



COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 2

Volume 51

Commissioner: Honourable Justice Richard LeBlanc

Tuesday

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CLERK (Mulrooney): All rise.

This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc
presiding as Commissioner.

Please be seated.

THE COMMISSIONER: Good morning.

I'm impressed with the turnout after the game.

So we're going to begin this morning. As I said yesterday, my desire is to complete the two witnesses that we have today. So I would ask that – I have spoken to Commission counsel about basically focusing their questions on what we really need to know. And I would ask counsel who are cross-examining that they remember that if questions have already been asked, there's no real need to repeat them.

Ms. Morry.

MS. MORRY: Thank you, Commissioner.

Good morning, Ms. Bennett.

Madam Clerk, would you swear the witness in?

THE COMMISSIONER: Okay, if you could stand, Ms. Bennett, and just take the Bible in your right hand.

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?

MS. BENNETT: I do.

CLERK: Please state your name.

MS. BENNETT: Cathy Bennett.

CLERK: Thank you.

MS. MORRY: And, Ms. Bennett, if you could just press the button on your mic to make sure it's on there. Perfect.

THE COMMISSIONER: And are there exhibits this morning?

MS. MORRY: Yes. The exhibits to be entered are numbers P-04026, P-04029 and P-04030 to P-04056.

THE COMMISSIONER: Okay.

Those will be entered as numbered.

MS. MORRY: Thank you.

Good morning, Ms. Bennett.

MS. BENNETT: Good morning.

MS. MORRY: Ms. Bennett, when did you join the board of the company that became Nalcor Energy?

MS. BENNETT: I believe it would've been in the material that was provided. The actual date I wouldn't be able to articulate, but it was between September and November of 2007-'08.

MS. MORRY: Right. Approximate is fine. Thank you.

MS. BENNETT: Mm-hmm.

MS. MORRY: Approximately the fall of 2007.

MS. BENNETT: Mm-hmm.

MS. MORRY: And how did your appointment come about?

MS. BENNETT: I received a call from then-chair Dean MacDonald telling me that the meeting was tomorrow. And I asked what meeting and he said a meeting of the Nalcor Board. And that was the introduction.

MS. MORRY: Now, when you were appointed to the board, what did you understand your role to be?

MS. BENNETT: I understand my – understood my role to be a director for the companies of which I was appointed to. Ultimately, it was a number of companies because Nalcor had a number of subsidiaries that I was also a director of. And I – my role was that of any corporate director providing oversight to management on behalf of the shareholder.

MS. MORRY: And as a board member, what was your perception of the role of the Government of Newfoundland and Labrador regarding Nalcor's governance?

MS. BENNETT: I was – first and foremost, they were the shareholder for the Crown corporation. I had – this was my first Crown corporation board experience and my assumption was that there was, you know, good communication between the Nalcor management team and the government of the day.

At the time, I didn't have a full appreciation for government operations. That was something I came to learn many years later, but I assumed that there was, you know, ongoing and regular communication.

MS. MORRY: And when you were on the board of directors, are there any – do you feel like there were any areas of experience that as a group of directors you were lacking?

MS. BENNETT: Towards the end of my experience as a director, you know, it became evident as we were moving through then, Gate 2 of the decision on the three projects – and in my mind, as I shared with counsel in advance of today, I always looked at the project, at least the way we were discussing it at the board table, as three different megaprojects. So I always assumed that, you know, as we started and moved to operationalizing some of those plans, that there were definitely skills that we, as board members, you know, didn't have and there was a definite gap.

MS. MORRY: And what kind of skills specifically are you thinking?

MS. BENNETT: Risk management. I think there was an opportunity for additional finance support. We had a very talented, you know, individual who understood finance from a chartered accountant's perspective, but I would have welcomed more. I would've welcomed experience in construction of this particular kind.

You know, we were reminded regularly that many of the senior executives at Nalcor had experience in construction in the context of oil and gas and, you know, I think – I would have

certainly welcomed experience in the particular projects that we were working on.

MS. MORRY: So hydroelectric –

MS. BENNETT: Yeah, hydroelectric.

MS. MORRY: – (inaudible).

Now, when you were a board member, in terms of how the meeting happened, would it be likely that you would receive significant information orally at a board meeting, but have that not reflected in the minutes?

MS. BENNETT: I think there was many, many presentations throughout my tenure as we talked about the three pieces of what is now referred to as the Muskrat Falls Project. That there was many, many PowerPoint presentations and, you know, oral presentations that supplemented those PowerPoint presentations.

With regards to the minutes themselves, you know, I wouldn't say that the minutes reflected all of the discussions, but they certainly were summaries of decision points that were made, at least from my recollection.

MS. MORRY: Right.

Now, I think you indicated in your interview that you – that it would be pretty unlikely that significant information would be disclosed to you – page 67 of your transcript – that it would be pretty unlikely that you would get significant information at the meeting but it wouldn't make its way into the minutes. Now, I just wanted to point that out.

MS. BENNETT: I'm sorry, can you say that again?

MS. MORRY: Sure.

So I had asked if you –

MS. BENNETT: Mm-hmm.

MS. MORRY: – thought that it would be likely that you would get significant information and it would not be reflected in the minutes. And when Mr. Collins asked you that at your interview you said it would be highly – if it was related to a

decision and management was presenting it – I think it was highly unlikely, is what you indicated.

MS. BENNETT: Yes, that exact –

MS. MORRY: Sure.

MS. BENNETT: – absolutely, if there was material that was presented –

MS. MORRY: Yeah.

MS. BENNETT: – it was highly unlikely that it would have not been – and it was material to a decision –

MS. MORRY: Yeah.

MS. BENNETT: – that we were making in the meeting, it would be unlikely that it would not be referred to in the minutes.

MS. MORRY: Thank you. I just wanted to clarify that.

MS. BENNETT: Mm-hmm.

MS. MORRY: Now, Ms. Bennett, you eventually became acting chair of the board of directors in September 2011, I think. How did that come about?

MS. BENNETT: I became acting chair because at the time we did not have a chair that had been appointed by government; the directors decided that we would each, you know, act as a chair until we received direction from the government as to who the formal chair was.

MS. MORRY: And I believe that you were – you ultimately became the board chair from the fall of 2011 until your resignation (inaudible) –

MS. BENNETT: That's correct. In the fall of 2011 –

MS. MORRY: Yeah.

MS. BENNETT: – we were notified that the government of the day wanted me to act as chair, and I did. I believe I tendered my resignation in March of 2012; it became effective the end of May.

MS. MORRY: Right.

Now, while you were the board chair, there's a document at tab 3 of your blinder, P-04029, which is an email that you sent to your fellow board members.

MS. BENNETT: Mm-hmm.

MS. MORRY: Can you tell me about what prompted this email?

MS. BENNETT: Well, I think this was the culmination of many conversations, that I had been a member of or had led, around the need for more board members. And there had been numerous attempts over the course of the couple of years I was there – through the Governance Committee, through Mr. Martin and other people who, you know, had acted as representatives of the board – to encourage government to appoint more board members.

And this email references (inaudible) – yeah, that I had had scheduled a meeting with Minister Jerome Kennedy and that that meeting didn't happen and that I was advising the board members that I was unsuccessful in getting a meeting to continue to talk about the ongoing issue of the number of people that were on the board.

MS. MORRY: And you make a note in the email that you had a work conflict which was part of why the meeting didn't happen.

MS. BENNETT: Yes.

MS. MORRY: And you said, specifically, “the bill paying gig comes first!”

Was compensation an issue for you as a Nalcor director?

MS. BENNETT: It wasn't an issue for me. I – you know, in this particular situation, I was – our company that I operated on a day-to-day basis was a joint venture partnership, at the time, and I had to be present for the partner that I was partnered with.

