



COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 1

Volume 55

Commissioner: Honourable Justice Richard LeBlanc

Monday

10 December 2018

CLERK (Mulrooney): All rise.

This Commission of Inquiry is now open. The honourable Justice Richard LeBlanc presiding as Commissioner.

Please be seated.

THE COMMISSIONER: All right.

All right, good morning.

MS. O'BRIEN: Good morning.

THE COMMISSIONER: Ms. O'Brien?

MS. O'BRIEN: Before we begin today, Commissioner, I'd like to seek an order entering the following exhibits.

THE COMMISSIONER: Yeah.

MS. O'BRIEN: Exhibits P-01536 to P-01547.

THE COMMISSIONER: Just one second there.

Go ahead.

MS. O'BRIEN: I'll repeat that. P-01536 to P-01547, P-01550 to P-01577, P-01580 to P-01584, P-01600, P-01637 to P-01640, P-01642 to P-01647.

THE COMMISSIONER: Okay.

MS. O'BRIEN: Thank you, Commissioner.

Our witness this morning is Edmund Martin, and I understand Mr. Martin would like to be sworn.

THE COMMISSIONER: If you could stand, Sir, please, and place your right hand on the Bible.

CLERK: Do you swear that the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. E. MARTIN: I do.

CLERK: Please state your name for the record.

MR. E. MARTIN: Ed Martin.

CLERK: Thank you.

THE COMMISSIONER: Okay.

Ms. O'Brien, when you're ready.

MS. O'BRIEN: Thank you.

MR. E. MARTIN: Yes.

MS. O'BRIEN: Mr. Martin, before we begin, I'm just gonna ask you a little bit about what you've seen of the Inquiry to date.

Have you had the opportunity to watch prior testimony?

MR. E. MARTIN: Yes, I have.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Probably half.

MS. O'BRIEN: All right, sometimes I will ask you specifically as we're going through the questioning, 'cause sometimes that can speed things along, if you've already heard from the witness.

With respect to communications with other witnesses, have you spoken to any of the witnesses presenting before the Inquiry about the Muskrat Falls Project – so not, you know, how's-your-family-type thing, but about the project since the Inquiry has been called?

MR. E. MARTIN: Not about the Inquiry. I've spoken to several people – certainly not – nothing about testimony. For sure. But, you know, when discussing things with them or chatting and talking about social, family things, it might come up, you know, have you been listening to the Inquiry or something like that, but that would be the extent of it, nothing about testimony.

MS. O'BRIEN: Okay.

Now, I do understand from your interview that you did have a meeting with Kathy Dunderdale after you had been initially interviewed by the Commission, but before Ms. Dunderdale was

interviewed by the Commission. Did you have a conversation with her?

MR. E. MARTIN: I did.

MS. O'BRIEN: Okay.

So I understand – you said to us previously that took place at her house, and you said it was one-to-two-hours long?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: And that was about the Muskrat Falls Project?

MR. E. MARTIN: That was primarily about schedule – Premier – or former premier Dunderdale was seeking to put together a timeline in her mind, and she thought it would be helpful if she could just ask me to walk through some of the times and say, for a bunch of work – you know, going back through things – so primarily went through timelines.

MS. O'BRIEN: Okay, but timelines for the Muskrat Falls Project?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And did you have any other conversations of that nature with any of the other witnesses that the Commission either has heard from or will hear from?

MR. E. MARTIN: Not about – not specifically about timelines, you know –

MS. O'BRIEN: I mean about the Muskrat Falls Project.

MR. E. MARTIN: The only other thing I would say that I've done a couple of times is maybe asked somebody else did they know the exhibit number of something, 'cause I found, when I was researching documents or trying to catch up on things, if I was spending an inordinate amount of time reading through documents, you know, a couple of times I've called to say: Do you know where this document is, have you seen it, can you just point me to it. That would be it.

MS. O'BRIEN: Okay, thank you.

I'd like to start with a few questions about your background. We do have – it's a very brief bio that we found in the documents. I'll ask Madam Clerk to bring it up, P-01536. It is at tab 3 of your binders, Mr. Martin, which is in volume 1.

It is a short document, but it may assist you. If we just go to page 2, please, Madam Clerk.

MR. E. MARTIN: I'm opening the binder. Could you please give me the reference again?

MS. O'BRIEN: Yes, sorry, tab 3.

THE COMMISSIONER: Binder 1.

MS. O'BRIEN: Volume 1, tab 3 and page 2. So it's part of a longer document, but your bio here is upfront, and it's not very long.

So feel free to reference that document if wish, Mr. Martin, but if you could please provide the Commissioner with an overview of your education and work history before you joined Newfoundland and Labrador Hydro.

MR. E. MARTIN: I sure will, but I'm still not where I should be in this document. So I have binder 1 of 6.

MS. O'BRIEN: Should be tab 3, page 2.

MR. E. MARTIN: I see. I have it.

So if I could – from an education perspective, I have a bachelor of commerce from Memorial University. In addition to that, I have masters in business administration with a major in finance and management of financial resources from the University of Calgary.

Career-wise, I had a short stint with a bank as my initial role. From there I joined Mobil Oil as a drilling rig accountant in Halifax, drilling offshore Sable. I continued there for a period of time on an onshore – more of an onshore role – both were onshore roles other than the fact that I travelled back and forth quite a bit. The second role there was what they call a materials and handling accountant in the yard there.

From there, I transferred to Calgary. I went into the audit group. Following the audit group, I had a stint with the treasury department with Mobil Oil as an analyst. Following that, I spent time out in Western Canada in regulatory affairs role. Following that, I transferred to St. John's into the Hibernia project, initially as the Canada-Newfoundland benefits person. From there, I assumed the role of project accountant for the GBS project and, Commissioner, you may or may not be aware of it, but the Hibernia project has the cement base and the topsides. It was the cement base that was the part of the project that I went out as project accountant on in the project.

Following that, I was asked to come back into the main office of the project, which covered both the topsides and the GBS, and I was asked to be financial advisor which, amongst other things, you know, somewhat of a troubleshooter for the project, handling things that the project manager would like to have handled in particularly sticky situations.

Following that, I was asked to go back to the GBS project. And I went back there as project business manager. And project business manager would not only have my previous role at the GBS reporting to that function, but also responsibility for cost, schedule, procurement, insurance risk, and all commercial activities, reporting to that project manager.

Following that, I returned back into the corporate office of HMDC – Hibernia Management and Development Company. And at that point, I took a planning and risk manager role. And from there I was promoted to chief financial officer of Hibernia with the additional responsibilities of general manager of lifting and transportation, which, in essence, is responsible for the helicopter base, the helicopters, the marine base, the tankers and the movement of crude and those types of things. So it was a dual role.

Following that, I assumed a role at Petro-Canada as a joint ventures and new developments manager. And in that role I was responsible for Petro-Canada's interests in Hibernia, Hebron, White Rose. I chaired the regional transportation steering committee, which was a, you know, a group of all companies on the East Coast who

were sharing tankers. I chaired that on behalf of the consortium.

I was on the board of Newfoundland and Labrador Transshipment Terminal as Petro-Canada's representative. And I was also responsible for new development potential in natural gas as well as the subsurface, you know, geophysical, geotechnical work, you know, for the exploration side of things.

Following that I assumed a role at Newfoundland and Labrador Hydro. And I can talk a little bit more about that as we get there. In addition, I was fortunate enough to be Canada's Energy Person of the Year in 2014. Alumni of the year at the School of Business at Memorial and I'm – family-wise I'm – my wife and I have been married for 40 years, we have four children, four sons, two daughter-in-laws and three grandchildren.

MS. O'BRIEN: Okay.

All right, just going back to some of your work experience, I understand – you said you had been CFO, I think, for HMDC, how many years were you in that position?

MR. E. MARTIN: I can't remember. You know, it was certainly a couple of years I guess. I don't have the dates in front of me on my résumé but I could provide that if necessary.

MS. O'BRIEN: Prior to joining Newfoundland and Labrador Hydro, was that your only experience in the C-suite as they say? As one of the CFO, CEO, that type of position?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

So that was a couple of years you think with HMDC as CFO. When you were the project business manager for the GBS for the Hibernia project, how long were you in that role approximately?

MR. E. MARTIN: Once again, I don't have my dates but I think it would be fair to say 18 to 24 months, in that time frame.

MS. O'BRIEN: Okay.

And prior to joining Newfoundland and Labrador Hydro you spent your last number of years with Petro-Canada. How many years were you with Petro-Canada?

MR. E. MARTIN: Four to five.

MS. O'BRIEN: Okay. Okay.

So I understand that you joined Newfoundland and Labrador Hydro in August of 2005, is that right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And you applied for the job, is that right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

So you went through a full interview process at the time?

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: Okay.

And would any elected officials have been involved in the interview process? Like, would you have been interviewed by anyone from, you know, from the Government of Newfoundland and Labrador, or would it just have been an internal to Newfoundland and Labrador Hydro process, in terms of the people who were interviewing you?

MR. E. MARTIN: Both.

MS. O'BRIEN: So who from government, for example, would have interviewed you?

MR. E. MARTIN: I went through two to three interviews with the board of directors and prior to completing the arrangement, I met with Premier Williams.

MS. O'BRIEN: All right.

And I believe we have in evidence your contracts and you – they're in the volumes but I just – I'm just going to bring up for the purpose

of you identifying them, Mr. Martin. We have two of them. The first one is dated July 21, 2005, P-01544, please Madam Clerk?

So I think Mr. Martin, you've had a chance to look at these previously when we were interviewed. But I understand that this was your first contract with Newfoundland and Labrador Hydro, is that right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, and P-01537. And this one is – it says first renewal, and then it's Nalcor, is the employer at this point and that was executed November 2, 2009. So would this be your second contract – employment contract?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Right, and I understand, but just to get you to confirm that these are the only two employment contracts that you had in your time with Nalcor Energy, or Newfoundland and Labrador Hydro until you left the position?

MR. E. MARTIN: That is correct.

MS. O'BRIEN: Okay, thank you.

So let's just start off with a general question. I mean, you were hired as CEO and president. How did you understand your role as CEO?

MR. E. MARTIN: Well from the CEO perspective, it was clear to me that the most important thing was to set the direction for the company in conjunction with the board of directors, and that's what I commenced to do. You know, I believe strongly in delegation to my direct reports, but only in the context of a clear framework, because without a clear framework, delegation results in anarchy.

So the first thing we did, we pursued that framework and in a brief summary, Commissioner, it was working with the organization to develop a, you know, an aligned vision for where we were going to go. We also worked as a company on what values that we wanted to describe to achieve that. Following that we set the goals for the company; following that we flowed objectives for each division from those goals, ensured there were performance

measures in place to measure that and had an annual or semi-annual review of how that was occurring each year.

So within that framework, people understanding the direction, at that point. There was significant delegation and the CEO role from there in is to monitor that as well as to be available for more difficult decisions, questions, things which do not have a clear answer as they come up through the organization.

I believe the CEO's role at that point is to step in and make sure that if you have to make, what I would call for instance, a – this is my terminology, Commissioner – a 55/45 decision, meaning that there's a series of things – puts and takes that have to be made – I believe the CEO needs to be involved in those important decisions, and that's where I would spend the majority of my time, following that.

In addition, the CEO role is up and out; by that I mean I'm dealing with the board of directors, dealing with the shareholder, dealing with the public and for the most part, that was structured so that I dealt with that for the most part to leave the actual vice-presidents and the staff at the company, you know, as free as possible to do what they were hired to do which was to execute the vision.

MS. O'BRIEN: Okay, thank you.

When you took on the position in 2005, did you have any concern that you didn't have any previous experience in hydro or in – with a utility?

MR. E. MARTIN: I think on the contrary. I think there, you know, there was experience. And the reason I say that, Commissioner, is that these large operating companies are – you know, there's two key things, you know: operating and capital. And I believe that's the skill set that has to come to the table in any of these types of roles.

And if I look at my situation as I came into Newfoundland and Labrador Hydro, you know, from a capital execution perspective – you know, Hibernia – the Hibernia platform and the Muskrat Falls dam, they have many, many similarities.

For instance, very quickly, if you look at the Hibernia platform, you go into a Bull Arm site; you carve out a site out of a greenfield area; you build a dry dock by digging in and checking geotechnical. You have a massive concrete structure with very complex design – rebar, concrete placement. You put a topsides on top of that which has, you know, complex machinery, producing machinery. You float it out; you drill, and you produce oil.

I look at that from the perspective and compare it to a Muskrat Falls type of arrangement. You know, you go in, you build a site in a greenfield area; you prepare the site to build a dam on with a similar geotechnical viewpoint. You build a very large concrete structure with rebar and such. And at the end of the day, you put in your turbines and generators and energy-producing, you know, equipment, and you start up and produce electricity.

So I think, from that perspective, I felt very confident in terms of the processes associated with that. That's point A.

Point B, from the operating side of the business – you know, when I went into Newfoundland and Labrador Hydro, I think a set of fresh eyes was helpful at that point. I look at operations in three key areas. You know, I look at it from a safety perspective, number one; number two, environmental excellence; and number three, asset management.

I won't go into the details, but in my tenure at Newfoundland and Labrador Hydro and Nalcor, we improved the safety performance by a greater than 90 per cent recorded performance measured. We improved our environmental performance by over 25 per cent and, most dramatically, asset management – when I entered Newfoundland and Labrador Hydro and assessed the state of the aging assets there and the investments that had been made in those assets over the previous 10 to 15 years, it was of great concern.

I thought the event that occurred, which has unfortunately been named DarkNL – I was surprised that didn't occur sooner. These assets were under-invested, substantially, for the age that they were. So, what we did, we commenced a deep asset management based on a 25-year

outlook for both CF(L)Co and for Newfoundland and Labrador Hydro; we dramatically increased the capital, and we started to pull those assets back into the shape they should be in at the years that they were under guidance.

So that's why I say I'm comfortable with the experience that I had and I had the good fortune of being involved in both capital and operating in my previous career, and I believe that's the relevant experience.

MS. O'BRIEN: Was there any parts of the job that were new to you, areas that you were coming into that you didn't have prior experience?

MR. E. MARTIN: You know, I, obviously, the technology – I would have more experience on the oil side with respect to the resource that drives the oil, obviously – oil and gas. And I knew the extraction of that, the reservoir, you know, technology and those types of things. I think, obviously, on the electricity side, water is the fuel, and electricity is a different concept, and those – and that side of the things, I would have had limited experience.

MS. O'BRIEN: Okay.

And what about working in, you know, a regulatory environment for energy planning – you know, meeting the long-term electricity needs of the province, that type of work that is very much a part of what Newfoundland and Labrador Hydro does. Would that have been a new area for you, as well?

MR. E. MARTIN: I would see that – I would not see that as a new area, particularly as a CEO. You know, the oil industry, it is highly regulated, as well, you know, between the C-NLOPB here in Newfoundland and Labrador – a joint body, both federally and provincially – the safety regulations, the producing regulations and every – all the other environmental regulations that cover off and offshore producing platform in particular, and I think I had – I felt comfortable that I was aware of dealing with regulatory bodies and how that should be handled.

That being said, from a utility perspective, with respect to a rate hearing and those types of things, I did not have experience in that area.

MS. O'BRIEN: Let's talk about the Energy Plan. P-00029, Mr. Martin, that's in tab 18 of volume 2 before you.

Now, the Energy Plan was released in September of 2007, and, I believe, it was almost a couple of years in the making.

Did you have any input or involvement into the creation of the Energy Plan?

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: Can you please describe that, just briefly, for the Commissioner?

MR. E. MARTIN: I would call it substantial. It was a provincial government-led document. When I first arrived, I was – and I think one of the things that attracted me to the role was Premier Williams's vision of where the province was currently and where it had to go, and he believed that we had tremendous energy resources, and he wanted to make sure, for, I think, one of the first times in our history, we applied ourselves to making sure we extracted those for the maximum benefit of the people of the province.

So in that context, I was engaged. Certainly, the Department of Natural Resources led the effort. The premier's office was heavily involved, as well as others.

My involvement – I brought expertise to the table in terms of, certainly, the offshore-oil perspective. I've also had experience in vision, you know, org-design issues, and those types of things. And from that perspective, I went to the table and participated. When I say substantially, I was a big part of it, but certainly there was others with as much or more.

MS. O'BRIEN: Can we go to page 22, please, Madam Clerk?

THE COMMISSIONER: Unfortunately, I think, in the exhibits – the long exhibits – you'll have to go to the screen.

MS. O'BRIEN: So this is page 22 here. I think we discussed this one in your interview: "We have already begun implementing one of the key initiatives of this Energy Plan" – and this is the paragraph that seeks – speaks about the creation of Nalcor, essentially.

Would you agree with me on that?

MR. E. MARTIN: I agree.

MS. O'BRIEN: Okay.

And so just want to understand how you viewed the Energy Plan from your position as CEO of Nalcor. So did – you know, did you review – did you view this document as a mandate for you carrying out your activities of Nalcor Energy?

MR. E. MARTIN: I think it was a portion of the mandate. The way I organized the methodology of running the company, this fit right into that because, from a Crown corporation perspective, the research that I had done, as well as the experience in other private-sector companies, my understanding was that, at the government level, the key elements there are to set policy, set direction and ensure that the framework of what's being achieved has to be defined, which is the Energy Plan. From there, the government enacts legislation to enable that, and that happened as well.

Within that legislation, it gives the framework that the board of directors is assigned responsibility to make it happen, to execute it. And the CEO is also appointed by the board but, in this case, under the act, as well as by the Lieutenant Governor in Council. And it's the board's responsibility to ensure policies are in place and procedures are in place and do those types of things – set the vision and direction of the company, assess the performance of the CEO.

And then, as you come into the company itself, into Nalcor, Nalcor is the day-to-day execution of those things. It's the running of the day-to-day operations and making sure that the resources and people are there to get it done on the ground.

MS. O'BRIEN: Okay.

I'm just going to just come back to the Energy Plan itself. The last sentence of this paragraph that I just pointed to you says: "The direction and mandate of this corporation" – that's Nalcor – "is further defined throughout this Energy Plan." So would you agree with that statement?

MR. E. MARTIN: I agree.

MS. O'BRIEN: Okay.

And coming from the Energy Plan, what was the mandate or direction given to you by the Energy Plan for the Lower Churchill Project?

MR. E. MARTIN: I would answer that the same way I just answered it. So I don't want to do that. Is there a more specific –?

MS. O'BRIEN: But specifically for the Lower Churchill Project, what was the direction or mandate for you coming out of the Energy Plan specifically with respect to the Lower Churchill Project?

MR. E. MARTIN: Well, it was clear that we were set up to lead the development of the Lower Churchill, and, by lead, I mean assume the responsibility for taking the policy directives of government and determining and offering information, analysis, recommendations on how best to develop the Lower Churchill. And depending on the way selected, whether it would be, you know, led by Newfoundland and Labrador, or whether it be handled by a third party, then we would manage that interest in whatever was decided.

MS. O'BRIEN: Okay.

Can we go to page 49, please, of this document next, Madam Clerk?

So this is one of the sections in the Electricity chapter, I do believe, and a section headed Labrador-Island Transmission Link. It says: "Connecting the Labrador and Island electricity systems is the most" cost "effective way to address many of the major issues affecting the Island system." And it goes on from there.

It does say: "Constructing the transmission link, and delivering Lower Churchill power to the Island, is a more cost effective alternative to an

isolated Island grid increasingly dependent upon oil-fired thermal power resources.” This is a conclusion, obviously, that’s stated there in the Energy Plan.

To your knowledge, what was that conclusion based upon?

MR. E. MARTIN: Analysis and numbers that were run – I can’t remember specifically, but I do know, principally speaking, if statements were made in the Energy Plan, you know, there were documentation and analysis to support it.

MS. O’BRIEN: Would that have come from Nalcor or Newfoundland and Labrador Hydro?

MR. E. MARTIN: It would depend. Some could come from government as well, depending on the topic.

MS. O’BRIEN: Okay.

Now, I understand, when I asked you that question previously – just one moment.

Do you recall being interviewed by me on the dates between July 31 to August 3, 2018? It was me and Mr. Learmonth –

MR. E. MARTIN: Yes, I do.

MS. O’BRIEN: – do you recall that?

So I did ask you about this exact sentence here in the Energy Plan, and I asked: Whose conclusion was this? Was this a conclusion coming from Nalcor or from government or both, and what was it based on?

And your answer was: This would have been – it would have come from Nalcor.

So at that time, I understood you to say that this was a conclusion that would have come out of Nalcor.

Is your answer different today, and if so, why?

MR. E. MARTIN: My answer is not different. I think you misinterpreted my response –

MS. O’BRIEN: Oh, okay.

MR. E. MARTIN: – because when you asked where this came from – where information came from, I was thinking in the broader perspective of the Energy Plan. It could – something could’ve come from somewhere else on a different topic. But if you’re speaking specifically about this, it would’ve had to have come from Nalcor.

MS. O’BRIEN: Okay, yes. And I was speaking specifically –

MR. E. MARTIN: I understand now –

MS. O’BRIEN: – of this.

MR. E. MARTIN: – yes, yeah.

MS. O’BRIEN: Okay. Thank you.

So – and is it – would it be fair to say that when ultimately the Muskrat Falls Project was sanctioned, it was sanctioned on that basis, and that being that it was the least-cost option for meeting the province’s electricity needs?

MR. E. MARTIN: Yes.

MS. O’BRIEN: Okay, and we’re gonna come back to that topic again shortly – the concept of “least cost.”

But before we do that I’d like to talk a little bit about the Decision Gate – what I understand to be the Decision Gate 1 decision. In – I’m not gonna bring up the Exhibit, but it has been entered at P-00025; I think that’s a news release. But in January of 2005, the Government of Newfoundland and Labrador, in partnership with Newfoundland and Labrador Hydro, issued a request for expressions of interests to – for proposals in the participation of the development of the Lower Churchill hydro resource.

Are you aware of that?

MR. E. MARTIN: Yes.

MS. O’BRIEN: Okay. And the deadline for submissions, I believe, was in March of that year, so just prior to you joining the Lower Churchill – or joining Newfoundland and Labrador Hydro.

I'm gonna bring up a presentation of – a Nalcor, Newfoundland and Labrador Hydro presentation about the expressions of interests; that's P-01315, please, Madam Clerk. It should be at tab 2, I believe, of your binder.

MR. E. MARTIN: Tab 2 of which binder?

MS. O'BRIEN: It should be volume 1.

THE COMMISSIONER: (Inaudible.)

MR. E. MARTIN: (Inaudible.)

Thanks very much.

MS. O'BRIEN: So this is a slide deck –

MR. E. MARTIN: I'm just not ready –

MS. O'BRIEN: Oh yeah, no problem.

MR. E. MARTIN: – excuse me, I'm just getting organized here.

MS. O'BRIEN: Oh, certainly.

MR. E. MARTIN: I'm fine.

MS. O'BRIEN: Okay, so this is a slide deck dated April 2006, and I think we've had a chance, I think, to look at it before. I'm just – I'm not gonna go through every slide of it, Mr. Martin, I'm just gonna take you through a few. If we go to page 5, please, Madam Clerk.

So this shows a schematic showing the "Project Gateway Process" that we're all fairly familiar with. Page 11, please, Madam Clerk.

So this talks about the "Purpose of This Meeting" which this slide deck was being presented, and that is for the "Section 1" part of the slide deck, to "Seek approval ... for PS1 Decision; Third party ownership ... vs. NL Led Project."

I understand that this would've been the Gate 1 Decision. Is that correct?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: All right. Thank you.

Now, who were you seeking approval from?

MR. E. MARTIN: The board of directors – period. That being said, we did – you know, it was – it's a big undertaking for the province and, you know, I would've ensured that the, you know, the premier and the minister and the province were totally on board.

MS. O'BRIEN: All right. So if we go to page 13, please.

MR. E. MARTIN: And I just did a check – I believe you're referring to the red page 13. Is that correct?

MS. O'BRIEN: Every time I give you a page number, Mr. Martin, it's going to be to the red page numbers in the top right-hand corner.

MR. E. MARTIN: Thank you.

MS. O'BRIEN: So here we see on this slide there is a – it shows where – what the short list of proposals were from the expression of interest process.

Were you, at all, involved in the evaluation of those expressions of interest?

MR. E. MARTIN: Not at the detailed level. But I would've reviewed the results with the people and agreed with proceeding, obviously, in the fashion that was recommended.

MS. O'BRIEN: Okay. Who would've been involved in the detailed analysis of the proposals?

MR. E. MARTIN: I can't remember the detail. I mean, I'd be depending upon Gilbert Bennett to lead that. I could make some assumptions who was involved (inaudible) that, but it would be best to ask Gilbert.

MS. O'BRIEN: No – so that's fair, but you're saying it would've been internal to Newfoundland and Labrador Hydro at this point –

MR. E. MARTIN: That's correct.

MS. O'BRIEN: – that activity would've been going on.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. Thank you.

Commissioner, I'm not – just for your reference – well, actually maybe I will bring it up just for a moment. Can we go to P-00026, please? This is a press release, Mr. Martin – August, 2005. It is actually at tab 1 of your binder.

So this is where the premier was announcing the results of the expression of interest and this is where it was reduced to the three or four major proposals.

But I just wanted to ask you about one line here. It was a quote from Premier Williams: "I would also like to make it very clear that from our government's perspective, the option of the province and Newfoundland and Labrador Hydro developing the project on our own will be given primary consideration."

MR. E. MARTIN: Where is that?

MS. O'BRIEN: It's in the second paragraph, right here – it's up on your screen there if you see it. I've got my – the mouse going over it. There's the wording: "... primary consideration."

MR. E. MARTIN: Now, if you could just give me a moment. What I'm trying to read – is this the selection of *The Way Forward* or is this just announcing that there's –

MS. O'BRIEN: I think it's –

MR. E. MARTIN: – civil options?

MS. O'BRIEN: – announcing the short list.

MR. E. MARTIN: Oh, okay, I understand. That's what I was wondering.

MS. O'BRIEN: Yeah.

MR. E. MARTIN: It's not the –

MS. O'BRIEN: It is announcing the short list, yes.

MR. E. MARTIN: Okay.

MS. O'BRIEN: And so Mr. Williams is announcing the short list at this time and it's a little further down, but what I wanted to ask you about, he does say here that essentially the go-it-alone or Newfoundland and Labrador led – you know, developing the project on our own will be given primary consideration. I just wanted to get, from your perspective at the time, what would – how would you have interpreted that, that that was to be given, according to the government, primary consideration?

MR. E. MARTIN: I believe it speaks for itself. The way that I received it was, you know, ensure that strong consideration is given to that and make sure that that option is evaluated deeply. And I will also add, in addition to that that is not printed here, that Premier Williams and, in particular Premier Dunderdale, and even as minister, would caveat every statement, such as this, clearly that everything we did had to make economic and commercial sense.

MS. O'BRIEN: I'm just going to go back to that slide deck that we were just looking at, tab 2 for you, P-01315 there. I'm going to just go through a few more of the slides. Next, page 16, please, Madam Clerk.

So this slide here talks a bit about "What does an NL Led Development Mean?" And it sets that out. Then if we can go to page 26, I'm just going to go through some of these slides.

In these slides here 26, 27, 28, these all cover, Mr. Martin, really risk considerations and then the last one there deals with risk mitigation. And going to that slide 28, it does – this is – you know, it does talk about mitigating risks, so risk mitigation mapping for the Newfoundland and Labrador-led approach. And it has a little graphic here that shows along one axis the ability to mitigate the risk, I take it, from low to high and the probability – would that be the probability of that risk occurring?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, so from – whoops – from low to high.

So – and there's some significant risks, of course, that are over on the right-hand side. Fair to say that as you later came to categorize your

risks as tactical and strategic, this list here would include probably both, tactical and strategic risks?

MR. E. MARTIN: I think so.

MS. O'BRIEN: Okay.

And when I look at this – when we look at this graph, is it fair to say that this is a – there's some – acknowledging that there's an ability to mitigate risks, but some risks there's, you know, a low ability to mitigate?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And if we could then go to page 35, this is – what I just want to ask you about, this is about the Newfoundland and Labrador equity contribution advice. And that first bullet there, it does say that: "Financial advisors indicate the Province can borrow to provide an equity contribution of \$2.0 - \$2.5 billion without having a negative impact on the Province's credit rating."

Do you know how that assessment was made?

MR. E. MARTIN: No, I don't.

MS. O'BRIEN: Okay.

So this was in a Newfoundland and Labrador Hydro presentation. Would this have been information that would have been done – an assessment done by Newfoundland and Labrador Hydro or is this information that you had – would have received from the Government of Newfoundland and Labrador?

MR. E. MARTIN: I don't know for sure, but I would think, you know, normally we would deal with the province on things that impacted the province. But I can't say for sure because I wasn't in the middle of it, you know.

MS. O'BRIEN: Okay.

Do you know if there was – after this time, whether there was ever a later assessment or reassessment of what the province could afford as an equity contribution? And when I say could

afford, I mean without negatively impacting the province's financial position.

MR. E. MARTIN: I believe there would have had to have been is my first response. I – you know, I'm not deep into the organization with these things, frankly, so – I want to lay that out there first. I mean, this stuff is – would be delegated to Gilbert and on down to handle.

With that being said, I will say again, I would have – I feel I would have checked that to make sure that whatever, you know, impacted the province in terms of their equity requirements and such, I would be asking, you know, is the province – is that a province number, is the province on board with this and I would be checking at that level. But I can't give you specific people, advice and interactions that were occurring.

MS. O'BRIEN: Okay.

So you would be checking – when you're saying you'd be checking with people on whether the province was, you know, on board with the number, in other words, you mean with the equity contribution that would be expected of them?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. And who – like, who would you have been checking with?

MR. E. MARTIN: In my case when they brought a presentation there – people would prepare a presentation such as this and they would review it with me, you know, prior to proceeding to the board and approvals. And at that point, I would ask questions.

MS. O'BRIEN: Would these be people internal to Nalcor –

MR. E. MARTIN: Yes, they would.

MS. O'BRIEN: – that you're talking about?

MR. E. MARTIN: Yes, they would be.

MS. O'BRIEN: Okay.

So you believe you would have asked about that to make sure that the province was okay, but do you recall any communication directly between you and Government of Newfoundland and Labrador on the topic?

MR. E. MARTIN: No.

But, you know, when I say that definitively I don't want to leave the impression that there wasn't, you know. I know Derrick Sturge, my chief financial officer; he had extensive interaction with the Department of Finance. Other officials were involved with Natural Resources, so there would have been a lot of interaction on this.

MS. O'BRIEN: Okay.

I – we've heard from Mr. Sturge and from Mr. Bennett, I wanted to just ask about you. You're definite you didn't have that conversation with anyone in government.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And while you believe you may have discussed it with people in Nalcor to ensure it was fine, you don't have any specific recollection of an actual assessment being done. Am I understanding you correctly?

