

12 John Webster. So if there are any issues related --

13 corporate issues, commercial issues, he was not

14 involved directly in an independent review team. And

15 if there were issues, they'd be dealt with separately,

16 like the concept of a blind trust.

17 MR. LEWIS: Q: Thank you. So further for my

18 understanding, have you been prepared as witnesses by

19 B.C. Hydro counsel?

20 MR. HODGSON: A: We were briefed on -- I think for many

21 of us, this is our first time in this position, so we

22 were given some briefing on that.

23 MR. LEWIS: Q: Okay, thank you. So further to -- I

24 won't try and beat this, I'll ask this once -- to Mr.

25 Bois' comment, could your examination of the fairness

26 of the CFT criteria have been different if you had

1 been retained by a bidder to examine the fairness of
2 that criteria, as opposed to have been retained by the
3 owner of that document?

4 MR. SORENSEN: A: Perhaps you could elaborate a bit on
5 how you define fairness of the criteria.

6 MR. LEWIS: Q: I'm just a dummy who cuts down trees.

7 MR. SORENSEN: A: So am I.

8 MR. LEWIS: Q: I guess if I'm in your position and I'm
9 retained, and the owner says, "We want you to examine
10 the fairness of this document," you're provided
11 background by their staff. You rely on their staff to
12 give you information. You have outside consultants to
13 verify some of that.

14 But in terms of a specific bidder with a
15 specific project, they may have other concerns dealing
16 with fairness that they would direct you to look into
17 had you been representing their interest rather than
18 the owner of the document.

19 MR. SORENSEN: A: I think I would characterize an
20 assessment for a bidder not in terms of whether these
21 are fair criteria, but I would ask the client whether
22 or not they could meet them, and are there elements of
23 the criteria that would make their submission
24 difficult and you might represent how, through
25 question and answer, whether or not their criteria
26 could focus. I don't think there's an obligation on

1 somebody that runs a competition to establish
2 criteria. That's surely measured on sort of a
3 fairness. I think it's important to establish the
4 transparency of the criteria. How are you going to be
5 able to win? And if you don't know how you're going
6 to win, then I would be concerned about being fairly
7 treated in the evaluation. I don't think you can
8 determine fairness until you actual get into the
9 execution of applying them.

10 MR. OLIVER: A: I think I could elaborate a bit on
11 that, because we've worked actually for, you know,
12 both utilities and designing and carrying out RFP
13 processes or calls for tender processes, and have
14 worked on the other side with bidders responding to
15 these processes. And I think, you know, our response
16 generally is the same. You really -- if you're a
17 bidder looking at an RFP document, you really want to
18 spend as much time as you can really understanding the
19 rules of the game, the parameters, the evaluation
20 criteria, you know, how you're going to compete, or
21 whether you should compete, do you have a unique
22 advantage or not?

23 In this case, if I was representing a
24 bidder, I would have -- given that the bidders had
25 access to B.C. Hydro through the transparent process,
26 you know, you really did have an opportunity to ask a

1 number of questions to participate directly in the
2 process. And that's the recommendation I would have
3 given the client on that side, is that you really want
4 to be heavily involved in the process and take
5 advantage of those opportunities.

6 Proceeding Time 2:45 p.m. T05A

7 MR. LEWIS: Q: Sure, and I agree with you, in that if
8 you're disqualified because you have an inability to
9 compete, because the criteria that were set up were
10 unfair to your bid, I'm sure that criteria would be
11 considered, you know, important to you as a bidder.
12 And what you said, then, is if the criteria are not in
13 play in terms of fairness, although that was one of
14 your undertakings to ensure that the criteria were
15 fair, and B.C. Hydro undertook such a process to
16 accept input to ensure they were fair, how is it that
17 you can say that you would not look at that if you
18 were representing a bidder?

19 MR. OLIVER: A: Well, I think -- I mean, because
20 criteria are difficult to compete in a certain process
21 doesn't mean they're unfair. You know, there's a
22 number of different situations where, you know, if I'm
23 looking for a Cadillac and one of the potential
24 bidders is Volkswagen, well I'm going to get a
25 different product. They probably can't compete to
26 provide that product. So it's -- you know, it doesn't

1 mean it's an unfair process, or unfair criteria, it
2 just means that it may be more difficult for that
3 bidder to compete, or that bidder's going to have to
4 structure a bid differently to compete.

5 MR. LEWIS: Q: Thank you. I very much appreciate your
6 characterization of the owner looking for a Cadillac
7 as opposed to a Volkswagen.

8 MR. OLIVER: A: Well, that was just an example, a
9 hypothetical example.

10 MR. LEWIS: Q: Thank you.

11 So, I don't recall reading anywhere that
12 you reported on that undertaking, specifically a
13 review of the CFT conditions, and how they did not
14 provide an advantage to one bidder or class of
15 bidders, while disadvantaging another.

16 MR. HODGSON: A: I think our reports address that issue
17 throughout the process.

18 MR. LEWIS: Q: Okay, so --

19 MR. HODGSON: A: Starting with the very first report,
20 October 29th, 2003, where we looked at the initial
21 documentation.

22 MR. LEWIS: Q: Okay. So you do consider it part of
23 your responsibility, then, or it was, to ensure that
24 B.C. Hydro reasonably sought to put all of the bidders
25 on equal footing with regards to the terms and
26 conditions of the CFT?

1 MR. HODGSON: A: With respect to process? Yes.

2 MR. LEWIS: Q: Okay. So not dealing with specifics,
3 but rather focusing on a bit of theory here, I'd like
4 to explore the development of the CFT and the
5 willingness of Hydro to accommodate gas-fired plants
6 and reducing their bid prices by offering services or
7 benefits to them, with the rationale that this would
8 be a benefit to the ratepayer; -- such as, taking on
9 the fuel price or fuel price and supply risk.

10 So I can understand why B.C. Hydro would
11 seek to reduce bid prices, in order to provide a
12 benefit to the ratepayer. With regard to their
13 failure to quantify either side of this cost-benefit
14 analysis, I'm curious about the fairness of supplying
15 this service to only one class of bidder. Hydro has
16 suggested that this ability to take on gas supply and
17 manage it on behalf of the proponent, as it is a part
18 of their regular business, they were able to do that
19 only for gas supply. Is that your understanding?

20 MR. HODGSON: A: Well, this is a question again -- we
21 operated as a team, but there were certain team
22 members that looked at specific issues, and I'll ask
23 Wayne to talk about tolling.

24 MR. LEWIS: Q: Sure.

25 MR. OLIVER: A: I mean, that -- you know, in the RFP
26 and Call For Tenders that we've been involved in,

1 tolling is a very common practice, especially for
2 entitles that have that capability to manage fuel
3 supply. If you can purchase -- I should say manage
4 gas supply, because really what you're seeing on the
5 tolling side is primarily gas, sometimes oil. But
6 generally, you don't see utilities toll other products
7 for IPPs. But gas, you know, given the nature of the
8 market and the fact that, you know, if you can use
9 your assets, whether it's transportation capacity or
10 the capability of your system to purchase gas at a
11 lower cost given, you know, the knowledge of the
12 market or your bulk purchases, you know, that can
13 provide benefits to the ratepayers.

14 MR. LEWIS: Q: Sure. Thank you. If B.C. Hydro had the
15 capability to provide a similar service for a
16 different fuel source, or a service to another class
17 of bidder such as one that might use, let's say, wood
18 waste, but they opted not to explore or pursue that
19 option, could that indicate to the bidders of those
20 other projects with different fuel sources that they
21 were, at best, treated differently if not unfairly by
22 B.C. Hydro?

23 **Proceeding Time 2:50 p.m. T6A**

24 MR. OLIVER: A: It's been my experience, and we did
25 work on the Portland General case and an issue like
26 this came up as well and Portland General, you know,

1 basically, they weren't in that business of providing
2 -- of wood waste. It's generally, you know,
3 individuals that are knowledgeable in that business
4 that have the capability of purchasing that particular
5 product.

6 So I think in this case, you know, because
7 I've never seen any utility toll wood waste, it's
8 usually other entities that really have that
9 capability and not specifically the utility.

10 MR. LEWIS: Q: Sure. So I guess my next question
11 that's prompted then is: Is B.C. Hydro currently in
12 the business of hedging on gas prices for 25 years and
13 providing an undertaking of 25 risk for fuel supply?
14 I don't believe they are. I believe they own --

15 MR. CENDER: A: That was answered by -- I think that
16 questioned belonged to Panel 2 and I suspect it was
17 thoroughly answered when they were up.

18 MR. LEWIS: Q: The answer then was?

19 MR. SANDERSON: Well, my recollection is there was
20 extensive evidence as Mr. Cender is saying from Mr.
21 O'Riley in particular about the extent to which Hydro
22 manages its gas risk both for ICP and for Burrard and
23 they have long-term commitments to both facilities and
24 have a portfolio. And Mr. O'Riley testified as to how
25 they -- how under his auspices they manage that
26 portfolio.

1 MR. LEWIS: Q: Okay, thank you. I appreciate the
2 qualification. I read somewhere in the one of the IRs
3 and I don't have it in front of me, that the longest
4 fuel supply contract they currently have goes out one
5 year. Now, I may stand corrected on that.

6 MR. SANDERSON: Yeah, I don't recall that. The
7 testimony I recall from Mr. O'Riley is saying that in
8 the current market Hydro's use generally short. That
9 is that the management determination has been to go
10 short at the moment, but again, he talked about that
11 in the context of managing a portfolio over time, and
12 as circumstances dictate.

13 MR. LEWIS: Okay, thank you for the clarification.

14 MR. LEWIS: Q: Now, getting back to wood waste, and
15 this is where we are in theory and not in actual
16 quantitative measures, but I think that's been dealt
17 with before here, B.C. Hydro as one of their
18 obligations to manage their right-of-ways and their
19 power supply, they probably chip more wood than any
20 other provider on Vancouver Island.

21 Now, I'm curious why they wouldn't have
22 explored the option to provide a fuel source, or at
23 least explore that for these other bidders.

24 MR. CENDER: A: I think that's a question that's
25 certainly out of my realm of expertise. I mean, all I
26 can suggest is we can propose that to B.C. Hydro's

1 business development group but that's not why this
2 panel is here.

3 MR. LEWIS: Q: I'm not asking you to say, you know,
4 that you do do this or don't do this, but on the key
5 not of fairness and theoretical thought, if that is an
6 ability which they do do in their core business, and
7 they didn't explore that, doesn't that then show some
8 bias towards one class of bidder as another.

9 MR. SANDERSON: Well, again, Mr. Chairman, there's a
10 false premise here. There was testimony from Panel 2.
11 Whatever they might be able to do, I think the
12 testimony of Panel 2 was clear, they don't manage wood
13 waste and don't, at the moment -- are not in that
14 business. Whether they should as Mr. Cender says,
15 identify that as a business opportunity, I have no
16 idea, but they haven't done that yet, which I think
17 makes false the premise of that last question.

18 MR. LEWIS: Q: I'll ask one more question on this.
19 With regard to fairness, do you believe they should
20 explore every option available to them so that they
21 provide an equal field, or a level playing field for
22 all of the bidders with respect to fuel supply?

23 MR. SORENSEN: A: If I may, I'd like to draw sort of a
24 reference to our experience or my experience in the
25 federal government. And a lot of people, a lot of
26 companies billed their industry or billed their

1 companies seeking government business. And what we
2 found, we needed to have a process in place within
3 government that created a framework for looking at how
4 the industry is engaged in opportunities. And we
5 introduced the notion that an analysis be done of a
6 potential competition, and it started with a
7 procurement strategy, what is the nature of the
8 product or service you are looking at, what is your
9 scope of competition, what is your level of
10 competition and then to determine whether it should be
11 limited, whether it should be broad.

12 **Proceeding Time 2:55 p.m. T7A**

13 And this whole aspect of procurement
14 strategy and planning would target or set the stage
15 for the field of competition. The mere fact that
16 somebody goes to the market or goes into a competitive
17 process does not necessarily imply that that
18 competition has to be able to accommodate any company
19 or industry that wishes to compete.

20 I take a personal example. I live in
21 Prince Edward Island.

22 MR. LEWIS: Q: Sorry, I hate to interrupt, but I have
23 20 minutes here.

24 MR. SORENSEN: A: No, no, but I --

25 MR. LEWIS: Q: I'd like to close --

26 MR. SANDERSON: I think the witness should be allowed to

1 complete this answer, thank you.

2 MR. SORENSEN: A: And the concept is, if I make a
3 proposal or want to bid on an opportunity or
4 competition, and the terms of the competition are I'm
5 not going to pay expenses to do the work in Ottawa.
6 Well, is it unfair to me? Maybe, maybe not. That is
7 the nature of the competition. That is the
8 requirement.

9 I can take the risk. I can attempt to put
10 together a proposal and structure my team and my
11 solution in a way that I minimize what might be an
12 advantage to somebody that's located in Ottawa versus
13 somebody located in Prince Edward Island. And I guess
14 that's why I wanted to -- your question implies that
15 there is an obligation or a relationship between a
16 company seeking to run a competition with everybody.
17 And we needed to deal with that at the government
18 level, i.e. what is your scope of competition? Do you
19 have competition?

20 We had a standard where if it was less than
21 three bids, it would not be considered competitive.
22 It would be dealt with as a sole source procurement
23 which required different approvals, different
24 processes.

25 MR. LEWIS: Q: Thank you, but with respect to these
26 conditions or criteria we're talking about, this is an

1 instance where the criteria that's put in place is
2 putting the ratepayer at risk. We've identified
3 there's costs associated with that. We've identified
4 there are risks. So it's not simply a case of, well,
5 it's up to them to bid in based on our criteria. I
6 object to that. I want to have a process where
7 everybody has the same opportunity and it's explored.

8 Now, I guess my final thought on this issue
9 is, I'm not familiar with the other companies that bid
10 into the Duke -- with Duke Point, or similar Duke
11 Point projects, but I would imagine that Duke Energy
12 or some of these other people, Epcor, they're pretty
13 familiar with fuel supply and providing that. They
14 can probably do it equally as well as B.C. Hydro, but
15 they chose not to. So I'll leave you with that
16 thought.