There was certainly commentary from board members periodically around the compensation piece. But my focus in speaking to Minister

Kennedy, or trying to speak to him and then further attempts that I had made, was very much around, you know, we needed more diversity on the board and we needed more people to carry the load. Because it wasn't only the three projects that were building up to the Muskrat Falls Project as it's referred to today, it was also the issues and governance requirements for Hydro, for the Oil and Gas company, and there were many other things that were coming onto the table of the board that we needed to make sure the subsidiary companies had robust directors and we also had to have diverse directors at the board level for Nalcor.

MS. MORRY: Sure.

MS. BENNETT: At least that was my opinion.

MS. MORRY: Sure.

Now, at tab 14, P-04056, that is your letter of resignation. So, as you mentioned, that was in March 2012.

Why did you resign from the Nalcor board?

MS. BENNETT: There were two reasons. One was that my business interests were diversifying, and as such, I didn't feel it was appropriate for me to continue to make the commitment in time to the board at Nalcor and the other subsidiaries work and the committee work at the expense of the businesses that I was involved with. So time was definitely an issue.

And the second part was that from my perspective, although I had had chair experience and I had, you know, some board experience before, I didn't feel that I was appropriately skilled at the time to steward the company as chair through what would be the Gate 3 decision process, and at that point, I believe, into operations.

MS. MORRY: Now, in your letter you mentioned being at a pinnacle place in your own business growth. Was there any specific business opportunity you were focusing on at this time?

MS. BENNETT: Yeah, we had undertaken about a year before that a diversification plan inside our company, and I had been in

negotiations with a construction company in Northern New Brunswick that I was interested in becoming a minority partner.

During all those conversations that I was having with that company while I was chair of the board, I recused myself from meetings – and I think the minutes of the day reflected that – as was normal practice. I was also sitting on the board of Bell Aliant, so I recused myself from conversations related to anything to do with Bell Aliant, as did – as my memory serves, Mr. Marshall also recused himself when it came to things around Rogers.

MS. MORRY: Sure.

And just specifically that company in Northern New Brunswick, that's Sunny Corner. Is that correct?

MS. BENNETT: Correct.

MS. MORRY: Right. Okay.

Now, when you resigned, did you schedule any sort of exit interviews or meetings with anyone?

MS. BENNETT: I requested a meeting with Premier Dunderdale at the time, and the meeting was scheduled. I went to Confederation Building as planned. I went to the premier's office and was greeted by the chief of staff at the time, and he wanted to chat with me about what my conversation with the premier was going to be about.

I said it was going to be about the – you know, some advice that I had with regards to the board at Nalcor and some things that Premier Dunderdale, I thought, should be aware of, particularly in light of my exit. And I shared that information with Mr. Taylor at the time, and he said to me that there's no reason for you to meet with Minister Dunderdale; I'll pass the messages on.

So, I subsequently, didn't meet with her.

MS. MORRY: Okay.

And so you said Mr. Taylor, that's the premier's chief of staff?

MS. BENNETT: I believe that was the name. I haven't double-checked it, but that's what my memory says.

MS. MORRY: Sure.

MS. BENNETT: Hmm.

MS. MORRY: And so that meeting didn't ultimately come about?

MS. BENNETT: No, I had – I only had the opportunity to speak to the chief of staff.

MS. MORRY: Sure.

Now, after you resigned from the board, I understand you became involved with a group of people in the community called project foundation, or I Believe in the Power of Newfoundland and Labrador.

MS. BENNETT: Mm-hmm.

MS. MORRY: Can you describe what that group was about?

MS. BENNETT: It was a group of business people with diverse interests who were believing that a project – a combination of three projects that was communicated to be \$6.2 billion was a good project, and that we were supportive of the \$6.2-billion project and we worked to showcase our support.

MS. MORRY: And how did you do that?

MS. BENNETT: It would have been sharing editorials. It would have been – I think I did some – personally, I did some interviews with CBC. It would have been providing an opportunity for others to have a chance to speak to Nalcor officials. And, certainly, you know, my connection to Nalcor provided me the opportunity to access some of the individuals that people in the community were asking to speak to.

So I was able to facilitate some meetings and have, at the time, what I believed to be the truth which was – we were at a \$6.2-billion project – communicated to those individuals.

MS. MORRY: So at tab – excuse me, at tab 7 in your binder, there's an email from you to many different people.

MS. BENNETT: Mm-hmm.

MS. MORRY: Your – it looks like you're sort of coordinating different communications messages to convey.

THE COMMISSIONER: P-04031.

MS. MORRY: Excuse me.

Thank you, Commissioner, 04031 at tab 7 there.

MS. BENNETT: Yes.

MS. MORRY: Yeah.

MS. BENNETT: I'm sorry the question was?

MS. MORRY: Oh, sorry. Could you describe a little bit about what – like, there's a – if we go to page 7 there's a question and answer segment. Could you talk about the source for the questions and answers here in the key messages?

MS. BENNETT: Sure. The key messages were created by our group.

MS. MORRY: Mm-hmm.

MS. BENNETT: They were our messages. We certainly looked to Nalcor for some guidance on the technical questions. But those answers from the Q & A came from meetings that we had had as business leaders at the time with representatives of Nalcor, including Mr. Martin and others.

MS. MORRY: Right.

And so you – did you stay in touch with other members – with members of the Nalcor board once – after your resignation?

MS. BENNETT: I saw them casually around, you know, in social settings, but it wasn't a situation where we maintained constant contact.

MS. MORRY: Sure.

MS. BENNETT: In the summer of 2013 I took it on, a big undertaking, which kept me very distracted and it was not something that I – I actually didn't spend a whole lot of time in St. John's throughout the summer of 2013.

MS. MORRY: Right. And to be clear, the summer of 2013, that's when you were running for the leadership of the Liberal Party.

MS. BENNETT: Right.

MS. MORRY: So perhaps we can move forward in time a little bit now. So, as you mentioned, you ran for the leadership of the Liberal Party. You eventually ran for a seat as a Member of the House of Assembly and, ultimately, you were appointed as the minister of Finance in the fall of 2015.

MS. BENNETT: Mm-hmm.

MS. MORRY: How did you perceive that the Muskrat Falls Project related to your portfolio?

MS. BENNETT: When I was sworn in or before?

MS. MORRY: Let's go chronologically. How about before?

MS. BENNETT: So when I was in Opposition, I was Finance critic, and we were asking questions in the House of Assembly of the government of the day. Muskrat Falls and, particularly, Nalcor's financial impact on the Treasury was queried periodically in Question Period.

The Premier – the now-Premier, then-Opposition leader, took the lead on Natural Resources and questions around Muskrat Falls. But it was evident from what we were hearing in the community and what we were hearing in the House of Assembly that something wasn't lining up with what people, I guess, were assuming was the truth.

MS. MORRY: And what about once you were sworn in as minister of Finance. Did your perception change?

MS. BENNETT: Well, when I was sworn in and I was briefed by Finance officials, it became

very clear very quickly that Finance officials did not have a sense of confidence and comfort in the material and the information they had from Nalcor. There was a significant communication chasm, I guess, that had been in place for a long time or had grown with the Finance officials particularly.

And it also became evident that the Treasury was under significant stress and we needed to move very quickly – very quickly – to do something to correct that.

MS. MORRY: And so what actions did you take when you were sworn in as minister of Finance? What ...?

MS. BENNETT: Well, specifically related to the Muskrat Falls Project it was evident very quickly that the project was over budget and over the numbers that had been released the year prior that were in the public record. And with that information, and officials briefing me on the loan guarantee – of which I wasn't there for the first loan guarantee; officials had briefed me on the circumstances around it – I felt it was really important that before we started to have conversations with the rating agencies and investors, that we see what support we may be able to ascertain from the federal government.

So with the Premier's support, I reached out to colleagues in Ottawa, and ultimately received a positive response from then-Minister Bill Morneau, supported by then-Minister Judy Foote around an enhanced loan guarantee.