MR. E. MARTIN: No specific recollection. And, Commissioner, just, you know, for your benefit, I just want to add a little bit of colour that, you know, to ensure that – keenly interested in this, made sure the frameworks were there, the right people in place, but I was chief executive officer, we were running six divisions and it would be normal to set the framework and let the people handle these pieces, with respect to the interactions with government, putting the documents together and running the calculations. So I'd be heavily involved in the review part of it, but not the preparation and ongoing execution of it.

MS. O'BRIEN: Can we next go to page 45, please?

So this is the discussion of the Newfoundland and Labrador led versus a third party BOOT.

We've already had a fair bit of evidence, Mr. Martin, from Mr. Gil Bennett as to what a BOOT was, so I think it's fairly clear and I don't intend to go over that again with you.

At the time were there any – you know, we understand, and from reading this slide deck it's clear that the concept is there that, you know, with a BOOT – third party BOOT-type arrangement there's more risk taken on by that third party, but the trade-off for that is that you tend to pay them for it. You know, if they're taking on more risk, it tends to cost you a little more, whereas if you do it Newfoundland and Labrador-led, you take on – we take on more of the risk here as the province, but if the risk doesn't materialize we – you know, we're not paying the premium.

And would you generally agree with me that's a theme here throughout this presentation?

MR. E. MARTIN: I would generally agree that that's a theme. But I would like to add to that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: You know, and I think you've done a good job of describing that.

But it's such an important concept that you really – you have to look at this as a spectrum. Because just because there's a tendency to shift more risk on a BOOT, you know, to that operator, you have to be very careful in terms of where it actually lands. Because if you have a situation and – you know – if you have a situation where some construction risk is taken, some schedule risk is taken, but the overall long-term cost risk is taken by Newfoundland versus the BOOT owner – that would have huge implications.

So, you know, don't want to be absolute on what you said – and I don't think you were, but I wanted to emphasize the fact that we really have to read the words carefully on a BOOT to really understand who's taking the risk.

MS. O'BRIEN: Okay. All right.

So the question I have is, at this time when the decision is being made – this Gate 1 decision, of whether we're gonna go it alone or whether

we're gonna engage with a third party – was there ever any – the concept is there that if we're transferring the risk we can expect to pay more. Was there ever any assessment done on – even, you know, an estimate – on what it would cost to have a third party come in and develop the Lower Churchill. You know, what that risk premium would be.

Any numbers ever put around that?

MR. E. MARTIN: I didn't see any numbers put around that. But, once again, I would not be into the day-to-day calculation of that.

MS. O'BRIEN: Okay. But do you recall there being numbers done?

MR. E. MARTIN: No, I don't. I just said I didn't.

MS. O'BRIEN: Okay. Now, if we go to page 49, we see this is – we see section 1. This is, sorry, the conclusion of section 1, the summary there.

These were the four questions that were asked, you know: Do we have the ability to execute it? Can we effectively mitigate key project risks? Can we be ready to do the project? And then, is it more beneficial for us to leave the project? And the answer to all those, the conclusion is yes. And then that leads to a recommendation here to go with the go-it-alone option.

I take it that recommendation was ultimately accepted by the board of directors? Is that fair to say?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. And, Commissioner, we've now found the minutes of the board of directors' meeting on May 5, 2006. It's P-01647. And this is really – this shows the board making the vote to really pass through Gate 1.

001647 please, Madam Clerk.

So, it's May 5, 2006. So you'll see the timing is just past –

MR. E. MARTIN: Do I need to get a reference out to look at this?

MS. O'BRIEN: No, I don't believe so, Mr. Martin. I'm more just bringing this forward for the Commissioner's – you can confirm it, obviously for him, but for – here we go.

So this appears to be – it's there on your screen – this appears to be when the board voted to go with the – recommended that the Lower Churchill Project be planned and executed as a Newfoundland and Labrador-led development, and that Newfoundland and Labrador Hydro would be the project lead on behalf of the Province of Newfoundland and Labrador. And that motion was approved and unanimously carried.

And, is that consistent with your recollection, Mr. Martin – that this would be the passage through – the decision to pass through Gate 1?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

Okay, so going it alone requires having a project management team in place –

MR. E. MARTIN: Are we finished with this binder?

MS. O'BRIEN: Well, not probably for the entire day, but for the moment, yes.

MR. E. MARTIN: Thank you; I just (inaudible) out of the way.

Proceed.

MS. O'BRIEN: Okay.

So, going it alone would require having a project management team in place. Is that a fair assumption?

MR. E. MARTIN: That is correct.

MS. O'BRIEN: Okay.

So, we do know from – we've heard from Mr. Bennett already, as you know, and he was hired as VP for the Lower Churchill Project, actually prior to you coming on board.

From your perspective, would it have been Mr. Bennett who led the Lower Churchill Project team?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

Did you know at the time that Mr. Bennett had no prior megaproject experience?

MR. E. MARTIN: I did.

MS. O'BRIEN: Okay, and no – he had no construction management experience.

Were you aware of that?

MR. E. MARTIN: Not at the size of this project; I was aware of that. I believe he had some experience with respect to installation of – equipment and projects and such, but not specifically.

MS. O'BRIEN: Okay. All right.

So when we look at building out the project management team, who did you consider that – the core group – shall we say, of the project management team?

MR. E. MARTIN: Well, the people that I, you know, that I surrounded myself with mostly. On the decision-making was – Mr. Bennett, Mr. Harrington, Mr. Kean, Mr. Clarke – Mr. Lance Clarke – Mr. Ron Power – from the project-execution perspective, you know. Certainly from a financing perspective, Mr. Sturge. You know then, the way we were set up, you know, from a planning perspective – Mr. Humphries would've been a key element.

As well as, you know, the vice president for Newfoundland and Labrador Hydro, and I just – and the reason I say that – I'd like to make the point that, you know, Newfoundland and Labrador Hydro obviously is the company that keeps the lights on, keeps the electricity flowing, and is required to ensure that there's enough generation and transmission capability.

So Newfoundland and Labrador Hydro actually drives, you know, the selection of a – you know

– a way forward with respect to providing transportation or generation. So –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – in that – this case, the Muskrat Falls, or the Isolated or whatever option is – or whatever, you know, solution is chosen – that is driven – and from my perspective, is a key part in the responsibility of Hydro and well, from my perspective, end up being managed by Hydro.

MS. O'BRIEN: Okay, so I had asked you about who the core group of the project management team was, and I understand you've identified Mr. Bennett, Paul Harrington, Lance Clarke, Jason Kean, and Ron Power.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay – all right.

Now, fair to say that Paul Harrington, as project director, was the next most senior person to Gil Bennett?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, how was Mr. Harrington selected for that position?

MR. E. MARTIN: I went out and found him. I asked him to come and work with me. Pleaded him to come and work with me and he did. And I was fortunate enough to convince him to stay on. He came for a shorter period of time, but I'd had experience with Paul, highly experienced in my view, was and still is.

You know, you need to go out and recruit people who can, you know, hit the ground running – you have a relationship with, you know how they operate, and you know that they have the background.

So, I personally selected Mr. Harrington to come in and help us get off the ground.

MS. O'BRIEN: So you knew he could hit the ground running, you had a – you knew you had a previous relationship with him, that was important.

MR. E. MARTIN: It was critical.

MS. O'BRIEN: Okay.

Now, although we've heard from Mr. Harrington about his experience working on megaprojects in the oil and gas sector, were you aware that he had never worked on one of these megaprojects at a level that would have required him to do an assessment of strategic risk?

MR. E. MARTIN: I knew Mr. Harrington's background, you know, very well. And I believed that he had, you know, experience to – just by virtue, of being through the process, of working – seeing the ups and downs of the project. I think he was extremely well positioned to assess risk.

MS. O'BRIEN: But his evidence to the Commissioner was that he'd never worked on any of these projects at a level that would have required him to do that. Were you aware of that at the time when –

MR. E. MARTIN: No, I –

MS. O'BRIEN: – you hired him.

MR. E. MARTIN: – wasn't, but I would say to Mr. Harrington, he's shortchanging himself. If he was here and said that and I was here, he definitely – I mean, when you go through the – when you go through the experience that Mr. Harrington has, I was comfortable, regardless of what he said, that he had seen, assessed and dealt with risk extensively.

MS. O'BRIEN: Okay.

Were you aware that in his previous positions – he's given testimony here that he was hired through a human resources company Fabcon and – so at the previous positions that he'd held, he was not at a level where he would have had influence over hirings and firings. So, you know, he'd never had a project director role before. Were you aware of that –

MR. E. MARTIN: Yes, I was aware of that.

MS. O'BRIEN: – at the time?

MR. E. MARTIN: But I will say that in addition to that, you know, the way those questions are posed doesn't do justice to the situation. And, Commissioner, you know, I think if you'd ask specific – a project director of the full project – no, I understand that.

But looking at it from another perspective, one of Mr. Harrington's specialties was commissioning, which is one of the most difficult jobs on a project is taking the project from the construction phase, overlapping it with operations and getting it up and running. And from that perspective – and watching Mr. Harrington do that over time – I could see the – I could see – easily see the skills that were required to handle an even broader project director's job. That's my perspective.

MS. O'BRIEN: Why would you not have gone out for a competitive process for Mr. Harrington's position? Why wouldn't you have advertised it, gotten candidates in, evaluated their CVs, gone through an interview process? Why didn't you go that route?

MR. E. MARTIN: That's the last thing I'd do when I'm taking on a major project. You know, this is not an operating company. This is not something you can bring somebody in, interview people, bring a stranger in, you know, get some references, put 'em in, give 'em a six-or eight-month, you know, or maybe a 12-month probationary period, lots of support, you know, around that individual to help them get acclimatized. That's not what's going on here.

This is a major project and, you know, I would never do that. I would always go out and get, you know, the right people, or person, that I knew had the experience and the ability to get this thing moving and off the ground. And I wouldn't risk that through that other type of process which, to me, is more conducive to an operating company senior role.

MS. O'BRIEN: During your tenure at Nalcor, was that consistent with the hiring processes at Nalcor, generally? I mean, were people selected for their positions at Nalcor because of prior relationships with you or other members of the executive?

MR. E. MARTIN: Absolutely not. And as I just said, you know, we're talking about a construction job, that's the Muskrat Falls Project.

Now, I said six divisions – so you're talking Nalcor now, so Newfoundland and Labrador Hydro – an operating company. All that was – went through the process that you were previously suggesting by posting, interviewing, hiring. It's an operating company, it works well there.

Churchill Falls (Labrador) Corporation – similar situation. And you go down through the rest of the companies on the operating side, that's the way it was handled.

What happened in the project, you know, after I had hired Mr. Harrington as such, that would have been up to Mr. Bennett and Mr. Harrington. I'm telling you what I did with Mr. Harrington.

MS. O'BRIEN: Did you have a previous relationship, say, with Ron Power? I understand he was not – there was no interview process for Mr. Power. Had you – did you have a previous relationship with him?

MR. E. MARTIN: Yes, I did, a work relationship. Not as much as I would have had with Paul, but I was certainly well aware of Mr. Power's abilities.

MS. O'BRIEN: Okay. What about Lance Clarke? Had you had a previous work relationship?

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: And what about Jason Kean?

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: Okay, so for the entire core project management team you had a previous working relationship.

MR. E. MARTIN: Absolutely and that, you know, I think they went through a – and, actually, I heard through testimony – I did hear that they went through a process as well, different than Paul did. And that's well and good

but I was glad they were there, one way or another.

MS. O'BRIEN: Now, can you –

MR. E. MARTIN: Now, if they weren't, I probably would have gone out to get some of them.

MS. O'BRIEN: Pardon.

MR. E. MARTIN: And if they were not, I probably would have gone out to get some of them. I think, once again, you know, the principle is it's critical to get, you know, folks that understand what's happening and get things moving and off the ground.

MS. O'BRIEN: And I take it – I mean, the other side of that, of course, would be you don't know what talent or abilities or what great people are out there if you don't do a broader look and an advertisement in that sort of competitive process. But I understand what you are saying is for you having people you previously worked with and you had that relationship, was the priority.

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay.

Okay, let's talk about your responsibilities, your duties, vis-à-vis the Lower Churchill Project, particularly compared with those of Gil Bennett. So can you just, please, describe for the Commissioner: How did you view your responsibilities for the Lower Churchill Project and, you know, compared to what was – what you considered to be Gil Bennett's duties?

MR. E. MARTIN: Well, I think I – you know, it follows what I mentioned earlier about, you know, delegation within a framework. And at a company level, we set the vision values. I mentioned that. You know, then you obviously set your goals and from the goals flow objectives. In the Muskrat Falls perspective, you know, the objectives were a flow of – determine how the development was going to occur and then once a selection was made in terms of what was going to happen, was it going to be, you know, a Gull Island on a commercial basis

eventually –and I’m sure we’ll get to this – there was the need for power.

But all that would be handled in through Gilbert. That would be his responsibility. And then as it went into construction, that would be his responsibility to execute that. The engineering would be done, the costing, the schedule, approvals would be put in place. Decision Gate 2, Decision Gate 3 would be passed coming up to myself and through the board. But following that it was the responsibility of the project team led by Gilbert to execute.

MS. O’BRIEN: What about communications with the Government of Newfoundland and Labrador? Who is responsible for communicating to the shareholder?

MR. E. MARTIN: With respect to Muskrat Falls?

MS. O’BRIEN: Yes.

MR. E. MARTIN: I would have primary responsibility for that, you know, so let’s make that clear. But I also – you know, I, if not always, frequently had people with me because I certainly had a strong understanding, a sense of what was happening. You know, I was kept fully informed and I could describe things well.

But in cases where there may be a larger group and more detail was going to be sought, whether it be on the project execution or financing, I would take Derrick Sturge with me or Gilbert Bennett or approximately both. But that was to flesh things out. I would be responsible for communicating to the government.

MS. O’BRIEN: So, yeah, Mr. Bennett –

MR. E. MARTIN: And – excuse me, Ms. O’Brien –

MS. O’BRIEN: Mm-hmm.

MR. E. MARTIN: – I should add to that. That being said, you know, it was encouraged and supported to have a lot of communication going on down below me and below the premier and the minister, so I should have made that clear. From a premier and minister perspective, I made the contacts. But down throughout the

organization there was ongoing, if not daily, frequent contact between the – you know, the officials in the various departments and the staff within Nalcor.

So I certainly would not be there for every meeting that Derrick Sturge, for instance, would have at Finance or Natural Resources, or Gilbert would have with the committees that were involved in overseeing Muskrat, et cetera. So there’s a tremendous amount of interaction going on without me being there. But when you said communication with the government, I was thinking premier and minister.

MS. O’BRIEN: Mr. Bennett has testified that he clearly understood that all communications with the government regarding schedule and cost of the Lower Churchill Project were to go through you as the Gatekeeper. So he understood that was the protocol, such that he would not have had any communications, for example, with Charles Bown or people he was communicating with regularly on, in particular, those topics.

Do you agree with that? Is that what the protocol was?

MR. E. MARTIN: From my perspective, as I’ve mentioned, I was dealing with the premier and the minister for the most part. I had no – I didn’t have any constraints on what people were talking about, you know, throughout the organization with the various departments and everything else. I didn’t tell them to do that or not to do that. There was – from my perspective, it would be up to them.

MS. O’BRIEN: Okay. So he says – he did acknowledge – he said it wasn’t a written protocol. He did say that no one had specifically told him that he wasn’t to have those communications, but he said, a few times, it was always clearly understood to him that he should not communicate with respect to cost and schedule.

I wanna get, you know – in your opinion, should he have been communicating with respect to cost and schedule to Mr. Bown or other members in government that he was dealing with regularly?

MR. E. MARTIN: Now, maybe I can come at that from two angles. It might help the situation as I hear you describe it. On a day-to-day basis, anything to do with cost, the schedule, that had been established and such, I would expect those communications be going on, for whatever reason, with no restraints.

If we were gonna change, you know, materially change cost or materially change schedule – yes, I would want that to flow up through me so that, you know, we were not in a situation where the premier or the minister was hearing information coming from everywhere that there was a change. So number one, I would want to review it and make sure that it was, you know, supportable and then I would communicate that to the premier and the minister, you know, to ensure that, you know, they weren't blindsided by information floating around.

So separated like that, maybe – I can't speculate what Mr. Bennett was saying, but that's the way I looked at it.

MS. O'BRIEN: Okay, so if it came to any changes with those items, your expectation that it would just be you who did the communications?

MR. E. MARTIN: Absolutely.

And, you know, that's, you know, that's a Nalcor company perspective, and that's a project perspective. I mean, these are big undertakings and, you know, you learn from experience no matter what sector you're in. You need to make sure that you have the facts and figures straight, you need to know that there's backup to it, you need to know that when things are said they will be taken as gospel. And that's fine.

So it was the process of making sure that things were nailed down properly. And you cannot have, you know, 15 or 20 interface points for communication because all that will do is confuse the issue and make sure people do not understand what's happening. So it was done for clarity of process.

But once done, then obviously – what would you call – the interaction would continue in terms of cost and schedule and discussing and understanding it.

MS. O'BRIEN: I'd like to get a sense of how you viewed your duty to communicate to Government of Newfoundland and Labrador. Obviously, it's a big project; there's a lot going on. You're not communicating every little detail to the minister or to the premiers.

Did you have some sort of a test or standard you applied as to what you would consider information, you know, important enough to make sure that the shareholder was informed?

MR. E. MARTIN: No. I didn't have a test or a standard, no.

MS. O'BRIEN: Okay.

So maybe we could bring up P-01168.

THE COMMISSIONER: Sixty-eight.

MS. O'BRIEN: So this is a draft letter –

THE COMMISSIONER: Tab 16.

MS. O'BRIEN: – of expectation –

MR. E. MARTIN: One?

MS. O'BRIEN: Sorry, tab 16 –

THE COMMISSIONER: Tab 16.

MR. E. MARTIN: In binder 1?

MS. O'BRIEN: I apologize, Commissioner. Tab 16, which should be in the first tab of volume 2.

MR. E. MARTIN: Volume 2.

(Inaudible) got that. So I'm in volume 2.

MS. O'BRIEN: Yeah. Should be the first tab – tab 16.

MR. E. MARTIN: Tab 16. I have it.

MS. O'BRIEN: Now, we have been doing a fair bit of searching, and we have not been able to find any final – like, any completed document that really would have set out the communication expectations between the shareholder and Nalcor.

So we know that other Crown corporations sometimes have a letter of expectations, or a unanimous shareholders' agreement, or some other document that, you know, clearly sets out what the expectations are. We haven't found any finalized document in this case that did that.

Is that consistent with your understanding?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

So what we have found is this document here – that's the one – it is a draft – “SHAREHOLDER'S LETTER OF EXPECTATION.” So this was not finalized, to our understanding.

Had you ever seen this before, Mr. Martin?

MR. E. MARTIN: I can't recall.

MS. O'BRIEN: Okay.

So I'm just gonna bring you to – so it does set out a little bit on reporting here in this section, which is on page 5. It talks about how the shareholder and Nalcor are committed to transparency and accountability to the public and whatnot.

It does say, the second-last paragraph there on this page: “The parties agree that, as a matter of course, each will” – advise – “will advise” – but I think it should be advise – “the other in a timely manner of any issues that may materially impact the business of Nalcor Energy and/or the interests of the Shareholder.”

So that's one type of a standard or a test, you know, the material – materially impact the business. That's the kind of thing I was wondering, you know, whether you took – you had any rules of thumb or guidelines that you were following. So, for example, if something that met that test that may materially impact the business of Nalcor or the interests of the shareholder, would you have followed that type of communication protocol?

MR. E. MARTIN: I think that's a given.

MS. O'BRIEN: Okay. So would you have followed it? Is that how you would've been guided, by that –?

MR. E. MARTIN: Well, I wasn't guided by this, obviously, 'cause it wasn't signed. So, you know, as I mentioned earlier – so, you know, I'm not going to start pointing and saying yes and no at things I wasn't, you know, wasn't working on. I need to frame the thinking more so and let you know the thought process and there it is.

And I mentioned this earlier, you know, I took my perspective and guidance from what I thought was typical interactions between a government, a board and a Crown. There is some documentation out there on these types of things. The federal government has done some work in 2005; I think the Province of Newfoundland had a document in 2000 that laid out some things that's, you know, still in existence. But it wasn't clear, you know, from that perspective and laid out.

But my approach, as I mentioned earlier, is that I took the government to be the broad-policy setter. The Energy Plan put the legislation in place with the act, which laid out in that particular case that the running of the business was handled by the board; the day-to-day operations and activities was handled by the CEO and staff.

And the concept of setting up, you know, a Crown corporation, to me it appeared to be for the purpose of creating an entity that had expertise that was not – that particular expertise was not available in government. It was set up to execute certain things that, you know, a government entity wasn't designed to do – and required different protocols and policies. That would be my rationale and understanding as to why Nalcor was set up.

Coming down to the board level, then, the board would be –

MS. O'BRIEN: I just really right now want to focus on your communications with the shareholder directly.

MR. E. MARTIN: So I'm going to get to that but, first, I'm gonna talk about the board because it's a key part of it.

MS. O'BRIEN: We will – I will bring you back to the board in a few minutes, just to let you know.

MR. E. MARTIN: Yeah. Well, I'm gonna talk about it now because a key part of the process and logic is – I just mentioned to you – in terms of the process of my communications. I think it's a key element in that so ...

THE COMMISSIONER: Well, when you're asked the question that relates to the shareholder, we have two and a – we have basically 2½ days to get through questions from Commission counsel, then we have 2½ more days. I'm trying to keep on schedule. As you know, I've been very much maintaining the schedule.

So I can assure you, Mr. Martin, that you will be given a full opportunity to tell me everything you want to say. But if you – in order to get this done, I think, in fairness, if a lawyer asks you a question, you need to focus on that question. And that's what I'm gonna ask you to do as you answer your questions, all right?

MR. E. MARTIN: I certainly will. And the board part was the fact – that was part of my communications with the shareholder. So that's the reason, you know. So I'll go back to the shareholder but I – you know, I will say that it was a (inaudible).

THE COMMISSIONER: Well, no, if you're saying that the board part is part of your communication with the shareholder, well then I need to hear that.

MR. E. MARTIN: Yeah.

THE COMMISSIONER: But I was understanding that you were gonna then talk about your communication with the board and then, later, your communication with the shareholder. So I just want you to – anyway, whatever way –

MR. E. MARTIN: Yeah, well, and I'll –

THE COMMISSIONER: – the focuses the question.

MR. E. MARTIN: I'll come back at it the other way. I understand what you're saying and – but it – I just wanted to let you know I was building a logic with respect to why the board was important.

MS. O'BRIEN: Sure. Just if I –

MR. E. MARTIN: But from the –

MS. O'BRIEN: – can assist you just, Mr. Martin, what I'm getting at here, you've already said that you were the primary communication with the ministers, with the premier, that you did have that direct communication with government. And that's the piece that I want to – trying to get a sense of when you felt information was important enough or reached a level that you felt you had an obligation to make sure that the ministers, the premier, were informed.

MR. E. MARTIN: So let's have another go at it. I'll come at it another way because that way is not working for you guys.

Now, as I mentioned, you know, there's a process in my mind of how the authority was delegated for the various activities. The shareholder's activities were policy setting, setting the legislative framework for how it would work. And then following that, I would be in the mindset of not involving the government or the board in day-to-day operational activities.

I would not be involving them in operational decisions, things that demanded, you know, many, many, many, many pages of information produced by many, many, many, many different people at many, many, many, many different levels within Nalcor. I would work hard to have our folks flow that information to me in a summary fashion, and then I would work hard to summarize that to another level.

But at that point, ensuring that things – key things that were impacting Nalcor or the project or the province were summarized at the highest possible level so that we were focused on decision-making at the government level and

focused on the big picture at the government level, and not having them mired down in their own form of bureaucracy, trying to plow through terminology, thousands of pieces of paper and that type of thing.

So my trigger would've been things that would be seen as a significant impact of Nalcor or the province, but I would be rolling that up to pinpoint the issue as clearly as I could so that we could focus like a rifle shot on that issue.

MS. O'BRIEN: And I take it without any formal documentation guiding you, this would've been a decision that was left to your judgment – to your personal judgment?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

MR. E. MARTIN: And I will add, it worked very well, you know, in – with respect to my interactions with, you know, Premier Williams and followed by Premier Dunderdale, which took up a significant portion of my tenure. The feedback I received from those leaders was feedback of satisfaction. So there was a measurement of a level of performance there.

MS. O'BRIEN: I just want to talk a little bit about the roles of Mr. Bennett compared to those of Mr. Harrington.

MR. E. MARTIN: Are we finished with this exhibit?

MS. O'BRIEN: Yes.

MR. E. MARTIN: Proceed.

MS. O'BRIEN: I want to talk about the difference between how you viewed the roles of those two men. I know that, you know, we know Mr. Bennett was an employee and an officer of Nalcor Energy, and Mr. Harrington was hired on as a consultant to Nalcor Energy. How did you view what was Gil Bennett's responsibility, which – compared to what would've been Mr. Harrington's responsibility and the interaction between those two?

MR. E. MARTIN: Well, I would see Mr. Bennett would be accountable for the full, you

know, Muskrat Falls, Isolated Island, whatever was chosen; the full, we'll say, Lower Churchill Project development, 100 per cent. With – so to make sure there's no – you know, and to ensuring there's no lack of clarity there.

And then when you get into his relationship with Mr. Harrington – Mr. Harrington reported to Mr. Bennett – but I could see clearly that Gilbert had responsibility for the full picture. But on the actual duties, if that's what you're seeking, Mr. Harrington had the deep project execution experience. So I could see that he was leading that and providing that expertise, still reporting to Gilbert.

And Gilbert led that and took the accountability but, in addition, you know, took a series of key responsibilities for the organization, you know, such as the environmental assessment process, for instance, is a good one. You know, he had, you know, a great mind for that, a great ability to handle that and plus it would take things off of Mr. Harrington's plate with respect to enabling him to focus on the project.

So number one, accountability: Mr. Bennett, and then as you broke down into that, Mr. Harrington assumed key leadership for the project execution. And Gilbert had several key activities outside of that that he was leading on behalf of the group.

MS. O'BRIEN: Did Mr. Bennett have any supervisory or oversight duties with respect to Mr. Harrington, in your view?

MR. E. MARTIN: Yes.

MS. O'BRIEN: So fair to say that you've talked about Mr. Bennett being – leading and taking accountability. So is it fair to say that, from your point of view, you would have expected him to be supervising and overseeing Mr. Harrington on all matters?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

Now, I'm going to bring up a couple of documents that deal with accountability and how decisions were made. I'm going to bring up – the first is a financial authority procedure. It is

found in volume 2 of your books. Mr. Martin, go to tab 33. Madam Clerk, it's Exhibit P-01545.

You ready?

MR. E. MARTIN: I'm ready.

MS. O'BRIEN: Okay.

So this document here is a financial authority procedure. Now, I'm just going to describe as I understand it, Mr. Martin, and you can tell me if I'm right or not.

You're not on the sign-off, but two of your – maybe three of your VPs are here. And it goes on, but what I understand that – this describes the procedure for decisions that cost money. So for decision – for contract commitments, for example, it describes how that process is to work. Fair to say?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And then there is an approval authority limits matrix that I understand will go hand in hand with this document. And that's going to be at tab 29 of the same book you have there. Exhibit P-01542, please, Madam Clerk. It says – here it is here. I'm on page 22. So this seems to set out – this is – it's called Lower Churchill Project – Approval Authority Matrix Post-Sanction, though it does cover some pre-sanction. And it sort of says, as I understand it Mr. Martin, it sets out, like, what the board can make decisions on, what you as president and CEO can make decisions on, VP finance and Lower Churchill, all the way down to the project director, who would be Mr. Harrington, and I think, there, it sets his limit at the \$35-million mark. Is that a correct –?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

So – and I think Mr. Harrington had referred to this in his evidence that he had the authority to make decisions up to 35 million. So I just want to set out that – get you to identify and confirm for the Commissioner that this is the document

that would set out what everyone's limits were for financial decision-making.

MR. E. MARTIN: That's confirmed.

MS. O'BRIEN: Okay, thank you.

Now, what about for decisions – there's a number of decisions, obviously, that are not financial decisions, there's no dollar amount attached to the decision, how was authority for making those types of decisions determined? Particularly when we look – you know, what Mr. Harrington could make, what the vice-presidents could make, what you would require as – what you would make as CEO and then what would ultimately go to the board.

MR. E. MARTIN: Could you give me an example of what you're talking about?

MS. O'BRIEN: Sure, we'll look at – I mean, there's any number of decisions, like, for example we're going to look at decisions that were made with respect to SNC-Lavalin and changing from – you know, changing the contract strategy from an EPCM to an integrated management team. There's, you know, lots of decisions about what the target-schedule date was going to be for the project, you know, many – any number of decisions that we've looked at already at the Inquiry and very key, important decisions for the project, decisions that had a lot of impact on the project, but they're not decisions that you can say, oh, you know, that's a \$20-million decision.

You know, they don't have a – you know, it's not like you're-going-to-enter-a-contract-and-that-contract-value-is type of decision. How was the authority for those non-financial decision – how was that determined?

MR. E. MARTIN: I believe there is financial implication to that, and that's how it would have been made. My expectation would be – you know, within these limits, the authority is delegated to these people, so they would make the decision. Use the SNC-Lavalin change perspective, when that change occurred there would be a financial implication to that, either – you know, whatever, higher or lower; I just don't know. And that would drive, you know, the ability to make that decision.

So if it caused something to increase or change over and above the, you know, the approved AFE total within their limits, it would come to me. If not, they would make the decision.

MS. O'BRIEN: Okay. So your testimony is that all decisions can be translated to a financial dollar amount and that's how it was done?

MR. E. MARTIN: Yes, that's what I said. I believe that that could happen or would happen. Yes.

MS. O'BRIEN: Is that what did happen?

MR. E. MARTIN: Pardon me?

MS. O'BRIEN: Is that what did happen?

MR. E. MARTIN: Yes, it did happen.

MS. O'BRIEN: Okay.

So that's – I understand that may be – then as we're going through your testimony I can – I haven't necessarily seen any documentation of some of the decisions being set a price tag to them as you're describing, but we – as we're going through –

MR. E. MARTIN: But if I –

MS. O'BRIEN: – perhaps we can revisit that.

MR. E. MARTIN: If I could offer another perspective. Just look at it from another angle. If a decision needed to be made that didn't have financial implication –

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: – then that would be handled within the project team.

MS. O'BRIEN: Okay. All right.

What about if it was a decision that had reputational risk associated with it? Would that still be handled by the project management team?

MR. E. MARTIN: Yes, it would. And, you know, they'd make that decision. As I said, they know the vision; they know the values.