17 When the Green Island Energy Project was
18 stranded once the qualified bidders were determined,
19 did you make any suggestions or have any
20 correspondence with B.C. Hydro regarding that matter?

21 MR. SORENSEN: A: No.

22 MR. LEWIS: Q: So it was identified in your report at I
23 believe -- I don't have it noted here, but I know you
24 identified it in your IR report that it had been deep
25 and stranded.

26 MR. SORENSEN: A: Yes. We just observed on what was

1 fact.

2 MR. LEWIS: Q: But it wasn't relevant considering this
3 was an ongoing process, to note that?

4 MR. SORENSEN: A: I'm sorry, I don't --

5 MR. LEWIS: Q: Okay, I'll move on. I have limited
6 time.

7 In Schedule B of your evidence, page 8 of
8 your 07/29/03 document --

9 MR. HODGSON: A: Which document was that, please?

10 MR. LEWIS: Q: It's the 07/29/03, page 8 of it. I
11 believe it's your terms of references. It's within
12 your Schedule B. Is that a correct reference?

13 **Proceeding Time 3:00 p.m. T08A**

14 MR. HODGSON: A: I think it's Schedule B.

15 MR. LEWIS: Q: Mr. Sanderson has helped me so much
16 finding stuff, that I appreciate it. He's more than
17 -- I'll give him the opportunity to be wrong more than
18 once going forward.

19 So everyone has that in front of them. How
20 was "greenness," as you've got in quotes, included in
21 -- or I've got it in quotes, but it was listed in your
22 report as greenness; included in B.C. Hydro's
23 evaluation process?

24 MR. HODGSON: A: Is there a specific reference in the
25 transcript?

26 MR. LEWIS: Q: I believe under the terms of reference

1 it states that that's one of the criteria that are to
2 be evaluated.

3 MR. SANDERSON: Page 8, the middle of the page, Mr.
4 Hodgson, just above the heading B.

5 MR. HODGSON: A: I think the question really should go
6 to B.C. Hydro, how they dealt with greenness.

7 MR. CENDER: A: I was just going to respond. I think
8 those desirable criteria are tracked from Schedule A,
9 which was filed at the time of the VIGP decision and
10 hearing. When this particular document was issued in
11 late August, in late August we still had not issued
12 the CFT. The CFT was not officially issued until
13 October 31st. So by the time the CFT was actually
14 designed and issued, these desirable criteria changed.

15 MR. LEWIS: Q: Okay, so it's fair to understand then,
16 from your response, that greenness was not included in
17 your terms of reference.

18 MR. CENDER: A: That's correct, in terms of the CFT at
19 the time that the independent reviewer looked at it,
20 we had changed the mandatory criteria from what was
21 talked in that so-called Schedule A.

22 MR. LEWIS: Q: Thank you. Were there any conflicts of
23 interest identified in that phase of the review? In
24 the conflict of interest phase?

25 MR. CENDER: A: By the independent reviewer?

26 MR. LEWIS: Q: Yes.

1 MR. CENDER: A: They disclosed to B.C. Hydro that they
2 had a relationship with one of the companies that was
3 a registered bidder, yes, sure. But they also
4 disclosed that they had put up so-called "ethical
5 walls" as part of the conflict management plan that
6 they submitted as part of their contract with B.C.
7 Hydro.

8 MR. LEWIS: Q: Okay, thank you. I'm briefly going to
9 go to the privative clause. If I'm not mistaken, the
10 tenders required -- were required to be submitted by
11 bidders on August the 13th, is that correct?

12 MR. CENDER: A: Yes.

13 MR. LEWIS: Q: So with regard to these clearly-defined
14 rules that Mr. Weisberg was talking about earlier,
15 that were clearly defined, I guess, on August the 12th,
16 when were they included in CFT documents? Or were
17 they?

18 MR. CENDER: A: Those were never put in the CFT
19 document at any time.

20 MR. LEWIS: Q: Okay. So would it be fair to say that
21 some parties may suggest that that wasn't dealt with
22 in an open and transparent manner? As bidders had to
23 have their bids in by August 13th? And your direction
24 was given March 11th?

25 MR. CENDER: A: I think under the -- in the CFT, the
26 decision to move to Tier 2 was -- it was referenced in

1 Section 17.3 of the CFT that that was always up to the
2 discretion of the senior management of B.C. Hydro. So
3 that was always disclosed.

4 MR. LEWIS: Q: Okay, I'm going to have to step back
5 here, then, because under 17.3, which was amended
6 March the 5th, I believe, it identified that it could
7 jump from Tier 1 to Tier 2 on cost-effectiveness
8 reasons. You came, the independent reviewer came back
9 and stated "You must clearly define and identify the
10 process that you're going to do this on March 11th".

11 From what followed, from what I'm led to
12 believe, is the rules were -- was the process
13 competitive, and was there collusion.

14 MR. CENDER: A: Yes.

15 MR. LEWIS: Q: So can you tell me, then, where B.C.
16 Hydro had the right to reject a Tier 1 result over 150
17 megawatts based on price?

18 MR. CENDER: A: Again, the reference is Section 17.3
19 where it said that senior management in its discretion
20 had the right to reject the Tier 1 result if it
21 determined that it was not cost-effective for
22 ratepayers, and that was however they saw fit to make
23 that determination.

24 MR. LEWIS: Q: Okay, so I'm going to ask the
25 independent reviewer now, when you read that privative
26 clause, were those the rules that you were seeking?

3 Proceeding Time 3:05 p.m. T9A

9 On this matter, it can be stated that the
10 independent reviewer held a position which we felt
11 that the Tier 1 decision, which was fully described in
12 terms of procedures and everything else, that when
13 they make that decision, they can either accept it at
14 the project management office level. The
15 recommendation is going to project management office,
16 it was a series of recommendations from different
17 committees. At some point, in our view, somebody had
18 to decide: Do we accept or we don't accept?

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1 requirements, you could abandon it and move onto Tier
2 2.

3 And we understood that we were still under
4 obligation to report on the decisions made under Tier
5 2. So we wanted it very clear that they weren't going
6 to have an opportunity to look at both results before
7 they decided they liked Tier 1, because it was a
8 privative clause element. They had to clearly
9 conclude their determinations with respect to Tier 1
10 before they went into Tier 2.

11 And since they determined that Tier 1
12 result was accepted, the IR or the independent review
13 work concluded. That was the conclusion of the CFT
14 and from that point on, B.C. Hydro moved on to deal
15 with that decision.

16 MR. LEWIS: Q: So I'll ask again, there was no
17 mechanism for them to look at price. It was
18 competition and collusion in order to make that
19 determination, that "We're going to look at Tier 2."
20 It was simply competition and collusion were the
21 rules.

22 MR. SORENSEN: A: I think it was competitiveness, but
23 competitiveness implied that the results of the net
24 present values of the portfolios set out in the
25 qualitative evaluation committee report, that was the
26 foundation for assessing competitiveness. They would

1 only have had certain net present value values to
2 consider competitiveness on.

3 MR. LEWIS: Q: Thank you very much. I appreciate the
4 clarification, because I was under the understanding
5 based on some previous testimony by Ms. Hemmingsen I
6 believe, that competitiveness meant we had a lot of
7 people involved. It was a competitive process. So
8 I'd like to check back on that and I'll deal with it
9 on Panel 4.

10 MR. SORENSEN: A: Well, it's inferred in my -- you
11 know, you'd have to have a number of results from the
12 QEC that --

13 THE CHAIRPERSON: Mr. Lewis, you've been 25 minutes now.

14 MR. LEWIS: I didn't anticipate such long answers, and I
15 have one question. If you grant me the latitude I'd
16 appreciate it.

17 THE CHAIRPERSON: Please ask it.

18 MR. LEWIS: Thank you very much.

19 MR. LEWIS: Q: So considering that this issue was
20 directed from the independent reviewer about the
21 clarity of these rules on March 11th and B.C. Hydro did
22 not fulfill or respond formally to that direction
23 until one day before tenders were required to be
24 submitted, do you think it would be fair to say that
25 there was a tremendous amount of uncertainty inserted
26 into the process by B.C. Hydro's late response?

1 I know you were very concerned yourself
2 that before the tenders were submitted that this was
3 indeed identified.

4 **Proceeding Time 3:10 p.m. T10A**

5 So, you know, doesn't that indicate to you
6 that the bidders who had to prepare their bids and
7 submit them by August 13th, with this still hanging out
8 there, not explained, not clearly identified, created
9 a tremendous amount of uncertainty?

10 MR. SORENSEN: A: No, because this was a decision logic
11 post the submission of tenders by bidder. Bidders
12 knew -- in fact, what bidders as our report said, it
13 was a constructive. It allowed perhaps a
14 consideration of bids versus canceling, and if
15 management decided that they could not accept the Tier
16 1 result. So it was -- well, it's not a function or
17 an implication on the bidder. The bidder knew clearly
18 that the first tranche of decision-making had to be
19 the Tier 1, and that was very clearly spelt out. And
20 the Tier 2 simply said, in our view, simply said:
21 Rather than going back out and getting a bid repayer
22 or something to consider the bids in a different
23 light, we would simply invoke another process, and
24 that process was defined also before the tenders
25 closed.

26 MR. LEWIS: Q: Well, thank you. I guess we'll leave

1 that up to the interpretation of the Panel with their
2 direction to accept tenders between 115 and 150.
3 Thank you.
4 THE CHAIRPERSON: Mr. Weisberg, I'll give you 20 minutes.
5 MR. WEISBERG: Thank you, Mr. Chair.
6 Mr. Sanderson?
7 MR. SANDERSON: Mr. Chairman, Mr. Weisberg wants -- I did
8 distribute it, but Mr. Weisberg would like to use the
9 document that responds to the undertaking at Volume 7,
10 page 1424. The question was "Produce the minutes
11 referencing CFT decision process," and that's the
12 minutes of this August 12th meeting that has just been
13 referred to in testimony. So these are the minutes.
14 THE HEARING OFFICER: B-65.
15 (RESPONSE TO UNDERTAKING AT TRANSCRIPT VOLUME 7, PAGE
16 1424, MARKED EXHIBIT B-65)
17 MR. SANDERSON: And I should confirm on the record that
18 these minutes have been redacted to include only the
19 item that deals with the subject of Ms. Weisberg's
20 inquiry. So you'll note that the attendees are on the
21 first page, and then the first page is blank, top of
22 the second page is blank, and then item 8 is the item
23 which relates to this issue.
24 **CROSS-EXAMINATION BY MR. WEISBERG (Continued):**
25 MR. WEISBERG:** Q: And the witness panel, you already
26 have this document, do you?

1 MR. CENDER: A: No.

2 MR. WEISBERG: Q: Exhibit B-65? Let me just put this
3 to you and you can confirm it. The minutes reflect
4 that it was held on August 12th, 2004, and the meeting
5 was held from 3 o'clock to 5:15 p.m. Subject to
6 check, you accept that?

7 MR. CENDER: A: Yes.

8 MR. WEISBERG: Q: There are two bullet points by my
9 count, that have any bearing on the issue of decision
10 rules for moving from an evaluation of Tier 1 to Tier
11 2. And on my reading of it, I can see that perhaps
12 there might be four rules stated there. It says and
13 I'm quoting:

14 "Privative right could be invoked upon
15 receipt of tenders if there is collusion
16 among bidders, or if it is clear that the
17 process is non-competitive."

18 So I think that statement contains two things that
19 could be construed as rules. And in the next bullet
20 it says:

21 "Once the CFT moves to the QEM stage, B.C.
22 Hydro does not intend to invoke the second
23 tier privative clause, as long as the
24 tenders are competitive and there remains no
25 evidence of collusion."

26 And again I would suggest that you could interpret

1 that to provide two rules.

2 Are there more rules set out there than
3 what I'm reading into it?

4 MR. CENDER: A: I see two rules overall. Is that what
5 you're saying?

6 MR. WEISBERG: Q: I was being more generous. I was
7 suggesting there was four rules, because there is an
8 "or" in the first bullet point and an "and" in the
9 second. But let's leave it at that.

10 There is, however, in the minutes no
11 mention of either a review by the independent
12 reviewer, or an approval of those rules as complete
13 and appropriate.

14 MR. SORENSEN: A: At no time did we approve any aspect.
15 Our scope was to observe and to report on the
16 performance of the B.C. Hydro CFT team and the
17 execution of the CFT.

18 MR. WEISBERG: Q: Mr. Sorensen, I'm going to suggest to
19 you that you are entirely wrong. I've quoted earlier
20 in this cross-examination

21 **Proceeding Time 3:15 p.m. T11A**

22 MR. WEISBERG: Q: Mr. Sorensen, I'm going to suggest to
23 you that you are entirely wrong. I've quoted earlier
24 in this cross-examination from Exhibit B-35. I will
25 address that point in argument. If you'd like to
26 respond now, the quote is specific -- this is in the

1 final report of the independent reviewer, specifically
2 -- I'm sorry, it's in the March 11th supplemental to
3 the second report. I referred you to it earlier, and
4 it says:

5 "Specifically, the IR intends to review the
6 decision rules for moving from the first
7 tier to the second tier."

8 I just understood your evidence a moment ago to say
9 that was not within the scope of your retainer.

10 MR. SORENSEN: A: No. Review and observe, not approve.
11 You used the word "approve".

12 MR. WEISBERG: Q: So what value did you provide to the
13 process, or to B.C. Hydro, if you reviewed but did not
14 approve or provide any comments when you made a
15 proscription that B.C. Hydro will need -- will need to
16 clearly define and apply appropriate processes to give
17 effect to move to the second tier of decision-making?

18 MR. SORENSEN: A: Goes back to the foundation of our
19 engagement, and it was that we were not a party to the
20 decision-making within the CFT. Our engagement was to
21 observe the performance, and we disclosed a number of
22 standards or practices that we would have found
23 acceptable in observing and reviewing.

24 An end product from an independent function
25 is usually a report that says, "We found no instances
26 or deviations, and we found that they executed the

1 process in the terms on which they specified." And
2 so, that was the outset intent, and that was the way
3 we were consistently following through on our
4 engagement.