MS. MORRY: Now, could you talk a bit about the preparation for your first budget?

MS. BENNETT: Mm-hmm.

Well, we were – a couple things that I undertook in the first six weeks. As we were having Treasury Board meetings, it was certainly evident to me that there needed to be an appreciation throughout the bureaucracy and through the agencies, boards and commissions that the Treasury, which Treasury Board is responsible, under the direction of the president of the Treasury Board, for the *Financial Administration Act*, as is the Finance minister. So I thought it was really important that I be

briefed on the legislative requirements that I had as part of my mandate.

So I asked counsel from Justice – every department had a lawyer in Justice that would have been assigned to a particular department. I asked to be briefed on all the legislative requirements – I actually had every law that referenced the minister of Finance or the president of Treasury Board printed with the regulations and documented in two binders. And these binders became the foundation for the mandate that I took into some of the meetings that I went into.

One particular conversation that I had was around the Nalcor act and whether or not the FAA, the *Financial Administration Act* – which was the main act that the Finance minister had to – responsibility to. And it was very clear from the Auditor General at the time, from the Comptroller General, from the clerk of the Executive Council, from the legal advice that I got from the Department of Justice, that the *Financial Administration Act* was the act that superseded all other acts, and that had the authority to be very clear in its use that the Treasury and I, as president of the Treasury Board, had the right to ask questions.

MS. MORRY: Right.

So you – the *Financial Administration Act* was a tool for you to access information from other departments. Is that fair to say?

MS. BENNETT: Very much so, very much so.

If departments were resistant, Crown agencies were resistant, I'd often bring the binder of laws to the meetings and remind stakeholders – whether they were deputies, ADMs, managers or CEOs, CFOs of Crown corporations – that the *Financial Administration Act* gave the government under – gave me the authority to ask the questions that I needed to ask.

MS. MORRY: And did you ever have difficulty getting information from Nalcor when you were preparing for the budget in 2016?

MS. BENNETT: I was very concerned that we were going to the market to do a significant borrowing plan. As soon as the budget was

released we had already established a series of meetings with investors and rating-agency meetings would come that June, but the investors needed to hear from us a very clear message that we understood what was the total scope of the Treasury's challenges and that we had wrapped our arms around the financial circumstances, in understanding what was going on very quickly.

It would have been very problematic for us, as we went into the market to borrow then – my memory suggested it was about \$4 billion that we had to borrow from the first – to cover the first year, to cover the year that we were currently in, as well as the future year that we are budgeting for. So we needed to know the details and I was very adamant that through Finance officials and through Nalcor officials that they be very clear with us on what those numbers were.

And Finance officials continued from the first day I was there in December, right up until the budget continued, to express concerns about whether or not they had all the information they needed and whether we were in sync between the Finance Department and Nalcor.

MS. MORRY: So some of – so your – some of your officials did have difficulty getting information or had they had concerns?

MS. BENNETT: My deputy minister for Finance had indicated to me very early on challenges with getting information even through the Oversight Committee –

MS. MORRY: Mm-hmm.

MS. BENNETT: – that had been functioning the fall before. And that there was a sense – officials were very concerned that the price, the actual all-in total cost, was over what people believed it was based on what was communicated.

MS. MORRY: Now, when you gave your Budget Speech, ultimately, what did you aim to communicate regarding Nalcor and the Muskrat Falls Project?

MS. BENNETT: In consultation with the deputy minister of Finance, we wanted to make

sure that there was a very clear message sent that taxpayers of the province had made a significant equity investment and cash investment into the Crown corporation. Some of that had been for equity in the offshore oil projects, much of it had it been for – related for to the three projects that ultimately combined for the Muskrat Falls Projects.

We wanted to be very clear that the shareholders wanted a return because there was also a lot of questions at the time, as we were going through. In the Treasury Board meetings, we had taken on the zero-based budgeting and looking at the costs that every single organization was spending as it was. The Cabinet Secretariat had undertaken, with the Premier's office, the work on services and programs that may need to be reviewed or changed, so our work was very much about expenses.

So we wanted to make sure that there was an expectation that, you know, the shareholder was – didn't have any more money to give them, that we wanted expenses controlled and reduced as quickly as possible, including expenses across the company, and that there was a – going to be a new relationship with all Crown agencies that the Treasury Board and the Department of Finance were going to have. It was a very – that message was coming out loud and clear in Treasury Board meetings and, you know, culminated, certainly, in the Budget Speech of the day.

MS. MORRY: Now, there was quite a reaction to your Budget Speech –

MS. BENNETT: Mmm.

MS. MORRY: – in – within Nalcor. So at tab 10 there there's a news article describing how the board of directors actually resigned in consequence. So did that come as a surprise to you?

MS. BENNETT: It came as a surprise to me that the board wasn't as clear early on. I mean there was definitely communication from Department of Finance with Nalcor leadership that, you know, we were at a point where things needed to change a bit. So it was a – it surprised me in the context that it was raw, but it was a very emotional time for many people.

Even as the minister of Finance, you know, trying to be responsible and working hard to make sure that we could close the gap on the Treasury gap we had, it was a very intense period of time. So I chose to do everything I could to ignore emotional and reactive commentary. I had to focus on the job at hand, which was to try to raise capital in the vicinity of about \$4 billion.

MS. MORRY: Now, at tab 9, P-04033, those are some notes that I understand you prepared in 2016 about some of the events leading up to the end of Mr. Martin's employment as the CEO of Nalcor. Can you describe how that came to pass?

MS. BENNETT: Mm-hmm.

MS. MORRY: Or what you know about how that came to pass?

MS. BENNETT: Yes, and these would've been notes that I would've, as you reference, made in 2016 and they were just a diary of some events. So we had had meetings in February with regards to discussing Astaldi and the issues related to Astaldi. There had been a –

MS. MORRY: I'm sorry, with the – a meeting with Mr. Martin?

MS. BENNETT: A meeting with Mr. Martin as well as the CFO.

MS. MORRY: Mm-hmm.

MS. BENNETT: There also had been a meeting with the Planning and Priorities Committee of Cabinet, as well, to discuss Astaldi. In March there had been a Treasury Board presentation where we reviewed a line-by-line review, and then there had been briefings with the Premier's office.

On April 12, there had been – I had had a call with Ed – Mr. Martin – and had, you know, indicated to him that we needed to make sure that there was no light between what the truth was with the numbers and what we were going to communicate and what the Premier and I and, certainly, Minister Coady understood about the project. So I was reminding him of that.

Budget day was on the 14th. Later that evening, I received a text from Ken Marshall. It was certainly a very an emotionally charged text. And the next morning I provided the Premier the context of the text and the Premier, as the day progressed – the days progressed – was interviewed in a media scrum. And I think he was asked, if memory serves me correctly, around confidence in the management and the board at Nalcor.

Over the course of the weekend, the 16th and 17th, I received voicemails from Ed asking me to call. And on April 17 I spoke to the Premier who had indicated he was meeting with Ed that same evening. I advised him that Ed had reached out to me and I also spoke to Minister Coady and advised her, as well. I did speak to Ed and reiterate to Mr. Martin the importance of the province's position, that we were in a really, really difficult position and that I encouraged him to be very frank and open with the Premier when he met with him. And I wasn't ultimately part of those meetings.

On April 20, as – and I think the record shows, Mr. Martin held a press conference. The board resigned and then there were questions in Question Period and other places after that.

MS. MORRY: Sure. And I think just as a final note there, you indicated that at some point before March 27 –

MS. BENNETT: Mm-hmm.

MS. MORRY: – you were asked by the – by Minister Coady for – whether you had a copy of Mr. Martin's employment contract. Is that correct?

MS. BENNETT: Yes, that would've been prior to March 27. Minister Coady had asked me if – you know, because I had been a board member, if I had had any information or material related to Mr. Martin's contract. And I was not part of the human resource committee, nor would I have retained personal information like that, so I indicated to her that I didn't.