And that is what I call the value of values. And that's why that's such a critical piece of what goes on in the company, is that you cannot manage a company of any magnitude on a day-to-day basis, one person running everything. It can't happen.

And if I talk about just for a moment, Commissioner, the value of values. Values are the framework for decision-making, and that enables people who have delegated authority, who may have resources around them to help them make it or they may not. It still gives them the ability – these are the values; these are the things that you have to consider when making that decision within your own delegated authority. So yes, they would have it.

MS. O'BRIEN: Thank you.

Commissioner, this would be a good time to take the morning break.

THE COMMISSIONER: All right.

We'll take our break. It's 11 o'clock, so we'll take 10 minutes and come back.

CLERK: All rise.

Recess

CLERK: Please be seated.

THE COMMISSIONER: All right.

MS. O'BRIEN: Thank you.

THE COMMISSIONER: Ms. O'Brien, when you're ready.

MS. O'BRIEN: Now, I'm gonna talk – a few questions about the board of directors.

Mr. Martin, you sat as a member of the board of directors, is that right?

MR. E. MARTIN: That is correct.

MS. O'BRIEN: And were you a voting member of the board?

MR. E. MARTIN: Yes, I was.

MS. O'BRIEN: Okay.

Now, we've talked a little bit about the authority matrix between you and the board, but I'd like to get a little better sense of how is it that you determined – because the board had unlimited – well, we've just looked at the matrix. How did you determine what decisions you could make as your own as CEO, and what decisions that you felt should be made by the board?

MR. E. MARTIN: As the authority matrix indicated, if it was within the AFE total, I made them.

MS. O'BRIEN: Okay.

MR. E. MARTIN: And if it went outside of that, we take it to the board.

MS. O'BRIEN: Okay, and what about information that should go to the board? So even if they weren't being required to make a decision, I take it there were times you gave them information that wasn't, you know, specifically tied to them making a decision. Would that be correct?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, so how did you decide what information you should give to the board?

MR. E. MARTIN: I usually used a simple – in that case, a simple test to me, you know. If I thought should they or shouldn't they, and I was – I got to a point that, you know, I was wondering, then I'd do it.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But mostly, it was pretty clear in my mind things that should and things that shouldn't. But I erred on the side of bring extra information.

MS. O'BRIEN: Okay, and when you're making that decision – things that should and things that shouldn't – what is guiding you?

MR. E. MARTIN: Well, I think primarily, you know, almost – the AFE total is guiding me, the cost impact. I had authority for up to the AFE total, and I made the decisions based on that.

Let me build on that, though. That being said, if something, you know, was likely to hit the press – was likely to go public – I would invariably make an effort to get out ahead of that, just to let them know that could be coming. My driver there was both with the board, and I don't wanna move into the government, now, because of the Commissioner's previous comments, but the concept was, they could be called, they could be asked about it, and to the extent possible, I just wanted them to be informed so that, you know, they felt they could respond or could at least answer to the questions before something happened.

So to the extent possible, I tried to keep them in the loop.

MS. O'BRIEN: Okay, fair to say that you wouldn't want them to be caught by surprise?

MR. E. MARTIN: Absolutely not.

MS. O'BRIEN: Okay. Now, let's talk about how you recorded your communication.

So for the board, we know that there are minutes, obviously, of every board meeting kept. And I think it would be – I'm assuming it's fair to say that the board minutes would be the best record of communications to the board of directors.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

What other record – in terms – let's talk now about your communications to the board. What other records would there be of those communications?

MR. E. MARTIN: None other.

MS. O'BRIEN: Okay.

MR. E. MARTIN: And I believe, when you say board minutes, my understanding was that PowerPoint presentations and those types of things presented to the board would be filed as part of the board papers.

MS. O'BRIEN: That's right.

There would be a board package and minutes –

MR. E. MARTIN: Yes.

MS. O'BRIEN: – for – yes. And I –

MR. E. MARTIN: So –

MS. O'BRIEN: – should have been clearer, Mr. Martin; I was talking –

MR. E. MARTIN: And that's why I was so (inaudible) about that is that we would prepare a package; we would present it to the board. The minutes would be recorded, but in my mind, they had 100 per cent of the information at that point.

MS. O'BRIEN: Okay.

So were there times when you would have, like, say, a phone conversation with the chair of the board, or emails?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

So am I understanding you, though, if you're saying, like, all communications would be recorded in those board minutes and packages, is it fair to say that, even if you did have a conversation, that ultimately you would ensure that that got brought up at a board meeting and be captured in the minutes?

MR. E. MARTIN: Ensured is a strong word. I think that, by the nature of a call I would have made to the – to Mr. Marshall or a board member, I would assume it would come up in the next board meeting because it would have been that type of issue.

MS. O'BRIEN: Sure.

MR. E. MARTIN: But I honestly can't say that I made a note to say put that in the minutes of the board meeting the next time around, no.

MS. O'BRIEN: Okay.

Was communicating with them by phone – was that a common thing, or would that have been fairly infrequent?

MR. E. MARTIN: Fairly infrequent.

MS. O'BRIEN: And would that have primarily been with the chair or would you have had calls with other members of the board as well?

MR. E. MARTIN: Primarily the chair. But I wouldn't exclude calls to others. I've had those as well, but you say primary; mostly that's the way it worked.

MS. O'BRIEN: Okay. Thank you.

So what about communications with Government of Newfoundland and Labrador? So we've heard already, previously, evidence that there were regular presentations, say, to Cabinet, and there would be slide decks that Nalcor used that would capture some of those, but what about other communications? How – were there other ways that you communicated with the premier or the ministers?

MR. E. MARTIN: Sometimes by telephone but not a lot. Normally, the telephone would be a request for me to go to their office by one of their staff. It would be very infrequent to have a phone conversation with the premier or the minister, although it wouldn't bother me either way.

Following that, you know, going up to Confederation Building or to the Natural Resources Building on Elizabeth Avenue, you know, that would primarily be most of the interactions. And could either be a formal presentation as – in terms of formal – being a PowerPoint or something. But oftentimes it could be just to go up and sit in and talk about – talk through some things or explain some things and dialogue. And I often had a habit of getting up to the white board, as they call it, where I could walk through some logic and those types of things.

MS. O'BRIEN: Would there be any record of those communications between you and Government of Newfoundland and Labrador? We're talking about the informal meetings now.

MR. E. MARTIN: Not by me.

MS. O'BRIEN: So you didn't keep any notes?

MR. E. MARTIN: No, no notes.

MS. O'BRIEN: Are there times where – I know you've talked about there's times where you would have wanted to ensure that you had government approval or agreement on some very significant factors. Is that fair to say?

MR. E. MARTIN: That's fair to say.

MS. O'BRIEN: Okay. So when you were getting an approval from government on something, is that something that you would have ensured was somehow committed to writing?

MR. E. MARTIN: I would not have ensured that, no.

MS. O'BRIEN: So sometimes when you would be making decisions where you felt that it was important to have government's approval, but you would just get that approval orally?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

MR. E. MARTIN: It goes to follow when you think about it. I mean, the board had unlimited approval authority. I had AFE authority. And if I went and did something outside of what the government, you know, was interested in doing, you know, I guess, as circumstances have shown, I wouldn't last very long. So recording notes and writing things down as signatures, it was really – from my perspective – not something I was pursuing.

But, you know, I knew enough to make sure that I was upfront and I had alignment and agreement, you know, for key decisions.

MS. O'BRIEN: Is that – you know, looking at good governance practice – you know, you're the CEO, and you're getting approval from shareholders on key – on, you know, key decisions, would you – you know, one might think good governance practice would be to ensure that those approvals ultimately do get recorded in writing.

MR. E. MARTIN: I don't agree with that at all

–

MS. O'BRIEN: Okay.

MR. E. MARTIN: You know, I mean, let's go back to the context here. I think good governance is what I was doing. Getting up from my desk and going up to see the premier of the Province and the minister and informing them of what was happening when, in theory, the board had unlimited authority and I had full AFE authority.

But I didn't think about it that way. I thought it was great governance practice to, you know, to make sure that I extended the information and made sure they were in the loop. And that being said – and I will say it again, Commissioner – I mean, it only goes to follow. Because, you know, the logic of it is: Not gonna work – key, big, massive decisions impacting the province – unless I got the minister and the premier on board – simple as that.

MS. O'BRIEN: Okay.

So your approach to this wouldn't – would it have differed had you been in a, say, a closely held, you know, private company versus a Crown corporation – would your practice have been any different?

MR. E. MARTIN: I think it would have been different in the perspective – my experience in the private sector is that I was often, you know, tagged to attend analyst meetings. So, obviously, the shareholder's a different arrangement in the private sector. You have, you know, publicly traded stock on the stock exchange and most of the communications with those types of shareholders are through the analysts on, you know, on Bay Street or Wall Street.

So my communications there would be – we would have arrangements where we would get with the analysts on a regular basis and go over what was happening in the company. But that is different because we weren't informing them on a regular basis of key decisions that were impacting the company. But we were informing folks of the things that were upcoming and keeping the strategy – so similar, but certainly not as frequent and as direct.

MS. O'BRIEN: Okay.

Okay. We – I'm gonna talk a little bit about the Decision Gate process. We've already heard a lot of evidence on that process and on the Decision Gates leading up to sanction. We also have heard numerous times that you were the Gatekeeper.

Can you please explain for the Commissioner how you viewed that role as Gatekeeper?

MR. E. MARTIN: I think it's very similar to what I've been describing as a CEO, you know, with respect to Muskrat Falls Project – vision, values, goals, objectives, performance measures. I mean the Decision Gate process was part of that and it was clear that, you know, prior to making key decisions that were outlined as part of that Decision Gate process is – Decision Gate 1, 2, 3, 4 and 5 – I had to sign off on it.

So my, you know, my direction was, within that framework, make sure that you understand what has to be done, make sure that the right people have reviewed it. I required sign-offs from all of the key people for their jurisdictions before it came to me.

And I think that's obvious again, Commissioner, because as CEO I'm not into the day-to-day operation down to that level. But I hired the right people, put them in the – within the right framework and delegated authority, so I wanted them to demonstrate to me that by that – by signature – that, you know, the proper processes had been adhered to and followed.

Then they would come in, and they would still go through it, and we would go through it in detail and I would have, you know, a tremendous amount of questions and such. But at the end of the day, based on that with no changes, I would sign off and proceed through the Gate.

MS. O'BRIEN: Okay, I'm just gonna bring up P-00027 – this is the Decision Gate process document. It is at – if you do want to look at your hard copy – it's at tab 77, which is in volume 4 of your binders. I'm gonna bring up the relevant pages on the screen though.

So this is the Gateway process document. If we go to page 14 please, Madam Clerk. Here we're

gonna see Mr. Martin, the triangle graphic which I'm sure that you are familiar with.

So, you know, this describes here the various steps leading to a gate. Here it's the Gatekeeper makes recommendation to Nalcor Energy's board of directors and shareholder.

And then ultimately, I take from this that you would make a recommendation to the board and the shareholder, and then they would ultimately have to approve the project to go through a particular Gate. Is that fair?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, so for each Gate you would've required having government's approval as well as the boards?

MR. E. MARTIN: I would have required it – yes.

MS. O'BRIEN: Okay, so we – one of the documents that's mentioned here are the – the decision support packages. We have reviewed in the hearing room all ready decision support packages for Gate 2 and Gate 3.

Just generally speaking, what are the purpose – what was the purpose of the decision support packages? And if we go just to the bottom if page 13, Madam Clerk – which is just above, I believe. Yeah, there's some writing there Mr. Martin, which may assist you.

MR. E. MARTIN: And I think that summarizes my previous statement that, you know, I was – you're looking to have a signature and as part of that, you know, summary of the types of things that were done to achieve that signature by each of the accountable direct reports.

MS. O'BRIEN: Okay, so this is a package that's put together to include the justification and support rationale and documentation for the assessment of the decision to be made.

Is that fair to say?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay, so this – if we go to page 5, please.

So this is in the definition system here. This is under responsibilities, so it talks about what your responsibilities were. Project director is there, and one of the project director's responsibilities is: "Preparing the Decision...Support Package for review and approval by the Executive Committee and IPR team."

Now, Mr. Harrington has testified that, as he viewed the decisions for package, it was a collaborative effort. So, you know, he was involved but there were others involved in putting together that package but that, ultimately, that it was you – as the Gatekeeper – that had to be satisfied with the content of the decision support package.

Is that – would you agree with him?

MR. E. MARTIN: I would agree with him.

MS. O'BRIEN: Okay. And now the decision support packages – you would have received them.

Is it also fair to say the decision support packages would also have gone to the board of directors?

MR. E. MARTIN: I assume so. I wouldn't be looking after that and I can't remember exactly what went to the board of directors but it pretty wouldn't surprise me.

MS. O'BRIEN: Okay. I mean, our understanding is that Decision Gate 2 – there was actually two different support packages done: one, a more summarized one that would – for the board – and then, a more detailed one for you as Gatekeeper. But at Decision Gate 3 there was just the one package.

But other witnesses have testified that it would have been your responsibility to ensure that the packages went to the board. I mean, you were on the board – there at the board meetings and such.

Was it your view that the board should have the decision support package prior to making a decision on the gate?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Yes?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

MR. E. MARTIN: The board – you know – the board planning process happened around me. I mean, as I, you know, there was – so the answer is yes. I'm not changing that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I'm just putting a bit of perspective around it, you know, to make sure that you can see the value I placed on them. But I wasn't handling that day to day. I didn't do the board papers, obviously. You know, they were flowed up through the organization. I had people handling the board prep and stuff like that.

MS. O'BRIEN: But, ultimately, I take it from what you're saying – I just want to make sure I'm understanding – that you're responsible for ensuring that the board's – that the decision support package is complete –

MR. E. MARTIN: Yes.

MS. O'BRIEN: – and it has all the documents necessary to, you know, justify the rationale and support the decision – all the information and you would ensure that the board received all that necessary information using the decision support packages –that –

MR. E. MARTIN: That's (inaudible).

MS. O'BRIEN: – fair?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. Thank you.

Now, in Nalcor's submission to the PUB it described in that –

MR. E. MARTIN: I assume we're finished with this document, are we?

MS. O'BRIEN: Yes. Probably still – your next document book you're going to want, Mr. Martin, is tab 89 of volume 5. It's Exhibit P-01452.

This is – what you’re going to be looking at and what’s going to come up on the screen is a PowerPoint presentation of Nalcor’s submission to the – presentation to the PUB.

MR. E. MARTIN: (Inaudible) and I apologize for interrupting, Ms. O’Brien, but I like to have things organized before – because I’m not listening to you as I’m looking for the book, so I don’t want to miss anything.

MS. O’BRIEN: That’s fine.

MR. E. MARTIN: I have the book now, what tab is it again?

MS. O’BRIEN: Tab 89.

MR. E. MARTIN: Okay. Thank you, I’m ready now.

MS. O’BRIEN: Okay.

So this is Nalcor’s presentation to the PUB in February of 2012.

THE COMMISSIONER: 01452 for those who don’t have the books.

MS. O’BRIEN: Yes, thank you.

It is – there was obviously a more formalized detailed submission to the PUB that’s been filed as P-00077, but for the purposes of my question the PowerPoint presentations will do.

MR. E. MARTIN: And by P-00077, I believe – just for clarity – you’re referring to the document that Nalcor prepared at DG2 to go into the board – into the Public Utilities Board process?

MS. O’BRIEN: That’s right.

Its submission to the PUB.

MR. E. MARTIN: I understand.

MS. O’BRIEN: Okay.

So, now. I’m gonna go just to page 16. So one of the things that was outlined in that more formal submission, and it’s covered here in this

PowerPoint presentation, is this two-phase screening approach to alternatives.

So the slide that’s up on your screen there – slide 16, Mr. Martin – it sort of sets out this two-phase approach. So a first phase was considered to be a screening phase: “Initial screen of options with highest potential to ensure effective expenditure of ratepayers’ money.”

And then phase 2 is described as: “Development of optimized least cost generation expansion plans in Strategist for the supply options that have advanced through phase 1 screening.” So we have yet been able to find any – you’re familiar with this process that was –?

MR. E. MARTIN: Yes, I am.

MS. O’BRIEN: Okay.

All right. So we have not been able to find any documentation of this process at Nalcor or Newfoundland and Labrador Hydro other than the presentations to the PUB. So – sorry, did you want to speak to that?

MR. E. MARTIN: No, I didn’t.

MS. O’BRIEN: Okay.

So in Grant Thornton’s report, Grant Thornton did ask Nalcor about this, and nothing further was identified by Nalcor and they gave a statement that the screening principles were identified from engineering and industry experience.

When was – can I ask you – I mean, here we know it’s being presented and articulated to the PUB – when was this two-phase screening process developed, to your knowledge?

MR. E. MARTIN: I couldn’t tell you.

MS. O’BRIEN: Okay.

Was it something that you had an awareness of before the PUB submission?

MR. E. MARTIN: Yes, I did.

How do you – I guess, once again that’s – I shouldn’t be facetious, I mean, it had to happen

before the PUB submission obviously, right? So that's where I'm – the answer to your –

MS. O'BRIEN: I asked you about your awareness of it.

MR. E. MARTIN: Yes, because, you know, understand – I was informed about the approach that would be taken, in terms of identification of alternatives, yes. So I would be aware of it.

MS. O'BRIEN: Okay. So Mr. Bennett testified, I believe, that he said it wasn't documented until the PUB proceeding. Would you agree with that? Do you have any knowledge that it was documented prior to the PUB submission?

MR. E. MARTIN: I don't have any knowledge.

MS. O'BRIEN: Okay. And – now, Mr. Bennett seemed to be uncertain that it was ever really articulated before the PUB submission. I asked him, you know, if I went back in time and asked someone whether they were in phase 1 of a 2-phase screening process, they, you know, would they know what I was talking about? And he was uncertain that they would. Would – you know, do you agree with that, or do you have a different memory of events?

MR. E. MARTIN: I don't have a comment on it. But it seems – I'm trying to –

MS. O'BRIEN: Is that because – you don't have a comment –

MR. E. MARTIN: – I'm trying to understand –

MS. O'BRIEN: – because you just don't remember any differently?

MR. E. MARTIN: I'm trying to understand the foundation of it. I mean this is documented here. Like –

MS. O'BRIEN: Yes.

MR. E. MARTIN: I see it as documented. But – so I'm sort of a little lost in terms of what you're suggesting there, that it wasn't documented, 'cause I'm looking at it.

MS. O'BRIEN: Okay. Well let's talk about when it took place then. So when did phase 1 screening happen?

MR. E. MARTIN: I don't want to be rude and say phase 1. I'm trying to think of another – you're looking for a date?

MS. O'BRIEN: Yeah. Did it –

MR. E. MARTIN: I don't know the dates on that.

MS. O'BRIEN: Would it have happened prior to Decision Gate 2?

MR. E. MARTIN: Ms. O'Brien, Decision Gate 2 is the screening of alternatives. So that's when it would happen.

MS. O'BRIEN: Well – okay. I understand.

Okay. So we have identification of options, two phases. Phase 1 we do a bunch of screening. phase 2 we do a Strategist analysis, right? Now, when I read this, I understand that it's the end of phase 2 that you go through Gate 2. Is that fair to say?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. So Gate 2 happens at the end of this. So the phasing obviously – phase 1 screening happens before phase 2 screening?

MR. E. MARTIN: Yes, I take your point. I understand. I got it.

MS. O'BRIEN: Okay. Understand what I'm – where I'm going here?

MR. E. MARTIN: I do, I do.

MS. O'BRIEN: Okay. So what I'm understanding, that the phase 1 would have happened well before you got through Gate 2 in November of 2010?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. And what I'm saying is, this slideshow that we're looking at here, this was a presentation that was done in February 2012. Obviously the P77 document was

submitted to the PUB prior to that. But that was all submitted to the PUB long after Gate 2 had been passed. You understand that, right?

MR. E. MARTIN: I understand. Yes, I do.

MS. O'BRIEN: Okay. So my question is, are you aware of whether this two-phase screening process was ever documented prior to Gate 2. Prior to it all having happened?

MR. E. MARTIN: I'm not –

MS. O'BRIEN: Or was this something –

MR. E. MARTIN: I'm not aware –

MS. O'BRIEN: – that was documented after the project?

MR. E. MARTIN: I'm not aware if it was or it wasn't.

MS. O'BRIEN: Okay. So it is possible that this was something that was just documented after the fact.

MR. E. MARTIN: Anything's possible. I just don't know.

MS. O'BRIEN: Okay. So you're – well, we haven't been able to find anything, and I understand you don't have any further information to provide.

Okay.

So, now, we – you've already given us – the Commissioner evidence about Gate 1; and at Gate 1, as I understood the analysis that was going on, is you were looking at how you were going to develop the Lower Churchill Project. In other words, you were evaluating expressions of interest for, you know, BOOT – third party BOOT versus go it alone.

So the Gate 1 decision was really about developing the Lower Churchill Project. Now, when we look at this and what's going on just prior to Gate 2, at Gate 2 it appears in coming up through Gate 2, through these two phases, that what's happening here is a screening of options and a narrowing of options for meeting the province's electricity needs. Is that correct?

MR. E. MARTIN: That's a good summary.

MS. O'BRIEN: Okay.

So –

MR. E. MARTIN: And can I – are we finished with this or are you going to continue on in this book, do you know?

MS. O'BRIEN: I may still continue on with that.

MR. E. MARTIN: Okay. Thank you.

MS. O'BRIEN: So, I just want you to explain that for the Commissioner – because we have this Decision Gate process, you know, Gate 1, Gate 2, Gate 3, all the way up to Gate 5. But here there seems to be two different decisions. You know, Gate 1 seems to be all about how we're gonna do the Lower Churchill Project and then Gate 2 seems to be how we're going to meet the province's electricity needs.

MR. E. MARTIN: I understand.

MS. O'BRIEN: Can you give – you know, there seems to be a little bit of a shift or a change there: can you explain that for the Commissioner?

MR. E. MARTIN: Yes. There was a change and I understand the question.

MS. O'BRIEN: Okay.

MR. E. MARTIN: So Commissioner, when we started the process in 2006, go it alone or Newfoundland-led – Newfoundland and Labrador-led – we were in the mindset of attempting to work diligently to find an economic rationale for development of the Churchill, and frankly our focus was in terms of doing a project or building a project for the purpose of commercial endeavour.

You know, build it, sell the power, make a rate of return that could improve the province's bottom line. And as we proceeded down that path we took the approach that we were going to, to the extent possible, exhaust every possible opportunity. Our view was, as instructed by Premier Williams, he said, you know, we need

to be able to demonstrate the robustness of the process, we've looked at everything and whatever is chosen, including nothing, we need to be able to explain that we looked at everything. So we did that.

And that's what led to the open access applications, through multiple jurisdictions, it led to our discussions with aluminum companies to – you know, who are large electricity producers. And a series of other potential opportunities. We looked at transmission both ways: one through Quebec, another through the Maritimes. We looked at a combination of both. We looked at Gull first, or Muskrat first, or together and all the variations in between.

And we pursued that. And an interesting, I guess, juxtaposition of interests happened as we moved through. At the same time we were getting data back from the Hydro-Québec open-access applications in particular, which were not proceeding favourably, I was approached by Newfoundland and Labrador Hydro – as on a regular basis they do their generation planning, you know, requirements – and I was informed that we were coming to a point then, after many years, again, since the paper mill closures and other things, that once again demand had increased to a point we have to do something; we have to provide more generation, and with – in combination with more transmission.

And that was when, you know, a shift did occur, so it was a change. The – I guess the negative news was, you know, the open-access applications were not proceeding very well at all. It was difficult to engage markets without that. On the aluminum side of things, there was potential, but the market was in fluctuation at the time.

But on the positive side, we had a lot of work done and a lot of scoping work done. So as far as being well prepared for the question that came from Hydro – Newfoundland and Labrador Hydro as to what the next generation alternative would be, we had the information at a good level. And we had to turn our attention to that, and at that point it did become a decision for – that dominated our thinking at that point, a decision for providing Newfoundlanders and Labradorians with additional electricity.

The other options did not go away, we just had to focus on that at that point and get through that decision before we proceeded on to re-engage with respect to the other opportunities.

MS. O'BRIEN: Okay.

Okay, so really, when we get down then now, as I understand it, when you do get to Gate 2 what you're really looking at, if I'm understanding this identification-of-alternatives process – that by the time you got to Gate 2 you had narrowed it down to two alternatives that you were going to be comparing for meeting the province's electricity needs. And those two alternatives were: The Muskrat Falls Project and the Isolated Island Option that had been developed.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

So how did you select those two to compare at Gate 2? So we're going to go through some of the options that were screened out, but when it came down to it, you just had two. What was the basis for those two?

MR. E. MARTIN: Lowest cost.

MS. O'BRIEN: So the idea that those were the best – the two of the ones you'd looked at, these were the two least-cost ones, two best contenders for least cost?

MR. E. MARTIN: So let's just back up a little bit, please. I mean, I thought you were asking the question of what was the decision between Muskrat and the Isolated made on. Is that what you asked me?

MS. O'BRIEN: No, my question is when –

MR. E. MARTIN: Because I –

MS. O'BRIEN: – it came down to –

MR. E. MARTIN: – I answered that question, Commissioner, as least cost, so – and the second question I think I may have misunderstood the first one?

MS. O'BRIEN: Okay.

So my question is when it came down to it, you did an analysis on two options at Gate 2, right? How were those two selected? I mean, were they the two best contenders for least cost or what was the – what was the criteria that you got down to these two?

MR. E. MARTIN: It's – once again, the criteria of, you know, a combination of security of supply, cost to ratepayers, those types of things.

MS. O'BRIEN: Okay.

MR. E. MARTIN: So –

MS. O'BRIEN: Two best contenders?

MR. E. MARTIN: But isn't that – I may be missing your question again because it seems the – the answers seems too obvious to me, so you're looking for something else.

MS. O'BRIEN: No, no, not at all. I just want to confirm. So I understand ultimately it came down to a least-cost decision. That's what you just confirmed –

MR. E. MARTIN: Yes.

MS. O'BRIEN: – for the Commissioner. So you ultimately did a very detailed evaluation of two options, right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Is that because you considered that those two options were the two best options for least-cost –

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: – power?

Absolutely, okay, that's my answer. All right.

And, ultimately, when you did that decision at Gate 2, that was based on determining which of those two options was the least cost using a 50- to 60-year planning period, right? That's how the evaluation was ultimately done?

MR. E. MARTIN: I believe 50 years.

MS. O'BRIEN: Yeah. From the time it was being done –

MR. E. MARTIN: I understand.

MS. O'BRIEN: – it was a little more than that, but yes, understood.

MR. E. MARTIN: I take your point.

MS. O'BRIEN: Okay.

Let's – I just want to just go to – so you can put away your book there now, Mr. Martin – P-00093. I don't believe you're going to need to open your book for this one.

This is the decision support package for the board of directors at page – at DG2. And I'm just going to bring you to one area of it, but you'll just – so you see the cover page there, you can recognize what the document is.

Can we go to page 11? Just at the bottom of this page.

Can you just read, perhaps, those two paragraphs there into the record please, Mr. Martin?

MR. E. MARTIN: And which two are those?

MS. O'BRIEN: The one's starting with: "Both of these drivers"

MR. E. MARTIN: "Both of these drivers are inter-related and have been under parallel assessment. The need for new generation capacity for the Island is part of Newfoundland and Labrador Hydro's Integrated Resource Planning for the Province and is currently driven by load growth and the displacement of the Holyrood Thermal Generating Station. For the past several years, an electrical 'capacity' deficit has been forecast for the Island system beginning as early as 2015 with electrical 'energy' deficits expected to start in 2019.

"In order to ensure the Island has sufficient capacity and energy into the future, a decision has to be made by the end of 2010 on which of the available alternative generating sources best meets the Province's requirements. Awareness of this decision has been an integral part of Nalcor's lower Churchill development planning

and preparation. The lower Churchill development Phase 1 is now positioned to be the viable alternative generating source to meet the Province's needs and provide power export opportunities."

Who's moving the screen on me there?

MS. O'BRIEN: Oh, sorry, that's me.

That's fine. Thank you.

And then if we go down here – okay – there's another reference there that I'll perhaps find at the break. Fair to say though, this is a good and accurate explanation of what was going on at the time?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay, now in terms of considering the options, was that Nalcor doing it as opposed to the Government of Newfoundland and Labrador?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

And I just want to look at the Electrical Power Control Act. It's not in your book but P-00087; it's going to come up on the screen.

MR. E. MARTIN: And is there any benefit on where you're headed with this so I can give you the – you know, the context you're looking for?

MS. O'BRIEN: Yes, I'm – well, I'm going to bring you to the section of the Power Control Act, section 3.

MR. E. MARTIN: So we'll just go through a step at a time you're saying, will we?

MS. O'BRIEN: Sorry, it's at page 6. Okay, so this says: "It is declared to be the policy of the province that ..." – and then this idea of least-cost power comes here.

"... all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner ... that would result in power being delivered to consumers in the province at the

lowest possible cost consistent with reliable service"

So you obviously understood at the time that was the – and still is – the province's power policy?

MR. E. MARTIN: That is correct.

MS. O'BRIEN: Okay.

So on Friday, Charles Bown was on the stand and the Commissioner asked him some questions that were really focused on this distinction between least-cost versus – you know, the least-cost option based on two alternatives that you ultimately selected for this period of evaluation over 50 years, and what's set out here in the act, which is the lowest possible cost of providing reliable power service.

And I was wondering if you could address that distinction, if there is any distinction in your mind, for the Commissioner.

MR. E. MARTIN: I'd appreciate you trying that again because my initial thought is that there's no distinction, but I may be missing something. So I didn't really catch that question. Could you try it again?

MS. O'BRIEN: Well, that may be your answer, I don't know. We – you – we certainly know that the *Electrical Power Control Act, 1994* requires that power be provided that is at the lowest possible cost consistent with reliable service. So it's the concept of lowest possible cost, assuming it's – it's got to be reliable power.

And, ultimately, when you made that decision at Gate 2, you had made that as a, you know, two alternatives, least-cost decision, and you used a planning period of 50 years to do that. Do you see those as equivalent exercises? I mean, is that – when you talk about what you were doing at DG2 is that – do you consider that you were exactly doing what was here and set out in policy in the Electrical Power Control Act?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. E. MARTIN: I do, 100 per cent. And I think – well, I don't know how to add to that because I mean, Commissioner, you've had a question – you know, I'm sure you've thought about it so I'm concerned I'm, you know, not addressing the questions and – you know.

MS. O'BRIEN: Okay. I'll just put out, maybe, another question – oh sorry, Commissioner, I didn't mean to interrupt you.