5 So at no time did B.C. Hydro seek approval
6 or did we render approval of any of their decision
7 processes. Our report reflects that they clearly
8 identified the way they were going to do it, and we
9 observed that they did it as they said they would.
10 And that decisions that they took were appropriate to
11 the processes they had pre-established.

12 MR. LEWIS: Q: You're -- where in any report from the
13 independent reviewer does it suggest that there was
14 any review, approval, or recommendation upon the
15 decision rules for moving to the second tier of
16 decision-making?

17 MR. SORENSEN: A: No -- sorry.

18 MR. HODGSON: A: Actually, it's page six of our final
19 report. Under item B, "Processes," and we identify
20 the processes that were established. And the last two
21 bullets of that list include the PMO decision-making
22 and recommendation review, and the CFT steering
23 committee recommendation review. And our ending
24 paragraph says that "the IR reviewed and observed the
25 development and establishment of the foregoing
26 structure and processes."

1 MR. WEISBERG: Q: Yes. But there -- you'll agree with
2 me that there is no specific reference whatsoever to
3 even the phrases Tier 1 or Tier 2, or any process or
4 rules for moving from an evaluation of one to the
5 other.

6 MR. HODGSON: A: I agree. There was no invocation [sic]
7 of the privative clause, and therefore there was no
8 need to report on that in our final report.

9 MR. WEISBERG: Q: And do you find it odd, gentlemen,
10 that in the March 11th report, there is more discussion
11 of the issue initially than contained in the minutes
12 of the October 12th meeting, which provided not only
13 the rules themselves, but a summary of the independent
14 reviewers' review of those rules?

15 MR. HODGSON: A: Can you restate your question, please?

16 MR. WEISBERG: Q: It's -- given the time I have, it's
17 not worth it to me to do so.

18 I'd like you to turn up transcript
19 reference page 1229, please.

20 While people are finding that, I will just
21 generally describe that. It was an exchange between
22 Mr. Wallace and Ms. Hemmingsen.

23 **Proceeding Time 3:20 p.m. T12A**

24 The discussion related to the disqualification of a
25 bid and I would like to read in lines 4 through 10
26 from page 1229 of the transcript, quoting:

1 "The reason that they were disqualified is
2 because they had submitted a non-compliant
3 bid and we reviewed this issue without
4 independent reviewer who affirmed that under
5 the terms of CFT we had no other choice,
6 without receiving a qualified independent
7 review report and being subject to legal
8 exposures from other bidders."

9 And Mr. Sanderson, I think there was a mistake in the
10 transcript. I'd like you to address it on your time
11 not mine, but I want to draw it to your attention.

12 "Did, as suggested by Ms. Hemmingsen's
13 evidence, the independent reviewer review
14 the disqualification of that bid with B.C.
15 Hydro?"

16 I don't want to identify it any further because of
17 confidentiality concerns.

18 MR. SORENSEN: A: I was present during the committee in
19 question, which assessed the tenders and rendered a
20 determination on a consensus basis that this bidder in
21 question was failing the terms that were required,
22 that I understand it was a qualification of the EPA
23 term and I observed the committee exercised the
24 procedures in which they had pre-established and I had
25 no reason to comment.

26 I subsequently followed that through to the

1 report of that committee to the project management
2 office, where the committee made the recommendations
3 with respect to their review of the tenders and the
4 recommendation that this bidder in question be
5 disqualified for having submitted a conditioned
6 tender, and I observed the project management office
7 pose questions, act, due their due diligence, and that
8 the project management office approved the
9 recommendation or accepted the recommendation of
10 disqualification.

11 MR. WEISBERG: Q: Did you affirm, as Ms. Hemmingsen's
12 evidence states, that B.C. Hydro had no other chose
13 without receiving an qualified independent review
14 report and being subject to legal exposures from other
15 bidders?

16 MR. SORENSEN: A: I recall or believe that the project
17 management office had other advisers, that they
18 advised them during the course of their consideration
19 of the recommendation.

20 I have to take you, sir, back to the
21 foundation of our approach to applying --

22 MR. WEISBERG: Q: I'm not sure you do, sir, with
23 respect. My question was specific, Mr. Chair.

24 MR. SANDERSON: Well, the question, as I heard it, was:
25 Did the independent reviewer, as referenced in there,
26 do what Ms. Hemmingsen said they did? Mr. Sorensen of

1 a number of people on a team that were the independent
2 reviewer and I thought he was giving a response
3 relating to what the independent reviewer as a team
4 was doing. Perfectly appropriate, I think.

5 MR. WEISBERG: Q: I accept the qualification that Mr.
6 Sanderson makes, and if I can help the witness, my
7 question is: The independent reviewer, whatever
8 member of the team you want to identify as being the
9 one that Ms. Hemmingsen referred to, did that person
10 or persons affirm to B.C. Hydro that it had no other
11 choice without receiving qualified independent review
12 report and being subject to legal exposures from other
13 bidders?

14 MR. SORENSEN: A: No.

15 MR. WEISBERG: Q: You did not -- he independent
16 reviewer, the group of people represented by that term
17 did not so affirm?

18 MR. SORENSEN: A: Did not affirm, did not -- ours was a
19 position of silence. We would have intervened, we
20 would have commented or intervened on the decisions of
21 B.C. Hydro through those committees. We made no
22 comment in our final report and there was no
23 intervention with respect to whether this was an
24 appropriate or not appropriate.

25 MR. WEISBERG: Q: The independent reviewer then was not
26 requested then to provide what Ms. Hemmingsen

1 described as a "qualified independent review report".
2 Is that correct?

3 **Proceeding Time 3:25 p.m. T13A**

4 MR. SORENSEN: A: No. That's correct, sir.

5 MR. HODGSON: A: It's probably a good guess on her
6 part.

7 MR. WEISBERG: Q: It's a good guess on her part.

8 MR. HODGSON: A: Well, hypothetically. I mean, I think
9 the --

10 MR. WEISBERG: Q: Well, sir, did B.C. Hydro make such a
11 request or not? Or did the independent reviewer
12 suggest that it was appropriate? I've heard --

13 MR. HODGSON: A: I think Peter's -- Mr. Sorensen's
14 characterized it correctly. We observed this process.

15 MR. SORENSEN: A: Yes. So.

16 MR. HODGSON: A: You're speaking hypothetically.

17 MR. WEISBERG: Q: I am not speaking hypothetically.
18 I'm speaking on the foundation established by sworn
19 testimony in this proceeding. There's nothing
20 hypothetical in what I've suggested.

21 MR. HODGSON: A: I understood the question
22 hypothetically. If the bid was not rejected, would we
23 have a qualified report.

24 MR. WEISBERG: Q: I'll grant you that you may have
25 misunderstood me. That is not what I said.

26 From the independent reviewer's

1 perspective, no concerns were expressed about legal
2 exposures. I think that's what Mr. Sorensen has just
3 said.

4 MR. SORENSEN: A: That's correct.

5 MR. WEISBERG: Q: Yes. Would you agree, however, from
6 your perspective as independent reviewer, that any
7 potential legal exposure from other bidders that might
8 arise when B.C. asserted the privative clause --
9 excuse me, I'm having trouble here with my notes.
10 Sorry. I'll re-state my question.

11 Would you agree that any concerns about
12 potential legal exposure from other bidders in respect
13 to invoking the discretion under Section 18.17 should
14 have been identified and addressed when that
15 discretion was first introduced and not when it was
16 time for the discretion to perhaps be invoked?

17 MR. HODGSON: A: We provided no little legal advice, if
18 that's what your question is.

19 MR. WEISBERG: Q: The question is not if you provided
20 legal advice, it's whether you had any concerns
21 regarding the terms of the CFT, and a discretion
22 provided to B.C. Hydro to determine whether or not a
23 bid was compliant, and rejected on that basis.

24 MR. SORENSEN: A: No.

25 MR. WEISBERG: Q: I'd like to return to Exhibit B-1,
26 Appendix K, that's report number four of the IR, of

1 the independent reviewer, at page 13. There is a
2 table on that page, and at the bottom of that table
3 there are some comments regarding tender "F", which is
4 identified as a 48 megawatt natural gas project, and a
5 48 megawatt dual fuel project. And do you see the box
6 indicating that the outcome for that project was
7 described as "tender failed, tender security and
8 conformity review"?

9 MR. SORENSEN: A: Yes.

10 MR. HODGSON: A: Correct.

11 MR. WEISBERG: Q: And do you also see that, under the
12 heading "Our observations" that there were none noted?

13 MR. SORENSEN: A: Yes.

14 MR. WEISBERG: Q: Under the circumstances, would you
15 now review it as more appropriate for some
16 observations to have been recorded?

17 MR. SORENSEN: A: No.

18 MR. WEISBERG: Q: Why is that? Is it because it wasn't
19 important?

20 MR. SORENSEN: A: No, because the determinations were
21 conducted in accordance with the criteria and the
22 performance of the CFT committees involved. They did
23 as they said they were going to do, and that was the
24 result of it.

25 **Proceeding Time 3:30 p.m. T14A**

26 MR. WEISBERG: Q: You don't agree that at a minimum

1 there should have been some indication that B.C. Hydro
2 made a determination that there was a material
3 omission, amendment, modification, condition or non-
4 conformity?

5 MR. SORENSEN: A: No. The outcome by evaluation step
6 clearly says the recommendation of the committee in
7 question was accepted by the project management
8 office, and that was our point of determination of
9 what was the outcome of the valuation step.

10 MR. WEISBERG: Q: So did the independent reviewer not
11 consider B.C. Hydro's actions in the context of
12 Section 18.17, which deals with non-compliant tenders?

13 MR. SORENSEN: A: Sorry, I'll need that reference.
14 Your question, sir?

15 MR. WEISBERG: Q: My question is, at a minimum should
16 there not have been some observation that B.C. Hydro
17 made a determination that there was a material
18 omission, amendment, modification, condition or non-
19 conformity?

20 MR. SORENSEN: A: They in fact did by the statement of
21 their procedures that were pre-established, that that
22 committee outlined clearly the basis on which a
23 material omission or modification that was predefined,
24 and they exercised that process or that criteria when
25 they considered the tender. So from our perspective,
26 they did exactly as they said they were going to do.

1 They applied the guidelines that they had pre-
2 established and that was the outcome of the process.

3 THE CHAIRPERSON: Mr. Weisberg, you're at your 20
4 minutes. Do you have very many more questions?

5 MR. WEISBERG: I do have more questions, Mr. Chair, and
6 I'd ask that you give me more latitude because the
7 questions that consumed most of the beginning of my
8 cross-examination speak directly to the principal
9 issue in this hearing about getting to a Tier 2
10 outcome.

11 THE CHAIRPERSON: How much longer do you need?

12 MR. WEISBERG: The difficulty -- I'll estimate as best I
13 can, but the difficulty is I can't predict the
14 answers. I will do my utmost to complete within 15
15 minutes, and I have been doing my utmost to move along
16 at a great pace so far.

17 THE CHAIRPERSON: All right.

18 MR. WEISBERG: Thank you.

19 THE CHAIRPERSON: But this time I will hold you to it.

20 MR. WEISBERG: Thank you.

21 MR. WEISBERG: Q: The determination of material non-
22 compliance pursuant to Section 18.17 of the CFT is
23 also not reflected in the CFT decision flowchart that
24 we discussed earlier, is it?

25 MR. SORENSEN: A: I understand the terms of the CFT are
26 rights that were universally available during the

1 process, and that they were not -- they were by, I
2 guess -- they were represented by the definitive
3 criteria, were applicable throughout each of the
4 committees.

5 MR. WEISBERG: Q: Sir, I'm going to ask that you --
6 perhaps it's my questions and perhaps it's your
7 listening, but I don't believe I'm getting an answer
8 to the question asked. I just want to know about the
9 decision flowchart that we discussed earlier.

10 MR. CENDER: A: I believe that is there under -- on the
11 top of the flowchart, the big green box -- or the top
12 box under "PSC Envelope 1 and 2", there is a
13 completeness review, a conformity review and a
14 security review. This particular tender failed on the
15 basis of the conformity review. It was not conforming
16 with the requirements of the CFT in that it contained
17 a material condition. So I would suggest that it's
18 contained in this flowchart.

19 MR. WEISBERG: Q: My point relates to a more specific
20 decision point and that is the decision to invoke the
21 discretion provided under Section 1817.

22 **Proceeding Time 3:35 p.m. T15A**

23 MR. CENDER: A: This flowchart could not possibly
24 contain all of the reasons that a tender could be not
25 compliant. It wasn't designed to be all inclusive.

26 MR. WEISBERG: Q: I'll move onto another area. From a

1 fairness perspective, was there any reason to favour a
2 fixed term of 25 years rather than a fixed term of say
3 20 years?

4 MR. CENDER: A: Can you repeat that question again,
5 please?

6 MR. WEISBERG: Q: From a fairness perspective, was
7 there any reason to favour a fixed term of 25 years
8 rather than alternative term length of perhaps 20
9 years?

10 MR. SORENSEN: A: I believe our view on the aspect of
11 term is reflected in our report of March 11th, where
12 page 2, where we indicate that our view is that this
13 change will simplify the quantitative evaluation
14 methodology and contribute to the fairness of the
15 decision process, i.e. by eliminating the need to
16 adjust for different terms. The actual value of the
17 term was a decision of B.C. Hydro and I recall no
18 discussion on the merits of fairness or whatever of
19 that value. We favoured -- not favoured, we accepted
20 that the change to a fixed term for all bids was good,
21 for this purpose we stated in here.

22 MR. WEISBERG: Q: Would it have been possible to make
23 adjustments to account for a different term length for
24 one project and evaluate it and other projects with
25 25-year terms under the QEM and still maintain the
26 fairness and objectivity of the decision process?

1 MR. OLIVER: A: Maybe I could address that, because
2 that's an issue that comes up in many RFT processes,
3 how to evaluate bids of different terms. And that's
4 always a major issue in terms of bias or fairness,
5 because if you have different terms then the issue
6 comes up about how do you put all bids on an equal
7 footing? Do you put another resource in the backend
8 or do you impose a market price on the back end, and
9 you know, there's always that risk that, you know,
10 there could be a bias attributed to that. So by
11 putting all bids on an equal term really eliminates
12 that potential bias.