I encouraged her to check with Executive Council and the clerk of Executive Council, because my understanding was that contracts for the CEOs of all Crown agencies would have

been held there. At least that's what my assumption was from my Treasury Board work.

MS. MORRY: Okay, now – so we've talked a bit about 2016 and how the budget came to pass and some of your dealings with the Muskrat Fall Project in that time period. So, after that time, did you ever have difficulty getting information that you wanted from Nalcor Energy?

MS. BENNETT: There was – there were certainly, you know, a couple of incidents that I remember and I think that provided some notes on.

MS. MORRY: Yeah, that's – if you like, that's at tab 11 of your binder.

MS. BENNETT: Mm-hmm.

MS. MORRY: P-04034.

MS. BENNETT: So this particular note of June 17, 2017, this would have been, if memory serves me correctly, a Friday between a 10-day period in my calendar where I had a meeting with one rating agency, three days of meetings related to federal Finance and provincial Finance ministers. And then this note was created and then I had further meetings with rating agencies.

And the circumstances that provided me the motivation to document this was that we were going into rating agencies answering questions as the representatives of the Government of Newfoundland and Labrador at the time and there was questions regularly about Muskrat Falls. So it was very important for us to have – be communicating the numbers as we knew them.

And we were being – it was being shared with us that representatives from the Finance department had been hearing that the numbers had changed again from what had been communicated to us as Finance officials. And I had reached out to Mr. Marshall at the time and said that it was very important for me to understand what those changes were and that any changes in the numbers that he had been communicating were – continued to be a problem.

As part of this exercise, we – of these ongoing conversations we had with Mr. Marshall during this time, there were a series of questions that the Finance officials brainstormed and came up with and that I met with Nalcor. Mr. Marshall and Mr. Sturge and officials met, subsequently, and went through this list of questions.

And I was providing the memo to the Premier's office to advise them the status that the questions were still outstanding, some of them, before we had a Cabinet meeting with Mr. Marshall on his most recent – whatever the most recent numbers were at that point in time period.

MS. MORRY: So just to clarify that timeline here, I think you – so in June 2017, that was a few months after the 2017 budget, is that correct?

MS. BENNETT: Yeah. So the numbers that were being discussed at this period of time were different from the numbers that we had when we went to the people of the province with the budget, and I was very angry about that and very frustrated.

MS. MORRY: So the June 2017 cost update came as a surprise to you?

MS. BENNETT: It was enough – it was a significant enough number.

MS. MORRY: Mm-hmm.

MS. BENNETT: At the time I think it was – if memory serves me correctly, it was about a quarter of a billion dollars that the numbers changed. I was very frustrated that, you know, again, it seemed to be that we couldn't get from Nalcor – a Nalcor whole, right? I don't – what the, you know, what the numbers were going to be.

And it was a problem for us when we went to the rating agencies and when we went to the investors. If we were off and we weren't giving them the right information – they were querying me and officials at these tables and it was my – I wasn't prepared not to be transparent and open, not only with those key stakeholders but, more importantly, the people of the province.

MS. MORRY: And, Ms. Bennett, I think that you had mentioned in your interview that you had a particular meeting at some point before June 2017 –

MS. BENNETT: Mm-hmm.

MS. MORRY: – where you were seeking out information.

MS. BENNETT: That's correct.

MS. MORRY: Could you describe the circumstances of that –

MS. BENNETT: Yeah.

MS. MORRY: – meeting and ...?

MS. BENNETT: That would've been prior to the budget of 2017 –

MS. MORRY: Yes.

MS. BENNETT: – that we presented that March.

The Premier and, as I understood it, Minister Coady, had been speaking to Nalcor officials about what we might be able to start to expect could be allocated or could be identified for rate mitigation. It was very clear that mitigating the rates was going to be important. And management at Nalcor had made some decisions around power that was recall power, I believe, that was being sold, that there was a thinking that if we use that in the province it would be a lower cost power and that would provide us savings.

And we wanted, very clearly, to have that savings amount quantified and we wanted that parked out of regular operations or capital costs. We didn't want Nalcor to have access to that amount of money; we wanted it available for rate mitigation.

So I was made aware by the Premier that he was concerned that he wasn't able to quantify that and the decision was made that I would meet with Nalcor officials and officials from Natural Resources and have a discussion about this. So I chose – again, armed with my understanding of the *Financial Administration Act*, to have

myself, Minister Coady, Mr. Marshall, our kind of seconds or our support staff, deputy ministers, ADMs, the CFO, other officials from Nalcor in a meeting. And for about, I guess, probably about 30 minutes we discussed the importance of quantifying that number.

If Nalcor was going to take that power back and redeploy it in the system in Newfoundland and there was going to be a savings, we wanted that savings deployed in a different way and didn't want Nalcor to have the authority to redeploy it inside the company or some other way. And we wanted it quantified and communicated to the public.

I was unsuccessful in the first 30 minutes so I decided to clear out the room of junior officials, which I did. We tried for another 15 minutes. I cleared out the subsequent officials and left only myself and Mr. Marshall and Minister Coady. And I believe my comments, you know, after about 50 minutes of trying to quantify this number were along the lines that, you know, please remember what I said in last year's budget, and I'd be prepared to say it again. I want to know what the dollar amount is. Mr. Marshall caucused with the CFO at the time and Natural Resources officials; they also met outside the door. And everybody was called back in very quickly and a number was identified.

But the reason I was so motivated to push hard is that if there was an activity that was going to provide for a savings, that savings owned – was owned by the people of the province and it needed to be deployed. It wasn't something that we felt Nalcor had the ability to make the decision on. And that was, I think, a cultural shift that we worked on and certainly I worked on for the two years I was there.

MS. MORRY: So that meeting occurred in early 2017 –

MS. BENNETT: Mm-hmm.

MS. MORRY: – before the budget. And then in – so it was in light of that meeting that the June 2017 update was troubling to you?

MS. BENNETT: Oh, this – by the time the June situation happened, as we were going to meet

with the investors and the rating – and the rating-agency meetings always happen in June, several weeks, months after the budget. So this was the time when the rating agencies would determine whether or not everything you said you were going to do in the prior year and that you've budgeted for was a plan that they could support, and it had an impact on the cost of the borrowing we had. And our cost of borrowing, you know, continues to be – and was at the time – some of the most expensive debt in the country. So it's very important for us to do everything we could do to protect that and, hopefully, improve it.

So by the time I had a second situation where I wasn't able to get – and when I say I, it was Finance officials. We had, you know, our ADM – two ADMs and deputy minister were working hard to get the information from Nalcor. When we had the second situation, I was very, very frustrated and took the liberty of documenting, personally, myself, in addition to whatever notes officials may have had. I wanted to make sure I had record of the conversation.

MS. MORRY: Sure.

And so on page 2 of your notes here you've got some handwritten notes –

MS. BENNETT: Mm-hmm.

MS. MORRY: – in the margins regarding the answers that you got to the questions. Is that correct?

MS. BENNETT: Yes.

So as we met over the course of that, there was one meeting that I was part of and I also had a meeting, I believe, with the CFO at the time. And we had some answers but I directed Finance officials to work on the answers over the course of the 10 days and to provide me with regular updates. And the memo –

MR. SMITH: Excuse me, Mr. Commissioner.

MS. BENNETT: – that I sent, ultimately, to Minister Coady and –

MS. MORRY: Excuse me – sorry.

MR. SMITH: Could we have – scroll down to the notes that they’re referring to, please?

MS. MORRY: Oh –

THE COMMISSIONER: So page 2, please.

Thank you.

MS. MORRY: Please continue, Ms. Bennett.

MS. BENNETT: Sorry.

So as these questions were presented to Nalcor, we had officials, at my direction, work kind of daily on the answers. And, ultimately, by the time June 17 came and Nalcor was now finalizing its presentation for Cabinet, I felt it was important to put these questions out because I was being told that they would be answered in a Cabinet meeting.