THE COMMISSIONER: I guess my query would have been at the time. It's only just something that I've been thinking about the last little while, so it would be good to hear from you on this. But I had pointed, actually, Mr. Bown to a provision in the Energy Plan that talked about the primary objective being the lowest cost – the least-cost power for the consumer. And I didn't refer to this particular section but it's the same sort of scenario.

So I was trying to figure out how did we get from what was the lowest possible cost to the consumer, to a test based upon a least-cost option with the Lower Churchill Project being the comparator? I'm just trying to figure out how we got there.

And Mr. – in fairness, Mr. Coffey referred me to some documents that I haven't had a chance yet to go look through that says – explains the genesis of it. But I'm just wondering, from your perspective how do we get from one to the other? And I do see a distinction between the two of those and the distinction being as I just explained it. I don't know if you see it or not –

MR. E. MARTIN: Mm-hmm.

THE COMMISSIONER: – if I'm making sense or whatever, but I'd be interested in your comment.

MR. E. MARTIN: Well, I can offer a couple of thoughts and maybe we can get to it that way. I think a critical piece is the time frame. And when we at Nalcor and Newfoundland and Labrador Hydro look at the ratepayer, we look at the ratepayer over time. So it's not the ratepayer of next year or the ratepayer of five years, although it includes them, it's the ratepayer over, in this case, the 50-year period, for the longer term.

And were – what we do then is attempt to find the balance of over that period of time what will result in the least cost of electricity for current middle frame and longer frame ratepayers and we don't see a distinction. And based on that, if you go into the Isolated Island Option and say that, you know, we have to add 50 or 100 megawatts of power in the next year, and so we select the lowest cost alternative there. And some might say a gas turbine but, you know, for – in the business you can only use a gas turbine infrequently. It's so expensive.

So you would compare that to what your next best – and I think in our case it ended up being one of the hydros or wind and that got you over the hump. And then you keep building up bit by bit over time picking the lowest cost option for each jump. And we costed that out. And then on the other side of the equation, on the Muskrat side, obviously a different framework because high upfront capital and then essentially, you know, very little after that.

And, once again, back to the Isolated, the big Isolated driver is the fuel; huge, huge – 60 per cent of the total. On the Muskrat side it's primarily capital, Commissioner, as you're well aware. So we run the higher cost Muskrat, amortize that out over – and run the various different ones that we put in for the Isolated, and that yields a cash flow stream from both. And then you bring that back to present value and that gives you the opportunity to compare those on the lowest cost basis. That is a fair measurement of lower cost is the present value, CPW.

In our – I won't go on much longer, but in our case with these two alternatives, you know, initially there was a bump. So the short-term ratepayers initially were seen to be taking a bit of a higher cost than Isolated, but fairly rapidly in the long-term time frame, the curves crossed. Which makes sense because, you know, you have a hydro plant then constructed, so the cost increases are relatively limited, but the other ones you keep building and keep adding oil.

So lowest cost all the way. In the short term, you know, we'd always talk about, you know – Premier Williams and Premier Dunderdale at the time – we always discussed that that's something we're likely going to have to deal

with, the short-term impact. And, certainly, time has gone on, we're not there anymore, but – and I think you're gonna see that again because you have to look at the short-term ratepayers too, and there's mechanisms to do that. There's mechanisms to smooth those curves so that they're either very, very close and then splitting and handle the short-term base. When you handle that then, you have the lowest cost.

THE COMMISSIONER: Right.

MR. E. MARTIN: You know, energy and electricity over time for short, medium and long term.

THE COMMISSIONER: Yeah. I'm hesitant to keep asking questions because I'm not sure where Commission counsel is going to go with all this. But one obvious thing that I've been thinking about is that if you – for Muskrat Falls, you went out 50 years or whatever because you base it on the age of the asset or whatever.

But if you weren't using Muskrat Falls as a comparer – and, for instance, if you were trying to get to 2041 when, you know, there's an issue about whether or not we have power but, certainly we'd have the right to market-priced energy, I would think, from Churchill Falls. You know, I'm trying to figure out – did anyone do an analysis to figure out, okay, if we only need to get to 2041 – and I've seen some analysis, but I haven't seen this sort of a model for an analysis.

Like, I'm just trying to figure out, like, did it – once Muskrat Falls was chosen as the comparer, it had to be 50 years. And if it hadn't been the comparer, a lesser period of time might have gotten us to 2041, perhaps (inaudible).

MR. E. MARTIN: That's a great question, and you – and, obviously, you're not aware of this because you said you were not, but an analysis was done on that. A detailed analysis was done on that question and what it yielded was – as you said, you go to – you go Isolated, actually. And you have to go Isolated because – I'll take that back. There's still reliability problems with Holyrood and, you know, so you'd do – you'd follow the same track up to 2041. You'd have to, to keep the lights on.

And then what we did –

THE COMMISSIONER: Well, the only thing is, is that – well, okay, I don't want to really get into something that I know –

MS. O'BRIEN: And I have a –

THE COMMISSIONER: – (inaudible) going to get to sooner. So, anyway, okay, I think I got more understanding.

MR. E. MARTIN: You got that?

MS. O'BRIEN: Yeah.

MR. E. MARTIN: And we did market price after that.

THE COMMISSIONER: Yeah.

MR. E. MARTIN: And we did – and the –

THE COMMISSIONER: And I have seen those models. I have (inaudible).

MS. O'BRIEN: Yeah.

MR. E. MARTIN: And Muskrat Falls still won out significantly.

THE COMMISSIONER: Yeah. I saw those, yeah.

MS. O'BRIEN: I have some further questions –

THE COMMISSIONER: Okay. Thank you.

MS. O'BRIEN: – that may assist you, Commissioner, or I certainly hope they will.

So one of the – one – my next question was going to be, and I believe you've really answered it, though, now, is that really if – the decision to select Muskrat Falls as one of the two options that you were gonna consider, that's what required the 50-year assessment period, is that correct?

MR. E. MARTIN: That's correct. But could I just add a flavour – we could've used – in theory, with a hydro plant, you could use 75 or 100. You know, that's the benefit of that, but the 50 years is understandable, acceptable, and plus,

as you get out further into the decades, the present value becomes rather, you know, has really limit – no value. Because you're bringing back 30, 40, 50 years in the present value, the impact on CPW is, you know ...

MS. O'BRIEN: Sure.

So one of the people who has given some testimony to the Inquiry is Philip Raphals from the Helios Centre, and he had – gave – and he had presented, at the time, I think, before the PUB and in some other proceedings.

But he had been somewhat critical of Nalcor's approach to just choosing two scenarios. He referred to Nalcor's use of Strategist to develop the Island scenario as an early draft of what he considered to be a proper planning process.

He gave the Commissioner a fair bit of evidence on integrated resource planning. And he referred to integrated resource planning work that had been done by BC Hydro when they were doing their evaluation of their Site C Project.

Are you familiar with the Site C in British Columbia?

MR. E. MARTIN: I know of it. I'm not familiar with it.

MS. O'BRIEN: Okay.

So he referred to some documents, and they weren't entered as exhibits at the time; they now have been, Commissioner.

I'm only going to bring one of them up, but I'm going to give you both exhibit numbers. They are Exhibit P-01645 and P-01646.

I'm gonna ask to bring up P-01645. And, Mr. Martin, you may wanna look at this one. It's going to be in tab – in binder 6 – volume 6 – tab 137. So that may be tab 37 in that binder. I think sometimes we don't have tabs with the one in front of them.

So this is a BC Hydro Integrated Resource Plan. This is part of it –

MR. E. MARTIN: I'm – apologize, Ms. O'Brien. What number again?

MS. O'BRIEN: Sorry.

MR. E. MARTIN: Tab –?

MS. O'BRIEN: At – look for – it's tab 137 or tab 37. And I'm not gonna spend a lot of time –

MR. E. MARTIN: (Inaudible.)

MS. O'BRIEN: – on this document, but what Mr. Raphals was pointing to, I think – he said: Look, here we see – in an integrated resource plan, what you do is you don't just run two scenarios; you run multiple scenarios.

And in this document, as we scroll through it, we see that there are a whole – like, there's 60, or 60-plus different scenarios that are running, and each one has a different assumption on the – on load, DSM is the equivalent of our – what we call CDM here – so conservation-demand management.

There is – different markets scenarios. Some of them – some of these scenarios include Site C, some of them don't include Site C. Some of them include liquid – liquefied natural gas, some of them don't. But it is a huge multiple of scenarios and each one is run and it's charted out. And they just, you know, go over the process again and again, and again.

Are you familiar, generally, with this type of integrated resource planning?

MR. E. MARTIN: Not a lot, no.

MS. O'BRIEN: Okay.

I take it this is something that you would have had no familiarity with prior to joining Newfoundland and Labrador Hydro?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But I did have seven years at the helm prior to sanction, and I knew about it during that time.

MS. O'BRIEN: Okay.

So, during that – those years at the helm, did you learn more about integrated resource planning?

MR. E. MARTIN: The concept and – yes. And the types of things that needed to be covered, yes, but the actual process, no.

MS. O'BRIEN: Okay.

And are – the evidence that we have to date is that Nalcor did not do integrated resource planning.

Is that consistent with your understanding?

MR. E. MARTIN: Not entirely.

Yeah, let's look at similarities and differences. When I heard you describe, in some detail, what was involved in the integrated resource plan – all the various options – Newfoundland and Labrador Hydro and Nalcor together looked at those internally. So there – I see that as very similar.

The second point is, even though you – I heard you mention other things in there, and – such as the wind and CDM and other things; that was looked at, and incorporated in the planning within the company. So, I see that as similar.

The process of involving others at the table in a broader session – going through it together – that process did not occur, although a summary was submitted to the PUB.

MS. O'BRIEN: So –

MR. E. MARTIN: So I see some similarities in terms of the analysis that was covered, but the actual process, as I understand the integrated-resource-planning concept of bringing in multiple parties and stuff to sit around, and work it together and those types of things – we did not do that.

MS. O'BRIEN: Okay. So, do you – are you familiar with Mr. Bob Moulton?

MR. E. MARTIN: Yes, I am.

MS. O'BRIEN: Okay. So I understand he worked in – at that time in system planning for Newfoundland and Labrador Hydro. His

evidence was that you did not use integrated resource planning.

Do you accept that evidence or are you disagreeing with it?

MR. E. MARTIN: If Bob Moulton said it, I accept it 100 per cent.

MS. O'BRIEN: Okay.

All right, so if we can maybe look at maybe some of the reasons why Nalcor wasn't using integrated resource planning.

Can we bring up exhibit – and you're done with this binder now, Mr. Martin.

MR. E. MARTIN: Well, thank you.

MS. O'BRIEN: The next binder you're going to want to look at is the first volume, tab 12 of that volume.

Madam Clerk, P-01164, please.

MR. E. MARTIN: So volume 1?

MS. O'BRIEN: Yes. Tab 12.

MR. E. MARTIN: Tab 12.

MS. O'BRIEN: Okay.

So this is a – we're going back now to November 2008 – this is Hydro's submission regarding integrated resource planning. It's attached here. It is a letter. It's signed by Geoff Young. I take it Mr. Young would be familiar to you?

Would Mr. Young – do you know who Mr. Young – Mr. Geoff Young is?

MR. E. MARTIN: Yeah. Yes, I know Mr. Young.

MS. O'BRIEN: Okay.

So this letter is signed by him, from – he's counsel for Newfoundland and Labrador Hydro and it's going to the board of directors here. And this is regarding integrated resource planning.

You've – I understand you've had a chance to look at this previously?

MR. E. MARTIN: I have recently looked at it.

MS. O'BRIEN: Yes.

MR. E. MARTIN: Yes, but –

MS. O'BRIEN: Okay.

So, here if we go just to page 2, the second paragraph here.

He says: "Hydro has no objection to participating in appropriate processes to assist the Board in carrying out its responsibility to ensure that adequate planning takes place. To that end, Hydro has filed with the Board and upon interested parties information on planning matters" He goes on, he says: "However, in Hydro's view, the Board and the parties are constrained from undertaking a full ranging IRP because, (1) under the Province's Energy Plan, the Province's preferred view is to meet the longer term electrical generation needs through the development of the Lower Churchill Project, and (2) the Board's jurisdiction to review Hydro's planning and surrounding this project is ousted by the Labrador Hydro Project Exemption Order."

So is this an accurate statement of Newfoundland and Labrador's Hydro's position at that time?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

So he goes to say, you know, if "time and money were unlimited, it would be possible to carry out full" – essentially – "full planning and engineering" possibilities "for two possible contingencies: a future where the island's long term needs are met by the Lower Churchill Project and an HVDC link, and a future where the" Isolated Island – sorry – "the Island Interconnected System remains an isolated electrical system."

And then he goes on, but "In Hydro's view, this would unavoidably involve a considerable amount of engineering and support work to

prepare for a future that, very likely, will not materialize." And what he means is that – when you read the letter as a whole, that the – it's likely the future is gonna be essentially an Interconnected Island. And what I understand him to say, that – here – that, you know, the time and effort and cost of doing an IRP, there's no benefit to that if we are going with the Interconnected Island and a large hydro development. Would you agree with that?

MR. E. MARTIN: I would agree with that.

MS. O'BRIEN: Okay, and I believe this is consistent with other evidence –

MR. E. MARTIN: But I would also add, just for the sake of completeness, if the numbers don't work, it doesn't go. And let's make that clear. That was crystal clear from the get-go and a constant basis from both of the premiers who were involved in taking this endeavour off the ground and approving it.

MS. O'BRIEN: Okay.

MR. E. MARTIN: If it did not work, from the economics perspective, it did not go.

MS. O'BRIEN: Okay, so these questions I'm asking you are about integrated resource planning.

So Mr. Paul Humphries did testify that – before the Commissioner – that there was a movement in 2006, 2007 towards IRP, but that – he said that plan seemed to, kind of go cold after the Energy Plan. So I take it that would be consistent with Mr. Young's letter, would you agree?

MR. E. MARTIN: Now, I'm going to be consistent with Mr. Young's letter in your questions, if it could help you with time, because I'm not heavily involved in this stuff, and I would trust Mr. Young's, you know, view on how that unfolded. So I agree with this letter.

MS. O'BRIEN: Okay. So really, when you were looking at developing the Lower Churchill Project and that being the most likely outcome, Newfoundland and Labrador Hydro didn't see much of a role for integrated resource planning. Is that fair to say?

MR. E. MARTIN: I think that's what that letter says, and if that's what the letter says, I agree with it.

MS. O'BRIEN: I just wanna go to – this is a draft report from Navigant. It's gonna be at tab 81, so that's volume 4 for you, Mr. Martin – tab 81. P-01451 –

MR. E. MARTIN: Wait, volume 4 – one second, please.

Tab 81?

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: Yes, I'm there.

MS. O'BRIEN: Okay, if you wanna go to – just to introduce the document, this is a draft of Navigant's report at DG2. It's not the final. If you could go to page 10 of that document, Mr. Martin – Madam Clerk, please?

So I'm just looking at the last paragraph there on that page where it says: "Navigant recognizes that" future "analysis will be undertaken by Nalcor in the period leading up to the Decision Gate 3 decision. In order to provide a more robust decision, Navigant recommends that Nalcor undertake a more holistic, integrated approach in its development of options for the analysis for DG3 that would include: additional renewables, CDM and transmission expansion/upgrades, with a primary focus on their application in the Isolated Island case; explicit consideration of the impact of ... greenhouse gas legislation."

Then it goes: Explicit identification and – "identification and consideration of scenarios (plausible combinations of key assumptions) in its analysis with re-optimized expansion plans for each of the scenarios" and a "Monte Carlo analysis of assumptions to more fully explore the variability in costs in the alternative cases being considered."

Now, as I understand that what is – this here is, in this draft at least, Navigant is recommending that Nalcor conduct essentially an IRP, integrated resource planning process prior to DG3. Would you agree with that?

MR. E. MARTIN: I wouldn't agree or disagree.

MS. O'BRIEN: It's not something you have any familiarity?

MR. E. MARTIN: It's not something that I – you know –

MS. O'BRIEN: Okay.

MR. E. MARTIN: I'd be jumping ahead of my level of expertise if I started making that assumption on a read of this type of paragraph.

MS. O'BRIEN: That's fine. Were you – did you ever see this draft report of Navigant's?

MR. E. MARTIN: Not to my memory, no.

MS. O'BRIEN: Okay, you don't have any recall of anyone telling you that Nalcor had made – or, sorry, Navigant had made that type of a recommendation in its first draft of its report?

MR. E. MARTIN: I have no recollection of that.

MS. O'BRIEN: Okay.

I want to look at – were you aware that Natural Resources Canada did a review of the project?

MR. E. MARTIN: Yes, I was.

MS. O'BRIEN: Did you read their – NRCAN's report?

MR. E. MARTIN: I can't remember.

MS. O'BRIEN: Okay, well, we'll bring it up, and we'll see if it triggers any memory for you.

MR. E. MARTIN: Sure.

MS. O'BRIEN: P-00054. It's going to be at volume –

MR. E. MARTIN: Are we coming back to Navigant or are you finished with that one?

MS. O'BRIEN: No, I'm finished with that one.

THE COMMISSIONER: P-00054.

MR. E. MARTIN: There you go.

THE COMMISSIONER: So tab 112.

MR. E. MARTIN: Of which binder again, please?

THE COMMISSIONER: Book 5.

MS. O'BRIEN: Volume 5. Thank you, Commissioner.

MR. E. MARTIN: Book 5, tab 112.

MS. O'BRIEN: So this is an economic analysis of the Lower Churchill hydro generation project that was done by NRCAN or Natural Resources Canada. This document has – says – you know, has lots of both – it has lots of positive things to say about the Lower Churchill Project development, and it – I encourage the reading of the report in its entirety. But right now, I'm just going to go to page 35, please.

Okay, this is – here NRCAN says, "There are a few concerns to note with respect to the Navigant/Nalcor analysis. The analysis examined and discussed all the above options in a piece-meal fashion. It did not look at combinations of the different options. Nor did it consider the possibility of incorporating a combination of options in order to delay the project and its large capital costs.

"In scenarios where demand does not grow beyond 2020 or 2030, NRCAN's analysis indicates that the Isolated Island alternative could be 2010\$ 800 million less costly than the Interconnected Island alternative. The \$800 million amount represents a risk to the Project. That is, it is the net present value of the additional cost that would be borne by rate payers and taxpayers in this scenario compared to the No Project option.

"A strategy to mitigate this risk would be to invest in more wind power, small hydro and CDM" – which is conservation demand management – "in the near" future. "This strategy would delay the large capital costs of the Project and allow time for other experimental technologies – such as solar and tidal – to become more cost-effective. A decision on the Project could then be delayed

until the Holyrood plant is nearer the end of its useful life."

And then it goes on and talks about the risks of that strategy, and the primary one being if the demand does materialize, and it continues on.

As I understand this – what NRCAN was identifying as a weakness – a few concerns with Navigant and Nalcor's analysis was that it was a failure to consider a multiple number of scenarios. Would you read that the same way?

MR. E. MARTIN: It appears what NRCAN is saying, but I would defer to Mr. Humphries with respect to, you know, the validity of that or not. So even though that's what I read here, I can't accept or not accept it because, you know, I need to have Mr. Humphries and his team, you know, give me an assessment of is that true or not.

MS. O'BRIEN: Okay. But ultimately as I understand it, Nalcor didn't take up that suggestion, and you just stayed with analyzing, at Gate 3, the two options, correct?

MR. E. MARTIN: Once again, I'd like to – I need to talk – I need to defer to Mr. Humphries on that.

MS. O'BRIEN: Okay. Well, right now, you can just give your evidence to the Commissioner.

MR. E. MARTIN: I can't speculate on that though, because I'd need – in my mind, I would like to know if this was actually accounted for in the analysis performed by Mr. Humphries and his group. And I –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – think that would be a fair question, because they're extremely thorough, and it's been my experience that whenever I have detailed questions such as that, they would provide me with answers that made sense. So I really feel that I can't make that comment.

MS. O'BRIEN: Okay.

As I understand the evidence that there were some sensitivities run, and we'll look at those, but ultimately, when they did the CPW analysis at Gate 3, they just compared the CPW of two

different options, the Isolated Island and the Interconnected Island, as that Isolated Island had been optimized by their Strategist work. So it was really – it came down to an analysis of two options in the CPW analysis.

Is that not your understanding?

MR. E. MARTIN: So that's my understanding that in the final analysis the comparison was made between the two, yes. I mean, that's obvious, you know? That's not the point.

The point I'm making is that if I look at the Isolated Island Option, to come up with that sequence of builds in that option, a huge amount of effort went into it. And in that effort, for instance, there was changes made to the actual ability – if I can remember this one – to integrate wind, and there were constraints on that. There were questions around – you know, similar to yours, Commissioner – around the 2041 wait. And I know several of those. They were the higher profile ones.

What I don't know is what else Mr. Humphries and his teams – and his team did to land on that final analysis. And the reason I hesitate is that, you know, he's an extremely competent individual, and every time that I found – there was not one instance when I didn't ask him a question that was referred to that he didn't have a detailed answer for me – how to come up with it.

MS. O'BRIEN: Okay.

MR. E. MARTIN: So that's where I am on that, and I'd need to take advice from Mr. Humphries.

MS. O'BRIEN: Okay. That's fine.

Let's bring up the Joint Review Panel response from the Government of Newfoundland and Labrador, then, please. P-00051; I don't believe you'll need this in your binder, Mr. Martin. P-00051, page 3.

MR. E. MARTIN: (Inaudible.)

MS. O'BRIEN: Thank you.

If we just look at the Recommendation 4.3 from the JRP was – had to do with integrated resource planning and: “The Panel recommends that the Government of Newfoundland and Labrador and Nalcor consider using Integrated Resource Planning, a concept successfully used in other jurisdictions. Such an approach would involve interested stakeholders and look simultaneously at demand and supply solutions and alternative uses of resources over the medium and long term.”

The response was that: “The Government of Newfoundland and Labrador accepts this recommendation.”

As I said to you earlier, Mr. Martin, the evidence we've had from Mr. Moulton is that Nalcor, to this day, has not implemented IRP. Do you recall any – I mean, here, in this document, it says the Government of Newfoundland and Labrador is accepting it. We know today and – at the end of 2018 it still hasn't been implemented.

Can you shed any light on that for the Commissioner as to why this recommendation purports to have been accepted but no changes appear to have been made in how Nalcor is doing its generation planning?

MR. E. MARTIN: I cannot. I wasn't involved in that.

MS. O'BRIEN: All right. Okay.

And so just to be clear, the Commissioner has heard from Mr. Humphries and we do understand that two scenarios were done; sensitivities were run on them. But we have not yet been presented evidence that there was, you know, these multiple scenarios done, like would be under an integrated resource plan. That's the information we have to date. And, of course, Nalcor is – has standing here before the Commission, and Mr. Simmons, I know, will point us to any additional information that would shed light on this.

Okay.

Now, we understand that one of the elements of integrated resource planning is looking at this conservation and demand-side management or

CDM [sp conservation and demand management; DSM, demand-side management]. Do you agree with that?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

Now, my understanding – or our understanding based on the evidence to date is that Nalcor could have given consideration to conservation and demand management in its generation planning, even if it wasn't doing full-integrated resource planning. Is that consistent with your understanding?

MR. E. MARTIN: I guess – yeah, sure, anything is possible. We could've.

MS. O'BRIEN: Okay. And –

MR. E. MARTIN: Now, my expertise here is – this is not my – this is not in my wheelhouse. You know, it's in Mr. Humphries' and others. I did hear that part of his testimony about CDM, and that struck a chord with me because he had talked with me about that before, that – because there was, you know, there was a tremendous dialogue around CDM for instance. And I did ask him about it once, but he was clear to me that at the time, you know, he – his information was he could not account for it because of the – it was statistically, you know, not robust enough to count on. And he made it clear to me that our job was to keep the lights on. And he could not risk, you know, an insignificant CDM when he didn't have a statistical base for it. I do remember that.

But as far as, you know, how it all actually works and anything past that, I don't have – it just wasn't in my wheelhouse.

MS. O'BRIEN: Okay. Well, I'll bring you through some of this evidence and, again, you may – may not be able to shed much light on it for the Commissioner, but I want to at least put it to you.

Were you aware that even in its final report that Navigant recommended that Nalcor incorporate more CDM into its generation planning? Do you recall that?

MR. E. MARTIN: I don't recall that.

MS. O'BRIEN: It's there, it's – I'll just give the cite, it's at – P-00042 is the Exhibit and it's pages 42 to 43 that I'm referring to, Mr. Commissioner.

MR. E. MARTIN: And Mr. Commissioner, I wouldn't want to downplay, you know, the – that type of thing, it's just that anything – even from reading the report, which I did – so I'm sure I read it. But as far as a CDM or demand-side management and those types of things, you know, being handled, I would've just deferred that and let it ride – flow down into Hydro; Mr. Humphries.

So I just wanted to make that point, it's just that I wouldn't make a note to deal with it myself.

MS. O'BRIEN: Okay. So I'll try to move through this evidence more quickly.

So it was also a criticism of the JRP in their report, it was in part their criticism in Nalcor's CDM analysis. That was one of the reasons that the JRP put forward as to why it found Nalcor's business case to be inadequate and that was one of the recommendations, I'm sure you recall, was that the JRP recommended an independent evaluation of the business case for the project.

Do you recall that recommendation?

MR. E. MARTIN: No, I don't.

MS. O'BRIEN: Okay. So it's – it is there and, Commissioner, I'll just give you the cite: P-00041, page 68 and page 69.

So you don't recall the JRP having concern with Nalcor's –?

MR. E. MARTIN: I just don't recall that, no.

MS. O'BRIEN: Okay.

Were you aware that the PUB cited the failure to incorporate CDM into the load forecast as one of the reasons they cited for why they were unable to conclude that the project represented the least-cost option for power supply for the province?

MR. E. MARTIN: I remember something about that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But once again I would've passed that on.

MS. O'BRIEN: Okay. And Commissioner, I'll give you the cite, that's P-00052, it's the PUB's report and it's page 49 to which I'm referring.

Newfoundland and Labrador Hydro had retained Marbek Resource consulting [sp Consultants] to do an evaluation of CDM. That report was issued on January 31, 2008. So it was during your tenure as CEO.

Do you recall that?

MR. E. MARTIN: Something about it, but it – I think I've heard the term here before: it rings a bell. So, yes, it does but I wouldn't be able to be give you any detail on it.

MS. O'BRIEN: Okay. It's P-00246, and so maybe I'll put these questions to you at a bit of a higher level rather than delving into detail on the documents, and if – but if you ever want to –

MR. E. MARTIN: And once again, Commissioner, the reason – I guess you need to go through these questions, I understand that. But I think, you know, from my perspective, I'm CEO of the company. You know, my people are indicating to me – experts – my experts, who I trust, are indicating to me, you know, the impact of CDM is not – for instance, not statistically – you know, we have the ability to use that in our planning. And from that perspective, any amount or anything we did with it would be minimal.

And we're faced with a comparison of two projects where one project at DG3, for instance, is \$2.4 billion of CPW in favour. And I've seen some evidence in this Commission that if you add all of the benefits of Muskrat, Muskrat, you know, overrides or it comes out better by \$7 billion of CPW. And I just want to make the point that if my experts are telling me CDM statistically can't work for us, and the impact is even – whatever was put in is minimal, that's why I wouldn't be, you know, spending a

tremendous amount of time pursuing that. But I would expect them to handle the questions.

MS. O'BRIEN: Okay.

Well, let's look at that. Let's bring up the Grant Thornton report, P-00014, please. It's going to come up in your screen. It's only one page we're going to be looking at, so I don't think you'll need it in your binder.

If we can go to page 54. So here in – this is just a useful table, where Grant Thornton has done a summary table of the sensitivities that were run at Decision Gate 2. So they've taken this from the PUB submissions, Navigant's report, other sources. This is not their original work.

But they – and I believe this – these two scenarios came actually out of the Navigant work. So this is the base case here, Mr. Martin. Just – I'm going to help orient you. This is the Isolated Island CPW at DG2 and this is the Interconnected Island. And so here we see the difference of the 2.2 billion, okay? So that's the base case.

MR. E. MARTIN: This is DG2.

MS. O'BRIEN: This is DG2.

MR. E. MARTIN: I just referenced DG3 number, so there's no confusion.

MS. O'BRIEN: Yes, that's fine.

Exactly, so DG2 it's 2.2 billion, okay? So, here, two sensitivities were run: one with moderate – what was termed as moderate conservation, and one with – which was termed aggressive conservation. But let's look – it does have, you know, a significant impact, I would put to you, because if you took the aggressive conservation number, you take a billion dollars out of the difference.

MR. E. MARTIN: But –

MS. O'BRIEN: So you'll see it there?

MR. E. MARTIN: But what's your point? I mean, we – it wasn't statistically significant for us so we couldn't do it.

MS. O'BRIEN: Okay. My point is I think that a billion dollars would be significant in the analysis.

MR. E. MARTIN: But I also think – which I think is incorrect. I think you're trying to – and you can correct me on this if I'm wrong. I think you're trying to draw the conclusion that, you know, we could have done aggressive conservation and dropped by a billion dollars.

Well, the answer is absolutely not. And I was told that that was not on, we could not base our demand and our planning scenario for – have any lights on with respect to CDM. So this is interesting if it could occur, but my information was it would not happen and we would not count it.

MS. O'BRIEN: Okay.

So my objective here is just to put the information that we've collected to you, Mr. Martin, to get your response to the questions, the evidence that we have, so the Commissioner has the benefit of hearing from you. That's really what my purpose is here.

And so you had just said a few minutes ago that you understood that the impact of CDM, you were told, would be minimal. That's how I understood your evidence.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, so I just want to look into that statement that you made in a – with a little more detail, okay? So I'm looking at numbers that you would've had from Navigant at the time, because you would've received an (inaudible) –

MR. E. MARTIN: Well, this is not a nuance –

MS. O'BRIEN: – report.

MR. E. MARTIN: – we're talking about here. We cannot – based upon our planning scenario, we cannot incorporate CDM for the reasons I mentioned. It's not statistically – we don't have the statistical background to do it and our job is to keep the lights on. We don't have the luxury of not being able to point to something to keep the lights on.

And while I'm being a little bit more verbose on this particular answer is, I don't see the linkage between if this happened, if we dropped 750 gigawatt hours by 2031 – I got no dispute that's what the number would be, that's math, not a problem. But that is not going to happen in the case of Hydro and the Isolated system because we can't depend on that, according to what our internal experts have told us with respect to the type of system we have, Isolated in Newfoundland.

On a fragile basis, we don't have the ability to go elsewhere if that thing doesn't work out. So that's the only point I wanted to make. These numbers, if you run the math on them, I'm sure they're correct.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But I don't link that to our CDM situation.