13 MR. WEISBERG: Q: So it's your view that that would not
14 be possible to do and still maintain fairness and
15 objectivity in a decision process that couldn't be
16 offsetting adjustments, or the model itself is not
17 robust enough to accommodate that?

18 MR. OLIVER: A: No, I didn't say that the model
19 couldn't handle that, it's just that it's -- by having
20 different terms, you run the risk of having biases in
21 how you fill in the back end of a bid. And this
22 makes me --

23 MR. WEISBERG: Q: If the model that evaluates those
24 bids though, sir, is robust enough to accommodate and
25 account for that difference in turn, then where would
26 the unfairness arise?

1 MR. OLIVER: A: Well, the unfairness arises in what
2 your assumptions are of what you are using as the
3 input to fill in the back end. The model can handle
4 an input, but it's the assumptions you make about that
5 input that could create unfairness or create bias in
6 the process.

7 MR. WEISBERG: And what is the assumption that I've made
8 that you consider unfair?

9 MR. OLIVER: A: It's not the assumption that you made,
10 it's the assumption that one would make if one is
11 trying to determine what they are going to fill the
12 back end with.

13 And I'm saying this based on a number of
14 RFT processes we've been involved with where this
15 issue keeps coming up, you know, where bidders will
16 complain that a utility used their market price
17 forecast as the basis to fill -- like if a bidder bid
18 a fifteen year term, and you filled in the other ten
19 years using a market price forecast, you know, bidders
20 on a number of occasions will raise concern about that
21 market price forecast being too high or too low,
22 depending on, you know, what their objectives are..

23 **Proceeding Time 3:40 p.m. T16A**

24 So the utility that has to make that
25 decision on what to fill in that back end is
26 subjecting itself to potential bias or potential

1 unfairness, because of, you know, they have to make a
2 decision on what that value is going to be.

3 MR. WEISBERG: Q: Did the independent reviewer
4 specifically assess whether the mandatory criteria
5 were biased towards any particular -- I'm sorry.
6 Towards any gas -- towards gas-fired technology,
7 relative to biomass technology?

8 I messed up the question, let me state it
9 again. As an -- did the independent reviewer
10 specifically assess whether the mandatory criteria was
11 biased towards gas-fired technology relative to
12 biomass technology?

13 MR. SORENSEN: A: Our reports indicate that our first
14 report, which contained the first set of criteria on
15 which the CFT would be conducted, and we state that an
16 appropriate foundation and governance is "kit blank
17 blank" [sic], is capable of producing a result that
18 meets the objective for fair and transparent
19 competitions. So, our assessment of the criteria
20 would be that all bidders would be treated equally,
21 and there would be no apparent bias designed into the
22 process, regardless of technology.

23 MR. OLIVER: A: Let me add to that that the criteria
24 that were generally applied are consistent with what
25 others have used in the industry, so there's really
26 nothing unique about the criteria.

1 MR. WEISBERG: Q: Did you consider whether the tolling
2 arrangement whereby gas-fired projects had no fuel
3 price risk was fair towards non-gas projects?

4 MR. OLIVER: A: As I mentioned before, the tolling is
5 very typical -- typical process used by utilities that
6 are undertaking RFP processes. It's not something
7 unique to this case. And tolling evolves because
8 designing an RFP that handles -- that's able to
9 address the issue of evaluating bids that are using
10 gas supply, and paying for that gas, paying the bidder
11 for its gas supply, is a real challenge. There has to
12 be a match there to ensure that what the bidder bids,
13 and what they get paid, is, you know, is matched
14 closely.

15 A lot of bidders of gas projects, or other
16 projects, would like to see a pass-through of prices.
17 They don't want to take the fuel risk. You know,
18 because it's not in their best interest to take fuel
19 risks. So they would like to have a pass-through.
20 When you're trying to match a pass-through with
21 payment, what you have to worry about is, you know,
22 the bidder actually going out and securing gas supply
23 that's not optimized, at a higher price, you know,
24 because they're not -- they don't want to take that
25 risk. So, what's evolved because of that, to match --
26 to handle that risk, is the utilities that have the

1 capability and have the resources, they can go out and
2 secure gas supply at a, you know, more optimal price
3 because of their portfolio, have taken on that risk
4 for the benefit of the ratepayer.

5 And that, you know, that's what's happened
6 here. I don't see it as a situation where it biases
7 gas versus another resource, because you really have
8 to separate the evaluation of the bids from the
9 payment of the -- you know, the eventual payment to
10 the bidder for the fuel.

11 MR. WEISBERG: Q: So you did consider it, and you
12 concluded there was no bias. Is that fair to say?

13 MR. OLIVER: A: Well, I -- we saw no bias in that
14 process, right. Or the evidence of bias in that
15 process.

16 MR. WEISBERG: Q: And so you didn't see any need, then,
17 for some type of credit or other accommodation that
18 should have been extended to non-gas projects, sort of
19 in lieu of the tolling arrangement available to gas
20 projects?

21 MR. OLIVER: A: Well, we didn't -- we didn't address
22 that, or opine on that.

23 MR. WEISBERG: Q: Did you consider whether the required
24 operating range of 95 to 105 percent, with adjustments
25 for temperature, was a bias towards natural gas-fired
26 projects?

1 MR. HODGSON: A: That was a requirement. It's part of
2 B.C. Hydro's requirements for the tender.

3 MR. WEISBERG: Q: My -- right. But my question is, did
4 you consider that a bias, or did you not have any
5 conclusion on that question?

6 MR. HODGSON: A: We observed it as a requirement.

7 **Proceeding Time 3:45 p.m. T17A**

8 MR. WEISBERG: Q: Did you consider whether the
9 mandatory criteria of 97 percent availability over
10 nine months biased the process towards combined cycle
11 gas turbine technology?

12 MR. OLIVER: A: No, I do -- when you look at the --
13 there's a specific product that people are bidding to.
14 One bidder or another may have more difficulty bidding
15 to that product, but you know, given the product that
16 the company was looking for, that, you know, that's
17 what everyone had to bid to and everyone had the
18 opportunity to bid. They would just have to structure
19 their bids to reflect the 97 percent.

20 MR. WEISBERG: Q: Well, the 97 percent, though, was
21 something set and, you know, there was a determination
22 of whether that was appropriate. But you didn't see
23 any bias in it being set at that level?

24 MR. OLIVER: A: No, just to give you another example,
25 we -- this is a different company. We worked with
26 Duke Power in Charlotte, North Carolina, and Duke had

1 a requirement that they were looking for peaking
2 power, which meant that they were looking for
3 combustion turbines that only operated a short period
4 of time. That -- what you're seeing is akin to
5 someone saying, well, because Duke is looking for
6 peaking power, there's a bias against some other
7 resource.

8 I didn't look at that -- I don't look at
9 that as a bias against some other resource. It just
10 means that that's the product that they're looking
11 for, and people, you know, are required to bid to that
12 product.

13 MR. WEISBERG: Q: In a similar vein, am I correct
14 saying that the independent reviewer did not reach any
15 conclusion that there was an inherent advantage to
16 projects that aggregated at 150 megawatts or slightly
17 above?

18 MR. HODGSON: A: The 150 to 300 was again the
19 requirement. It was the rules of the -- rules were
20 set out. That's the range that --

21 MR. WEISBERG: Q: No, I'm just saying the independent
22 reviewer did not conclude that there was any inherent
23 advantage in how the methodology was set up, that --
24 an inherent advantage given to projects that
25 aggregated at 150 megawatts or slightly above.

26 MR. HODGSON: A: I think the QEM was pretty spec- --

1 the QEM model was provided, and I think it was pretty
2 clear that if a bidder could be competitive with --
3 satisfying a requirement somewhere in that range of
4 150 to 300, they could be -- it could be a winner.

5 MR. WEISBERG: Q: And the design of the CFT did not
6 favour the assembly of projects or portfolios close to
7 150 megawatts, did it?

8 MR. HODGSON: A: I think you could run the MATT and you
9 could probably come up with scenarios where there was
10 -- you can see scenarios where a lowest NPV could be
11 at the lower range of that range, 150.

12 MR. WEISBERG: Q: But are you saying it favoured it or
13 it did not?

14 MR. HODGSON: A: We didn't provide a view on whether
15 there was a favouritism in that range. That was a
16 specified requirement.

17 MR. WEISBERG: Q: Did the independent reviewer conclude
18 that the QEM, as distinct from the CFT process
19 overall, was fair?

20 MR. HODGSON: A: Our reports speak for themselves.

21 MR. WEISBERG: Q: Thank you. Did you have any input or
22 involvement in what has been called a cost-
23 effectiveness analysis?

24 MR. HODGSON: A: No.

25 THE CHAIRPERSON: Two more questions, Mr. Weisberg.

26 MR. WEISBERG: Brownie points, Mr. Chairman. I will sit

1 down.

2 THE CHAIRPERSON: Thank you. We will take a 15 minute
3 break.

4 **(PROCEEDINGS ADJOURNED AT 3:49 P.M.)**

5 **(PROCEEDINGS RESUMED AT 4:04 P.M.)** **T18A**

6 THE CHAIRPERSON: Please be seated.

7 Mr. Craig, did you have questions?

8 MR. CRAIG: Yes, Mr. Chairman.

9 **CROSS-EXAMINATION BY MR. CRAIG:**

10 MR. CRAIG: Q: Good afternoon, Mr. Chairman, Panel.

11 Mr. Sorensen and witnesses, good afternoon. I'm not a
12 lawyer. I'm with the Commercial Energy Consumers as
13 an analyst working for them.

14 Mr. Chairman, I expect to be about a half
15 an hour and I hope to finish earlier than that and
16 I'll confine my questions to dealing with the fairness
17 and credit issues that I've been working on.

18 THE CHAIRPERSON: Thank you.

19 MR. CRAIG: Q: I wonder if -- there was an exhibit that
20 was put in yesterday. Mr. Sanderson helpfully did
21 that. It was an answer to question 118 which I
22 believe was part of the bidding process.

23 THE CHAIRPERSON: It's B-61.

24 MR. CRAIG: Q: These are the bidder Q and As. Exhibit
25 B-61 for the record. And do you have that in front of
26 you, Mr. Sorensen?

1 MR. HODGSON: A: I have it.

2 MR. CRAIG: Q: One of the panel members does.

3 MR. SORESENSEN: A: Yes.

4 MR. CRAIG: Q: All right. And I take it that as part
5 of the process you were present and observed as the
6 questions and answers were prepared as part of the CFT
7 process?

8 MR. HODGSON: A: Correct.

9 MR. CRAIG: Q: And you'd be familiar with this
10 particular question and answer, at least in general
11 terms?

12 MR. HODGSON: A: Yes.

13 MR. CRAIG: Q: And at the early part of it, it refers
14 to the CFT evaluation methodology being designed to
15 determine the most cost effective dependable capacity
16 having regards to the best interests of Hydro's
17 ratepayers?

18 MR. HODGSON: A: Yes.

19 **Proceeding Time 4:07 p.m. T19A**

20 MR. CRAIG: Q: And so could we characterize that
21 fairness, at least in part, might revolve around
22 ensuring that that objective is met? If there were
23 activities or processes in the evaluation that did not
24 lead to that objective, they might be unfair?

25 MR. HODGSON: A: What's the question there?

26 MR. CRAIG: Q: That the objective here is defined as to

1 be the most cost-effective, having regard to the
2 ratepayers' interests. And so if we have something
3 happening in the evaluation that does not deliver the
4 most cost-effective result, then that might be an
5 unfair part of an evaluation?

6 MR. HODGSON: A: Sure.

7 MR. CRAIG: Q: Yes? Good, thank you. And what I'd
8 like to is just stay at a generic level, and an
9 example was brought up that -- about that you were
10 committed to purchasing something, in this case you
11 used an example of a vehicle, a Cadillac and a
12 Volkswagen. And if the Cadillac was worth 50,000 and
13 the Volkswagen 30,000, and we were out to buy that,
14 and we were offering to make the down payment on that
15 of 25,000 from ratepayers' money, would that be fair?
16 Because we chose the Cadillac because its present
17 value was 25,000 versus 30,000?

18 MR. HODGSON: A: I don't know if that's an issue of
19 fairness. I don't quite know what you're getting at.

20 MR. CRAIG: Q: Would you be getting the right result?

21 **Proceeding Time 4:09 p.m. T20A**

22 MR. SORENSEN: A: It depends on the structure of the
23 decision of the competition. The right result.
24 Fairness is measured that the result that you receive
25 is in accordance with the criteria you set for the
26 competition. The competition may not produce a result

1 that is measured in cost-effectiveness, it may be
2 simply measured in some other descriptor, but the
3 fairness applies to arriving at the result, not the
4 characterization of the result.

5 MR. CRAIG: Q: Fair enough, but in this case, we know
6 that the result that we're looking to arrive at is a
7 cost-effective solution for ratepayers.

8 MR. SORENSEN: A: I'm sorry, I believe the CFT or the
9 decision says that the result in the Tier 1 was to
10 determine the lowest net present value of portfolios.

11 MR. CRAIG: Q: Yes, and that appears in other places,
12 but this question and answer was delivered to bidders
13 in the process, correct?

14 MR. SORENSEN: A: Yes.

15 MR. CRAIG: Q: And so they had an expectation that what
16 was in this set of terms should have meaning in the
17 process, correct? And you would have been reviewing
18 to see --

19 MR. FULTON: We need to have an audible answer on the
20 record, Mr. Chairman. We've now had two nods, and
21 nothing vocal, so --

22 MR. SANDERSON: We also need to fairly state the
23 questions. The quote that Mr. Craig keeps referring
24 to says this. "The ratepayers' best interests are
25 addressed by selecting the lowest net portfolio cost."
26 The witness just said that's what he understood the

1 objective was, was to minimize the net present value,
2 the net portfolio cost. Then Mr. Craig went on and
3 said, "Yeah, but the bidders would have understood..."
4 and referred only to the first half of the sentence.
5 If he's going to do that, he's got to refer to the
6 whole sentence, and give the witness an opportunity to
7 fairly respond.