MS. MORRY: Okay.

So, Ms. Bennett, those are all my questions for you.

MS. BENNETT: Mm-hmm.

THE COMMISSIONER: All right, thank you.

All right, Province of Newfoundland and Labrador.

MR. LEAMON: No questions.

Thank you, Commissioner.

THE COMMISSIONER: Okay, Nalcor Energy.

MR. SIMMONS: Thank you, Commissioner.

Good morning, Ms. Bennett.

MS. BENNETT: Good morning.

MR. SIMMONS: Dan Simmons from Nalcor Energy. I’m going to try to follow the Commissioner’s advice now and narrow things as much as I can here.

First of all, I want – you said that you had resigned from your position as chair of Nalcor

Energy for two reasons, one of them being that, as I understood it, you didn’t feel that you had the requisite skill set that was really required for the direction that the company was going in and the work that was going to be required of a chair. Do I have that correctly?

MS. BENNETT: That’s one of the reasons. Yes.

MR. SIMMONS: Yes. You moved on in your career then, into the political arena, and you found yourself moving into the position of minister of Finance for the province.

MS. BENNETT: Mm-hmm.

MR. SIMMONS: And I wonder if you can just maybe do a compare and contrast for me of how moving into a position of that level of responsibility and the kind of skills that you saw would be required to do that, how that compared to the position you had previously found yourself in when you were chair of the Nalcor board?

MS. BENNETT: You mean in the context of my own skills or –?

MR. SIMMONS: Certainly, yes. How well prepared did you find yourself when you moved into the position –

MS. BENNETT: Mm-hmm.

MR. SIMMONS: – of minister of Finance compared, say, to the position you had found yourself –

MS. BENNETT: Mm-hmm.

MR. SIMMONS: – in as chair of the Nalcor board.

MS. BENNETT: Well, the circumstances that I found myself in when I went in as minister of Finance was a situation where we had a significant deficit, and we had a situation where we didn’t have enough money borrowed to actually cover the costs that we needed in the prior year or the future year.

One of the experiences that I had had, as a business operator, was very – in a business that

had a tremendous high cyclical nature of cash flow, I understood things like how to read a general ledger. I worked very closely with the Comptroller General on the finance side around expenses and that work was something that I had a lot of experience with.

With regards to raising capital, I had raised money for my own business. I understood what investors needed to hear from organizations. So I was able to use those skills and also sought a tremendous amount of advice to be able to do the work as Finance minister. The – and I was doing that full time – many in my family would say more than full time – and I was doing the work at – as the chair of the board at Nalcor with many other business and personal commitments that I didn't feel allowed me to also make the commitment to continue as chair.

So it was two reasons that I left: One was time commitment that was required and the other one was the skills that I had as chair.

MR. SIMMONS: Thank you. Yeah.

In your interview, you had been asked and answered a number of questions concerning the situation that you found in the Department of Finance when you became minister, concerning its communications, the information it received from Nalcor Energy. But, also, you talked about the state of communication and access to information from both the Department of Natural Resources and from the Premier's office regarding the Muskrat Falls Project, Lower Churchill Project.

Can you describe for me what that situation was and whether you were satisfied that there had been, in the past, adequate communication of information from both the Department of Natural Resources and the Premier's office over to the Department of Finance?

MS. BENNETT: It was clear from Finance officials that they were feeling as, kind of, the last group to know, so to speak.

MR. SIMMONS: Mm-hmm.

MS. BENNETT: That Natural Resources, Premier's office, Nalcor in various degrees were not being as – not including Finance as early in

the process as Finance wanted to be. And my sense was that the Nalcor act, as it was implemented in Natural Resources, also probably – there wasn't a clear understanding of how the *Financial Administration Act* worked with that, at least based on the briefings that I had –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – and based on what I saw. Natural Resources was the lead department –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – because of the Nalcor act, but Finance had a leadership responsibility and accountability under the FAA that, I think, you know, it wasn't necessarily being lived up to for a number of years.

MR. SIMMONS: Concerning the Premier's office, was it your understanding, when you took on the position as minister, that the Premier's office had access to financial information that the Department of Finance was not getting on a timely basis?

MS. BENNETT: I wasn't – I have no context or awareness of what the Premier's office had or didn't have, I'm sorry.

MR. SIMMONS: Okay.

Now, I think it was not long after you took in – you took over the position that there was actually some resources – some personnel seconded from Nalcor into the Department of Finance –

MS. BENNETT: Mm-hmm.

MR. SIMMONS: – to provide some assistance with budget work and so on. I think Mr. Auburn Warren, in particular, was someone who was brought over. Does that –

MS. BENNETT: Yeah, it wasn't –

MR. SIMMONS: – sound familiar?

MS. BENNETT: Yeah, Mr. Warren wasn't seconded to do any other work than prepare for the investors roadshow.

MR. SIMMONS: Okay.

MS. BENNETT: We had –

MR. SIMMONS: Yes. Yeah.

MS. BENNETT: – a significant borrowing plan that we had to execute.

MR. SIMMONS: Mm-hmm.

MS. BENNETT: And advice I was getting from internal and external advisors and people involved in the markets were that we needed to get our presentation material pulled together as quickly as possible. And I wanted to make sure that there was no light at all between Nalcor, because Nalcor had been asking and had been pitching its own debt, right, its own story –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – around the debt related to Muskrat Falls. And we had to make sure the Treasury was very clear on that, so that was – Auburn's work, Mr. Warren's work was specifically related to raising capital.

MR. SIMMONS: So two questions arising out of that. First of all, was that an effective way in order to implement the kind of communication between Nalcor and the Department of Finance that you'd understood hadn't been in place before that?

MS. BENNETT: I wouldn't say –

MR. SIMMONS: To bring Mr. Warren in and to have that information available internally.

MS. BENNETT: I wouldn't say that that was a solution. I would say that in the crisis I found myself in, it was the quickest way that I could ensure that the information we had to present to the rating agencies that subsequent June – and, more importantly, the investors that we spoke to immediately after the budget – that we were ready for those conversations.

MR. SIMMONS: And did you encounter any resistance on the Nalcor side to –

MS. BENNETT: No.

MR. SIMMONS: – providing Mr. Warren and providing all the information you were looking for?

MS. BENNETT: No, not at all.

MR. SIMMONS: Okay. And –

MS. BENNETT: But not from – not with regards to the investor relations piece.

MR. SIMMONS: And then the second question related to that was: Was that – does that indicate in any way that there was any existing deficit in the Department of Finance in its resources and in the personnel it had available to deal with issues like this?

MS. BENNETT: I wouldn't suggest that there was a deficit. I think my experience was that there was an underutilization of the people in the Finance Department.

MR. SIMMONS: Can you tell me a little more about that, please?

MS. BENNETT: I think if you're going to have financial advisors and experts who are going to be able to ask questions, if you allow them to be – have access to the information once decisions are made –

MR. SIMMONS: Mmm.

MS. BENNETT: – they can't provide advice. They need to be included on the front end versus on the back end. And my experience was that Finance officials often – and I would say not just with Nalcor, in many circumstances – were informed after the decisions were made as opposed to being part of the decision-making team.

MR. SIMMONS: Yeah.

You said a few minutes ago when you were talking about the budget and the Budget Speech that you brought in, that one of the things that you were doing was creating a new relationship or promoting a new relationship with all Crown agencies, and I wonder if that ties in. Can you tell me a little more about what you saw were the changes need to be made in the relationships

between government and its Crown agencies, generally, at that time?

MS. BENNETT: It was very clear that some of the agencies, boards and commissions lacked some of the rigour and discipline that I would have – and when I say I – I mean Finance officials: the deputy minister, ADMs – that they would have valued in building the provincial budget and then monitoring the budget for performance going forward and then, certainly, then moving into Public Accounts.