MS. O'BRIEN: Okay, well, if you'll just bear with me and allow me to ask questions, because I do have a job to do here and we'll get through it faster. So here we – here the sensitivities show that if you applied CDM, or conservation demand management, we see here that there's no effect on the Interconnected Island CPW because – and that – the reason for that, I'd take it, would be that the ratepayers of this province are paying for the full amount of the Muskrat Falls development regardless of how much power it makes.

MR. E. MARTIN: That's entirely incorrect as well. And I think they're – people must have been conservative here because there should be an impact – 100 per cent there should be an impact on the same basis. So, once again, if you're going to count it on one side, you got to count it on the other. If you have aggressive conservation on the Interconnected Island side, on the Muskrat side that means that you're going to have less demand for power.

If you have less demand for power internally, that means you have more to sell and we have the capacity to sell it. And what should've been included in here, if you're going to do it from that perspective – what should've been included in here is the receipt of sales from the power that was more available for sale.

MS. O'BRIEN: Okay, so this was work that was done by your consultant, Navigant, back in 2010. That's what we're looking at here, okay? So if you're taking an issue with the work, I don't know, is that something you would –

MR. E. MARTIN: I'm not taking an issue – I'm pointing out to the Commissioner –

MS. O'BRIEN: – you raised with Navigant at the time?

MR. E. MARTIN: – there's a benefit on both sides for conservation.

MS. O'BRIEN: And our evidence to date, and I believe I've heard it from you, was that, when you did the CPW analysis, that you were doing it on – based on what is the least-cost power for the consumers of the province. And you didn't look at export sales. You just – you did the analysis excluding export sales. Very –

MR. E. MARTIN: Incorrect assumption again.

There's two things going on here, Commissioner. One is we did the economics with respect to whatever the province needed, and the excess sales over and above that were not included in the economics.

MS. O'BRIEN: That's what I just said, isn't it?

MR. E. MARTIN: But if you'll allow me to make the second point, then you'll understand more I'm saying.

The way the arrangements work with Newfoundland and Labrador Hydro and Muskrat is that the Island ratepayers – Newfoundland and Labrador Hydro – they request a certain amount of power. We have to – Muskrat would have to give it to them.

Now, in that context, if you did a CDM, and it was successful and it was Newfoundland and Labrador Hydro and they produce more – and they request – and it was power that they were given, then any – there was never any discussion that, if that happened, then those sales – which came out of Newfoundland and Labrador Hydro's allotment – if they were sold, naturally, the cash would go back to Hydro. That's a different thing entirely.

MS. O'BRIEN: That's not what the Power Purchase Agreement says though, is it?

MR. E. MARTIN: I think you need to read it a little closer because, you know, once you make that distinction in terms of how much power they get, and you – and if CDM kicked in – I'm saying is that that electricity would be – that value and that return would be back in Newfoundland and Labrador Hydro. So it's not the same as what you're saying about, you know, the excess sales are over and above the expectation. That's my view.

MS. O'BRIEN: Okay.

So let's just go back here. So as we understand the evidence to date is that, under the Power Purchase Agreement, that it's the ratepayers of the Island portion of the province that are required to pay for the full costs of the Muskrat Falls development. Would you agree with that?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. And I take your point is that, if there was additional revenue earned from export sales, there would be a – that revenue would come to Newfoundland and Labrador Hydro, right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. Or one of Nalcor's subsidiaries, and so that money could be used – either it could be paid to a dividend to government or – and government may choose to use it to mitigate rates. Is that what you're getting at?

MR. E. MARTIN: Both of those statements are true.

MS. O'BRIEN: Okay. But that's what you're addressing in terms of the export sales – the benefit of export sales?

MR. E. MARTIN: Both of those statements are true, so yes.

MS. O'BRIEN: Okay. So but when this analysis was done at CPW and this was all the work that was presented at the PUB, I understand that the evaluation was done, the

least-cost based on let's not look at export sales, let's just look at what the consumers will have to pay for the power that they need to cover the whole project. Do you recall that that's the way the analysis was done?

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay.

So here, then, we see under this case that, even with a conservation and demand management, the CPW of the Interconnected Island doesn't change for that very reason, correct?

MR. E. MARTIN: I don't agree with that. I just explained it.

That was never considered – CDM was never considered to be part of the analysis because CDM does not work in the Newfoundland system. I already said that. So my point here is that, if we're going to introduce in a concept that CDM is going to be incorporated and our planning people say that's the case, then I say it would be handled differently.

MS. O'BRIEN: Mr. Commissioner, we're just about at 12:30. It may be a good time to break for lunch?

THE COMMISSIONER: All right.

So we'll take our – it is 12:30, actually. So we'll take our break now 'til 2 o'clock.

MS. O'BRIEN: Thank you.

THE COMMISSIONER: Thank you.

CLERK: All rise.

Recess

CLERK: Please be seated.

THE COMMISSIONER: All right. Ms. O'Brien, when you're ready.

MS. O'BRIEN: Thank you.

Madam Clerk, can we please bring up P-00246, please? Mr. Martin, it's not in your book.

So this was the Marbek Resource Consultants report that we were speaking about this morning, about the CDM potential. And this is the one that was prepared for Newfoundland and Labrador Hydro in 2008.

I'm going to bring you quickly through a few things in the report, but let's go to page 13 please, Madam Clerk?

So in the work that Marbek did for you in 2008, it said what it considered to be the upward achievable potential savings for conservation and demand management and the lower achievable potential. And the amounts are there – it's 950 gigawatt hours per year by 2026 on the high side, and 556 gigawatt hours per year on the low side.

So at this point, Mr. Martin, I'm just pointing out this to you. This is actually more savings that was – than were used in the aggressive and moderate cases when Navigant did its sensitivity.

So I just wanted to bring that up for the next set of questions

And then I – it's filed in evidence but I'm not gonna go through the document in detail, but Commissioner, it's filed as P-01555.

It's the five-year conservation plan for Newfoundland and Labrador Hydro, and we can certainly go there if you want, Mr. Martin. But really, just to summarize, so this is the five-year plan that is looking at the years – I think it's two thousand and – maybe we will have to bring it up so I have the exact years – 01555, please?

(Inaudible) I think it's 2008 to 2013 – yeah, there we go. So this is the five-year conservation plan for Newfoundland and Labrador Hydro and Newfoundland Power for these years. And it forecasts savings for CDM initiatives at much less than what the achievable targets have been identified from Marbek.

Do you have any knowledge as to why when the – sorry.

THE COMMISSIONER: Sorry.

MS. O'BRIEN: No problem. When the five-year conservation plan was put in place, why the targets were less than – and considerably less than – what Marbek had considered achievable?

MR. E. MARTIN: No.

MS. O'BRIEN: Okay.

And when we go back to Marbek's study – to P-00246 here, and if we could just go to page 35 please, Madam Clerk?

MR. E. MARTIN: Once again, you know, in the context of, this is not my – I don't wanna, once again, say: no – as if it's not an important issue. The people who were handling it, the right people –

MS. O'BRIEN: Yeah.

MR. E. MARTIN: – need to be asked those questions. And my experience is they're pretty thorough and–

MS. O'BRIEN: Yup.

MR. E. MARTIN: – and on top of things.

MS. O'BRIEN: Okay.

So here Marbek said – pointed out – what it suggested as the appropriate levels of expenditure on CDM programs. And it starts at about 1.5 per cent for utility in its early stages of CDM and then it goes up to 3 per cent. But it does say that – the study also notes – it's referring to this CAMPUT study – the “study also notes that higher percentages may be warranted if rapid growth in electricity demand is expected or if there is an increasing gap between demand and supply due to such things as plant retirements or siting limitations.”

Would you agree with me that in this planning period when you were coming up and there was the concerns about the energy deficit in the province and why it was needed to do the planning, that that might have put us in this position where – at least according to the CAMPUT study – over 3 per cent of expenditures of the revenue might be considered appropriate?

MR. E. MARTIN: I don't know.

MS. O'BRIEN: Okay. Would you agree then that we were in a position if – where not necessarily rapid growth in electricity demand is expected, but if there was an – we were in a position where there was an increasing gap between demand and supply?

Wasn't that the situation this province was in?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. So when we read this at its face, if we were in that situation, what this study was recommending was ramping up expenditures on CDM to higher than that 3 per cent of annual electricity revenues.

And then, if we go back to that five-year plan, that five-year plan – 2008 to 2013 – showed spending of less – planned spending of less than 1 per cent.

Do you recall any discussions around why the spending and CDM was set so low?

MR. E. MARTIN: No, I don't.

MS. O'BRIEN: Okay.

MR. E. MARTIN: My discussions around the CDM were from the CPW comparison analysis that – with the Isolated side, with the fragility of our system and the lack of statistical certainty around the CDM endeavours – that our planners, you know, highly recommended that we couldn't depend on that for capacity and I agreed with them.

MS. O'BRIEN: Okay. So you don't recall your planners come to you saying look, we really should be spending more on conservation and demand management?

MR. E. MARTIN: No. And once – I wouldn't fault them on that either. That would be within their jurisdiction. And that would be unusual for them to come and see me about that.

MS. O'BRIEN: Okay.

And ultimately, when we look at the CDM spending that was done through the years – and I

can take you to the references if you'd like – but it looks to us that the spending – the plan was to spend, you know, .8 per cent or less than 1 per cent, but actually even less than that was spent, when you actually look at what happened in those years.

Do you have any recall of that as to why this spending might have been even less had been planned?

MR. E. MARTIN: No, I don't.

MS. O'BRIEN: Okay.

Would you agree – I mean, it's been put forward that if you don't put enough money into CDM programs – if you don't invest enough into them – you won't get the full benefit of the return. In other words, you won't achieve the maximum possible savings on CDM if you underinvest in CDM programming.

Would you agree with that?

MR. E. MARTIN: I wouldn't agree or disagree. I –

MS. O'BRIEN: You just don't know?

MR. E. MARTIN: I just don't know –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – and I wanted to (inaudible) start introducing diminishing returns, but when I start doing that I'm once again outside of my expertise and that would be handled within the company.

MS. O'BRIEN: Okay.

So, just putting it to you because when we look at the sensitivities that were run by Navigant – that for aggressive conservation and demand management – that would have improved the CPW for the Isolated Island by approximately a billion dollars. And that's even using Navigant's numbers.

If Marbek's numbers had been used for what they felt was achievable, it would have been even greater savings than that. So, we would

have been looking at even a lower CPW for the Isolated Island.

So, you know, I guess the question that we're putting – you know, the issue that's arising here is: the numbers show that Newfoundland and Labrador Hydro was investing in very – doing very limited investment in CDM – far lower than even its own experts had recommended. And, as – with low investment in CDM, you weren't really getting the advantages of bringing down that demand forecast. And what that did was it disadvantaged – in the CPW comparison – it disadvantaged the Isolated Island scenario that was impacted negatively, because you didn't consider any conservation and demand management, and it thus favoured the Interconnected Island.

So, that's the – you know – that's what's the picture that's being presented from these documents. And I really wanted to put that to you to get your response to it.

MR. E. MARTIN: I don't think it's a relevant comparison. The driver here – the key principle is being able to provide electricity to the people of the province. Certainty is – in the certainty of supply and certainty of being able to provide that is critical.

And as I mentioned before, the statistical analysis – I was advised by our people – could not support doing it. And they could not support basing our system on CDM with respect to purchasing and acquiring more capacity. System is too fragile, particularly in an isolated situation.

You know, the fact that other jurisdictions other than Newfoundland in North America are generally connected, Newfoundland – as an island – is not. And, from my perspective, they advised me of that. I agreed with them on that, you know, security of supply and the ability to ensure capacity and, you know, at the time it was needed most – it was critical – and that's how we proceeded.

MS. O'BRIEN: Do you see any difference here in the timelines in terms of how far out you're doing your forecasting? For example, I understand what you're saying is: Look, we weren't sure CDM was going to work – we had

to make sure we had enough electricity to keep the lights on.

But, of course, if you, you know, in the short-term, obviously, I think anyone would agree, that it's important to have enough supply to keep power there for the, you know, the upcoming years, when you're – when, you know, you have a good sense of where your load forecast is going to be.

But when you look at long-term planning and you're looking down the road so you have far more time to react – why not invest heavily in CDM? Why not look at that in the longer-term solution and that can really affect the amount of generation you will, ultimately, over that long period, need?

Do you see – do you see the distinction?

MR. E. MARTIN: Yeah. I'm not saying: Don't invest in it. I'm saying: It can be great in both cases to invest in it. In both cases, you know, you're saving electricity. And in one case, it would impact and save some cost and the other case, you know, there'd be an opportunity for additional revenue.

So, I'm not saying: Don't do it. I'm just saying: You can't base, you know, building a capacity system in an isolated island of Newfoundland and Labrador – basing your capacity needs on CDM.

That was the advice I received and that's where I am.

MS. O'BRIEN: Okay. So your advice was that CDM should not be considered in our generation planning here in Newfoundland and Labrador even over the long term?

MR. E. MARTIN: I think it should absolutely be considered. We could not depend on it for our capacity needs.

MS. O'BRIEN: It wasn't included – there was no CDM included in the load forecasts that were used at DG2 and DG3.

Were you aware of that?

MR. E. MARTIN: Yes, I was aware of that.

MS. O'BRIEN: Okay. So, your advice was not to include – the advice you got from your experts within Newfoundland and Labrador Hydro was that CDM should not be considered in the load forecasts. Even over the 50 year period.

MR. E. MARTIN: That's correct. And as I mentioned from a capacity-certainty perspective. Absolutely.

MS. O'BRIEN: Okay and despite the fact that other external experts, including NRCan, Navigant – these others had talked about – had talked about that we could use more CDM. So that was the recommendation from those various external experts.

That didn't cause you to rethink the view that you were getting from your people at Newfoundland and Labrador Hydro?

MR. E. MARTIN: Absolutely not. And let's put it in perspective too – we've got a situation here where we got a group of people who'd been running an – probably one of the only isolated systems in North America. I think, someone's mentioned Hawaii, as well.

But we've got a group of people who for 30 to 50 years have run an isolated system in Newfoundland and Labrador – done a good job of it. Now they're asked to bring in experts and they go through – all this stuff is input and listened to – and I know the folks absorbed it and worked through it.

But at the end of the day, I will trust the Newfoundland and Labrador people who are running the system. I trust that they're getting the external information, they're digesting it, they're working closely with it, and they're making informed decisions that they bring to me to make at the end of the day. So I'm confident with that.

But make no mistake, you know, running the Newfoundland Island system has considerations that, you know, are not existent in many other places.

MS. O'BRIEN: Okay.

And the decision not to include any CDM in the load forecast that were used, we know, it did not effect the Interconnected Island scenario. It would have affected the Isolated Island scenario.

But is it also fair to say that for some of the other options that were screened out, for example the LNG option, the import from Quebec option, some of these other options that got screened out, CDM measures – if they had been considered – would have affected the CPW or the current value of those other options as well, wouldn't (inaudible)?

MR. E. MARTIN: Two points there – you made a statement earlier on in your question that it wouldn't impact the Interconnected side and, I think, we talked about that before lunch. I think it would – it would provide additional opportunity for sales of energy that could be offset. That's point A.

Point B: if I – you're suggesting – you're asking me: Would it impact the CPW of the other options?

That's not a calculation I'd do in my head right now, to tell you the truth.

MS. O'BRIEN: Okay, so maybe we can look at some further documents as we –

MR. E. MARTIN: Sure, I have no problem with it –

MS. O'BRIEN: – go through your questioning today.

MR. E. MARTIN: – I just wouldn't want to do that calculation of matching up demand with some less capital expenditures, and things like – I just would normally take that advice from the folks running the numbers.

MS. O'BRIEN: Okay.

Well, let's talk about liquefied natural gas. So the evidence we've heard to date that – this was one of the options that was screened out at Phase 1.

Is that correct?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay, so can we bring up P-01204, please?

MR. E. MARTIN: I – do I need a record number?

THE COMMISSIONER: I'm just looking for a tab.

MS. O'BRIEN: And it's not in your book, actually. It'll come up on your screen – it's only a single page. Sorry.

So, this is a slide we looked at with Jim Keating. Did you have an opportunity to watch any of Mr. Keating's evidence?

MR. E. MARTIN: I did watch some of Mr. Keating's, but not all of it.

MS. O'BRIEN: Okay, so we can see here this was an email that originally went to you.

Do you recall seeing this previously?

MR. E. MARTIN: Yes, I do.

MS. O'BRIEN: Okay. So – and what Mr. Keating's evidence was that this was an analysis based on the work that had been done – the estimates that had been provided by Ziff – as to the CPWs of various options. So, obviously the Interconnected Island is one – obviously this would not have come from Ziff, but this is the Interconnected and this is the Isolated Island, so this is showing the 2.4 differential between these two options here.

But I think these numbers came from Ziff, so this was LNG at Ziff's – had given a range of 80 to 90 per cent of Brent for the oil pricing, so it gave two different CPW calculations. This was a FPSO pipeline option and this was a stand-alone pipeline option.

So are you generally familiar with this slide?

MR. E. MARTIN: Yes, I am.

MS. O'BRIEN: Okay.

So, I think the question I was just asking you had to do with which of these CPWs might be

affected if CDM had been incorporated into the load forecast.

And would you agree with me that if the load forecast was less then the CPW for the LNG option would also be less?

MR. E. MARTIN: I can't say that off the top of my head.

MS. O'BRIEN: Okay.

Well, okay. The Interconnected Island was affected by CDM because if your load forecast is less, you're burning less oil: right, so it costs less.

MR. E. MARTIN: Did you say the Interconnected?

MS. O'BRIEN: Sorry, sorry. I apologize. The Isolated Island. The Isolated Island here, if you were using a lower load forecast, because of conservation it was lower, you'd burn less oil so the CPW would go down.

Do you agree with me?

MR. E. MARTIN: I agree with that. Obvious caveat: it's not included – CDM because you can't trust it for capacity on the island.

MS. O'BRIEN: Yeah. We looked at sensitivities though where the impact of CDM was considered on the CPW analysis.

MR. E. MARTIN: And I'm saying that – I'm saying that's irrelevant because we wouldn't go with it.

MS. O'BRIEN: Okay. Well, it was sensitivities that were run. So would you agree with –?

MR. E. MARTIN: But I'm also – when you say that are you asking me another question, I mean, we went back and forth on it a bit. I mean, I'm just trying to say and be obvious of the fact that it wasn't included because it can't be counted on for capacity.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Regardless if there is sensitivities run on it or not.

MS. O'BRIEN: Okay, we –

MR. E. MARTIN: But that's a pretty critical point here, like, if we go on and start talking about it again – and I'm okay with that –

MS. O'BRIEN: I just want to get your answer to a question I put to you a bit earlier –

MR. E. MARTIN: That's a critical point. So I don't want to leave this impression that, you know, I'm changing my mind with respect to including it for capacity: I'm not.

MS. O'BRIEN: Okay. So, looking at the CPW for the LNG option would the same, you know, reasoning not apply that if there was less load, you'd be – you'd need to burn less liquefied natural gas. So, if CDM had been considered, the CPW for that option would have come down?

MR. E. MARTIN: Appears to be reasonable, yes.

MS. O'BRIEN: Okay, so that was the question –

MR. E. MARTIN: I understand (inaudible).

MS. O'BRIEN: – I was bringing you to.

MR. E. MARTIN: I sort of – I know more about the other two in terms of calculations, so I'd be more comfortable in doing that.

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: With the LNG – and I know some of these numbers, when you run them through the models, sometimes you get answers you're not sure of and I'm just not that familiar with running those models as I would have been with the other two.

MS. O'BRIEN: Okay.

Now, we understand that there was a further analysis that was done on the liquefied natural gas by Wood Mackenzie. And I think that is in evidence as P-01204.

Were you familiar with that work that was done by Wood Mackenzie?

MR. E. MARTIN: I was familiar that it was done.

MS. O'BRIEN: Okay.

Do you recall that the numbers that Wood Mackenzie put together for the liquefied natural gas were actually lower than that that had been concluded by Ziff?

MR. E. MARTIN: Yes is the answer, but I'm not sure if it was because I was listening to Mr. Keating's testimony the other day or if it was my memory. But I'm familiar with it.

MS. O'BRIEN: Okay. So – all right.

So, Mr. Keating – so we – so when we look at that – the result of that would be if this was based on the Ziff analysis – and, I think, Mr. Keating agreed with this – but if you'd used the Wood Mackenzie analysis, that would bring the CPW for the LNG option even lower.

You would agree with that?

MR. E. MARTIN: I understand that, yes.

MS. O'BRIEN: Okay.

MR. E. MARTIN: My understanding is from – what I heard is that they were dropping the percentage reference to Brent. So obviously it was lowering and –

MS. O'BRIEN: I think it was to – it was 70 per cent of –

MR. E. MARTIN: Yeah.

MS. O'BRIEN: – Brent, but they were looking at – and they also – their costing on the regasification was actually lower than what Ziff's costing had been. I think it broke down to two elements.

So, here's the question for you, because if you look at Wood – if you look the low number here using the Ziff analysis or if you look at the Wood Mackenzie number, which would bring it even lower, this LNG option actually comes to have a lower CPW than the Isolated Island Option.

And so the question is why – given that the CPW here is low or even potentially more attractive than the Isolated Island Option – why would LNG have been screened out at Phase 1? Why wouldn't you have brought that forward for a more detailed analysis?

MR. E. MARTIN: It – it comes down to, you know, a couple of points. The obvious one is the volatility of supply – supply of LNG and the associated cost. So – and I think the consultant's reports, you know, further highlighted that.

We went from 80 to 90 per cent of Brent. And then, we got another consultant in and it went to 70 per cent of Brent. My understanding is that there was a PIRA report done as well that linked it to somewhere in the Caribbean or South America, which was the most relevant contract they could have – and they went back up to, I think, closer to plus 90 per cent. That didn't surprise us.

You know, LNG is a – was a – you know, it's a developing industry, a – it's based upon, you know, for the most part – particularly in the day – at that time – it was based upon large LNG developments being linked to large customers at that defined the price. And that's one way to do it.

So they looked at some of the most recent pricing which was in the – I think it was South American area from PIRA – and we looked at that said: Well, that's higher again. So here we got this volatility. And then we said: Well, let's put ourselves in terms of what kind of market power do we have? And the market power of Newfoundland – we're 500,000 people, you know, very, very small market. You know, so us setting the price or, you know, marrying ourselves to an LNG development to lock in prices long term was not going to work. We're just not big enough.

So we ended up being a price taker – it was volatile in terms of where that would land.

And the final point was the fact that, you know, it was recommended that we would – we could probably get a 15-year – maybe a 20-year contract. So we had volatility that wasn't working for us; you got a 15-20 year contract. You commit to LNG at that point and you try to

renew a contract after that period of time when you're 500,000 people, you're a price taker and they've got you by the – you know – by the, you know, a good bear hug.

And looking at it from a security of supply perspective, it was advised to me that that was an unacceptable security of supply risk. I accepted that and supported it and we moved on.

MS. O'BRIEN: And who gave you that recommendation?

MR. E. MARTIN: Mr. Keating and – and that would have been supported by Mr. Humphries, who I always, you know, went to because he was the conscience of – conscious of the capacity and the electricity system.

MS. O'BRIEN: Now, Mr. Keating's testimony was that he considered LNG to be the next most attractive option to the Interconnected Island option. His evidence was that he considered LNG to be more attractive than the Isolated Island.

Is – that seems a little bit at odds, perhaps, with what you're saying but maybe it's not?

MR. E. MARTIN: I don't think it is at all. I think – I was referring to the information he gave me.

MS. O'BRIEN: And did he tell you he considered it to be a more attractive option than the Isolated Option that you did –

MR. E. MARTIN: I can't remember that.

MS. O'BRIEN: – carry on to Gate 2?

MR. E. MARTIN: I can't remember if he said that or not. But the dialogue and discussion around the certainties and those types of things – that's what I'm saying is that he gave to me.

MS. O'BRIEN: Was there not enough indication there that perhaps this merited a little more detail than just the Phase 1 screening?

MR. E. MARTIN: No, we screened it out. In fact, we screened it and the answer was no.

MS. O'BRIEN: Now, I think you just had said – I'm not sure if I understood your evidence on this one.

Could we bring up P-01203? You just talked about a PIRA study.

Sorry, yeah – P-01203.

So this was work done for Nalcor, September 7, 2012 on LNG Import. Is that what you were referring to a few minutes ago?

MR. E. MARTIN: I think so. I wouldn't be reviewing these reports; I would've been receiving the information from the group.

MS. O'BRIEN: I think a few minutes ago you said there would – it'd been PIRA work and they had priced LNG higher than Ziff.

MR. E. MARTIN: That's what I was told.

MS. O'BRIEN: Okay, do you recall – is this the report that you thought said that? That you were told said that?

MR. E. MARTIN: I would have to say, yes, but I can't say I've reviewed this report.

MS. O'BRIEN: Okay, well, I – the report is in and it'll speak for itself. My understanding was it priced it lower, but that can easily be confirmed.

MR. E. MARTIN: Well, that's not the advice I received.

MS. O'BRIEN: Okay.

MR. E. MARTIN: So maybe there was another report. I just don't know.

MS. O'BRIEN: Okay. And if there was another report on LNG, is that something Nalcor would have?

MR. E. MARTIN: I assume. I mean you're asking me a question I don't know the answer to. What I do know is that the information I received was that a – you know, a likely strong price reference for us was this, you know, South American contract business and I was advised

that that was, you know, in a higher price range again than the WoodMac piece.

I think it was within the range of the Ziff stuff, maybe a little bit higher. That was the information I was getting to the point that I was satisfied that the volatility there of the pricing concerned me.

MS. O'BRIEN: Now, we had some evidence from Jim Keating that this PIRA report was not publicly released –

MR. E. MARTIN: And if I – I'm sorry to interrupt you there, but you make me think.

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: As compared – and I think a salient point, as compared to the Isolated Island Option, which I think we were running off – I believe it was distillate, but we were running off a market, then that was an established market that we could access in Eastern North America or somewhere, I don't know the exact reference.

But as far as a stable market that we could enter into and not be the one setting the price or just taking the price that was available from a competitive perspective, that's another comparison point, in my mind, that we had more certainty on that market for firing the options on the Isolated Island. Just a piece of data.

MS. O'BRIEN: Okay. So Mr. Keating gave some evidence that this PIRA report wasn't released and that's because, as I understood it, he said that you didn't want to release it because of an arrangement that you had with PIRA. I understood it to be the contractual arrangement. Do you have any memory or knowledge of that?

MR. E. MARTIN: It sounds right. PIRA, from my understanding, you know, their reports were always confidential.

MS. O'BRIEN: Even if you had paid for the work and they'd done the report to you, you're saying they wouldn't allow you to –

MR. E. MARTIN: That's my understanding.

MS. O'BRIEN: – to make it public?

MR. E. MARTIN: That's my understanding.

MS. O'BRIEN: Okay, so would that have been part of the contract – contractual terms with PIRA?

MR. E. MARTIN: I really don't know. As I said, I don't deal with that stuff. You know, if it come to me – it likely would've come to me to say that if someone wanted it released, they'd say it can't be released because it's confidential and I'd say, okay, don't release it. But I wouldn't be into searching the contracts and that kind of thing, no.

MS. O'BRIEN: Okay.

The other report that we know that wasn't released and that was the work that Wood Mackenzie did on LNG, that that part of their report was removed prior to its finalization. The Commissioner had heard evidence on that. And we know that Mr. Keating was involved in the back and forth. And if you watched Mr. Keating, I take it you would have heard that evidence?

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: Okay. Do you have any further knowledge about what happened to the Wood Mackenzie, LNG part of the report?

MR. E. MARTIN: No.

MS. O'BRIEN: Okay, so you didn't have any involvement in those decisions at the time?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

Now, looking at natural gas now, looking at the pipeline option, as we've been referring to it here, so this would be piping natural gas in from Newfoundland and Labrador's offshore as opposed to importing liquefied natural gas. We've already heard a lot of evidence from this on Jim Keating on behalf of Nalcor, in particular.

I just wanted before – I'm not going to ask you a lot of detailed questions on it, but I wanted to give you the opportunity to provide your

perspective to the Commissioner on why natural gas was dismissed before Gate 2.

MR. E. MARTIN: I think Mr. Keating's testimony should stand. He handled that for me.

MS. O'BRIEN: Okay.

Now, there's also a lot of evidence that's gotten in already on how Ziff's work was undertaken, because Ziff was actually retained by the Government of Newfoundland and Labrador, and – but there was – a lot of evidence that'd gone in was of Nalcor's involvement in the report; Mr. Keating gave a lengthy interview with Ziff and he was back and forth with Ziff on the topic, as well as having some communications with Husky at the time.

We've heard the evidence there. Is there anything further that you would add to that or, again, would you say that Mr. Keating's evidence would be the best evidence on that topic?

MR. E. MARTIN: Mr. Keating's evidence would be the best evidence and I would support his conclusions.

MS. O'BRIEN: Okay.

There's only one email then, I want to bring you to. It's P-01200 and it's at tab 22, which should be in volume 2 of the books before you. It's a very short email, so it'll come up on your screen, Mr. Martin.

So when we see here, this is – it's a bit of an email chain.

MR. E. MARTIN: What tab is it again, please?

MS. O'BRIEN: Twenty-two.

MR. E. MARTIN: Twenty-two. I have it.

MS. O'BRIEN: Okay.

So it starts with Jim Keating, so this is in April 2012. Jim to you: "Spoke with Ziff 3 hours. Real good.

"Ziff said 'Husky says they are considering using gas for pressure support in the future. That's it. End of story.'

"I pile driven another dozen issues. They most like the one that 'oil runs out in 2023 or 2028 at latest.

"End of pipe option.

"Jim" – so that's Jim to you.

And then you come back with: "Bingo. Are they definitely done? We still need your stuff, with a bow. I have learned that winging" it doesn't work.

So what was – what were you communicating to Mr. Keating here? What did you mean by bingo?

MR. E. MARTIN: It seems self-evident to me, in terms of what's there.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Bingo: A, are they definitely done? We still need your stuff with a bow and I've learned that winging it doesn't work. I mean that's pretty self-explanatory, I think, you know.

MS. O'BRIEN: Did you have some concern that maybe Ziff would come out with a more favourable view on LNG?

MR. E. MARTIN: I didn't have a view. You know, like, yeah – well, that's good – I guess that's a good point. Bingo would – bingo is a term I use when – it's like, I'm sure everyone here has played bingo. I have in my day. But, you know, to me it's a term of – you're linking B-I-N-G-O, you're linking a series of things to get there. My information from Jim was that he put a logic trail together, and bingo – good.

And the rest of it I'm not going to repeat again, but it's pretty self-explanatory.

MS. O'BRIEN: And what does that mean: "We still need your stuff, with a bow." What were you still wanting from Mr. Keating?