8 MR. CRAIG: And I do intend, Mr. Chairman, to go on
9 further to dealing with the net present value further
10 on, but I was looking to build an understanding that
11 the objective here was to evaluate the most cost-
12 effective solution in terms of the best interests of
13 the ratepayers. And that -- I don't think that's an
14 unfair question for them to confirm that that's what
15 was written here, what was given to bidders, what they
16 would have evaluated as the top level objective.

17 MR. HODGSON: A: You've referred to question 118.

18 MR. CRAIG: Q: Yes.

19 MR. HODGSON: A: So can you refer specifically to this?
20 Because I'm having a hard time kind of making
21 analogies with car purchases and stuff.

22 **Proceeding Time 4:12 p.m. T21A**

23 MR. CRAIG: Q: In this case I was looking at the assets
24 of the buyer, and in this case they would be the
25 assets that have value to the ratepayers, and this
26 test goes to whether or not we're getting the most

1 cost-effective solution for the ratepayers. And we
2 take assets that have value to the ratepayers and use
3 them to make a down payment against the purchase of an
4 asset, which ends up then making that asset cheaper
5 than another alternative. And I'm asking whether or
6 not that would be fair. In terms of this objective,
7 does it get you the most cost-effective solution?

8 MR. HODGSON: A: Question 118 deals with how this is
9 really considered an adder in the portfolio
10 evaluation. And in terms of -- we did review this
11 memo, this question 118, and we're comfortable with
12 it. It fits within our overall findings of a fair and
13 competitive process.

14 MR. CRAIG: Q: Okay, so can I get an answer to the
15 question in the example that you raised and I've added
16 something to?

17 MR. SORENSEN: A: The determination of the lowest net
18 present value portfolio in this case, using the
19 portfolio adder with respect to the VIGP credit, was
20 applied as the criteria was set forward, and that
21 determined the winning portfolio, which was therefore,
22 in our view, a fair result.

23 MR. CRAIG: Q: Okay, with due respect, this does deal
24 with more than just the VIGP assets. It deals in the
25 second or third line down with the net present value
26 of the tenders compared on the cash flows to and from

1 B.C. Hydro, and it lists a number of items that are
2 adjusted. So we're not dealing with just one item.
3 This goes to a number of general things about the
4 evaluation process, does it not?

5 MR. SORESENSEN: A: I believe if I could characterize
6 this response on November the 26th, 2003, this had the
7 effect of describing to bidders what became the
8 detailed quantitative evaluation methodology, and how
9 the models would work, yes.

10 MR. CRAIG: Q: And there are other documents that are
11 part of the process that are complementary to this.

12 MR. SORESENSEN: A: Yes.

13 MR. CRAIG: Q: So

14 **Proceeding Time 4:15 p.m. T22A**

15 MR. CRAIG: Q: So if in the process of your review of
16 the application of one of these items, you found that
17 ratepayer's assets, in this case cash, was being used
18 to make a down payment on the purchase of an asset
19 such as the example I gave, and it produced a lower
20 net present value in the evaluation versus the other
21 one, is that fair in terms of getting the best
22 interests of the ratepayers?

23 MR. SORESENSEN: A: I don't believe our scope dealt with
24 the interest of the ratepayers. Our scope dealt with
25 the fairness of the competition to determine the
26 lowest net portfolio value of bidders.

1 MR. CRAIG: Q: So can I take it from that that you
2 dealt purely with the process as it was laid out and
3 your only concern was did that get applied fairly?

4 MR. SORENSEN: A: Yes.

5 MR. CRAIG: Q: And you didn't deal with the substance
6 of any of the items in the evaluation process?

7 MR. SORENSEN: A: Only to the extent to understand how
8 they were going to be applied within the model. By
9 example, we made no evaluation or valuation of any of
10 the values that Hydro selected. We understood where
11 they would come from and how they would be applied at
12 the model.

13 MR. CRAIG: Q: Right. So I'm going to restrict myself
14 to just how these things are applied. And I had
15 understood from Ms. Hemmingsen that in fact she had
16 reviewed the substance of some of these things with
17 you and she indicated that it was her view that it was
18 -- that she considered part of her concerns about
19 ensuring that they were fair as having been partly
20 dealt with by having reviewed them with you, and I
21 took that to be in substance.

22 Let me just turn now to the VIGP
23 transaction. Now, would you agree with me that there
24 are three parts to that transaction? And let me
25 explain them. There's first of all the transfer of
26 assets from B.C. Hydro to the proponent electing to

1 use the VIGP assets, is that correct?

2 MR. SORENSEN: A: Yes.

3 MR. HODGSON: A: Yes.

4 MR. CRAIG: Q: And that would create a receivable and
5 be a deduction of assets on B.C. Hydro's books.

6 MR. SORENSEN: A: Are you looking for an accounting
7 opinion?

8 MR. CRAIG: Q: Is somebody on the panel familiar with
9 accounting?

10 MR. SANDERSON: Well, they may well be familiar with
11 accounting given the organization with which they are
12 associated, but that's not what they are tendered for.
13 They are tendered to talk about the independent review
14 that they conducted.

15 MR. CRAIG: Yes, Mr. Chairman, but they are supposed to
16 be able to tell whether or not the application of
17 these things has been properly done, so I think, you
18 know, it's a fair question to ask.

19 MR. CRAIG: Q: But if you can't answer it, that's fine,
20 I'll leave it with you as something that you can
21 assume would be part of that transaction.

22 It's not a question that the panel can
23 answer?

24 MR. HODGSON: A: Again, I don't know, are we referring
25 to this question 118?

26 **Proceeding Time 4:19 p.m. T23A**

1 MR. CRAIG: Q: Well, yes, I'm exploring in the
2 determination of the net present value around the
3 application of how we handled the VIGP assets, whether
4 or not this was properly handled. And it's your
5 assertion that it has been, and B.C. Hydro's assertion
6 that it has been, and I want to explore that with you.

7 MR. SANDERSON: Well, Mr. Chairman, first of all, if what
8 Mr. Craig wants to address with this panel is their
9 view as the independent reviewers with respect to that
10 aspect of the process, fine.

11 To the extent that he wants to talk about
12 the accounting treatment, I mean the way he's
13 characterized it in his questions is simply not what
14 happened from a physical asset point of view. What
15 got transferred is -- or what will be transferred is
16 not assets at all, but shares. It wasn't an asset
17 sale, it was a share sale. So first of all,
18 fundamentally it's different than has been posited in
19 the question.

20 I don't know the extent to which these
21 gentlemen actually know the precise structure of that
22 transaction. So I doubt very much this is the right
23 panel to get it straight, because I think you may have
24 two people, neither of whom actually are totally
25 familiar or sufficiently familiar with the actual
26 structure of the transaction. I may be wrong. I may

1 be selling the witnesses short. They may have more
2 familiarity than that. But their role, as I
3 understand it, was more the independent review
4 process.

5 MR. CRAIG: Mr. Chairman, I'm not interested in the
6 structure of what may actually happen. I'm interested
7 in the principles. And I'm not really interested in
8 the accounting. It's just helpful if it can be
9 followed that way, and I have a witness aid that I'll
10 offer in to assist in that. I'm really interested
11 just in the component transactions. So I'll move on
12 to just confirm the component transactions and then
13 look for how they've been applied.

14 THE CHAIRPERSON: Mr. Craig, I think you're very quickly
15 going to find that you're asking questions of the
16 wrong panel. But put your witness aid to the panel,
17 but I do think that this needs to come to an end very
18 soon because I think you're pursuing a line of
19 questioning with this panel that this panel isn't
20 prepared to answer. Nor is that their function.

21 MR. CRAIG: All right, I'll try a few more questions
22 around the application, and if it's going nowhere then
23 I'll back off, Mr. Chair.

24 THE CHAIRPERSON: I would suggest that you do that.

25 MR. CRAIG: Q: The other components of the VIGP
26 transaction, apart from the asset transfer, are the

1 payment for the assets that B.C. Hydro receives. Is
2 that correct?

3 MR. HODGSON: A: Correct.

4 MR. CRAIG: Q: And then there's a charge from the
5 proponent for the electricity supply that they've
6 offered?

7 MR. HODGSON: A: That's part of the equation.

8 MR. CRAIG: Q: Right. So it's those three components.
9 And when I'm looking to see if those have been
10 followed through into the evaluation, I can track
11 through the charge for the electricity into the
12 capital charge and O&M charge that's part of the
13 evaluation?

14 MR. HODGSON: A: Sorry, you said you could?

15 MR. CRAIG: Q: I can, and presumably if you're viewing
16 that this has in fact been carried out, you too would
17 see that the evaluation has accommodated that piece of
18 the transaction?

19 MR. HODGSON: A: The QEM was pretty explicit in that
20 regard.

21 MR. CRAIG: Q: Right. And the payment for the assets
22 is followed through in terms of the VIGP credit, 50
23 thousand -- 50 million for the transfer of the assets?

24 MR. HODGSON: A: Yes, that was applied at the portfolio
25 level.

26 MR. CRAIG: Q: What I'm looking for is where is the

1 transfer of the assets as a transaction as part of the
2 flows of value from B.C. Hydro to the proponent?
3 Where does that come into the evaluation? I don't
4 find it there.

5 MR. HODGSON: A: QEM is a discounted cash flow model.
6 Looking at cash, cash flow.

7 MR. CRAIG: Q: And so when an asset is transferred, you
8 don't consider that part of what you would evaluate in
9 discounted cash flows?

10 MR. HODGSON: A: Again, I'm not answering this from an
11 accounting perspective, but --

12 MR. CRAIG: Q: No.

13 MR. HODGSON: A: -- it sounds like you're talking about
14 a balance sheet issue as opposed to --

15 MR. CRAIG: Q: I'm only interested in the fairness of
16 application here. So you're reviewing whether or not
17 this has been fairly applied.

18 **Proceeding Time 4:23 p.m. T24A**

19 MR. HODGSON: A: We understood the rationale for the --

20 MR. CRAIG: Q: For the credit.

21 MR. HODGSON: A: For the credit.

22 MR. CRAIG: Q: Yes.

23 MR. HODGSON: A: Both salvage value and the 50 million.
24 So the 20 -- 50 million -- 20/14. So we understand
25 the rationale for that quantum.

26 MR. CRAIG: Q: Okay.

1 MR. HODGSON: A: And we understand that the rationale
2 for its inclusion in the determination of the value of
3 the portfolio.

4 MR. CRAIG: Q: Yes, and I do too. I'm just looking for
5 where does this transfer of assets show up in the
6 evaluation.

7 MR. OLIVER: A: Are you looking -- are you talking
8 about the 50 million that a bidder would pay to buy
9 those assets? Is that what you're referring to, where
10 that would show up in their bid?

11 MR. CRAIG: Q: Well, this says that the NPV of each
12 portfolio tendered would be compared on the cash-flow
13 basis to and from Hydro, relative to these issues.
14 And we've just agreed that there are three parts to
15 the VIGP transaction, two of which we've both agreed
16 show up in the evaluation, and the third one that I
17 can't find in the evaluation.

18 So I'm wondering if -- and I think I can
19 just leave it at this. If you as a reviewer have
20 looked at it at that level, and if you have thought
21 about whether or not all of the components of that
22 transaction have been brought through into the
23 evaluation. And if you haven't, I think it's fair
24 just to say you haven't. I can take the rest up with
25 another panel.

26 MR. OLIVER: A: Well, we're comfortable with the

1 treatment in the -- we're comfortable with the QEM,
2 and we're comfortable with the determination of the
3 net present value, the portfolio level.

4 MR. CRAIG: Q: Well, then, I would take it if you're
5 comfortable, you should also be comfortable with this
6 third component, the transfer of the assets as part of
7 the flows that were evaluated. And I don't see that
8 they're there.

9 MR. OLIVER: A: Well, that's a question of -- I was
10 raising. The transfer of the asset, are you talking
11 about if a bidder pays \$50 million to buy that asset?

12 MR. CRAIG: Q: Yeah.

13 MR. OLIVER: A: That -- those dollars is what you're
14 looking for?

15 MR. CRAIG: Q: No. The dollars that Hydro receives for
16 that, we've already agreed, show up as the credit,
17 right? The credit for the asset transfer. But there
18 are assets that leave B.C. Hydro's books.

19 If B.C. Hydro gave \$50 million of land to a
20 proponent, that should show up in an evaluation,
21 correct?

22 MR. OLIVER: A: This is -- again, the QEM is a
23 discounted cash flow. We're looking at cash. We're
24 not looking at a balance sheet here. We're not
25 looking at a balance sheet of B.C. Hydro. They've --
26 they're --

1 MR. CRAIG: Q: So if there were no cash transactions at
2 all, and they -- the value's simply transferred in
3 terms of assets, then you're comfortable that that
4 gives a fair result to the ratepayers' best interests.
5 Because it only deals with cash. Is that what I take
6 from your evidence?

7 MR. SORENSEN: A: The results of the quantitative
8 evaluation, the running of the portfolios, the tenders
9 and the portfolios through the respective
10 spreadsheets, resulted in a portfolio with the lowest
11 net present value. And that result has been, in our
12 view, fairly arrived at.

13 MR. CRAIG: Q: Correct. And I'm now investigating a
14 statement that was just made, that the valuation only
15 dealt with cash, as it is anticipated to move, and did
16 not deal with the movement of values, assets, that
17 might be moved. And I'm asking whether or not you as
18 the independent reviewer are comfortable that that
19 gives values, net present values, that are in the
20 ratepayers' best interests. Professionally. I want
21 to know, are you professionally comfortable with that
22 statement.

23 **Proceeding Time 4:27 p.m. T25A**

24 MR. HODGSON: A: Again, not -- we're not commenting
25 from an accounting standpoint here, but from a cash
26 flow standpoint we're comfortable with the

1 representations. There's a salvage. The salvage
2 value is determined as moving the asset outside of
3 B.C. Hydro and that's been identified in the QEM.

4 MR. CRAIG: Q: You've moved me to a question that I
5 didn't ask. Are you comfortable that the net present
6 value evaluations being used here should only be
7 dealing with cash flow? That's what I heard you tell
8 me; and that they should not deal with any value
9 transfers in the form of assets that are not cash? Is
10 that -- as a professional independent reviewer, are
11 you comfortable that that gives you the best interests
12 of the ratepayers and the most cost effective
13 solutions?