You know, we had many discussions with different Crowns about the level of financial transparency and accountability including, you know, the use of audit committees, the use of, you know, systems that are typically used to monitor organization's performances as it relates to finances.

MR. SIMMONS: Okay. So this was something that you saw as being a more generalized concern within government, that there needed to be changes made to increase, generally, the accountability of Crown corporations to government.

MS. BENNETT: Absolutely, but certainly in the context of volume of risk, there was no other company – outside of the four health care authorities – that had, you know, the same impact proportionately on the Treasury as Nalcor and that had capital, that was owned by the Treasury, deployed through the Crown corp. Other organizations were spending operating money. They weren't, kind of, investing Provincial Treasury capital and locking it up for a period of time.

MR. SIMMONS: A couple of questions for you regarding the meetings you described in March of 2016. This was prior to, I understand, going to the rating agencies when you wanted to have quantification of what the value of the rate mitigation might be arising out of bringing recall power in from Labrador. I think I've got the circumstances there.

And so, if I understand correctly, you and your department were looking for a fairly hard number, a number that could be relied upon so it could be brought to the rating agencies as a

fairly firm estimate of what the value of bringing in recall power early might be.

MS. BENNETT: No –

MR. SIMMONS: Do I have that right?

MS. BENNETT: No. We were preparing for the budget.

MR. SIMMONS: Mm-hmm.

MS. BENNETT: And the Premier of the day had wanted, and we wanted in Finance, to share with the people of the province as part of the budget, a number that would be an estimate of the savings –

MR. SIMMONS: Yes.

MS. BENNETT: – from actions that Nalcor was undertaking. And those savings then could be identified as, kind of, the beginning of rate mitigation efforts. Albeit a very small amount, it was very important from a communication with the taxpayers and with the people of the province to have that estimate as part of the budgets.

MR. SIMMONS: So I'm sorry for getting it wrong.

MS. BENNETT: That's okay.

MR. SIMMONS: I described it as being for the rating agencies but it was, in fact, as part of the budget that you wanted an estimate of what the value of these efforts that could be applied to –

MS. BENNETT: Mm-hmm.

MR. SIMMONS: – rate mitigation would be.

Now, was the initial resistance to providing a number, did you understand that to be because of the uncertainties that existed at that time about what the value of the saving would be? Since this was in the midst of the project, the work on the transmission line to bring it in hadn't been completed. There were other variables that would be at play regarding pricing and that there was a reluctance to commit to a number that might not be achievable.

MS. BENNETT: There was certainly clarity that there were variables –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – that would impact the precise number that would be available. What concerned me from the conversation was, regardless of whether the number was on the low end or the high end –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – based on those variables being realized, what concerned me and why I pushed hard was that the decision to redeploy that capital was not Nalcor's, it was Treasury's. And at a \$200-million, \$250-million range, I believed very clearly that it was not the Crown corporation's decision to absorb that into operating costs, to absorb that into other projects and that I felt it was the Treasury's responsibility to be part of that decision.

So I absolutely pressed hard for an estimate. I felt it was important to have the estimate communicated, but I was very aware that there was variables that could've made that number evolve over the years. But it was very important for us to understand, at the time, what the thinking was –

MR. SIMMONS: Yeah. Yeah.

MS. BENNETT: So those dollars weren't absorbed.

MR. SIMMONS: Now, you were dealing directly with Mr. Marshall, the CEO, in that conversation I believe?

MS. BENNETT: And –

MR. SIMMONS: Correct?

MS. BENNETT: And the CFO –

MR. SIMMONS: Yes and –

MS. BENNETT: – Derrick Sturge.

MR. SIMMONS: – I want to understand fairly clearly, are you suggesting or telling us that Mr. Marshall, on behalf of Nalcor Energy, was

taking the position that the company intended or wanted to use those savings for any of those purposes you described?

MS. BENNETT: There was no clarity on what Nalcor was going to do with –

MR. SIMMONS: Mmm.

MS. BENNETT: – those dollars. So, for me, I was also using the conversation as a point to reiterate the importance that the Treasury will be making –

MR. SIMMONS: Right.

MS. BENNETT: – those decisions.

MR. SIMMONS: There's a difference between saying: Nalcor, we want to make sure you realize that, you know, you don't have the final call on how this money is spent, that we're going to decide. There's a difference between that and the CEO coming in and saying: We want to use it for something else or we intend to use it for something else.

So my question to you is, in those conversations did the CEO or anyone else from Nalcor come to you and say: We can use it for something else, or was it ...?

MS. BENNETT: Right, so the – my approach would've been driven from briefings with Finance officials who articulated to me – are concerned that they consistently seemed to be finding out decisions after the fact, as opposed to being part of the decision early enough. And, certainly, I wanted – and I felt Mr. Marshall understood that empathetically. He understood the circumstances –

MR. SIMMONS: Okay.

MS. BENNETT: – that we found.

MR. SIMMONS: So that's not a direct answer to my question. And maybe this was just empathetic and maybe this was just an understanding, but from your evidence as you described it earlier, I took out of that a suggestion that you were concerned that Nalcor was intending to do something different with that money.

So I'd like to know from you if – what message was communicated to you in that meeting from the Nalcor CEO or anyone else on behalf of Nalcor, concerning whether or not they intended to do something different, or whether this was just an open question and you wanted to make sure they are aware of government's stand on it.

MS. BENNETT: I was making my position clear –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – which was that the Treasury had the authority to determine where that money went –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – and those savings went.

MR. SIMMONS: Mmm.

MS. BENNETT: I don't remember the specifics of Mr. Marshall's answer or Mr. Sturge's answer. I remember what I felt and what I –

MR. SIMMONS: Mm-hmm.

MS. BENNETT: – was experiencing.

MR. SIMMONS: Mm-hmm.

MS. BENNETT: And it was very clear that we wanted to make sure Nalcor understood that the decisions on a quarter of a billion dollars were going to be made by the Treasury.

MR. SIMMONS: Okay.

Thank you very much. I don't have any –

MS. BENNETT: Thank you.

MR. SIMMONS: – other questions.

MS. BENNETT: Good morning.

THE COMMISSIONER: All right, Concerned Citizens Coalition.

MR. BUDDEN: Yes, good morning, Ms. Bennett.

My name is Geoff Budden. I'm the lawyer for a group called the Concerned Citizens Coalition. And if you've been following the Inquiry, you probably know that the coalition is a group of individuals who have, for many years, been observers and critics of the Muskrat Falls Project. Some of them may be known to you: Mr. David Vardy, former clerk of the Executive Council; Mr. Ron Penney, also a senior official in government.

A couple of questions – Ms. Morry has covered this mostly, but just a couple of follow-up about I Believe in the Power. Who were some of the other leading people in the organization, Ms. Bennett? I don't need them all but just a few names.

MS. BENNETT: Oh, there's been a variety of business people in St. John's, including – I think the names are actually – some of the names might have been listed in the email that was there, so there's a variety of names.

MR. BUDDEN: Okay, if you could just give me a couple of the leading – you were obviously one of the leading ones. Perhaps you could name a couple of others.

MS. BENNETT: I was one of them.

MR. BUDDEN: Yes.

MS. BENNETT: And we worked together as a group. You know, the names were listed in the email. It would have included people from, you know, John Henley, John Steele and many others that I don't remember without looking at the list.

MR. BUDDEN: Okay. Fair enough.

From where did this organization receive its funding? And I ask that because why – my client knows that polling was done which doesn't come for free. So how was all that paid for? How was the group funded?

MS. BENNETT: It was self-funded.

MR. BUDDEN: Pardon?

MS. BENNETT: We self-funded.

MR. BUDDEN: Sorry?

MS. BENNETT: We self-funded.

MR. BUDDEN: Self-funded, sorry. Okay.

So, there's no funding from Nalcor in any form, no other government agency?