MR. E. MARTIN: You know, I wanted to make sure documentation, like, you know, whatever had to be done, make sure that it's

written up, or whatever has to be done with it. Once again, that's not what I'm into, but I'm telling him: Make sure you got this, you know, covered off and documented. It's a topic of interest and I thought that was good advice.

MS. O'BRIEN: Okay.

And your last line there: I've learned winging it doesn't work. Winging it on what?

MR. E. MARTIN: On anything.

MS. O'BRIEN: So you wanted to ensure that all the loose ends were tied up and that there was a – that the opinion from Ziff was firmed up? Is that what you're getting at?

MR. E. MARTIN: That's part of it. I think it's – you know, it relates to the second comment as well. It's – you know, it's making sure that the logical sequence, you know, is documented and it has a depth of logic to it.

MS. O'BRIEN: Okay. And you wanted to ensure that Ziff's work was definitely done and that was their conclusion.

MR. E. MARTIN: Yeah, I'm missing something here because it seems to me a pretty simple email and – is there a question I'm missing?

MS. O'BRIEN: Well, it's a – it's an email that is – already received some attention. You're the author of it, so I think it's only fair to put it to you and give you an opportunity –

MR. E. MARTIN: Absolutely, but I think –

MS. O'BRIEN: – to give your interpretation of it.

MR. E. MARTIN: So I think I have and I think –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – it's pretty straightforward.

MS. O'BRIEN: Okay.

So let's look next at the Hydro-Québec import option. And if we can go – I'm gonna go to the Grant Thornton report here –

MR. E. MARTIN: So are we finished with this binder?

MS. O'BRIEN: Yes, you're finished there. The next one is going to be P-00014, please, Madam Clerk.

This is at – in volume 5 of the books before you, Mr. Martin. It's gonna be the last tab there, 115. And can we go to page 24, please?

So this is work done from – in – it's in the Grant Thornton report, but they've actually taken this table from a presentation that was made to Nalcor's board of directors. So this table is not their work, they've just copied it in. But this shows various CPWs on a number of different scenarios here. So we're seeing again the Isolated Island, Gull Island is here, Muskrat Falls is here. I understand these would be at Gate 2 numbers, I believe.

So here they have imports via Hydro-Québec and the other one is imports from NEISO via Maritime Link. One of the things that's noted here is, of course, the CPW from the imports from Hydro-Québec is shown to be lower than that of the Isolated Island. And you've already, you know, given your evidence to the Commissioner why the Isolated Island and the Interconnected Island were chosen was because they were the two best contenders for least cost.

On the face of it at least, Hydro – imports from Hydro-Québec here looks to be more – have a lower CPW than the Isolated Island. So can you please explain for the Commissioner why imports from Quebec or through Quebec was eliminated?

MR. E. MARTIN: The primary reason here, that we had demonstrated in several documents that were published, was security of supply. If you talk in getting it from Quebec, they were talking about getting it from Churchill Falls.

But, in any event, what we said that we would do is that we knew that Quebec didn't have the capacity and didn't have a plan to have the capacity to sell us that electricity. That was

referenced several times. At the time it was in Quebec's energy plan that was published. I believe Mr. Smith filed that with the Commission.

But, in any event, it was clear there that Hydro-Québec was short of capacity. So, we needed capacity. So from that perspective they weren't going to be of any help to us in terms of getting that. And then what we did, we said, well, let's – you know, let's stretch it and check the numbers at the end of the day.

And we said for certain Hydro-Québec – or anybody for that matter – wouldn't sell us electricity for any less than they would be paying for it, or getting for it. And that's where they came up with the market references, my understanding, to run that for – to come up with some idea of what it would be. But that was a – more of a secondary check, in my mind. It was a security of supply –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – and the ability to meet our capacity needs drove it more.

MS. O'BRIEN: And could we go to page 28 of this document, please, Madam Clerk?

So here – I'm having a little trouble reading it from this distance – here it is – here they note, "We recognize that Nalcor completed an analysis of electricity imports as" –

MR. E. MARTIN: Yeah, where are we here, please?

MS. O'BRIEN: We're – I'm at line 13.

MR. E. MARTIN: Mm-hmm.

MS. O'BRIEN: Okay?

"We recognize that Nalcor completed an analysis of electricity imports as a supply option. However, we have noted that Nalcor made assumptions regarding the purchase price of power without engaging in formal discussions with Hydro Quebec."

So that was one of the findings from Grant Thornton's report and they give the source of

that. We also heard evidence from Mr. Bennett who said that Nalcor did not approach Hydro-Québec; is that consistent with your understanding of events?

MR. E. MARTIN: Absolutely. They didn't have capacity.

MS. O'BRIEN: Okay.

And you're saying they didn't have capacity and that was based on your understanding from their energy plan?

MR. E. MARTIN: From hydro – from Quebec's energy plan.

MS. O'BRIEN: Okay, so if we can bring that up, P-00273. This is in your book, I just don't have a cite.

THE COMMISSIONER: 00273? Not sure it's in the book –

MS. O'BRIEN: Oh, okay. I'm sorry, I thought it was in the book.

So it'll come up on the screen. So this is to build – *Using Energy to Build the Québec of Tomorrow* Québec Energy Strategy 2006-2015. So is this the document you were referring to?

MR. E. MARTIN: I believe so.

MS. O'BRIEN: Okay so –

MR. E. MARTIN: Actually it may not be. I need to check that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I'm not sure what we submitted; there was three documents. But in any event, carry on –

MS. O'BRIEN: Oh –

MR. E. MARTIN: – let's have a look.

MS. O'BRIEN: Okay, so I understand this to be Quebec's energy strategy for the relevant period that we're talking about here right? 2006 to 2015, so the period we're talking about is during this. So if we can to page 39.

I'm not sure that's the – yeah, thank you. Whoops, sorry – sorry, can you make that a little smaller please, Madam Clerk? Okay I – maybe it's page – are we on page 39?

UNIDENTIFIED MALE SPEAKER: Excuse me.

MS. O'BRIEN: Seems to be page 58 there. We can go to page 39, please, of the exhibit, Madam Clerk?

UNIDENTIFIED MALE SPEAKER: It's not numbered properly.

MS. O'BRIEN: Yeah, there's – yeah, you're not getting to the number that way for whatever reason. Okay.

So it should say there, somewhere on this page – and maybe Madam Clerk can find it as I read it: "... the Government would like to enter into immediate discussions with ... partners to define export possibilities, especially over the long term, and the conditions of sale. It is important for neighbouring jurisdictions to integrate potential purchases from Hydro-Québec immediately into their own forecast of available power."

Did you find the quote there? Okay.

Do you see that there, Mr. Martin?

MR. E. MARTIN: Yes, I do.

MS. O'BRIEN: Would you agree with me that that suggests that their energy strategy included looking out to neighbouring jurisdictions to enter into long-term export possibilities?

MR. E. MARTIN: Yes, I do, and I believe that's from an energy perspective.

MS. O'BRIEN: Okay.

And – yes, and so they're looking at – Mr. Learmonth was just pointing out: The supply price – they're putting out something – "will continue to benefit from a highly advantageous fixed price for most of the electricity they consume ... Québec." And so it seems that they were looking – the possibility of exports there – and we know during this period that they did

enter into a long-term power purchase agreement with Vermont, and that's – if we go to P-00275.

MR. E. MARTIN: Do I need to pull that out here (inaudible)?

MS. O'BRIEN: No, I think what you'll need to see will come up on the screen.

MR. E. MARTIN: I wouldn't mind looking at it, though, if you have reference to it.

MS. O'BRIEN: Yeah.

MR. E. MARTIN: Can I get it out?

MS. O'BRIEN: Sure. This is just the announcement. We actually have filed the full contract into evidence. Sorry, P-00275 is in your – not in your book, it appears.

MR. E. MARTIN: I don't have this?

MS. O'BRIEN: It's not in your book. It was – and I don't know why.

MR. E. MARTIN: Do you have the contract?

MS. O'BRIEN: Yes, the contract is at tab 129 of your book, actually. So that'll be in volume 6 and it's P-01637. So you can get the full contract out if you want.

MR. E. MARTIN: Volume 6. Oh, look at that.

MS. O'BRIEN: Volume 6, tab 129.

I'm just going to go back to the previous exhibit that I was on, please, Madam Clerk, which was P-00275, because it sort of just summarizes it. So this was a long-term 26-year contract to buy to 225 megawatts of electricity.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: So you're saying – you know, at the time, you're saying you didn't enter into – you didn't approach Hydro-Québec or have any discussions with them, that your understanding was that they weren't interested in offering a long-term power purchase – entering long-term power purchase agreements. But when we look at their strategic plan, when we look at what

they did with Vermont, suggests that they were open for that kind of business. Were you aware that they had entered this arrangement with Vermont?

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I mean – well, hold on here now. I mean I think you're exactly agreeing with me is my understanding. I mean, on the Vermont contract, my understanding it was a renewal of a contract that was initiated in 1987. It was 225-watt line, Commissioner, that had been in place since then.

This was a renewal, so it's not like it's a new thing that's happening. They had a relationship with Vermont for many, many years. And then if you turn to, say – for instance, there's a couple of references in here but you turn to section 3.2 of that contract, (a) and –

MS. O'BRIEN: That's P-01637, page –

MR. E. MARTIN: Yeah. Did you want to read it or do you want me to read it?

MS. O'BRIEN: No, you can read it in. Page – which page –

MR. E. MARTIN: Page 19.

MS. O'BRIEN: Page 19, okay.

MR. E. MARTIN: And it says – and I think there's other references in here because I remember going through this – 3.2(a) Energy Product: “(a) Energy Product Definition. The energy product under this Agreement shall consist of Energy transacted through an Internal Bilateral Transaction, or IBT, at the Sales Point in conformance with the Energy Profile (the “Energy Product”). For the avoidance of doubt, the Energy Product shall not include any capacity.”

So it's exactly what we're talking about is that they don't have the capacity. They didn't have it in the other sale and this is renewal of the contract. So I think that's the point I was trying to make is that it's difficult – it's not difficult, we cannot depend on a non-capacity product

because and – you know, and apart from neighbouring jurisdictions – but it's – really, we're talking winter, we're talking the coldest –

MS. O'BRIEN: Yeah.

MR. E. MARTIN: – days of the year. We're talking all over the Island and Labrador and, you know, the probability of running into capacity problems if Quebec is capacity short – we have a contract with them similar to Vermont. What Vermont is saying is that if there's a capacity issue, Quebec gets the capacity. They have the ability, I think, to probably go elsewhere and do other things, the Island doesn't.

MS. O'BRIEN: At the time, was Quebec not looking at increasing its capacity?

MR. E. MARTIN: I think – well, I – how can I say this? I think that would be an answer that Quebec would have to give.

MS. O'BRIEN: Were you aware of it at the time?

MR. E. MARTIN: Once again, that's a Quebec question. You know, I don't ever profess to understand what's going on in Quebec's – in Hydro-Québec or Quebec's system.

MS. O'BRIEN: Okay. Can –

MR. E. MARTIN: But the – but what was clear in the documents was that they were short of capacity.

MS. O'BRIEN: Okay.

MR. E. MARTIN: And if I remember reading in that document, I believe they were planning to fulfill that shortfall. So, from that context, I guess –

MS. O'BRIEN: Yeah, they were planning to increase their capacity.

MR. E. MARTIN: Yeah from – yeah, they'd have to.

MS. O'BRIEN: Yeah.

MR. E. MARTIN: From the energy – from the Quebec energy plan they’d have to be looking at how to increase that capacity, yes.

MS. O’BRIEN: And I understand, even to this day, Hydro-Québec is actively seeking long-term supply contracts. If we go to P-00274 –

MR. E. MARTIN: And where – and which binder here?

MS. O’BRIEN: This will come up on your screen, I believe.

MR. E. MARTIN: Do you have it in a –?

THE COMMISSIONER: It’s not in your book.

MR. E. MARTIN: Oh.

MS. O’BRIEN: Not in the book.

MR. E. MARTIN: Okay.

MS. O’BRIEN: This is, I think, from Hydro-Québec’s website, even now, about export markets. If we go to page 2 – so it really looks – they’re really looking at – if – able to – you know, they say: “Hydro-Québec is able to offer long-term supply contracts tailored to the specific needs of its customers.” And they talk about long-term contracts, et cetera.

So it certainly seems that Quebec is open for that business now. At the time, they were entering at least some long-term arrangement with Vermont and they were planning to increase their capacity. Would it not have been worth a reach out – a discussion to them to see if there was a way that we might have been able to enter a contract with Quebec for supply of electricity, at least to get us through a certain period of time, perhaps get us up closer to 2041?

MR. E. MARTIN: They didn’t have the capacity; we needed capacity.

MS. O’BRIEN: Okay, and –

MR. E. MARTIN: And there’s not much more to it than that.

MS. O’BRIEN: All right.

And your basis for that was documents that you saved and filed; I’m sure your counsel will bring us through to those. But it was just based on a review of public documents from Hydro-Québec that you came to that conclusion?

MR. E. MARTIN: No, it was from the Province of Quebec.

MS. O’BRIEN: Oh, so from the Province of Quebec?

MR. E. MARTIN: Correct.

MS. O’BRIEN: Okay, so that’s what you used to come to that conclusion?

MR. E. MARTIN: That’s correct.

MS. O’BRIEN: Okay.

Did – we – you know, we’ve looked at, in the hearing room already, exhibits – you know –

MR. E. MARTIN: Are we finished with these binders, by the way?

MS. O’BRIEN: Yes, for now.

We’ve looked at exhibits – Nalcor mitigation strategies where there’s been reference to leveraging the Quebec versus Newfoundland and Labrador debate. Do you recall seeing that document in evidence here at the Commission?

MR. E. MARTIN: I do not.

MS. O’BRIEN: Okay.

So just take my word for it for now that it’s there. But there was –

MR. E. MARTIN: I would appreciate having a look at it if we’re gonna talk about it.

MS. O’BRIEN: Okay, well, we’ll get – we will come to it in a moment.

But I just – the question right now is whether there was a – you know, was there – was the – your – the reluctance, or the decision not to approach Quebec directly, did that have anything to do with the prevailing sentiments between this province and Quebec, particularly on the energy front?

MR. E. MARTIN: No.

I mean, Commissioner, capacity was the overriding issue, you know, to the extent that, you know, that was the issue, you know, any leverage discussion and things would be secondary to that. If they didn't have a – if they had excess capacity, it was available, we would have been talking to them to see.

I had, you know, several meetings with Thierry Vandal, the CEO of Hydro-Québec, on various topics over time. At one point, based upon discussions between Premier Charest and Premier Dunderdale and Premier Dalton McGuinty – you know, we were asked to get together with Hydro-Québec, Hydro One and Nalcor to see if we could do a Gull deal, which we did. And we had a couple-page document drawn up to try to effect that. And for various reasons – and I don't want to talk politics that much – I think in Quebec, you know, I think Premier Charest – things were happening there from a, you know, election event and such, but it never went through.

But it's an example that, you know, I, the premier, we're not avoiding talking to Hydro-Québec. I want to make that point.

MS. O'BRIEN: Okay. All right.

So coming up to 2041, is it likely that Hydro-Québec and Nalcor will be starting their negotiations as to what will happen with the Upper Churchill power well before the year 2041?

MR. E. MARTIN: I apologize. I missed the first part of that question. I think you said do I expect it will happen well before?

MS. O'BRIEN: Yes.

MR. E. MARTIN: Yes, I believe it has to happen well before.

MS. O'BRIEN: Okay. So –

MR. E. MARTIN: And my – I think the logic is obvious, but, Commissioner, if I could just give you 30 seconds on that as to why it's just not a belief.

Probably well-known that we provide 15-plus per cent of Quebec's power through the Upper Churchill. If we have a, you know, an alternate use for Churchill Falls rather than sell it to Quebec in 2041, we have to consider applying for that, and they do. And in their particular case, it's a very, very substantial portion as well of their electricity system. So if they – if it was determined that it wasn't going to be sold to them, they would have to start dealing with that, I mean, I believe, almost now.

And from our perspective, if we're going to do something else with it, we, sort of, have to start dealing with that essentially very, very soon in any event. That's the rationale behind that.

MS. O'BRIEN: Okay. So – and obviously the Upper Churchill has 5,400 megawatts of power so certainly far more than is needed even to meet our provincial need. Fair to say?

MR. E. MARTIN: Our provincial current consumption need.

MS. O'BRIEN: Yes.

MR. E. MARTIN: But, you know, if you look at the potential – I think this is obvious as well, so I won't dwell on this too much, but if you look at the aluminum industry for instance, you know, with the price of that power and such, the ability to create a substantial aluminum industry in Labrador and the Island of Newfoundland is massive.

That could – and most of the, I think, the current aluminum plants are consuming, you know, 6 to 7 terawatt hours of power, and Churchill Falls is 33. But they're getting larger and larger and the power sources for these plants are getting more difficult to achieve and we would have a cost advantage.

So I just want to make that point. We just can't say we couldn't use it because the ability to create three aluminum cities in Newfoundland would consume, you know, 18 to 22 terawatts of power, just an example, but I think we have to look at it that way as well.

MS. O'BRIEN: The evidence that the Commissioner has had to date from Derrick Sturge – and he's testified that he was sort of in charge, you tasked him with kind of running down the aluminum file.

MR. E. MARTIN: Yes.

MS. O'BRIEN: So his evidence was that he did – he went out and did a lot of exploratory work in those markets, you know, met with all the big operators in the aluminum industry. And his evidence was that we would never – you know, they really look for very, very cheap power.

So what they're really interested in is completely stranded power, and that if you're not stranded power, you can get a better price elsewhere and your costing is more than what the aluminum smelters are willing to pay. So he said he kind of – he – I think his words were, he – you know, he looked down that hole to find out if there was any cheese, and his conclusion was ultimately that there was not.

MR. E. MARTIN: Yeah, so I think we have to look at that in context; a good negotiating start for the aluminum companies naturally. There's much truth to the fact they're looking for – you know, for stranded resources because they want to get that lowest possible price they can. They're looking for folks who are stranded.

But they're not lined up everywhere in the world and time moves on. And, you know, over the course of time, for us to be able to – I guess, let me put it this way, the price point for the Upper Churchill that we can start at, a deal can be done no problem. Our job is to get the price up as high as we possibly can on the aluminum side. And to that extent, we'd have to time the market properly to see where the next best aluminum price will come from.

Over time, there's a strong probability that that will rise, and it has shown to do that. The

aluminum companies are constantly hunting for that reason.

And on top of that, as a province – now, I'm speaking outside of Nalcor, but as a province I'd have to recommend, you know, to the government as well that, with aluminum cities and towns and plants, come a lot more benefits and such that would have to be considered as well. So that would have to be factored in.

And one – you know, and this is, once again – I guess this – this is a Nalcor but probably a combination of government views, I'm stepping outside my comfort zone a little bit there, but I guess, as a Newfoundlander and as a company person from a risk perspective, I like – I feel that the – a portfolio is often something you need to consider. You know, certain different price ranges for different things and aluminum fits nicely into some of that order as well. So the potential was there.

MS. O'BRIEN: Okay. But not in the near future?

MR. E. MARTIN: Not at the time in 2012 because we didn't do it and the price of the aluminum market dropped. I haven't kept abreast of it right now, so I can't answer that.

MS. O'BRIEN: Okay, so you don't – so it wasn't there in 2012, and you don't know where it is right now. Fair –

MR. E. MARTIN: That's correct.

MS. O'BRIEN: – to say? Okay.

MR. E. MARTIN: That's correct.

MS. O'BRIEN: All right.

So – all right, I want to look at – if we can bring back up the Grant Thornton report. It's tab 115 for you, you might want to keep volume 5 handy. It's the last tab there. And if we can go back to page 54, so this is where they've summarized the various sensitivity analysis.

So we understand that this idea of waiting for 2041, so the idea being that, look, you're going to get – well before 2041, there's going to have to be negotiations with Hydro-Québec, there is –

until we get aluminum smelters or a really big industrial customer in Labrador, there's lots of power in the Upper Churchill to meet provincial needs.

MR. E. MARTIN: If you're –

MS. O'BRIEN: Just let me finish asking the question.

MR. E. MARTIN: I wouldn't stop there in terms of aluminum plants. There's also potential, you know, to go a bigger Maritime route in through New England and such, which –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – has been evaluated. So there's more options. I just don't want to limit it to we have lots of power and we got no use for it.

MS. O'BRIEN: Okay.

So here, in this sensitivity there, this is the sensitivity that we understand this was what was one to consider basically the let's-wait-'til-2041 option. And this is "Holyrood to 2041, then CF at Market Price." When you were answering questions to the Commissioner – in response to the Commissioner earlier today, is this the – is this what you were referring to?

MR. E. MARTIN: I believe it was, yes.

MS. O'BRIEN: Okay.

So this – we've got the right numbers here. So this basically shows that the – and this is at DG2, so we're comparing it to a 2.2 differential, and when we look at this one, again, we've taken about a billion dollars off the difference between the deferred option – the 2041 option – and the Muskrat Falls option. So it appears to be a more attractive scenario on the CPW than the Isolated Island Option. Would you agree with me?

MR. E. MARTIN: That's the truism on the number, but that wasn't initially screened on the number. That was screened on, as I mentioned, security of supply was the main screen on the Holyrood and the 2041 and see if, at market price, we ran numbers just to check and make

sure that it was still – Muskrat was still in – more favourable from a long-term perspective.

MS. O'BRIEN: So just explain that to me, because the obvious question was – I mean, you said earlier today, the reason we went forward with the two options we did was because they had – you know– they were the best contenders for being least cost.

Here we have another option that, at least on this preliminary analysis, looks to be better – a more favourable cost than the Isolated Island that was compared

So just, please, explain to me again why was this option not delved into a little more deeply?

MR. E. MARTIN: Well, you know, I think I've heard this mentioned here before, but I was obviously CEO of Churchill Falls (Labrador) Corporation, I was on the board. You know, just making assumptions that we're going to get power from Churchill Falls is not something we can just lightly take.

Churchill Falls is 65 per cent owned by Newfoundland and Labrador and 35 per cent by Quebec through their energy corporations. And with that joint ownerships, it's comes a fiduciary responsibility in terms of how CF acts and performs its duty.

So, any assumption – and I've been through this in many instances – any assumptions that Newfoundland and Labrador, through it's energy corporation, can pick and choose what Churchill Falls (Labrador) Corporation is going to do with energy in 2041 or anytime, is not on. It doesn't work that way.

MS. O'BRIEN: But this isn't a cheap power option or a free power option, this is a market-price power option that was evaluated here. I mean, there's no reason – why on earth wouldn't we be able to get power from the Upper Churchill if we were willing to pay market price?

MR. E. MARTIN: There could be other needs for it. Once again, you can't make those assumptions.

And what is market price? Here we were using a market price trying to be conservative or what they might buy from. But let's introduce the concept that Hydro-Québec, they have to build – I'm going to pick a number here – you know, three to five new large hydro or nuclear gas plants to replace Muskrat Falls or, sorry, to replace Churchill Falls.

At that point, they're building new infrastructure, most likely pretty far North, new transmission attached to it, a capacity and energy product. Then, you know, that's going to be – that could be a different price, a much different price.

If Hydro-Québec is prepared to pay that price for Churchill Falls power, then it's much higher.

MS. O'BRIEN: Did you do an analysis of that?

MR. E. MARTIN: No, because as I mentioned to you it was a security of supply issue that screened this.

So what we did, we took a conservative analysis to, like, you know, we weren't in the business of trying to, you know, fully support Muskrat with the numbers and make that number look so large that the – in order to (inaudible) relatively conservative to say: Even after security of supply rationale, which is sound and has to be considered, then even at conservative pricing it still didn't beat.

So that was a useful piece of information.

MS. O'BRIEN: Okay.

So, I mean, this idea of sort of going along in smaller steps – I know this one talks about Holyrood to 2041, but there might have been other options to get to 2041 that weren't covered by this one, but this idea –

MR. E. MARTIN: But – I know you're not asking that question, but when you say it that fast, that's – I don't – when I heard what you said I didn't believe it was correct but I wanted to just test it.

Your last phrase – there could be other options to get to 2041 – is that what you said?

MS. O'BRIEN: Yes.

MR. E. MARTIN: So, I just want to clarify that – that's the analysis that was done to create the Isolated case. So, the – that's where all the work was done on the numbers and I can't – provide a low-cost energy is the driver on the Isolated side. The analysis was done – I can't see another Isolated solution that would work at a lower cost.

That was what I was confused about.

MS. O'BRIEN: Okay. So I understand that the full CPW wasn't run to 2041, but we can just leave that for now. I think –

MR. E. MARTIN: But Ms. O'Brien, I don't want to leave the Commission the impression there's another option because I think it relates to some of the dialogue that was occurring this morning. I'm concerned about that.

And so I just wanted to make it clear that, you know, that I don't see another option other than Isolated to get there because the analysis was done on the low cost – bit by bit by bit – to get there. If you change that sequence, you're going to be going with a higher-cost solution. And I don't think that's reasonable.

MS. O'BRIEN: I think maybe that would be the point of – if you do an integrated resource planning, you would do a number of different scenarios. You run through a whole lot of scenarios in much more detail and you, maybe, do one scenario where you decide you're gonna, you know, refurbish Holyrood to go to 2041. You do another one where you, you know, you buy more CTs. You'd make different assumptions and put –

MR. E. MARTIN: We have –

MS. O'BRIEN: –limitations –

MR. E. MARTIN: – we have a fundamental difference –

MS. O'BRIEN: – and sorry, Mr. Martin –

MR. E. MARTIN: – of opinion on this.

MS. O'BRIEN: – you keep interrupting me.

MR. E. MARTIN: But we have a fundamental difference of opinion on it.

MS. O'BRIEN: Well, I just –

MR. E. MARTIN: So –

MS. O'BRIEN: – you asked me to explain –

MR. E. MARTIN: Yeah.

MS. O'BRIEN: – so I'm explaining for you. So if you'd just be patient, I'll give you the explanation.

MR. E. MARTIN: (Inaudible.)

MS. O'BRIEN: So that's what I understood the evidence before the Commissioner is and how the – an integrated resource plan – so that there could be different options to get to 2041. So that's what I was referring to there, but it's not very central to my question.

MR. E. MARTIN: So, I agree.

I'd like to go on the record and say that I fundamentally disagree with that concept. But you don't want to talk about it now, so we can deal with it later.

MS. O'BRIEN: Okay.

So the idea here being that this idea of – look, taking a deferred approach, I mean that was one of – we went over the Natural Resources Canada's report today. That was one of the options that they had put forward, you know, take a deferred approach, look at other ways to move along before you decide to make this very large capital investment in – the – Lower Churchill.

And my understanding is, taking the only work – based on the evidence we've had to date – that the only work that was really done to analyze that type of – let's wait and see scenario – was this sensitivity that was run at DG2, the one we're looking at.

Is that consistent with your understanding?

MR. E. MARTIN: No, it's not.

MS. O'BRIEN: Okay, so what else should we be looking for?

MR. E. MARTIN: So I think the other thing you should be looking for is the thought process in behind what happens.

If we go through to 2041 on the Isolated Scenario, which – although we fundamentally disagree on that point – I believe that you're going to follow the Isolated Island to 2041. That commits you to a thermal future, because you've spent so much at that point, that you're into a thermal future.

And then you're saying we're gonna spend billions of dollars on the link now to bring in power that we don't know from Churchill Falls that we know what the price is gonna be. But we've already committed to a tremendous amount of thermal infrastructure, including the replacement of Holyrood, that when you look at it from that perspective, I struggle to see, especially with no certainty on pricing, how that could make, you know, sense to defer and wait until 2041.

The thought that we can just run Holyrood, you know, and take our chances, and hope for the best, if anyone believes that then they better get ready to spend their winters in the dark for the next 20 years, because that thing is going nowhere. And after that, you can't wait – it has to be replaced in 2029 or 2030. What are you gonna do? Are you gonna sit back for 10 or 12 years and just take it in darkness until we get the link built? It doesn't work that way.

So I just want to put that other part of the analysis that was done in terms of how we thought through this stuff.

MS. O'BRIEN: Okay, so that's the other part we're missing.

So this is the only hard analysis of the numbers – the second pieces or your thoughts as you've just expressed.

Fair to say?

MR. E. MARTIN: Fair to say.

MS. O'BRIEN: Okay. All right.

Now – we’re gonna talk a little bit about Gull Island. And I don’t believe that the evidence on Gull Island is particularly controversial.

So I’ll put to you what we’ve heard to date and you can just let me know if there’s additional information that you want to give.

MR. E. MARTIN: Are we still on the – on this book on the sensitivity analysis, Ms. O’Brien?

MS. O’BRIEN: No, but don’t put it too far away; we will come back to it.

Okay, so the change from Gull Island first to Muskrat Falls first, so the evidence the Commissioner has had to date is that Gull Island first didn’t make much sense, unless either we had an export market or a very large consumer of power such as an aluminum smelter coming into Labrador.

MR. E. MARTIN: I agree with that.

MS. O’BRIEN: Okay.

And as I said before, Derrick Sturge testified that he, you know, looked at the aluminum option and found that at least in the short term, that wasn’t viable. So then you were left with the: Can we export this energy.

MR. E. MARTIN: That’s correct.

MS. O’BRIEN: Okay.

All right, so then I understand that you really did analysis of exporting via two routes: One would be through a Quebec route and the other would be a Maritime route. Fair to say?

MR. E. MARTIN: Fair to say.

MS. O’BRIEN: Okay.

And in May 2010 the Régie, the regulator in Quebec, turned down an application that Nalcor had in for transmission through that process. And that essentially took the Quebec option off – export route off the table.

MR. E. MARTIN: For a significant period of time.

MS. O’BRIEN: Okay.

And so the Maritime –

MR. E. MARTIN: I should come back to that, Commissioner, that there were avenues that we were looking at as well, to continue to pursue the Régie outcome because we felt strongly it was incorrect and discriminatory.

Now, that’s Nalcor speaking. I mean I’m just saying that’s where we were on it. I’m not trying to involve Hydro-Québec or anyone else in the middle of it. That’s our view. But at the same time, is when the – as I mentioned earlier, the need for power on the Island started to raise, you know, its spectre.

And, you know, I believe – and the point I’m making here is that we pursued that option for obvious reasons then, but I wouldn’t want to close the door on saying that open access through to Quebec is off the table or should be off the table. I believe that Nalcor and the province should continue to aggressively pursue that over time because that’s the right thing. And it should be available to us.

MS. O’BRIEN: Okay and we’ve had some evidence on that. I understand that – you know, I know that you – there was a complaint filed to that decision. I also understand there was – an issue arose that Nalcor didn’t have one of its filings done on time and that was one of the reasons that the appeal, for want of a better word, was not successful. Is that consistent with your –

MR. E. MARTIN: It’s consistent but not fully complete. Is that it was – I’m searching my memory banks now, but I know it was – Hydro-Québec had created a circle on the delay for us putting something in with something else that was happening, and I – Commissioner, I have to get more information on you there; I just can’t recall –

THE COMMISSIONER: Actually, I’ve read the decisions.