14 MR. HODGSON: A: I think I'll defer to the fact that we
15 are not commenting on cost-effectiveness decision in
16 the day. We looked at the --

17 MR. CRAIG: Q: That's fine. I don't want to press the
18 point. If you're not comfortable to even offer an
19 opinion on it, let's just leave it like that.

20 MR. HODGSON: A: We're comfortable with the response to
21 question 118 that B.C. Hydro provided.

22 MR. CRAIG: Q: Yes, I understand that, but I'm trying
23 to test that and explore it and I think Mr. Chairman,
24 it's a reasonable question. I don't think I can go
25 any further with the panel on this, so I'll move on.

26 THE CHAIRPERSON: Please.

1 MR. CRAIG: Q: When, as part of the evaluation, there
2 are assets transferred, the VIGP assets, and there's a
3 contingency with respect to them as to whether or not
4 Hydro may be able to deliver them relative to their
5 relationship to ratepayers, which we've agreed is the
6 primary test here for fairness, are you comfortable
7 that those should be included when there's a
8 contingency that they may not be a part of the
9 ratepayers' concern? So we have cash flows involved
10 here but there's a contingency.

11 First of all let me ask, did you consider
12 the question of the contingency related to VIGP
13 assets?

14 MR. HODGSON: A: Sorry, what contingency? What are you
15 specifically referring to?

16 MR. CRAIG: Q: The contingency that they are yet to be
17 determined as to how they will be disposed of from the
18 B.C. Hydro deferral accounts, as to whether or not
19 those will be the responsibility of ratepayers or
20 whether or not those will be the responsibility of
21 shareholders in a write-off.

22 MR. HODGSON: A: That's outside of our scope. I really
23 don't know.

24 MR. CRAIG: Q: Outside of your scope, okay. If there
25 are, among these items in the NPV, items that have --
26 are being applied in the evaluation to give credit to

1 a particular proponent, and the inclusion of those
2 assets does not -- or the inclusion of those credits
3 does not recognize that those assets have in fact been
4 promised to somebody else, is that something that you
5 considered?

6 MR. HODGSON: A: Can you provide a specific example?

7 MR. CRAIG: Q: Yes. If the values or some of the
8 values in the energy margin are values derived from
9 sources that otherwise might have had those values
10 promised to ratepayers through the Heritage contract,
11 is this something that's also outside of your scope,
12 that you wouldn't have considered that?

13 MR. HODGSON: A: Yes. Yes, outside of our scope.

14 MR. CRAIG: Q: Okay. Mr. Chairman, I think I'm best to
15 take these up with the last panel and move on. I
16 don't think from the independent reviewer's point of
17 view any of my issues have been within their scope.

18 Thank you, Mr. Chairman.

19 MR. SANDERSON: Mr. Chairman, in agreeing with Mr. Craig
20 with respect to this panel, I don't want to be taken
21 to accepting that some of the questions he had belong
22 with Panel 4. It seemed to me a lot I heard were QEM
23 questions. He asked them to Panel 2. I'll be
24 objecting if they get repeated to Panel 4.

25 We don't need to debate that now, but I
26 just want to put that on the record and give Mr. Craig

1 fair warning I have not agreed that anything that
2 wasn't dealt with here should be dealt with on Panel
3 4.

4 **Proceeding Time 4:31 p.m. T26A**

5 MR. CRAIG: Well, Mr. Chairman, I think my following up
6 on these issues is helpful to the record and to the
7 Commission, and I will do my best to cover them with
8 respect to how they apply to cost-effectiveness, and
9 if they are not found to be useful to the Commission
10 I'll abide by the Commission's ruling.

11 THE CHAIRPERSON: Well, I will -- just so that you are
12 forewarned, I will accept Mr. Sanderson's comment that
13 the fact that you didn't get the answers that you were
14 looking for from this panel, that doesn't necessarily
15 mean that Panel 4 has an obligation to answer them
16 either.

17 MR. CRAIG: No, I'm aware that each time there will be
18 different rulings as to what's appropriate and what
19 isn't. I'm only hoping to help the record with what I
20 think are important issues.

21 THE CHAIRPERSON: Thank you.

22 Mr. Andrews?

23 MR. ANDREWS: Thank you, Mr. Chairman and Madam
24 Commissioner. Mr. Chair, I acknowledge that your
25 practice has been to ask counsel how long they intend
26 to be in cross-examination and then to impose that

1 time estimate as a requirement. For the record, I
2 have objected to the prior imposition of time limits
3 on cross-examination, and that matter is subject to a
4 request for a determination.

5 So having expressed my objection in
6 vociferous terms, I estimate I'll be less than half an
7 hour.

8 THE CHAIRPERSON: Thank you.

9 **CROSS-EXAMINATION BY MR. ANDREWS:**

10 MR. ANDREWS: Q: Mr. Oliver, you gave an example of
11 Duke Power call for tenders or request for proposals
12 project that involved a peaker plant. Do you recall
13 that?

14 MR. OLIVER: A: Yes. They were looking for peaking
15 resources.

16 MR. ANDREWS: Q: They were looking for peaking
17 resources. And is what they were looking for a 25-
18 year term?

19 MR. OLIVER: A: My recollection was it was 20 -- 20 to
20 25 years or 20 years, in that range, though.

21 MR. ANDREWS: Q: When you said, based on your knowledge
22 of the industry, would you say that new contracts for
23 capacity by utilities are uniformly of a 25-year
24 duration, or is a variety of different terms?

25 MR. OLIVER: A: There's a variety of different terms,
26 but if we're talking about new green field projects,

1 you're generally talking in the range of 20 to 30
2 years depending on the type of resource.

3 MR. ANDREWS: Q: Thank you.

4 I'd like to direct your attention to
5 Exhibit B1, the report on the CFT, Appendix B, the CFT
6 issued October 31, 2003, page 21, Section 18.17 titled
7 "Non-Compliant Tenders". And perhaps to save time
8 I'll just -- and to perfect the record I'll read it
9 while you're assembling it there. It says:

10 "Non-Compliant Tenders: All tenders that
11 are incomplete in any material respect or
12 that contain material amendments,
13 modifications or conditions that are not
14 authorized by this CFT, including
15 amendments, modifications or conditions to
16 the specified form of tender or final form
17 agreements, or that otherwise do not conform
18 in a material respect to the requirements of
19 this CFT, will be rejected. B.C. Hydro
20 reserves the right to accept or reject in
21 its discretion tenders that contain non-
22 material omissions, amendments,
23 modifications or conditions, or that
24 otherwise do not conform to the requirements
25 of this CFT where such non-conformity is not
26 material. B.C. Hydro has the discretion to

1 determine what constitutes immaterial
2 omission, amendment, modification, condition
3 or non-conformity."

5 Proceeding Time 4:35 p.m. T27A

8 MR. SORENSEN: A: Yes.

13 MR. SORENSEN: A: Yes.

17 MR. SORENSEN: A: Criteria were established by the
18 respective committees, where this right may have been
19 exercised. And they were pre-established before the
20 receipt of either pre-qualification submissions or
21 tender submissions.

25 MR. SORENSEN: A: There were pre-established criteria
26 to be used for each of the committees, respective

1 committees, were established before the receipt of
2 pre-qualification submissions or tender submissions.

3 MR. ANDREWS: Q: And those committees were B.C. Hydro
4 committees.

5 MR. SORENSEN: A: Yes.

6 MR. ANDREWS: Q: And did you review those criteria?

7 MR. SORENSEN: A: Yes.

8 MR. ANDREWS: Q: And are those criteria in the record?
9 Of this proceeding?

10 MR. SORENSEN: A: Yes, I believe the evaluation
11 criteria of each of the committees was filed. Are we
12 on this --

13 MR. ANDREWS: Q: Specifically, is it -- specifically,
14 are there -- is it your recollection that there were
15 evaluation criteria for Hydro's determination as to
16 initially (a) whether a bid was conditioned, or had --
17 contains a condition?

18 MR. SORENSEN: A: Yes. By example, the conformity
19 review committee that was effective at the tender
20 stage were going to evaluate the agreement information
21 form and that committee determined that the -- if
22 there were any material omissions or amendments,
23 whatever, they said they would then proceed and
24 exercise the right under here.

25 MR. ANDREWS: Q: So just so that we're clear, this
26 18.17, section 18.17 is a two-part process. First, a

1 finding is made that there is a condition, or
2 amendment, whatever, and then secondly, in the second
3 sentence, B.C. Hydro has to determine whether to
4 accept or reject the tender, and you're saying that
5 the criteria said that Hydro would reject the tender
6 in any circumstance in which it concluded that the
7 first sentence had been met.

8 **Proceeding Time 4:39 p.m. T28A**

9 MR. SORENSEN: A: No. 18.7, in our understanding is,
10 it's a right. And as we -- in our terms, we looked at
11 what is the standards or the criteria that an
12 evaluation committee might utilize in exercising that
13 right, and as we indicated in our final report in the
14 Appendix B, where we said one of the key fairness
15 principles and practices was pre-established
16 evaluation criteria or pre-evaluation decision
17 criteria. And by specific reference in our final
18 report, on the -- on page 8 of the final report of
19 October 29th, 2004, by example to your question, the
20 second bullet, (d) and then the second bullet.

21 "Committee evaluation and clarification
22 questions. All tenders were reviewed by the
23 CCR committee..."

24 and I'll skip down to the third sentence.

25 "As a result of the completeness and
26 conformity review, requests for

1 clarification were sent to three bidders to
2 provide their clarifications within 24
3 hours."

4 I believe that gives effect to the second
5 sentence. At their discretion, they could ask bidders
6 for information, clarification, and what-not. And the
7 -- further on, it goes on to deal with -- they
8 recommended that there was a material qualification,
9 and they had indicated in their setting-up of that
10 committee's work what they felt were material and
11 would not be material, and accordingly that committee
12 exercised the three sentences within that section.

13 (a) they recommended rejection, which was accepted;
14 they sought clarification; and they established at
15 their determination what was material and what was not
16 material.

17 MR. ANDREWS: Q: And I have a number of clarification
18 questions arising; the first being, I think at the
19 beginning of your response you referred to Section
20 18.7 --

21 MR. SORENSEN: A: 17, sorry.

22 MR. ANDREWS: Q: -- that would be -- 17, thank you. I
23 guess I'm not totally clear what you're -- whether
24 you're saying that Hydro's criteria was that if they
25 made a determination that a tender contained a
26 material condition, then in all circumstances their

1 discretion would be exercised in a certain way,
2 namely, to reject the tender.

3 MR. SORENSEN: A: The first sentence I don't think
4 gives any discretion. It says if it is material, it
5 will be rejected.

6 MR. CENDER: A: But I think, just further to that, I
7 think the last sentence does give B.C. Hydro the
8 discretion to determine what is material and, as Mr.
9 Sorensen has stated, that discretion first happened at
10 the completeness and conformity review level, and then
11 those recommendations were brought to the project
12 management office, who then also had that discretion
13 to determine if something was material or not.

14 **Proceeding Time 4:43 p.m. T29A**

15 MR. ANDREWS: Q: And so, in the process of -- in
16 dealing with an example of a bid that was rejected
17 under this section, whose criteria was it that were
18 looked to to determine whether there was a material
19 condition? Are you saying that there was such a
20 criteria?

21 MR. CENDER: A: I think there were general guidelines,
22 but I think it was all a function of what was in the
23 tender submissions. So if the Review Committee saw
24 something that was clearly not compliant with the
25 rules and the requirements for the submission, then
26 they would deem that to be non-compliant.

1 MR. ANDREWS: Q: So there were no explicit written
2 criteria as to the criteria by which Hydro would
3 exercise the discretion set out in the third sentence
4 of 18.17?

5 MR. CENDER: A: My recollection is there were probably
6 general guidelines, but it probably was not possible
7 to envisage every possibility of non-compliance, but
8 there were guidelines.

9 MR. ANDREWS: Q: Were there guidelines specific to 18.7
10 -- 17? Now I'm going --

11 MR. CENDER: A: 18.7 is quite a broad statement, so;
12 but I think there were guidelines elsewhere in the CFT
13 as to what was required in the tender submission and
14 what wasn't.

15 MR. ANDREWS: Q: Then we're veering off the track here.
16 Were there guidelines applicable to Hydro's exercise
17 of its discretion set out in the third sentence of
18 Section 18.17?

19 MR. CENDER: A: I think for certain of the non-
20 compliance there were guidelines such as, as Mr.
21 Sorensen has said, if there was information that was
22 missing from a tender submission, like an agreement
23 information form, then there were clear-cut guidelines
24 that that bidder would have to be disqualified, just
25 as an example.

26 MR. ANDREWS: Q: And when you say "guidelines", do you

1 mean a piece of paper that says "Guidelines" at the
2 top? And if so, can you give me a reference? Or is
3 this on a more conceptual level?

4 MR. CENDER: A: There were documented procedures and
5 guidelines that were approved by the Project
6 Management Office prior to the receipt of tenders. So
7 it would have been a set of general guidelines.

8 MR. ANDREWS: Q: And is that set of general guidelines
9 in evidence?

10 MR. CENDER: A: Not to the best of my knowledge. There
11 were --

12 MR. SANDERSON: Mr. Chairman, I think -- I know I've been
13 looking for it but can't find an IR that summarizes, I
14 think, the guidelines. I stand to be corrected, but I
15 think what's in evidence is a summary of a series of
16 them, as distinct from the original documentation,
17 just from a point of view of voluminousness and
18 expedition. I can confirm that maybe at the next
19 break, but the IR that I'm thinking of. And then I
20 can confer with the witnesses to see if there's
21 anything more behind that than we've actually
22 produced.

23 MR. ANDREWS: Thank you. So shall I take that as an
24 undertaking to --

25 MR. SANDERSON: Well, yes, I'll do those two things.
26 I'll show Mr. Andrews where it is in the IRs, and then

1 I will confirm whether there's anything more and Mr.
2 Andrews can take it further or not as he sees fit.

3 I just want to make clear, Mr. Andrews
4 consistently, I think, has been referring to Article
5 18.17, and I think the witnesses have meant 18.17.
6 Mr. Weisberg has pointed out that both have said 18.7
7 at times, but I think everything on the record should
8 be .17 for the transcript.