MS. BENNETT: No, absolutely not.

MR. BUDDEN: You say you all essentially, as individuals, reached into your own pockets to fund it.

MS. BENNETT: That's correct.

MR. BUDDEN: Okay.

And the – our understanding is – and it's no great secret – I think you said in your interview that on occasion at least the members of your group would meet with Ed Martin.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: And is that something that was done occasionally, regularly? What was the nature of those meetings?

MS. BENNETT: Over the course of a couple of weeks I would say it happened maybe three to six times. And it was an opportunity at the time for different people to hear directly from Mr. Martin on the project costs. And that was the purpose of the meeting.

MR. BUDDEN: Okay. Fair enough.

I'm going to switch tact a bit. Almost immediately after assuming office – I'm getting this from your interview and from, obviously, some other sources.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: Almost immediately after assuming office in December 2015 you were right out of the gate communicating with the federal government around the possibility of a further extended loan guarantee.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: You were very proactive about that. And I guess two questions, related ones: What was your thinking to be engaged so quickly? And since you were fairly new to the position, who were you consulting with at this point to form this thinking?

MS. BENNETT: Yeah.

Finance officials had briefed me on the details of the first loan guarantee. And that was the first time that I became aware that the province had financial accountability built into the agreement to deliver –

MR. BUDDEN: Sure.

MS. BENNETT: – the project and/or lose the project. But at the same time, simultaneously, I was getting clarity as to the status of the Treasury. We had, at the time, very early in that January; most of the debt that the officials had been able to gather was through short-term T-bills.

MR. BUDDEN: Mm-hmm.

MS. BENNETT: And that was very problematic. So we were building our work to go to market for investors. And the thinking at the time, through finance officials, Nalcor, through Natural Resources – through a whole layer of bureaucratic advisors – was that a federal – an enhanced federal loan guarantee would allow us to be able to go to the market, acknowledge the problems that the project had, which were significant, but also say that, you know, the finance – the federal government was not going to, kind of, not be there walking the difficult path we had to walk as well, and that we could bring that into the meetings with the investors that would happen that spring. So that's why we acted so quickly.

MR. BUDDEN: Sure. So the effect would be to convert short-term financing to – into cheaper financing, based on the FLG and the data rates that come with it.

MS. BENNETT: Absolutely.

MR. BUDDEN: Okay.

Was any thought given at this point in particular, but I guess at any point at all, about approaching the federal government to come in as an equity partner, which then there's legislation in place from the '70s which, as we know, would –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – have facilitated that. Was any thought ever given to that by yourself?

MS. BENNETT: If there was, not – certainly not in the immediacy of those first couple of weeks. Natural Resources and the Premier's office were undertaking efforts around the project strategically.

MR. BUDDEN: Mm-hmm.

MS. BENNETT: We were very much tactically in Treasury recovery mode. The price of oil, as you'd be aware, had dropped so significantly from September to December the year before, while the government had been in – the bureaucratic officials had been in the kind of frozen state of an election.

There was a lot of decisions that hadn't been made, and when we were sworn in, particularly in Treasury and Finance, you know, we were very expeditiously working to contain the cash and the debt problem. Strategic decisions about how and what that support from federal government was going to look like, whether it changed from our initial ask to a loan guaranteed equity, I left that to Minister Coady and the Premier.

MR. BUDDEN: Okay, so –

MS. BENNETT: Just division of duties.

MR. BUDDEN: – to your knowledge, was that ever seriously pursued while you were in government?

MS. BENNETT: I'm not aware. I have no knowledge of that.

MR. BUDDEN: Okay. Fair enough.

You had – I'm going back and forth a couple of points to your interview because you said some quite interesting things there. And one thing you

said – and I'm summarizing this to try to move it along – but, essentially, you were talking about Finance being marginalized. And I think what you said was something like we had to have some consistency in the messaging so we pushed really hard in Finance. And I would suggest the resistance of Natural Resources and to the resistance of the Premier's office and to the resistance of Nalcor. And this is the key part: It was clear to me that Finance, from a bureaucratic level and a cultural level for many, many years, was last to be brought to the discussion around Muskrat Falls and I was having none of it.

So a couple of questions there. Firstly – and it's somewhat obvious, but, like, you know, do – give you a chance to say why: Why were you having none of it? What did you think it was so important to bring Finance into the inner circle around Muskrat financing?

MS. BENNETT: Because we had so many challenges with regards to the operating deficit, as well as the debt that the province was going to undertake. Finance officials had forecasts, short-term, medium and long-term forecasts. We were part of negotiations with the federal government on a number of different files. And, to me – and this was across all departments and agencies, boards and commissions – the ability for Finance to be involved in early stage decision and early stage direction and early stage accountability was an opportunity to address some of those significant challenges that the people's Treasury was faced with.

MR. BUDDEN: Sure.

Okay, so Finance, with its specialized knowledge and skills, had to be in the inner circle was your thinking.

MS. BENNETT: Oh, a hundred per cent. You can never have a situation where Finance wasn't part of it.

MR. BUDDEN: But, nevertheless, that appeared to have been the situation.

MS. BENNETT: That was certainly the impression that I had.

MR. BUDDEN: Okay.

When did you form that impression? I'm thinking your history here is a little different than –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – say, the Premier's in that you'd been on the Nalcor board, you'd had this relation with Ed Martin in the I Believe in the Power phase of your – you know, of your life and here you are now as Finance minister. So is this something that you sort of walked in the door on December 1 and was struck by this? Or was it a sense that you'd had even before then, that Finance was marginalized in financial decisions?

MS. BENNETT: No, it's quite the contrary. When I was a board member with Nalcor, my expectation and assumption was that the work that was being undertaken at Nalcor was simultaneously being undertaken at government because of the significance of the project – projects which were, you know, as I said before, three at the time.

My understanding is that – or my impression was that there was rigorous analysis happening inside the provincial government and that, you know, Finance, through Natural Resources, was engaged. Natural Resources was definitely the front –

MR. BUDDEN: Yeah.

MS. BENNETT: – department that we were leading and meeting with and seeing visibly through my Nalcor experience. I assumed at the time that there was no way Natural Resources would have operated or acted without having Finance with them.

And, as I said earlier, the operations of government was not something that I fully understood until I became Finance minister. So I also assumed that the team that were around the Premier's office, which I subsequently came to understand was Cabinet Secretariat, that they would also be very in lockstep with the work of Natural Resources in partnership with or in communication with Nalcor, and that Finance would have been right there. That was not what I saw when I went in and was sworn in, in December of 2015.

MR. BUDDEN: Okay, so you assumed even though you weren't in the room while – with Nalcor, you weren't in the room with the Natural Resources folk, you assumed they're in another side room just out of sight somewhere essentially.

MS. BENNETT: Oh, absolutely. That was my –

MR. BUDDEN: Finance folk, I mean, yeah

MS. BENNETT: Yeah.

MR. BUDDEN: And, yeah, so that brings me – you've just answered it, but a bit later on, on page 65 you said something along the lines – well, you actually said: I thought for sure as a director that everything we were doing – every single thing we were doing at Nalcor was being double-checked and validated, and that wasn't the case. So you basically just said the same thing there, haven't you?

MS. BENNETT: Mm-hmm.

MR. BUDDEN: That you, as a director, really before hitting government you had assumed a role for Finance that when you arrived on the scene you realized just wasn't being played.

MS. BENNETT: My – I had never been involved in an organization that didn't have rigorous discipline. And, you know, Nalcor, when I was a director, appeared to have – what I was being told, appeared to be disciplined. But when I went into government, which I assumed was also acting in a disciplined way and that there was coordinated – and there was an alignment, it became clearer from the briefings I had with officials and from the – my own experience that that alignment was – it had to be managed, it had to be directed, it had to be enforced. It wasn't natural.