MS. O’BRIEN: Decisions.

THE COMMISSIONER: Both decisions, including just a review, and that’s the first point

in the judicial review was the issue of, you know, Newfoundland – or Nalcor and Hydro-Québec disagreed with the issue of the timing of the document. But the court decided that it was reasonable in the circumstances, so they decided in Hydro-Québec's favour. This was on the judicial review. That was after the Régie decision. We don't have that in –

MR. E. MARTIN: Okay and – so I appreciate that. And I just would like to note as well that – you may find it useful – there could be additional information. I haven't got it with me right now, but I – you're – I think you're obviously spot on, Commissioner, but there's a couple more pieces of information that are in my brain I think we need to get on the table, and I'll have to get that researched.

THE COMMISSIONER: Right, if it's not already here. So it's something you could speak to your counsel about.

MS. O'BRIEN: Sure.

MR. E. MARTIN: I will.

MS. O'BRIEN: And we can file, if you have additional exhibits that – up to that point. So – okay, so then that – let's put aside the Quebec export option for now.

And so then we – you were left – and, again, I'm summarizing evidence we've already heard to date from Derrick Sturge and, I think, Gil Bennett as well – then looking at the Maritime option. And, really, the initial version of the Maritime option was really a bit of a tripartite effort with New Brunswick, Nova Scotia and Newfoundland and Labrador. And in its first incarnation, when you were looking at Gull Island, it would've been a larger, shall we say, Maritime link.

And then, at around this time, there was – it became public that there were some negotiations going on between New Brunswick Power and Hydro-Québec. And, because of that, New Brunswick came out of the discussions with Nova Scotia, Newfoundland and Labrador.

And, at that point, a larger Gull Island didn't make sense to pursue, just between Newfoundland and Labrador and Nova Scotia,

but the smaller Muskrat Falls option was still a viable option for a partnership or some kind of arrangement between the two provinces. And, ultimately, this all leads to Muskrat Falls becoming the first option to be pursued.

Would you generally agree with that evidence?

MR. E. MARTIN: I generally agree with that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Yeah. There's a bunch of irons in the fire, but I think that's a reasonable summary.

MS. O'BRIEN: Okay.

And there's one question I just want you put to you, because Gull Island did stay on the table. And if we could – this is at tab 33, which is volume 2 for you. It's P-01321.

MR. E. MARTIN: Volume 2, tab ...?

MS. O'BRIEN: Thirty-three.

MR. E. MARTIN: Thirty-three. Is that the financial authority procedure?

MS. O'BRIEN: No, this is a summary of Gull Island costs.

MR. E. MARTIN: I have the wrong one.

THE COMMISSIONER: Yeah.

MR. E. MARTIN: Binder 2 of 6?

MS. O'BRIEN: Yes. Tab 33 should be in your binder 2, is the information I have in front of me. It's just the one page and it's up on your screen.

THE COMMISSIONER: I'll get the right one now.

01321 is tab 120. So it's actually at –

MS. O'BRIEN: Okay. Sorry about that.

THE COMMISSIONER: It's not in that book.

MR. E. MARTIN: Mmm.

THE COMMISSIONER: It's a later book. It's tab 120, which is in book 6.

MS. O'BRIEN: It's just – it is just the one page and my questions are fairly general.

So we have – thank you. We have had – this was reviewed with us by Mr. Gil Bennett. And what we understand this to be is these are the costs that have been accounted toward the Gull Island project. And there's some costs that were incurred that Mr. Bennett has testified were split between the Muskrat Falls Project; in particular, I think, when we look at work that was done on the environmental assessment and the JRP process, as well as the IBA negotiations with the Innu Nation that those –

MR. E. MARTIN: You're making – could I take –

MS. O'BRIEN: Sorry?

MR. E. MARTIN: Could I just take – I'm half listening again because I'm trying to digest this while you're talking. I apologize for that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Could I just take 30 or 40 seconds to see what I've got here in front of me in terms of the spreadsheet?

MS. O'BRIEN: Sure.

It may be a good time actually, Commissioner, to – we will be taking our afternoon break soon so this may – is a fine time to do it.

THE COMMISSIONER: This will give you more time to look at it.

MR. E. MARTIN: Yeah (inaudible).

THE COMMISSIONER: Then we'll take our 10 minutes now then, and come back in 10.

MR. E. MARTIN: Can I take that sheet out with me? Is that all right? Yeah.

THE COMMISSIONER: Sure.

MR. E. MARTIN: Yeah.

THE COMMISSIONER: No problem.

CLERK: All rise.

THE COMMISSIONER: Those are your copies anyway, so...

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Okay.

Ms. O'Brien.

MS. O'BRIEN: Thank you, Commissioner.

Before I recommence I have – I'm seeking to enter two further exhibits. These are Hansard transcripts that Ms. Best referred to, I believe last week, in some of her cross-examination. We've just had them entered – prepared to be entered as exhibits: P-01649 and P-01650.

THE COMMISSIONER: All right, they're entered as marked.

MS. O'BRIEN: Thank you. All right.

So, Mr. Martin, you had, over the break, to take a look at the spreadsheet that's before you, P-01321.

MR. E. MARTIN: Yes, I did.

MS. O'BRIEN: So the evidence that we've had from Mr. Bennett was that, you know, these are costs that have – we'll say – been booked to the Gull Island project and that there were a number of costs that were incurred that were divided between the two projects. In particular, he pointed to the environmental assessment, JRP work, work with the Innu Nation for the Impact and Benefits Agreement. And his evidence that those costs were split: 70 per cent to Gull Island and 30 per cent to Muskrat Falls.

Does that agree with your memory of what happened?

MR. E. MARTIN: Sounds familiar. I wouldn't know the percentage, but this would be a matter

for Mr. Sturge and Deloitte, our auditor. They handled this stuff.

MS. O'BRIEN: Okay.

So do you know whether the 70 per cent allocated to Gull Island would've been considered in the CPW for Muskrat Falls?

MR. E. MARTIN: I don't know.

MS. O'BRIEN: Okay. And –

MR. E. MARTIN: But if it was – I don't know actually.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I'm sorry. (Inaudible.)

MS. O'BRIEN: And we have asked Nalcor to confirm that.

I guess the point here was, you know, if like – for the environmental assessment, the IBA, these types of costs, they would've had to have been incurred for Muskrat Falls to go ahead. And so the question would be, look, if it was a cost you had to incur for Muskrat Falls to go ahead, wouldn't it have been reasonable to include them in the CPW calculation?

Do you have any – I know you don't know whether they were included or not. But do you wanna make any comment on that for the Commissioner?

MR. E. MARTIN: I would like to make one comment. And I just noticed this, Commissioner. This is entitled Gull Island Capex.

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: So my concern is this – and I think we need to check this. I don't believe this is these costs that were split between Muskrat and Gull. Gull – and once again, I'm just trying to put some data on table. I'm not sure, Commissioner, but my – looking at this, my recollection is this is Gull Island capex, possibly from many, many years ago.

MS. O'BRIEN: Well, it says the years that are there. It's right there on the table. What years are included and what the split is.

MR. E. MARTIN: Right (inaudible). Right you are. And you see 1998 to 2004 in the front.

MS. O'BRIEN: Yes, and then it goes all the way up to –

MR. E. MARTIN: All the way up to 2017 so –

MS. O'BRIEN: Yes.

MR. E. MARTIN: – not my – I'm not exact on this, but I think we need to be careful to assume – a lot of this would be specific to Gull only, back in the day before any of this recent stuff, you know, in 2006 onward happened.

And I thought you were asking the question about things that had been incurred joint between Muskrat and Gull, like the environmental assessment that we went through and everything else. I see those as – probably – some of that included here, but there's a whole bunch more here than that.

In my view –

MS. O'BRIEN: That is – just to let you know, that is consistent with what Mr. Bennett's evidence was.

MR. E. MARTIN: Okay.

MS. O'BRIEN: This document was produced after we heard from Derrick Sturge. And he advised us that some of these costs had been split and some had been charged to Muskrat Falls and some had been charged to Gull Island.

We asked Nalcor to provide us with information of what has been charged to Gull Island. This was what was produced and Mr. Bennett spoke to it and he said it was based on a 70-30 split so ...

MR. E. MARTIN: So I'm not disputing Mr. Bennett, but I think – don't want to leave the impression that there's \$191 million here, you know, that is on a 70-30 split. I think I just have to be clear on that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I think he's correct in the 70-30 split. It sounds right.

MS. O'BRIEN: And it was – he didn't say for all items here, he said for the items that would've applied for both, as I just went over with you, the environmental –

MR. E. MARTIN: Well, that –

MS. O'BRIEN: – assessment –

MR. E. MARTIN: – clears it up for me because –

MS. O'BRIEN: – the – you know, the Aboriginal –

MR. E. MARTIN: Right.

MS. O'BRIEN: – Indigenous consultations, et cetera.

MR. E. MARTIN: Because a lot of these costs would be, you know, for the old attempts at Gull and such, and not related to any of the recent stuff. So whether it's included in CPW, I don't know.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But I think, you know, it would surprise me if the old Gull stuff was; and it would surprise me even if the newer Gull stuff was, because it doesn't make any sense from an accounting perspective. And I'll go back to my original comment, primarily is that this is an accounting department supported by the auditor of Deloitte's in terms of how this is done.

MS. O'BRIEN: And on that topic of it being – you know, with Derrick Sturge in accounting, Mr. Sturge testified – and it was actually in response to questions from his own counsel – that at one time he was asked about if he was ever asked to do anything that he felt uncomfortable with, or was not happy with. And one of the things that he put forward is that he had been asked by the project team to put a portion of the Labrador Transmission Asset capital costs into the Gull Island envelope. And –

MR. E. MARTIN: Yeah – he was asked to put what into the Gull envelope?

MS. O'BRIEN: The – a portion of the cost for the Labrador Transmission Assets.

MR. E. MARTIN: I see. I see.

MS. O'BRIEN: So the line between –

MR. E. MARTIN: Right.

MS. O'BRIEN: – Muskrat Falls and Churchill Falls. That the project management team had come to him with the suggestion that, look, you – to take some of that cost and attribute it to Gull Island, not Muskrat Falls. He said he wasn't comfortable with doing that, he didn't think that should happen and he said it wasn't done. Were you aware that the project team had made that suggestion?

MR. E. MARTIN: I think I heard some dialogue around that. I can't exactly remember but I will say this: It's a darned good question and I'm glad it was asked because it should be. And, once again, it doesn't fuss me either way because it's an accounting standards application and it would have to be approved by Deloitte's and the external audit, so whatever.

MS. O'BRIEN: Why would the project management team – we're talking about people here who are all essentially consultants to Nalcor. Why would they have an interest in making suggestions to Nalcor's CFO as to how Nalcor would be doing its accounting?

MR. E. MARTIN: I assume they would be bringing their attention to it, and –

MS. O'BRIEN: But why – why would you assume that?

MR. E. MARTIN: Well, I'm trying to answer that.

MS. O'BRIEN: Okay.

MR. E. MARTIN: If you just give me a second there, I'll get it out. So they – it would be the right thing to do, and, you know, you have to look at it. There's two projects on the go here:

Gull and Muskrat, which is back to the Lower Churchill.

So I mean, the proper allocation of cost between assets, to me, is pretty fundamental and a good question to ask. The accountants handled it, I just see it as a – I don't understand what the issue would be, I think it's the right thing to do.

MS. O'BRIEN: My question was what – why would that be of interest to the project management team?

MR. E. MARTIN: So they'd have the right allocation amongst the projects.

MS. O'BRIEN: Why would they care how Nalcor was accounting between the projects?

MR. E. MARTIN: Well, I think they doggone well better care. I mean they're – that's – you know, they're the asset managers. I mean, Gil Bennett is responsible for the Lower Churchill Project. Along with that comes responsibility for proper allocations of costs, proper, you know, allocations of revenue, income, construction, operations. You know, you're in charge of one of my divisions; you know, it doesn't come part way. You've got the whole baby.

MS. O'BRIEN: Now, this wasn't Gil Bennett. In fact, Mr. Bennett I don't believe knew anything about it. I think this would've come from either Mr. Harrington or other people on the project team.

MR. E. MARTIN: Same point, you know, these people are responsible for the asset – A to Z – and these are the things they have to be thinking about.

MS. O'BRIEN: Aren't they just responsible for getting the asset built?

MR. E. MARTIN: Absolutely not.

MS. O'BRIEN: Okay, so they're ultimately responsible for the – how Nalcor's accounting? I don't fully understand the answer to the question, perhaps you can –

MR. E. MARTIN: Okay, well, the answer is absolutely yes. I mean, that would be fundamental. You know, they get assigned a

division or a company; they got the whole thing, A to Z. I mean, that's fundamental; that's sort of like – I'm struggling to explain it because it's just a fundamental approach to business. Somebody has to be accountable for that division, and the person accountable has to cover the basis. I'll stop there –

MS. O'BRIEN: Mr. Harrington's not accountable for that division is he? No?

MR. E. MARTIN: He's not accountable for that division, but he's a senior executive in that division, and I would expect them all to be thinking that way.

MS. O'BRIEN: He – I didn't –

MR. E. MARTIN: That's a normal course of thinking here, you know.

MS. O'BRIEN: Okay, so – all right. I didn't understand Mr. Harrington to be an executive. Would you consider him an executive?

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay. So who would you consider – so you would consider him to be an executive despite the fact that he's not a, you know, a Nalcor employee. He's a consultant retained, but you'd consider him an executive. Anyone else on the project management team that you would have considered as part of Nalcor's executive?

MR. E. MARTIN: No, he and Gilbert would be the two.

MS. O'BRIEN: Okay.

And so what does that distinction mean to you? When you say Paul Harrington is part of Nalcor's executive, what does that mean to you?

MR. E. MARTIN: It means to me – as we just talked about – they have to look at a full suite of accountability to deliver the asset. I mean, there's the analysis of options; there's the engineering – there's the selection; there's the engineering; there's the construction of the asset; there's the commissioning; you know, there's the start-up; there's the handover to operations. One side.

On the other side of the equation, I mean, there is safety, there has to be, you know, a primary responsibility for the environment, there has to be a primary responsibility, obviously, for cost and schedule and quality is the other – quality of the process and all the way through that from, you know, selection on through to commissioning to start-up.

Once they turn that asset over to an operating entity – until that happens, they retain A to Z responsibility for it.

MS. O'BRIEN: Okay.

Now, I want to talk a bit about Independent Project Analysis, IPA. You're familiar with this company, I take it?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay. Could you just tell us generally why you used their services?

MR. E. MARTIN: Gilbert and Paul would be better to do that. They were, you know, responsible for the process. There's, you know, a series of reviews that are useful to have as you go through the process, and I wouldn't have suggested or not suggested IPA. But it – you know, they had a reputation. I'd heard of them before, and if that's who they selected for one of their reviews of many, I think that was their decision. And –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – they fulfilled a particular function in the review.

MS. O'BRIEN: I'd asked you that question at your interview in – on July 31 to August 3. I asked you to – can you talk to us about who is IPA and why you used their services.

MR. E. MARTIN: Yeah.

MS. O'BRIEN: So I'm just going to put to you what your answer was at that date just to see if you still agree with it.

You said: By way of building on my earlier discussion around the CEO role, the role is to, you know, lay out the ground work, goals,

objectives, vision for the company, put the right people in place, support that with, you know, checks and balances, processes and supporting processes, performance management, ensure that processes are in place for that and, in essence, let them run the company within those parameters.

And in that context, one element, you know, which I would find useful as well, as people throughout the company – in this particular instance, the Lower Churchill Project people – to periodically bring in external expertise, you know, to evaluate certain things.

We're looking for an external check and balance, you know, in this particular case what stage the project was at – how are the people performing, and most of all, you know, can you give us – give me – give the team – give everyone – what are the things we can improve upon? What are the things that are not working or things that are being missed or things that need to be filled in? That's primarily what you're looking for there, and obviously, you know, that's the mandate, and it's not meant to be negative in any way. It's meant to manage and assist management of the endeavour, and periodically, you try to get some fresh perspectives in there, you know. You guys need to deal with this. Maybe you're missing this and this point or whatever. So you're looking to find stuff – primarily give you an early chance to address it and mitigate.

And I said: Okay. And IPA – is it fair to say they were, in particular, experts in megaprojects, and you said: Yes.

Do you stand by that answer today?

MR. E. MARTIN: That's a good answer.

MS. O'BRIEN: Okay. All right. So one of the things, then, I understand – one of the things you retained IPA for was because they were experts in megaprojects and you were looking for someone to give an external check – fresh eyes – give a check and balance onto the work that the project team was doing?

MR. E. MARTIN: Generally, yes.

MS. O'BRIEN: Okay.

So P-01021. And this is volume 2 – tab 35 for you.

Just let me know when you're ready there, Mr. Martin.

MR. E. MARTIN: I'm ready.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Should I look through it first, or you're going to refer to it?

MS. O'BRIEN: Well, I'll direct you where I feel you need to go, but if you ever need to look further, you just need to say. So, this is a presentation that IPA did in July 2008. Now, this is still the Gull Island first scenario that was primarily being considered here, just want to give you that context. If we go to page 83.

So this was one of the observations that they made about steering committees and you may recall this – we talked about this in your interview. So one of the – they looked – my understanding is IPA has a very large database of megaprojects. Would you agree with that?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay. So one of the things – they assist people with benchmarking their project against other megaprojects. So here they say, you know, some steering committee facts, you know, 6 per cent – only 6 per cent of the projects in their database did not have one and that larger projects without them, essentially, performed less well. And they noted that this time, at least, the Lower Churchill Project lacked a formal steering committee, and then, if we go to page 132, we see one of their recommendations here. And that was – one of the recommendations was to implement a formal steering committee for the project.

And we have in evidence a gap-closure plan that was done internal to Nalcor on the IPA recommendations at around this time, and certainly one of the ones that they say that they're implementing on that gap-closure plan – Commissioner, just to let you know, it is entered as P-01538 – is that the steering committee was gonna be implemented.

MR. E. MARTIN: You're speeding up on me there now – 01538, is that –

MS. O'BRIEN: I don't need to bring you to the Exhibit. That is a Nalcor Exhibit where there was discussion of implementing a steering committee?

Do you recall that?

MR. E. MARTIN: It might be useful to look at.

MS. O'BRIEN: Sure. If we bring up P-01538.

MR. E. MARTIN: And where is it in the binders?

MS. O'BRIEN: I don't know if that –

THE COMMISSIONER: Tab 13 –

MS. O'BRIEN: – one will be –

THE COMMISSIONER: – volume 1.

MS. O'BRIEN: There you go.

Thank you, Commissioner.

This one's gonna be hard to see. If you go to page 5.

MR. E. MARTIN: Volume 1, tab 13?

THE COMMISSIONER: Yes.

MS. O'BRIEN: And, Madam Clerk, I'm gonna ask you to make that a little bigger. Now, there should be one here – no, it's here – it's on page 5 here. I'm not seeing it right there. Let me just find it in my book 'cause I would've looked at that.

UNIDENTIFIED MALE SPEAKER: I believe it's on page 4.

MS. O'BRIEN: Thank you very much.

So let's go to page 4 – I have to be taking off my glasses here soon.

Okay, so if we look at item number 17 here, Team Functionality. So this is what they say – this document is called: "IPA Pacesetter

Evaluation of LCP ... Review Findings and Observations - Gap Closure Plan.”

Item 17, it talks about the – one of the perceived gaps was a – the project reportedly lacked a formal steering committee. So then it talks about what the recommendations were – you know, “Implement a formal steering committee”

It says: “Definitive Action to be Taken Prior to Gate 2b.” And the comments there – August 30, 2010 – “Project Governance Plan prepared for approval.” And then down a little bit further: “Project Steering Committee Charter in-place and implementation on-going (currently being addressed within the Gatekeeper’s Weekly Meeting).”

Okay?

MR. E. MARTIN: Right. And could you scroll back to the first part of that again, please? I just need to make a note here. I’ll just be a sec.

MS. O’BRIEN: So we have found in the evidence a draft steering –

MR. E. MARTIN: I apologize I’m still making my note there.

MS. O’BRIEN: Okay.

MR. E. MARTIN: I’ll just be a sec.

MS. O’BRIEN: I’ll just have Madam Clerk bring it up in the meantime –

MR. E. MARTIN: No, but I’m copying off of this one.

MS. O’BRIEN: Oh, I see, okay.

MR. E. MARTIN: I apologize –

MS. O’BRIEN: Sorry.

MR. E. MARTIN: – for that.

I have it.

MS. O’BRIEN: Okay.

There was a draft steering committee charter done, it’s at P-01318. I don’t believe you’ll need

to look at it, but it is at tab 7 of volume 1 if you’d like to.

MR. E. MARTIN: Ms. O’Brien, I guess, I’m just not sure should I look at it. Because I’m not sure where we’re headed here, necessarily, so when you say that.

MS. O’BRIEN: Okay. We did cover all of this in your interview, so you –

MR. E. MARTIN: Okay.

MS. O’BRIEN: – if you reviewed your transcript, you’ll have some idea. So –

MR. E. MARTIN: So what was the last one you referenced? It was the – you’re saying it was the draft charter? Is that what you meant?

MS. O’BRIEN: Yeah, it’s right up there. It’s the Project Steering Committee Charter.

MR. E. MARTIN: So I can get rid of these binders I already had.

MS. O’BRIEN: And our understanding is this charter was only ever done in draft. It was never finalized, okay? Is that correct to your knowledge?

MR. E. MARTIN: Yes.

MS. O’BRIEN: Okay.

And I think Mr. Bennett testified to the same thing. And this was also covered in the Grant Thornton report at page 11 on the report and maybe I’ll take you there just for completeness.

MR. E. MARTIN: Mm-hmm.

MS. O’BRIEN: So page 11 of P-00014, Madam Clerk.

THE COMMISSIONER: Tab 115.

MS. O’BRIEN: So do you recall reading this section of Grant Thornton’s report?

MR. E. MARTIN: Just scanning it again now. I read the report, so yes, I remember but I’m scanning it again.

MS. O'BRIEN: Okay.

So they noted that there was a steering committee charter drafted that –

MR. E. MARTIN: I'm almost through it, Ms. O'Brien.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Okay. I'm good.

MS. O'BRIEN: Okay. So here they made a finding that they were told the charter was never finished and that no steering committee was ever formed, but there is referral here that the Lower Churchill Project team noted that there was no – “while there was no overarching steering committee, Nalcor's LCP Executive Committee reviewed and signed off on DG3 Support Package.”

So is that consistent with your understanding, that no steering committee was ever formed?

MR. E. MARTIN: From the term “steering committee,” I agree. I think we talked about this – I believe we did – during my interview. It was that – I was under the understanding that the LCP Executive Committee would have performed the duties that I would've expected in a steering committee. I would've generally equated the two.

MS. O'BRIEN: Okay.

And – yes, you did say that, and so you understood that those two would do the same thing. Now, we did talk that a steering committee, as it was anticipated by the charter and as was discussed by IPA, would normally have external members, people, you know, external to the organization on the steering committee. But I understand that was not the case for the Executive Committee, is that right?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay. So the Executive Committee, it was your understanding – they were doing the same role as a steering committee, but without the external members?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

And I take it one of the views of this – the role of the Executive Committee, then, in your – would be to provide oversight and guidance to the project management team?

MR. E. MARTIN: I didn't look at that as the primary responsibility. That – you know, that's what I was taking notes on, on the previous page.

I believe what evolved was – my initial main concern was – as noted on the previous slide – vertical integration, you know, with the business units. To me, you know, there's two pieces of value for, you know, a steering type of committee or an executive committee, and the one I was most concerned about was the vertical integration. And by that I mean we had six divisions, you know, we had a finance – you know, a finance department, we had environmental departments, we had human resources departments.

And I took part of this recommendation – to me – and probably to me, initially, the most critical was to make sure that, you know, a Muskrat Falls – and frankly for the other divisions we did the same thing. For Churchill Falls and for, you know, for Newfoundland and Labrador Hydro and other divisions, we implemented the same thing with a similar idea to make sure that no unit was, you know, marching off on their own without considering things that needed to impact other units. I think Hydro – Newfoundland and Labrador Hydro, Muskrat Falls would be a key element of that, for instance.

So that was the initial, and most important one for me. The other thing is yes, oversight and, you know, and review. I also believe that the notes were made there was not meant to be in the business running it. It was to have a, you know, overview guidance perspective. And that, I believe, came less from the executive committee and evolved into more of an ad hoc element that would have included myself, and Gilbert, and Paul, Lance and Jason, oftentimes Ron Power, and maybe Scott from site – site management, depending on what was happening. I believe that portion of it was fulfilled. On more of an ad hoc basis, but certainly we had the expertise around to be

dealing with, larger decisions together, to talk them over.

MS. O'BRIEN: Okay.

So, here's – we talked about this in your interview, so I'm going to just put to you things that you said about it in your interview when I asked you about this. And you said that you identified the – and I'm at page 60 of your interview transcript – you said the LCP executive management group and you said you would have treated that as a steering committee.

And I said to you: So just explain to me, why did you make the decision to – you had the charter done, the action items – I was talking about the steering committee – the action item was we're going to implement it. Why did you make the decision not to go with the steering committee and to go with an executive management group which was essentially an internal group to Nalcor without any external representation?

And your answer was: First off, we use – to me, they're one and the same. Okay? So I think the steering committee and the executive committee – the steering, you know, the steering committee, LC executive committee, I see the function that they're fulfilling is to put a broader group together to assist in stewarding the project.

As far as external members, there has been – there was, you know, a series of – ongoing series of external reviews. Whether they be IPA or other consultants that we used at key times, in key decision-making to provide us with that external advice and guidance. So a combination of these two fulfilled the mandate that I expected to be fulfilled by the steering committee, and that is what I used.

And I said: And that was your decision? And then you responded: Once again, what I wanted was a committee overseeing the project. I decided that was required, it was in place and I was comfortable with that.

So that's how I understood at that time your evidence was with respect to the executive committee. Do you stand by that evidence today?

MR. E. MARTIN: Yes, I do.

MS. O'BRIEN: Okay.

So, we have heard from three members of the executive committee. I understand you didn't sit on the executive committee, did you?

MR. E. MARTIN: That's correct.

MS. O'BRIEN: Okay.

So let's see. Derrick Sturge evidence – when he was asked about it, he said – I asked what the executive committee dealt with and he said: I would say nothing of real substance. I mean, there was useful information there to keep people abreast of activities happening, but I don't think there was every any really juicy topics there, you know.

And I asked: Okay. Were any key decisions made there? And he said: Key – I don't think there was any key decisions there, no. I said: Any key decision discussed? Not that I recall. Like, if you take capital as an example, I don't ever recall a discussion of capital, at least not before decision – key decisions were made on capital. It may have been after the fact. So that was his evidence on it.

Mr. Bennett testified that the executive committee was not successful. He said: It wasn't successful because when the committee met, many critical project decisions were already being taken. That was one observation. The observation is that the key people were actually involved in a number of priorities in real time and they were not necessarily available to participate in the committee structure. And I said: Okay. And I put the question to him that there was no external representation? He said: That's right. And I said: So people weren't necessarily showing up to the committee meetings? And he said: That was a problem, yes.

And the third member that the Commissioner has heard from on this is Paul Humphries, and I'm just – I won't read it out but he indicated similar, that attendance was poor and generally he did not believe the executive committee did what it was originally intended.

Were you aware of that at the time?

MR. E. MARTIN: No, not to that extent. But what I was aware of was – and felt it was covered off as Mister – one of Mr. Sturge’s comments noted: keeping abreast of issues.

Well, that’s a critical piece of data, not to be discounted. As I said, you know, one of the key areas for me was to make sure that people across the organization, both in a functional and line organizations, were kept abreast and understood the interfaces. And in understanding those interfaces allowed them to go back into their own groups and if they weren’t in line, to get in line; if they were behind, to get caught up and to make sure those things were happening.

I believe that that did occur. I believe that the integration part of it did happen, regardless of who attended. We had people from each of the divisions attending. And that was one of the highest value things, to know what was happening so that you could adjust, in your own division, and make sure it was across purposes.

Now, as far as the key decisions and those types of things, I would have expected more to happen within that group, but, in the meantime, I know, as I said earlier, that there was a key group that reviewed those decisions and with the project – the senior project team – I was one of those that pushed that through and I would be comfortable covering that off of there.

MS. O’BRIEN: Okay. So the executive committee – you’re acknowledging now that they weren’t doing much in the way of stewarding the project or overseeing the project. But you were not aware of that at the time – when the executive committee was actually active in meetings say, prior to sanction?

MR. E. MARTIN: Yeah, that’s correct.

MS. O’BRIEN: Okay.

And we have found that – there was a terms of reference charter for the –

MR. E. MARTIN: I need to come back on that a little bit.

MS. O’BRIEN: Is that –

MR. E. MARTIN: Excuse me for interrupting you there.

MS. O’BRIEN: Mm-hmm.

MR. E. MARTIN: I’m just trying to think back now. I would adjust that comment, Commissioner, to say that I must have known, to a point, that some of that decision-making and – you know, not decision-making, because that wasn’t the intent – if some of the review and stuff wasn’t happening, because I did take on more of a coordination of that myself with the project team in certain areas.

So thinking about my actions and thinking back on it, I probably knew that part wasn’t working as well as it could have; and I didn’t sit back, I participated to fill that in.

MS. O’BRIEN: When I – you gave your interview to me I understand you were under the impression that the steering committee hired a number of external consultants to fulfill that external role.

MR. E. MARTIN: I’d have to check the phraseology, you know, hearing it – you say it that way I would say it’s very close, but I would rephrase it a little bit to say that external consultants were, you know, engaged to provide that external viewpoint, because the expertise didn’t exist. Now, did the steering committee do it or did the project management team? I’d say the project management would’ve engaged them.

MS. O’BRIEN: Okay, I’ll just bring you to what you said in your transcript at page 63 – so this is me speaking: And it’s – in your answer here what I’m hearing is that you don’t see this as an issue. You see the executive committee that you put out there as to be one and the same as to what was envisioned in this charter for a steering committee, and that you felt that their ability to get external consultants as they considered appropriate was sufficient. Have I summarized correctly? And you said: That’s correct. I said: Okay. And then you said: And they did it a lot. Meaning to get the external consultants.

Do you understand now that there's no evidence that the steering committee ever engaged external consultants?