9 THE CHAIRPERSON: Yes.

10 MR. ANDREWS: Yes, that is correct. 18.17.

11 **Proceeding Time 4:47 p.m. T30A**

12 MR. ANDREWS: Q: I'll move on then to a new topic here.
13 This topic has to do with the term. The term is
14 "resource bias". And it's my submission that there
15 are really two quite different meanings that various
16 people attach to the same term at different times.
17 One of the meanings is resource bias is a really bad
18 thing because bias is not good and resource bias is an
19 example of a really bad thing that shouldn't happen.

20 Another use of the term is resource bias is
21 merely what is merely the product, the fine-tuning of
22 the product that the purchaser defines, that if they
23 want to have a Cadillac then that may be a resource
24 bias against wind-powered vehicles, but there's
25 nothing wrong with it, it's a totally neutral
26 description.

1 Would you agree -- do you have a sense of
2 how you use the term "resource bias"?

3 MR. SORENSEN: A: I have no knowledge of a resource
4 bias. And if I may, I've struggled or been acquainted
5 with this word "bias" in many competitions, and it's a
6 label that is maybe misunderstood and I've had to come
7 to understand it myself. And I've sort of settled on
8 the notion that bias can have different descriptors.
9 You have what I might call policy bias, and by example
10 to me a policy bias in the context of this competition
11 might have been the statement of the Government of
12 British Columbia that there would be no nuclear power
13 within the scope of the CFT. That to me I'd call a
14 policy bias.

15 The next I'd call is a mandate bias. That
16 is where the organization that has the mandate and the
17 responsibility to conduct a competition is governed by
18 either its charter and its objectives to hold a
19 competition seeking products, and in that sense they
20 established the requirements for the competition.

21 The next level of bias within a competition
22 is really the execution or the procedural bias in the
23 conduct of the competition and in there might be
24 included personal bias relating to people
25 participating in it.

26 And from an independent reviewer's

1 perspective, our concern is, yes, assess the product
2 requirement and to understand what it is the product
3 and if there's consistency, i.e. all technologies
4 except nuclear are eligible; and was the construct,
5 the CFT, appropriate. And we offered a judgment on
6 October 29th, 2003 that it had an appropriate
7 foundation of processes and whatnot.

8 MR. ANDREWS: Q: And coming to the question --

9 MR. SORENSEN: A: Right. Our work then got to the
10 point of we were dealing with procedural fairness and
11 as it implicated, perhaps, the conduct or the people
12 involved in it. And the scope of the IR review, the
13 independent reviewer, was to judge the application of
14 B.C. Hydro's conduct at the competition.

15 Somewhere you have to accept the foundation
16 of what the foundation is out to seek. And so that's
17 my understanding. So I don't know where resource bias
18 fits in.

19 **Proceeding Time 4:51 p.m. T31A**

20 MR. ANDREWS: Q: It might help if I were allowed to
21 point you to what I'm after here. You gave three
22 examples of terms using -- compound terms using the
23 word "bias". You had "policy bias," "management
24 bias," and then you had a "procedural bias". And as I
25 understand the way you used those terms, the first two
26 are neutral, and the third one is improper. Is that

1 correct? There's nothing wrong with policy bias,
2 there's nothing wrong with mandate bias, but
3 procedural bias is not okay.

4 MR. SORENSEN: A: If the rules of the competition say
5 you shouldn't be biased, then -- and you set those
6 conditions, and you ask somebody to observe and say
7 did you have procedural bias, then it could be
8 negative.

9 MR. ANDREWS: Q: There have been a number of questions
10 about aspects of the CFT that it has -- that have been
11 felt to make it more difficult for some types of
12 resource to meet the criteria than for others, and in
13 particular Hydro taking the gas price risk. And that
14 has sometimes been referred to as "resource bias" in
15 the neutral sense. And I'm asking you whether -- at
16 this stage, I'm asking you whether the scope of your
17 engagement excluded, for example, examining whether
18 B.C. Hydro taking the gas price risk constituted the
19 kind of bias that you were looking at.

20 MR. SORENSEN: A: Yes.

21 MR. ANDREWS: Q: Thank you. You -- but among --
22 between and among you, you have had a lot of
23 experience with reviewing and reporting on the conduct
24 of Calls For Tenders and Requests For Proposals. Can
25 you give me an example where you have ever publicly
26 reported that a CFT or RFP was not conducted in a

1 fair, transparent or competitive manner?

2 MR. SORENSEN: A: I have -- the engagements I have been
3 participating in or involved in have always had a
4 positive report.

5 MR. OLIVER: A: And it's the same for me. We've been
6 involved in a number of competitive bidding processes,
7 but if the independent reviewer or evaluator is doing
8 their job, and you know, in raising, you know,
9 observing the process, and can head off potential
10 problems, that's what you try to do.

11 MR. ANDREWS: Q: So you would see it as your role to
12 keep the ship on track, to steer things toward the
13 direction that you would ultimately approve?

14 MR. OLIVER: A: Not necessarily. But you -- you know
15 -- let me give you an example with Portland General
16 Electric. You raised it -- okay, I can give you an
17 example of the issue about bias.

18 One of our roles as the independent
19 observer was to identify whether or not there was any
20 bias in the process. And in that case the utility had
21 their own project that they were bidding into the
22 process. So there was always the concern of whether
23 or not the utility would do something in the
24 evaluation to support their own project.

25 One of our roles, up front, was to identify
26 whether or not there was any bias in the criteria, the

1 evaluation criteria and the pricing analysis. And we
2 did find, you know, there was some biases actually
3 went in both directions. Some favoured their project,
4 some went in the opposite direction and made their
5 project more difficult to compete, given the time
6 frame the company was looking for.

7 We would raise that, in the process, if it
8 was -- if that was our role. And, you know, if that
9 criteria could potentially be adjusted or checked by
10 somebody through the process.

11 **Proceeding Time 4:55 p.m. T32A**

12 MR. ANDREWS: Q: And if you had raised a thought like
13 that, would your having raised it become public or
14 would you raise it and then it would be fixed before
15 there was any need to bring anything to the public?

16 MR. OLIVER: A: It's generally fixed. But you know,
17 it's really not -- the role is not say, "Thou shalt do
18 this". You are observing, basically, and raising
19 observations about the process.

20 MR. ANDREWS: Q: Well, that's where I was a bit
21 intrigued by your answer, because I thought originally
22 your role was strictly as observer and I took from
23 your answer that there was a certain element of trying
24 to keep the purchaser on track as well.

25 MR. OLIVER: A: No, in this case our role is as an
26 observer. In other cases I've been involved in it's

1 been a more active role. This is not -- you know,
2 there are a number of different processes or a number
3 of different functions that an independent evaluator
4 can provide, and processes that I've been involved in,
5 in some cases the role is more active. It really
6 varies, it depends on the process.

7 MR. ANDREWS: Q: And this, just to be clear then, this
8 is the type in which the role you played is the not
9 active, the not interventionist.

10 MR. OLIVER: A: It's more of an observer role. If you
11 want to --

12 MR. SORENSEN: A: That's true. It's an observer role,
13 but our engagement was, and I recall very clearly it
14 was that, if your final report or your report at any
15 stage would represent an action that B.C. Hydro took
16 that was not consistent with your rendering an opinion
17 that it was fair or transparent and competitive, we
18 would ask and we would expect you to advise so that
19 the process can be appropriately administered. And
20 most organizations that engage the independent review
21 function or process auditor function wishes a report
22 at the end of it which says it was done in accordance
23 with the rules that were set for it. And to that
24 extent.

25 But you used the word "approve". To get a
26 fair report does not imply that we approve and there

1 may be reports that say, "In our view or our finding
2 it was fair and transparent but it should be noted
3 that in this instance..." Then it becomes a question of
4 the reader and the user of the report to judge it
5 further. But that's sort of the mechanics of it.

6 MR. ANDREWS: Q: So your role included an element in
7 which you had an obligation to bring to B.C. Hydro's
8 attention that they were doing or proposing to do
9 something that could cause you to remark adversely on
10 it in your final report?

11 MR. SORENSEN: A: You mean, by example, on our final
12 report on page 17, Appendix B, there is our
13 methodology. There's sort of a chart that calls "The
14 Fairness Framework". Underneath that lies our
15 approach to doing our work. And when we did document
16 reviews and assessment, it was implied that we would
17 either find it acceptable or acceptable with comment.
18 So there was a -- if a document was in a state that
19 might invite a comment from us, we made B.C. Hydro
20 aware of it and they dealt with it.

21 When it came to performance of the
22 committees, we established very early that the report
23 could be a report that says, "Everything was done
24 well, done in accordance with the criteria," or "It
25 was done in accordance but we offer this comment."

26 So we also had the opportunity to intervene

1 if we felt there was an explicit expression of conduct
2 that really would render the result unfair.

3 **Proceeding Time 4:59 p.m. T33A**

4 It wasn't a process where, go ahead and do your thing,
5 at the end will tell you how you did. It was, in the
6 interest of the bidders and B.C. Hydro, was to ensure
7 that the end product was a fair product that was
8 determined in accordance with the rules that the
9 bidders submitted their submissions on.

10 MR. ANDREWS: Q: At the risk of pushing my time limits
11 here, does that not raise the dilemma that you thereby
12 become associated with the fairness of the process,
13 because you have an obligation to inform Hydro if you
14 perceive them to be leaving the fair path? And if you
15 were to ultimately conclude that they had left the
16 fair path, perhaps it could be said that you hadn't
17 warned them when you should have.

18 MR. SORENSEN: A: It's an excellent point and it's a
19 point that any independent reviewer -- and in our
20 case, that we were always conscious of maintaining our
21 independence. We were not hired to consult, to advise
22 or to suggest. It was to observe and to comment where
23 appropriate, and for Hydro to deal with it.

24 MR. ANDREWS: Q: Thank you. Those are my questions,
25 subject to, I guess, the information that may emerge
26 from counsel.

1 MR. SANDERSON: And I can help, I think, now. The IR
2 that I was thinking of is the response to B.C. Hydro's
3 1.19.2 -- sorry, to BCUC, yes, to BCUC's 1.19.2. The
4 question there was Report Number 4 at page 9 states:

5 "The Technical and Financial Subcommittees
6 established detailed evaluation guidelines
7 for all mandatory criteria. Please provide
8 a copy of these guidelines."

9 And then there's quite a lengthy response.

10 Now, whether this contains exactly what Mr.
11 Andrews was looking for, I'm not going to hazard a
12 guess. If it doesn't, then maybe he can let me know
13 and we can see whether there's anything we can produce
14 in addition that's useful to him. But at least I'd
15 suggest he start there.

16 MR. ANDREWS: Thank you. I'm quite content to adopt that
17 approach. It may mean that if there is some residual
18 question, that I would have to put it to this panel
19 and perhaps -- I don't know if there are other cross-
20 examiners after me and before Commission counsel. It
21 will take me at least a moment to --

22 MR. SANDERSON: Mr. Chairman, I have no objection to a
23 question limited to that. I do have objection to it
24 going any further. But if it's just to clarify
25 anything further he may need from that, that's fine.

26 MR. ANDREWS: So that I may have leave to ask questions

1 limited to that IR answer after Commission counsel, is
2 that what I'm understanding?

3 THE CHAIRPERSON: I have no concerns unless Mr. Fulton
4 does.

5 MR. FULTON: I do not, Mr. Chairman. The only caveat
6 that I would put on it is that if there's something
7 that arises from Mr. Andrews' follow-up cross-
8 examination, I'd like to reserve the right to follow-
9 up and preserve my position in last place.

10 THE CHAIRPERSON: That sounds fair.

11 | **Proceeding Time 5:03 p.m. T34A**

12 MR. FULTON: The only other cross-examiner that I'm aware
13 of at this point, Mr. Chairman, is Mr. Hill, other
14 than myself.

15 CROSS-EXAMINATION BY MR. HILL:

16 MR. HILL: Q: Just one fairly quick one. In the VIGP
17 decision, the section at the end there addresses the
18 conflict between the buyer and the proponent. I was
19 going to quote a little piece there.

20 "However, the Commission panel does
21 encourage B.C. Hydro to select an
22 independent reviewer as set forth Schedule A
23 Section 7.1, and have the independent
24 reviewer report to a Commissioner, who will
25 not sit on the panel, and that may be
26 required to hear an application for approval

1 of the selected resource addition."

2 Did this occur?

3 MR. CENDER: A: I think we've answered that question in
4 Gold River IR 1.5.6, as to that it did not occur and
5 why, so I would refer you to that response.

6 MR. HILL: Q: Okay. All right. Well, there's a little
7 saying that applies to the paying of pipers here. And
8 given the circumspect nature of the relationships
9 between accounting firms and their energy sector
10 clients, did this decision to tighten the relationship
11 between the buyer and the independent reviewer give
12 you any sense of unease that the perception of
13 independence might be jeopardized, if not the
14 independence itself?

15 MR. CENDER: A: Who are you directing that question to?

16 MR. HILL: Q: Whoever would like.

17 MR. CENDER: A: From a B.C. Hydro perspective, I don't
18 agree with your statement there was a tightening of
19 the relationship between the buyer and the independent
20 reviewers.

21 MR. HILL: Q: Okay, you don't see that the independent
22 reviewer reporting directly to B.C. Hydro versus the
23 Chairman on the panel is a tightening of that
24 relationship?

25 MR. CENDER: A: No, their conduct was -- would have
26 been no different. They had very clear-cut terms of

1 reference, and they acted independently, as Mr.
2 Sorensen has said, and didn't act as an advisor or a
3 consultant, so, I see no difference.
4 MR. HILL: Q: (inaudible) feel the same way?
5 MR. HODGSON: A: Just to clarify, we did not report to
6 B.C. Hydro.
7 MR. HILL: Q: You did not.
8 MR. HODGSON: A: I mean, all of our reports were
9 public.
10 MR. HILL: Q: Oh, okay. I was -- misunderstood, then.
11 I assumed that you were reporting to B.C. Hydro rather
12 than --
13 MR. HODGSON: A: Well, reporting infers that we're
14 receiving direction from B.C. Hydro and that -- we
15 operate as an independent reviewer.
16 MR. HILL: Q: Okay.
17 MR. HODGSON: A: We were independent.
18 MR. HILL: That's my question, thank you.
19 THE CHAIRMAN: Before we proceed, Mr. Sanderson, would it
20 be helpful for you to know whether or not we'll be
21 calling Panel 4 today?
22 MR. SANDERSON: It would be very helpful, Mr. Chairman.
23 THE CHAIRMAN: What is your preference? Bear in mind
24 that I do hope to be caught up by noon on Friday.
25 MR. SANDERSON: That's a Hobson's choice if ever there
26 was one.

1 I think, Mr. Chairman, just given the break
2 that will occur, and getting Panel 4 in, or whatever,
3 and I hear what you're saying, but I think it makes
4 more sense to start in on that tomorrow morning.

5 THE CHAIRMAN: Okay. So we will finish with this panel
6 today, and commence with Panel 4 at 8:30 tomorrow
7 morning.

8 Mr. Fulton?

9 **Proceeding Time 5:07 p.m. T35A**

10 **CROSS-EXAMINATION BY MR. FULTON:**

11 MR. FULTON: Q: Mr. Hodgson, I just want to pick up
12 with your last comment that you didn't report to B.C.
13 Hydro and as I read the addressee on all the PwC
14 letters, the addressee is B.C. Hydro. Am I misreading
15 those reports.

16 MR. HODGSON: A: No, that's true.

17 MR. FULTON: Q: All right, thank you. Now, I want to
18 just deal briefly with my understanding of the role of
19 the independent reviewer and how it may have evolved
20 over time, and if I begin with the terms of reference
21 which are at Tab B, Appendix 9 of Exhibit 1 -- B-1,
22 sorry, the first bullet which describes the roles --
23 and I'll wait until you arrive that point.

24 The first bullet that describes the role is
25 to review and report on the fairness of the CFT terms,
26 and I want to emphasize the word "terms" before issue

1 the initial report.

2 And first of all, does that reference to
3 the CFT terms include a reviewing and reporting on the
4 fairness of the EPA terms as well?

5 MR. HODGSON: A: We provided -- we looked at the EPA
6 terms and up to the release of that first report we
7 were providing observations on the terms of the CFT.

8 MR. FULTON: Q: Right. But do I include EPA under the
9 umbrella of the description CFT terms --

10 MR. HODGSON: A: Yes.

11 MR. FULTON: Q: -- in the first bullet.

12 MR. HODGSON: A: Yes.

13 MR. FULTON: Q: Okay. And then if I could ask you to
14 turn to the first report which is K-1, the report of
15 October 29th, 2003. Would you agree with me that the
16 initial report contains no comment on the fairness of
17 the CFT terms?

18 MR. SORENSEN: A: I think the intent definitely is
19 correct, that our view was that only by starting the
20 competition could you then observe and judge on the
21 fairness of the outcome and that it was -- that this
22 foundation is capable of producing a result that meets
23 the objective for a fair and transparent competition.

24 MR. FULTON: Q: Mr. Sorensen, I would like to go back
25 to my question and I thought it just required a short
26 answer, and that was whether or not you agreed with me

Proceeding Time 5:11 p.m. T36A

1 related to that point?

2 MR. SORENSEN: A: Yes.

3 MR. FULTON: Q: So that it was an engagement to provide
4 a review of the process from a fairness perspective,
5 is that correct?

6 MR. SORENSEN: A: Yes.

7 MR. FULTON: Q: Thank you.

8 I just have one other area that I wanted to
9 take you to, and that relates to the CFT document
10 itself, tab A -- or Schedule A, I'm sorry, and pages
11 -- sorry, I've got to check my reference there.

12 **Proceeding Time 5:15 p.m. T37A**

13 And actually it says, at tab B -- and I
14 want to discuss with you the clause 18.20 and 18.24.
15 Okay, and at the outset, would you agree with me that
16 the initial CFT process allowed the independent
17 reviewer to speak to the bidders?

18 MR. HODGSON: A: No. Initial term -- can you repeat
19 the question again, sorry?

20 MR. FULTON: Q: Didn't the original CFT process allow
21 the independent reviewer to talk to bidders in the
22 absence of a B.C. Hydro representative?

23 MR. CENDER: A: I could comment on that. That was
24 contained in Schedule A which was developed during the
25 time of the VIGP hearing. It was not actually part of
26 the CFT which was formally issued on October 31st,

1 2003.

2 MR. FULTON: Q: All right, thank you for that, Mr.
3 Cender.

4 Mr. Sorensen, you have told us that you
5 have had some 40 years as an independent reviewer.

6 MR. SORENSEN: A: No, I said 40 years of experience,
7 but in the last five years I've been actively involved
8 in the independent reviews.

9 MR. FULTON: Q: Okay, I'm sorry. In terms of your
10 experience with CFTs, is it a common provision in the
11 CFT to have a no-lobby provision?

12 MR. SORENSEN: A: My experience in both call for
13 tenders or other procurement approaches, RFPs or
14 whatever, it is a common provision that restrictive
15 communications are well-defined during the conduct of
16 the competition.

17 MR. FULTON: Q: Okay. Now, when you give that answer,
18 does that mean that there is no communication, or that
19 the communications are restricted in a way that's
20 allowed by the CFT?

21 MR. SORENSEN: A: They are allowed, as allowed and
22 instructed to the bidders during the conduct of the
23 CFT. There's normally a contact person through which
24 bidders must come.

25 MR. FULTON: Q: Okay. So can I take it from that
26 answer then that clause 18.20 would be an

1 extraordinary clause in terms of restricting bidder
2 contact with the independent reviewer?

3 MR. SORENSEN: A: No.

4 MR. FULTON: Q: It is a common clause?

5 MR. SORENSEN: A: Yes. The no lobbying. It is common
6 in many procurements that say, "Here's your process
7 for conducting," and then also, "Please," or "You
8 shall not lobby certain parties during the conduct of
9 it." They are generally found, from my experience, in
10 government-based tenders and contracts and they might
11 say, "You cannot conduct..." Conduct, sorry. "...contact
12 your member of parliament or senior officials of
13 government." Those are examples.

14 MR. FULTON: Q: Okay, well let's focus on the example
15 of bidder conduct then. Is a restriction in bidder
16 contact with the independent reviewer, an absolute
17 restriction of bidder contact with the independent
18 reviewer a common clause in your experience?

19 MR. SORENSEN: A: In my experience, yes.

20 MR. OLIVER: A: And I can support that. In the RFPs
21 and call for tenders we've been involved in, generally
22 the independent reviewer and the bidders have no
23 contact.

24 **Proceeding Time 5:19 p.m. T38A**

25 MR. FULTON: Q: Okay, and is that symmetrical then? Is
26 there also a prohibition, an absolute prohibition on

1 the contact with the person offering the -- or setting
2 out the tender, sending out the tender? In this case
3 it would be B.C. Hydro. Would there be a symmetry to
4 the prohibition? In other words, you couldn't contact
5 -- you couldn't make contact with either.

6 MR. SORENSEN: A: The bidder. The bidder would contact
7 the -- for example, B.C. Hydro through the contact
8 person.

9 MR. FULTON: Q: No, what I'm talking about, B.C. Hydro
10 contacting you.

11 MR. SORENSEN: A: Oh yes. B.C. Hydro is the -- in this
12 case was the client, or we were engaged by B.C. Hydro.
13 And we were to conduct our work for them.

14 MR. FULTON: Q: Okay, so it's an asymmetrical
15 prohibition.

16 MR. SORENSEN: A: Yes.

17 MR. FULTON: Q: Okay. Mr. Cender, do you know why the
18 change was made from the pre-VIGP decision document to
19 the clause -- to what eventually became clause 18.20
20 in the call for tender?

21 MR. CENDER: A: I believe we've answered that in and
22 IR, and as well, I believe, in a Q&A on our website.
23 I think the short answer is the view that it could
24 taint the impartiality of the independent reviewer if
25 they were exposed to bidders. I can't quote the IR
26 but I know it's the --

1 MR. FULTON: Q: Okay, and why would there be -- why
2 would there be that concern if there is an independent
3 reviewer? The independent reviewer is just reviewing
4 for process. Why would that concern exist?

5 MR. CENDER: A: I think the independent reviewer can
6 give us their own views, but I mean, one of the
7 reasons is that the bidders could lobby or try to
8 influence through their own particular interest in the
9 bidding process. But I think when we engaged
10 Pricewaterhouse, they strongly felt, because of all of
11 the opportunity for bidders to provide comments and
12 propose changes, and that they were going to have
13 access to all of our records and files, that they
14 didn't need that contact with the bidders as well.

15 MR. FULTON: Q: All right, so it was a result of a
16 recommendation made by Pricewaterhouse?

17 MR. CENDER: A: I wouldn't say that. I think it
18 evolved as a mutually desirable outcome given the sort
19 of, I would say, the unprecedented amount of input
20 opportunity for bidders in this particular process to
21 provide comments, to propose changes.

22 MR. FULTON: Q: And when you say it evolved, it evolved
23 after you retained Pricewaterhouse, or before.

24 MR. CENDER: A: I guess because -- it probably evolved
25 after because they were retained in late August and
26 there was a two-month gap before the CFT was issued.

1 several procedures and processes approved, of which
2 these were for the submission evaluation committees.
3 There were other ones for the completeness and
4 conformity review, which are not in this document.

5 MR. ANDREWS: Q: Ah. And is it your belief that the
6 ones that you just referred to are in evidence but we
7 just got the wrong one, is that the problem?

8 MR. SANDERSON: I don't know of any others besides those.
9 To cut to the quick here, if Mr. Andrews wants the
10 additional documentation that Mr. Cender's referred
11 to, we'll either refer to where it is in the record or
12 we'll produce it, whichever the case turns out to be.

13 MR. ANDREWS: Q: Thank you, as an undertaking that
14 would be quite acceptable.

15 **INFORMATION REQUEST**

16 THE CHAIRMAN: Thank you, Mr. Andrews. Mr. Fulton?

17 MR. FULTON: No further questions, thank you, sir.

18 THE CHAIRMAN: The panel has no questions, Mr. Sanderson.

19 MR. SANDERSON: No questions, Mr. Chairman, thank you.

20 THE CHAIRMAN: Thank you. We're adjourned unless -- I
21 was a little quick last night. Are there any other
22 matters before we adjourn until tomorrow morning at
23 8:30?

24 MR. SANDERSON: Just one procedural matter, Mr. Chairman.
25 You had set a deadline for responding to the
26 reconsideration request of GSX CCC of tonight. I have

1 provided Mr. Andrews with a copy of our response. I'm
2 not sure whether you want these motions all on the
3 record or not. And I haven't had a chance to talk to
4 Mr. Fulton. There isn't a mechanism to file them
5 electronically at the moment if they're in this
6 proceeding, unless we do it here. And so I'm just in
7 Mr. Fulton's hands as to whether you want to burden
8 the record of this proceeding with all the submissions
9 in the reconsideration application or not.

10 **Proceeding Time 5:26 p.m. T40**

11 THE CHAIRPERSON: I have a view of this if that's
12 helpful, Mr. Fulton. You can speak to it first.

13 MR. FULTON: Well, I do believe that the original
14 reconsideration application is an exhibit at this
15 point. So from a consistency standpoint, the others
16 should probably be there as well.

17 THE CHAIRPERSON: Yes, and Mr. Sanderson's point really
18 went to the logistics of filing, I think. I think you
19 need to file hard copies. However, I'm not going to
20 hold everyone to do doing that tonight. I think
21 what's necessary is they get to Mr. Andrews tonight,
22 and that can be done, I think, either in hard copy or
23 electronically. And then if copies are made available
24 to file in the proceeding, hard copies made available
25 to file in the proceeding tomorrow morning at the
26 commencement of proceedings, that will be adequate.

1 And then we will do the same at the end of the day on
2 Friday for Mr. Andrews.

3 So, Mr. Bois.

4 MR. BOIS: Yes. Invariably I come up at the end of hte
5 day.

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Proceeding Time 5:28 p.m. T41A

16 MR. BOIS: invariably I come up at the end of the day.

17 I just wanted to, for the record, yesterday
18 I referred to a *Vancouver Sun* article when I was
19 discussing with Ms. Hemmingsen a comment that was
20 attributed to her, or at least characterized as coming
21 from her. And I didn't have it at the time. I just
22 have copies for it. So I didn't ask that it be marked
23 as an exhibit, I'm just providing it for anyone's
24 reference. And I just wanted the record to reflect
25 that.

26 MR. SANDERSON: But not on the record, I assume.

1 MR. BOIS: No, no, I -- no, no, I didn't -- I don't want
2 it marked as an exhibit, I'm just putting it there.

3 The other point that I wanted to raise is, I
4 understand that B.C. Hydro has provided Mr. Andrews and
5 others some supplemental responses to IRs asked by Ms.
6 McClennan, and these are not part of the record. And
7 some of the questions I will have for Panel 4, or have
8 been asked in this -- either through this or have been
9 answered in some context, and I'm wondering whether Mr.
10 Sanderson should be filing this as evidence, at least
11 with respect to Panel 4. Or if he intends to record
12 these answers as part of the cross-examination.

13 MR. SANDERSON: Perhaps -- certainly not the former, but
14 perhaps the latter. And I -- Mr. Bois won't have
15 received the letter that covered that. But those were
16 an aid to the people who asked the IRs, and if Mr.
17 Bois got one, and it helps him, so much the better.
18 He can expect the answers from the witnesses that are
19 indicated there, but I have no intention of filing
20 that document itself as an exhibit.

21 THE CHAIRMAN: And I've accepted that.

22 MR. BOIS: Okay, that's fine. Thank you, Mr. Chair.

23 THE CHAIRMAN: Any other issues before we adjourn? We
24 are adjourned until 8:30 tomorrow morning.

25 **(PROCEEDINGS ADJOURNED AT 5:29 P.M.)**
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