MR. E. MARTIN: I'd like to read that a bit closer. I guess that was the point I was making. I was referring to the project team getting external consultants. If you read that closely, I think the nuance is there. And I'd have to say that that's what I meant, Commissioner, I didn't mean the committee was engaging them.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I meant that the external – and the external, you know, viewpoint – we covered that off to the extent possible by bringing in external expertise periodically to give us a different view.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I didn't mean to leave the impression that the – that committee was the one actually hiring them.

MS. O'BRIEN: Okay.

We have in evidence two draft terms of reference for the executive committee – one, there's drafts there dated May 2011 and, again, April 2012 – but we haven't found any finalized versions of any terms of reference or charter for the executive committee. Is that consistent with your understanding?

MR. E. MARTIN: I don't – I just don't know. I wouldn't be presuming the closure of those documents.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I have no reason to dispute what you're saying, but I wouldn't be the one chasing the sign-off on those documents.

MS. O'BRIEN: Okay.

And when you talk about the external consultants that you – that the project team – or you're saying now it was the project team that engaged them. So you're looking at IPA then. I just want to make sure I understand who you're talking about when you refer to external

consultants. So this would be like IPA, Independent Project Reviews, Validation Estimating, Westney, Navigant. Are those the –

MR. E. MARTIN: Similar things and that, yeah.

MS. O'BRIEN: – external consultants that –

MR. E. MARTIN: Yeah. Yes, those types of things.

MS. O'BRIEN: Okay.

So that's what you were relying on to get that external view.

MR. E. MARTIN: Partially, yes.

MS. O'BRIEN: And what else then? If that's only partially, what else were you relying on for the external view?

MR. E. MARTIN: Part of it was my eyes into the project team, based on my experience in terms of what, you know, should be happening. And I'd have to think a bit more about that. When you said – when you stated it in the context of that was it, I was looking to think for a moment. So I'll have to revert to you on that, just to make sure that I'm – have a complete answer for you.

MS. O'BRIEN: Okay, let's talk about the role of Mr. Sturge. We've heard testimony from Derrick Sturge, who's CFO and VP of Finance. And he gave the Commissioner a fair amount of testimony, particularly with respect to the financing of the project, the Emera deal, and the FLG and how all those came together.

But when it came to cost of the project that was being financed, Mr. Sturge really didn't have very much information on that. Did you hear Mr. Sturge's testimony?

MR. E. MARTIN: Yes, I heard that.

MS. O'BRIEN: Okay.

So he was on the executive committee and I just reviewed with you what his evidence was on that. He also filed in evidence his – a couple of excerpts from his notes; he did keep notes. And

in those excerpts that are in evidence he expressed that he found it very strange the way that the capital costs were being held very close. He didn't really have much insight into them.

We also looked in evidence at an email exchange between him and Mr. Warren that in which there's some – I'll just say there's some expression of frustration being expressed between the two of them. And Mr. Sturge's evidence was that he at times felt out of the loop on things with respect to the Lower Churchill Project and he found that to be frustrating.

And, in particular, I think when he was talking about what the capital costs were, and the schedule that was being pursued, those were items in particular that he addressed. So here we have your VP of finance, whose evidence before the Commission has been that he has – he felt out of the loop when it came to important matters such as the cost of the project. And that might strike people as strange, that – you know, the VP finance, one would think, would not be removed from the cost estimates, that he would be heavily involved in those.

So I want to give you an opportunity to address that before the Commissioner. Is that – were you surprised to hear that evidence from Mr. Sturge? Is it consistent with how you believe Mr. Sturge was engaged when it came to the Lower Churchill Project?

MR. E. MARTIN: You know, that's business, that's the way it works. I wasn't surprised either way, you know.

I look back on, for instance, my experience in Mobil Oil coming up through the system and/or Petro-Canada. You know, I had the good fortune to be the GBS accountant on the project at Hibernia and I wasn't involved in cost and scheduling at the time. That's not the accountant's role there. The engineers do the engineering, the engineers cost that engineering out and they put the schedule together. The accounting people in that world do not contribute to that because the expertise doesn't sit there.

I also came in as project financial advisor to the main project and it was a similar situation. I was doing financial accounting and troubleshooting.

I then went back out to the GBS as cost and schedule manager. At that point, I was deeply involved in the cost and schedule and I understand how it works. And the accountants are not the ones driving the cost and schedule of a megaproject. It's as simple as that.

And then I went back in as CFO, after another couple of roles, and I ended up being the CFO at Hibernia. And that's the way I operated there as well and I understood the difference. I understood just how the cost and schedule was being handled and, to me, that was the norm. I also believe I heard – and I'd have to check the transcript, but I thought Mr. Sturge also indicated that he had a similar experience at Vale Inco on construction, which wouldn't surprise me as well if he said that.

MS. O'BRIEN: I certainly think that – I don't think he was suggesting that he would have been involved in developing the costs – involved in that kind of – you know, in detail of building the costs. I certainly don't think that was his evidence. But he did say that – you know, and his notes indicate he – it was very strange, he found it was a very strange process that was being undertaken and that he did not have more transparency as to what the costs were at various times. But what – so that's his evidence, but what – I'm hearing you say that that's the way you expected – you wouldn't expect to keep your VP Finance, in the loop with respect to information on cost and schedule? Is that what I'm understanding you to say?

MR. E. MARTIN: That's not my job to keep him in the loop. If he's not in the loop, go get in the loop. He's the CFO of the company. Get on with it.

MS. O'BRIEN: So would you expect him to get himself in the loop?

MR. E. MARTIN: Absolutely. He's a VP and CFO of the company. Doesn't that – anyway, sure.

MS. O'BRIEN: So he should be in the loop, but it should be him who gets himself there.

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay.

Because one would think – because he does – he did have a lot of experience with – he certainly had experience with other megaprojects; I think he worked with Voisey's Bay Nickel and whatnot, and he had a lot of experience to bear. So I would think – would he not – when it came to questions of, you know, capital costs and some of the bigger decisions that you were involved with – would he not have been a natural sounding board for you? Like, someone to discuss some of the issues that you were rising with, dealing with given – you know, given his position, his education and his long years of experience?

MR. E. MARTIN: Absolutely, in the things that I thought he could add value to. I mean as you mentioned, he was – he ran – and did a fantastic job on – the federal loan guarantee, he was deeply involved in the aluminum file. Other things that you know – you know, I could ask him to do, he was extremely efficient – extremely proficient and got the job done well.

As far as, you know, cost and schedule, you know, the expertise for that rested in the project with the engineers and such, which has always been my experience and that's the way it's run, so I wouldn't necessarily seek him out for that. But to have him participate and be part of it and listen, absolutely. And – but that being said, you know, I'm hiring these people, they're officers of the company, I'm not babysitting them. You know, they got to get up and get moving.

MS. O'BRIEN: What about risk –

MR. E. MARTIN: And if that's an issue – you know, I'm confident Derrick had the wherewithal to do what he had to do. He's a pretty confident guy.

MS. O'BRIEN: What about risk? You said you wouldn't have gone to him necessarily for cost and schedule. What about when it comes to, you know, how the – you were dealing with risks on the project?

MR. E. MARTIN: Absolutely. And Derrick's group, actually – and Derrick initiated this as well. He was always – I found to be a very progressive thinker, you know, always, you know, staying ahead of the curve for the company. And one of the things, amongst many

that Derrick implemented, was the enterprise risk management process, which came in under him.

He spearheaded that, he got, you know, a senior person in to spearhead that for us. And from that perspective, they coordinated the risk management – not drove it within the divisions, but coordinated.

So, yes, he was instrumental in the risk side of things. As far as getting down into the detail of what every risk was, I wouldn't see that would be CFO's role. I mean, that's down into the working areas of the organization – you take CF(L)Co, or Newfoundland and Labrador Hydro would be a good example as well. You know, the risks associated with the generating facilities – the – you know, the transmission facilities – these would come from the operating people and the capital people, and that's the norm.

But as far as hearing the risk, participating in risk discussions and those types of things – absolutely. The risk register was centralized; it came up through Derrick's group and, once again, he's a pretty smart guy, and very helpful. If there's anything there that he would have felt necessary to comment on or had input, I have no hesitation to say he'd do it, and it would be useful information.

MS. O'BRIEN: Okay, so when it came to how you were managing risk at the – for the Lower Churchill Project, is that something that you would have had discussions with Derrick Sturge on?

MR. E. MARTIN: Well, I think Derrick would have had discussions with the project team in terms of the coordination, as I mentioned. You know, I mean, I saw rolled-up, you know, risk registers come into central group. I mean, Hydro – Newfoundland and Labrador Hydro had a – you know, rolled up the risk profile into the enterprise – into the company program. The Lower Churchill did, as did other divisions.

MS. O'BRIEN: No, I – my question was about your communications with Derrick Sturge. Would you have had communications with Derrick Sturge as to how risk was being managed on the Lower Churchill Project?

MR. E. MARTIN: I could have, but it wouldn't cross my mind to go – you know, I would expect that that would be Gilbert's role, and the VP of Hydro's role to talk to Derrick about that. I mean, as I said, I wasn't going around, you know, picking up every division's risk (inaudible) and going in and sitting down to see Derrick and say, hey man, you got a minute, I can talk to you about this and bring you up to date? I wasn't working that way. That's Derrick's job – to get out – and Gilbert's job (inaudible) to work together – to handle the various divisions and consolidate those risk profiles.

MS. O'BRIEN: Okay.

One of the other items that Mr. Sturge testified to, is he said that at the end of 2012, into 2013 there was a strong suggestion to award the financing to CIBC. And he suggested that the suggestion had come to you; he suggested it came from the province to you, if I understood him correctly. He didn't suggest that you were affected by that suggestion or that you did anything improper, but he did say that the – this was one of the things that made him uncomfortable that he testified to.

What do you recall of this?

MR. E. MARTIN: Not very much. We had – CIBC had done some helpful scoping work for us, generally on a volunteer kind of basis. They were very helpful. You know, they had established some kind of relationship with the province and myself in terms of that. We bid the work and, you know, obviously, folks would say, you know, how's it going; the CIBC, you know, they were good to us. And I would say I'll let you know.

MS. O'BRIEN: You mean folks within government?

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay. So who in government would have been –

MR. E. MARTIN: Oh it could have been, you know –

MS. O'BRIEN: – making these suggestions?

MR. E. MARTIN: It could have been, you know – it would have been at the minister and premier level. It would have been general discussion. But I can tell you –

MS. O'BRIEN: So this would be Premier Dunderdale?

MR. E. MARTIN: I can't remember to tell you the truth because it really was a non-event. It was more of a conversation of how things were going. And I think – I don't know where Derrick was coming from and that – if he misunderstood it, so be it.

Let me put it this way: I can't remember exactly where it came from. It was not a pressure situation. Someone asked me how it was going. I had asked the guys. I told the people I was asked that essentially – in a very professional manner – that I can't talk about that and, you know, I'll have to let you know how it goes. And they – whoever I spoke to about that was comfortable with it. And that was the end of it. And –

MS. O'BRIEN: Okay. So you're saying this would have been at the minister/premier level. So the time frame, I'm taking it, would be Premier Dunderdale, right?

MR. E. MARTIN: Yeah, I'm just struggling to remember. And the reason I'm struggling to remember, it really wasn't a huge issue, Commissioner. I mean it wasn't something that – that part I did not get. You know, from Mr. Sturge's perspective. No fault to Mr. Sturge. He was running the show on that particular file. He wanted to keep it totally – it's great.

I can't see how that could have gotten into that situation because, you know, I was clear, constantly, that you guys do that; I'm dealing with anyone else, and took a couple of questions, I would have moved on. It just wasn't an issue. And the bottom line is it was properly assigned. So there it is.

MS. O'BRIEN: I think, I mean obviously Mr. Sturge brought it up through his own counsel, so he brought it up to the Commissioner something that had happened that he was uncomfortable with. So it obviously had some impact on him and made some impression on him.

So I understand you're being – you are being vague in your answer. I don't know if that's because you don't have any more information to give or you're reluctant to give it.

But – so the question to you is, was there ever a suggestion to you from the – say, let's start with Premier Dunderdale, that she would like it if you – if the financing got awarded to CIBC?

MR. E. MARTIN: Never.

MS. O'BRIEN: Okay. And what about any of the ministers of the day?

MR. E. MARTIN: Never.

MS. O'BRIEN: Okay. And – but you – did you have any discussions with them about whether – you know, how's it going with CIBC?

MR. E. MARTIN: It was something like that. It was so innocuous, like –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – these people, I mean –

MS. O'BRIEN: So you had those kind of how's it going with CIBC discussions with –

MR. E. MARTIN: Yeah.

MS. O'BRIEN: – with Premier Dunderdale?

MR. E. MARTIN: I really can't remember. It would have been Premier Dunderdale or Minister Kennedy, but I'm telling you it was –

MS. O'BRIEN: Okay.

MR. E. MARTIN: I really – I'm really concerned folks are making something out of something that's not there. These are casual conversations and one thing I do know is that Premier Dunderdale, in particular, I do recall this, you know, was crystal clear in terms of, you know, in the analysis of any of those bids financeable or otherwise, you know, no interference from anywhere.

MS. O'BRIEN: Okay.

So that's good. I mean, it's important – obviously these things are raised it's important that we get your answer to it.

MR. E. MARTIN: Absolutely. I have to say that she drove a lot of that.

MS. O'BRIEN: Okay. All right.

So and ultimately, as you say, and Mr. Sturge's – consistent with Mr. Sturge's evidence – is that it went through a competitive process and there was no preference given to CIBC or any other individuals.

Okay. Thank you. All right.

I'm going to talk a little bit about risk now and confidence levels. What prior experience did you have in risk assessments, P-factors, all that good stuff we've been talking about?

MR. E. MARTIN: Well risk assessment, obviously, I started off at Hibernia with my efforts within the project being involved in cost and schedule and obviously, you're talking risk. I know during that particular – my stint in that particular role, the GBS costs increased to a point where we had to go to the executive committee of Hibernia for additional funds. I was coordinating preparation of that, I presented that information to the executive committee.

Obviously, we would have discussed risks throughout that.

MS. O'BRIEN: Mm-hmm.

MR. E. MARTIN: In those days the P50, you know, those types of things weren't on the forefront, Commissioner, as such as that, but we were deep into similar discussions around risk. The things that the project team could control, the things that were outside the project team's control, all those concepts were well discussed and deep to discuss. Those terminology of what we've been using here wasn't a big part of it at that point.

MS. O'BRIEN: Okay.

So you had not previously worked with picking a P-factor or P-value to use, for example?

MR. E. MARTIN: Well, not at Hibernia.

MS. O'BRIEN: Okay.

MR. E. MARTIN: I'm just – you asked me my experience.

MS. O'BRIEN: Okay so that's at Hibernia.

MR. E. MARTIN: That's correct.

And then, went into operations at Hibernia and not there but in Petro-Canada I was responsible for White Rose. We did that work at White Rose – all of the above – selecting P-factors and running Monte Carlo analysis on the White Rose project for Petro-Canada.

Terra Nova was also handled in that fashion. My direct involvement in Terra Nova was limited, but I was still exposed to that concept there as part of the leadership team.

And in addition, you know, with my involvement with Hebron, I led the Hebron project on the Petro-Canada side

And then, when I took a role with Nalcor, I picked up, you know, some of the Hebron responsibilities there as well. So I would've been involved in that as well, in terms of those concepts.

MS. O'BRIEN: Okay. All right.

So what I'm hearing is at least for – when you were with Petro-Canada dealing with White Rose, Terra Nova, Hebron, you were familiar with this QRA works, selecting P-values, and that was something that you were familiar with?

MR. E. MARTIN: Absolutely.

MS. O'BRIEN: Okay.

MR. E. MARTIN: And less with Terra Nova than the other two.

MS. O'BRIEN: Okay.

Okay. If we could bring up P-00901, please. It's gonna be tab 67, volume 3 for you, Mr. Martin.

This is a slide deck that we've looked at before. Lower Churchill Project, cost, risk and schedule update to the Gatekeeper in June of 2008. It's page 20 I'd like to go to.

So this is the only real evidence that we have – in terms of the contemporary documentary evidence – that shows a recommendation from the project management team to you, as Gatekeeper, with respect to P-factors.

And both Jason Kean and Paul Harrington have testified to this. And their testimony has been that, in June 2008, they recommended that project costs be done at a P75 accuracy for strategic risk and tactical risk, as is set out on the slide here.

Do you recall having that recommendation from the project management team?

MR. E. MARTIN: I don't recall it, but – no. But it's here.

I mean, I'm just saying the recommendation as such. I mean, they – the way these things worked, you know, they'd make recommendations in terms of, you know, what they thought it should be, and they were helpful perspectives at times, but I'd be making a call on the final analysis.

MS. O'BRIEN: Okay.

And if we go now to P-00206. And I don't believe this – oh, yes it is. It's volume 1, tab 11.

MR. E. MARTIN: Um.

MS. O'BRIEN: Volume 1, tab 11.

MR. E. MARTIN: I'd also like to make the point, 'cause I'm not sure where we're going with this, Commissioner, but this here, on page – on the page 20 of Exhibit P-00901 – that's 2008.

That's Gull going to market, isn't it?

MS. O'BRIEN: That was in a Gull Island-first scenario.

MR. E. MARTIN: Gull Island first –.

MS. O'BRIEN: But that's in 2008.

MR. E. MARTIN: – headed to market – nothing to do with the need for power discussion at that time in the Province of Newfoundland.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Just – I just wanted to make sure we got that counted.

Now, do I still need this one?

MS. O'BRIEN: No, you should be at volume 1, tab 11.

MR. E. MARTIN: I'm here.

MS. O'BRIEN: Okay.

So this is a Lower Churchill update. The evidence from this – this was a presentation that you gave to members of government on April 23, 2010.

Do you generally recognize this slide deck?

MR. E. MARTIN: I generally recognize it, yes.

MS. O'BRIEN: Okay.

So if we could just go to page 17 here.

So here we have another P-value mentioned here and it's: "Scenario Economics - Key Assumptions ... General Assumptions for all cases." And at this time it appears from the slide deck that it was – you were using a P75 for capital cost estimates in evaluating the scenarios.

Do you recall that?

MR. E. MARTIN: Yes.

MS. O'BRIEN: Okay.

MR. E. MARTIN: Also, with the added information, this was, once again, a Gull – I think, a combination event.

And a couple of things there, Commissioner: one, is that –

MS. O'BRIEN: I don't know if this is a Gull. Like, we have Muskrat Falls non-firm case here so ...

MR. E. MARTIN: Yeah, but I'm just – I want to – it's not a power – it's not providing power to the people – scenario.

And what was happening here from an economics perspective is that two things: one is – I would request different, you know, levels of P-factors to increase or decrease the capital to have a look at things, that was constant; the second thing is, you know, I'm always – in my mind – it's important to have a reasonable buffer in place.

And in this particular case, we were looking at going, you know, to market to – to fund the lot of this (inaudible), meaning that you'd have to find a PPA to be able to finance this. And then in a PPA, you'd be seeking a price and you – that would cover your cost as well as the return.

And because of the cost exposure that could occur in the future, you want to make sure that your PPA number or the dollars per megawatt hour you were going to receive, would cover with a buffer. And these were scoping economics.

And the main reason would be, because we weren't through Quebec or anything else, but if I was talking to Ontario or if we did look at Ontario's mix, which was likely going to be, you know, they would likely be saying: We want a gas future, because that would be lower cost when they're negotiating with us, we'd be saying: You need a nuke future, a nuclear future, because that's more expensive. And in a way, we would discuss.

But I needed to know, within that realm, you know, of dollars per megawatt hour, would that cover the capital cost with a buffer. And that was a rationale that we were, you know, using at that point just to test the market.

MS. O'BRIEN: Okay.

Is it fair to say that using a higher P-value is more – the higher the P-value the more conservative approach to risk, so if someone has

a low risk appetite, you'd use a higher P-value?
Fair to say?

MR. E. MARTIN: That's not fair to say in all cases –

MS. O'BRIEN: Okay.

MR. E. MARTIN: – no. It's fair to say in a one-off that we just talked about. Is it fair to say in a comparative analysis? No. You have to look at the comparative analysis, and that's not the case.

MS. O'BRIEN: Okay, so if you were just looking at one project, then you're talking about a comparative analysis – you're referring to the CPW?

MR. E. MARTIN: That's one example of a comparative analysis.

MS. O'BRIEN: Okay.

MR. E. MARTIN: But my point is this, is that –

MS. O'BRIEN: Well, let's talk about comparative analysis that we're doing here. So when – but take –

MR. E. MARTIN: But I was being generic. You were asking about – in general, you were asking me about the comments there, so I was just about to explain, you know, the comparison piece, why it's different.

MS. O'BRIEN: Okay. I just wanna get a sense though. If you're looking – like, generally speaking, I understood, like, a higher P-factor means the number that you're choosing – the higher the factor is the more likely that you are not going to exceed the estimate that you're working with.

MR. E. MARTIN: And –

MS. O'BRIEN: Is that not right?

MR. E. MARTIN: That's correct. But in a comparative analysis, unless you look at both options, you could be misled in terms of the use of that. Because under the comparative option – and we will use a CPW, as you select. You

know, we have to – you have to understand that, in a comparative analysis, P50 is your most likely outcome, so you got to compare one to the other under the same parameters. That's critical.

And once you do that, in the Muskrat Falls Isolated Island case, particularly because of the probability distribution surrounding oil, particularly amongst other things, you have to ensure that when you are increasing your P-values across the board, in the Muskrat Falls Isolated case, the difference favouring Muskrat increases extremely rapidly. So apart from P50 is right for the comparative analysis.

I also felt comfortable that, you know, going to a P75, which I didn't believe was the place to be, I would not do it. And – but that being said, if it did happen, the preference for Muskrat Falls would increase dramatically from 2.4 billion – I haven't got the numbers at my fingertips, but I'm talking billions more in favour of Muskrat.

So that's the combination of information that I think has to be considered in terms of the comparative analysis.

MS. O'BRIEN: Okay. Well, we can come back to the comparative analysis and what you've just said there about increasing it by billions more, but right now, I just want to understand, generally, how – just to make sure we're on the same page with how P-factors – P-values – relate to risk appetites.

MR. E. MARTIN: Yeah. But my concern is that – I've got no problem pursuing that. But I wanna just go on record again on the comparative analysis, because if we talk this through on a single project mindset, then we get people's minds going down a certain perspective, and I'm finding it hard to get peoples, coming back, thinking about the reality of this is a comparative analysis.

So let's go down that path, but I want to make that point, and I'll be coming back to it again and again and again because it's a critical – a critical – piece of information with respect to this analysis.

MS. O'BRIEN: Okay. Well, ultimately, we just went with one – one option, and that was the Muskrat Falls option.

And so what Mr. Kean's testimony has been that he said that he was providing capital cost information on the various configurations of the Lower Churchill projects that were being assessed at a P75 level up until August of 2010. And then he said, at that time, he was asked to provide cash flows on a P50 confidence level. And I think Mr. Harrington also confirmed that. Gil Bennett did not recall any specific date or decision to change the confidence level, but he said that that would be a decision for you as the Gatekeeper.

Do you recall making the decision to move from a P75 confidence level to a P50 confidence level on or around August 2010?

MR. E. MARTIN: You know, that is – that question is not rational in my mind because there was not a change from a P75 to a P50.

MS. O'BRIEN: Okay. So is Mr. Kean's evidence wrong? Is that what you're saying?

MR. E. MARTIN: I'm trying to speak as fast as I can to get it out. So just give me a minute, and I'll try to speed up a little bit.

So it did not change from a P75 to a P50. As I mentioned, two different things are happening. Apples and oranges. Two different things. On one side of the equation – I just explained this with respect to a potential single project endeavour to bring a Gull Island, for example, into the market. I was looking for a range of outcomes and testing them against what the costs were. And sometimes we used (inaudible) P50, sometimes a P75. We used many things but that's scoping economics.

MS. O'BRIEN: So was – at that time were you comparing –?

MR. E. MARTIN: When you move to a comparative analysis, and we start getting down to closer to decision-making, that's when you have to make your call on what you're using with respect to a P-factor.

MS. O'BRIEN: I'm just not following your answer. I'm sorry, Mr. Martin.

So you're saying – when was it you were using P75? What was the activity you were involved in?

MR. E. MARTIN: We just talked about scoping economics around, you know, can we get a Gull off the ground based upon a PPA.

MS. O'BRIEN: Okay.

So when you were looking at various configurations – comparing various configurations of the Lower Churchill Project at that time?

MR. E. MARTIN: Yeah, we compared different configurations and different P-factors, and it was scoping economics.

MS. O'BRIEN: Okay. I'm not sure I really understand what you mean by scoping economics, but just to break it down a bit, so –

MR. E. MARTIN: Well, we can stick with that if you like?

MS. O'BRIEN: Well, let me just break it down a bit to see if I can –

MR. E. MARTIN: Sure.

MS. O'BRIEN: – shed a little more light.

So Mr. Kean said, look, up until August 2010, I was consistently giving numbers at a P75 confidence level, okay? So that's what his evidence was. And he says there was a change in August of 2010 when he started to ask to be provided – asked to provide numbers at a P50 level, okay? So he was providing a P75 consistently; August 2010, now, he's providing a P50. Do you have any reason to doubt his evidence on that point?

MR. E. MARTIN: I can't speak for Mr. Kean. All I know is what was going on in my mind. How he would have interpreted something – he's four or five levels down the organization; he can suit himself. I'm the one making the call, and I've just been explaining to you that a P50 is where my mind always was for – with respect to sanctioning the project.

And what goes on prior to that, whether it be scoping economics – I’ve heard some evidence here about the Emera negotiations – that’s a negotiation; it would never happen around there. And then – but as far as assigning a project team a control budget under any scenario, it was, it was going to be and it would be a P50 – that never changed, ever.

As far as Mr. Kean goes, who I respect immensely, he’s down further into the organization. He’s running numbers and P scenarios as requested, and I’m not down in the organization explaining every change or every scenario that I or someone else may be expecting to Mr. Kean, so yeah.

MS. O’BRIEN: Okay. But I take it you wouldn’t have been able to provide your own capital cost estimates, you weren’t down in the weeds building up capital costs estimates?

MR. E. MARTIN: That’s correct.

MS. O’BRIEN: Okay. So you would’ve been relying on the project team to do that?

MR. E. MARTIN: Absolutely.

MS. O’BRIEN: Okay.

And so Jason Kean has testified he was the one providing these capital cost estimates, and he’s saying, look, up until April 2010, I was providing them at a P75 level and then, after that, the request started – came to start providing at a P50 level and there was a change at that time.

Do you have any reason to doubt his evidence on that point? That’s the first question I’d like answered.

MR. E. MARTIN: I don’t agree with the change comment. I just don’t agree with it, as I’ve just explained.

MS. O’BRIEN: So you don’t –

MR. E. MARTIN: It’s apples and oranges, what we were doing. It was always going to be a P50 as an assignment. To the project management team, it would always be P50. Scoping economics are different.

MS. O’BRIEN: Okay.

He’s saying that he was providing them a P75 up until then. That was his evidence.

MR. E. MARTIN: So –

MS. O’BRIEN: Do you have any reason to doubt his evidence?

MR. E. MARTIN: Well –

MS. O’BRIEN: That’s my question to you.

MR. E. MARTIN: First, you know, Mr. Kean provided and built-up the base estimate – he led the buildup of the base estimate, the escalation of the base estimate, the contingency of the base estimate, and that was at a P50. When I asked him (inaudible) – I’ve asked him to do that kind of work at a P75, I think it was a P – many combinations overtime.

But just because that that was scoping economics – I’m telling you that, you know, the project management team, from my perspective, once we get close or approach or have a sanction, we’ll get P50, no matter what, to control. So a change – no, I don’t see a change. I see, you know, a request for information, you know, for different purposes. By categorizing it as a change, I think, is leaving the wrong impression of what went on.

MS. O’BRIEN: Okay.

So I understand you now to be saying that you do not agree with Mr. Kean’s evidence.

MR. E. MARTIN: That’s –

MS. O’BRIEN: So we have an inconsistency in evidence, right?

Mr. Kean says up until April 2010, he was providing capital cost estimates at a P75 level, and then after April 2010 that changed, and he was asked to provide them at P50. So that’s his evidence, and your evidence is that that’s not what happened. Right?

MR. E. MARTIN: I’m only gonna repeat my answer. It’s a – you know, it’s the change – it’s the connotation that I’m not agreeing with.

There's two different things happening here. I did not change my view with respect to scoping economics, and I did not change my view with respect to what a project management team would be assigned as a control budget.

If he saw that as a change – no problem, Jason, enjoy yourself. I agree, sure. To me, it wasn't a change.

MS. O'BRIEN: Yeah, I don't know if he was commenting what was in your mind. He's just saying, as fact, I was asked to provide them at P75, and then on this date –

MR. E. MARTIN: Mmm.

MS. O'BRIEN: – I was asked to start providing them at P50.

MR. E. MARTIN: Well, I can't speak for what's in his mind either.

MS. O'BRIEN: Okay, he's just giving evidence as to what he did – what he was asked to do.

MR. E. MARTIN: I made my point.

MS. O'BRIEN: Okay.

So I understand that we have an inconsistency here, at least to some extent. Do you know – have any reason to – any light around that April 2010 period – that at least Mr. Kean's evidence was that there was a change in what he was being asked to provide. What was going on at that time?

MR. E. MARTIN: In my mind, there would've been – we would've been heading into to closing a – getting, you know, getting our minds around the comparative analysis for Muskrat and Isolated, to bring that to closure. You know, to begin the process of bringing that to closure.

We had moved off of – as we – I'm just trying to check the times – we were moving off of, you know, the single-market project for all the reasons we talked about, and we were heading into meeting the power needs of the province – and the comparative analysis thing. And to me that would be, you know, a point that, you know, I would certainly want to see the estimates based upon a P50 comparative.

MS. O'BRIEN: Okay.

Commissioner, I note we're at 4:30.

THE COMMISSIONER: Okay. So is this a good spot to break?

MS. O'BRIEN: It is.

THE COMMISSIONER: All right.

So we'll break and take in – how are you doing in your examination of Mr. Martin? Just see where we are, because I may start to add a little few half-hours on while I got a chance to do it.

MS. O'BRIEN: I'm moving a little slower than anticipated.

THE COMMISSIONER: So a 9 o'clock start for you work for you?

MS. O'BRIEN: That's fine for me.

THE COMMISSIONER: Mr. Martin?

MR. E. MARTIN: Sure. We could keep going now if you wanted to.

THE COMMISSIONER: No, I think we'll break now. It's 4:30. You've had a long day and so have I – to be quite honest with you.

So let's start tomorrow morning at 9 and we'll try to – if we can, we'll try to finish at 4:30. But if we do need tomorrow afternoon, we might go a little longer then.

MR. E. MARTIN: I'll be available.

THE COMMISSIONER: Okay.

All right. Good, thank you.

We're adjourned 'til tomorrow morning.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.