MR. BUDDEN: Okay. We're teeing Mr. Tommy Williams up with some interesting questions here but, anyway, we'll move on.

So you've engaged Finance now and the question that occurs to me is that, okay, it's now at the beginning of 2016 approximately. You realize Finance has been marginalized. You're determined to put a stop to that; you're not having any of it as you've said.

To what degree did you use the – at that point, did you think to or did you actually say to Finance, look, there's been a whole bunch of assumptions here. There's been assumptions about the – oh, about the demand load forecast, about the anticipated return on equity –

MS. BENNETT: Mmm.

MR. BUDDEN: – and so forth that had been used to justify this project. Did you direct them say to, look guys, since you weren't validating, as I thought you were at the time, can you roll up your sleeves now and do a bit of retrospective look at this –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – because we're in the middle of this now and we have no idea maybe how valid those assumptions are. Did you do that?

MS. BENNETT: So I had a deputy minister sitting on the Oversight Committee, an ADM was sitting on some of the committees that related to work that was happening in the reviews that were ongoing. There was a number of reviews, particularly the EY review.

So that work of, you know, assessing where we were right then and there – I had officials, you know, engaged in that and they were giving me information on a regular basis. As a matter of fact, Deputy Minister Donna Brewer sat on the board for a period of time after the board resigned.

MR. BUDDEN: Hmm.

MS. BENNETT: When it came to recasting the analysis that had happened prior, to be frank, there was no time in that first six to 12 weeks. We were in a significant crisis and our focus was on, you know, as I said earlier, how can we reduce the deficit in a way that – as responsible – where are the expenses that are – we can act on today, and how can we secure a cash flow through a long-term borrowing program.

So that was the immediate focus. Natural Resources, under Minister Coady, and the Premier's office in partnership, I assume – definitely Natural Resources – were working on, you know, how to correct or, you know, change

the project circumstances that we found our self in at that moment. But recasting what had happened in the past was not something that we had the luxury of time to do in that first six to 12 weeks.

MR. BUDDEN: Okay and I've seen no evidence that the Oversight Committee was tasked with such an analysis.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: So you're – when you would talk about people on Finance you weren't suggesting that that was part of the Oversight Committee mandate to, sort of, do an autopsy of the process that had gotten us there.

MS. BENNETT: Yeah. And Finance – as Finance minister, I – you know, I didn't provide direction to the Oversight Committee. I provided feedback to the members of the Oversight Committee that were in my department but, you know, the Oversight Committee functioned out of Cabinet Secretariat from – as I remember it.

MR. BUDDEN: Sure.

We heard evidence last week from – perhaps the week before, it's all sort of blending together, but Ms. Mullaley and, again, Mr. Martin and I believe Mr. Warren as well – evidence around the financing of the project. And one particularly fairly arcane aspect of that, that the failure to include AFUDC in the cost of the Labrador components of the project, the Churchill Falls-Muskrat Link, the generating component itself, while they were, on the other hand, AFUDC was included in the LIL, the transmission line coming out of Labrador.

And we've heard evidence that that method of financing was regarded by Mr. Martin and others as non-traditional as – and it's not the way projects are – megaprojects of this nature are typically financed.

I guess my question to you is: Are you familiar with that, with the fact that apparently the financing of much of the project was non-traditional. And if traditional financing had been used, the cost would likely be higher than they are currently being represented. Is that evidence

of which you are familiar? And, if so, what are your thoughts on it?

MS. BENNETT: I have no familiarity with any of that information.

MR. BUDDEN: Okay.

And, again, this is something you've perhaps answered but just to make it nice and tight: What are – your interview showed great concern about the relationship with the credit agencies –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – about keeping them onside, that they not get upset or panic about the escalating costs of the project beyond the sanction price tag. Why is it so important to this province that the credit agencies maintain a positive view, such as you were trying to lead them to have?

MS. BENNETT: So I would, with your permission, maybe recast –

MR. BUDDEN: Of course.

MS. BENNETT: – the comments. I think the rating agencies' reaction would not be one of panic. They would very matter-of-factly say you are higher risk, Province of Newfoundland and Labrador. We'll increase the cost of your ability to borrow.

MR. BUDDEN: Yeah, the coldest of cold eyes.

MS. BENNETT: Right.

MR. BUDDEN: They don't panic.

MS. BENNETT: Absolutely, there's no emotion in the rating agencies.

And when I got an appreciation very early on in that first budget process as to the amount of dollars we were spending on servicing debt and collective debt in the province, right – everything across all departments, all agencies; the consolidated treasury debt – it was very, very important for us to work hard to make sure that we didn't trigger an increase in the cost of the debt. Because if we did, that would either add to the deficit or it would have added to, you know,

tough decisions around service delivery that we – you know, we were all (inaudible), you know, cognizant of the fact that we didn't want to make.

So the relationship with the rating agencies was twofold; one was not to – and we wanted to make sure we didn't inspire increases in cost of borrowing, but we had to also inspire and demonstrate more practically a confidence that we had wrapped ourselves around the projects and around the government Treasury as a whole. And they could feel a sense of confidence that we were able to deliver budgets that we had planned and that we were doing the work that needed to be done by all Treasuries that are under stress, like Newfoundland and Labrador's was at the time.

MR. BUDDEN: Fair enough.

You speak in your interview about Mr. Martin in certain terms. And I'm not going to do long quotes again, but at one point on page 36, I think, but I'm not really sure, you say to Ed Martin something to the effect of: You have to tell us. Whatever the truth is we need to know now. You need to be transparent with us. Another point you say you need to be straightforward.

And I would suggest that's a pretty remarkable way to be talking to the CEO of a major Crown corporation. It's almost like, I would suggest, the way you'd speak to a child trying to get the truth out of them about what happened in school or something. It seems to suggest to me that you really had – you're pulling – I sense that you're pulling teeth here to get reliable numbers out of him, that you didn't trust him.

And I guess my question is – this is early, early 2016 – from where did this distrust spring? Like, why did you distrust Ed Martin so as you're using such terms that you got to be transparent, you got to be straightforward?

MS. BENNETT: I would suggest that my comments to Mr. Martin were, in the context of this Inquiry, related to Muskrat Falls only. But those comments that I made to him I was making to everybody in some form or another. It may have been more intense with Nalcor because of the volume of risk related to the

project and related to the impact on Treasury, but I had other agencies, boards and commissions that I was also giving the same message to.

MR. BUDDEN: Okay. So there's nothing unique about this, the way – because the –

MS. BENNETT: No.

MR. BUDDEN: – the words rather leap off the page you would acknowledge.

MS. BENNETT: Well, I would definitely say it's unique in the context that for the volume of the Treasury's – the amount of money the Treasury had invested in Nalcor, many other Crown corporations we were talking about operating costs. We weren't talking about investments in capital assets that the people of the province would own, whether it was the equity in oil or it was the equity in this particular project, but I was taking a very stern tone with all the agencies, boards and commissions.

I think in the context of Mr. Martin, I wanted to be sure that any of the ranges or the bands of risk, if it was going to be between \$100 million, \$300 million, I wanted to know both ends of the spectrum so that when I went to – and we went to, as a government – whether it was the Premier or myself and we were having discussions with investors or the people of the province, that we understood what the worst-case scenario was and what the best-case scenario was, and that we needed to know those ranges as well.

MR. BUDDEN: Okay, so there's nothing here – so do I take it from that, that you did trust Mr. Martin, you did feel that he was genuinely trying to give you the straight goods?

MS. BENNETT: I – those first six months, as Finance minister in 2016, my approach was to be very, very stern and firm with everybody. And I took a very hard line with all the (inaudible).

MR. BUDDEN: Okay.

I'll ask a question even more straightforwardly: Did you trust Edward Martin to give you the straight goods?

MS. BENNETT: Did I trust him to give me the straight goods, personally?

MR. BUDDEN: Yeah.

MS. BENNETT: Yes, I did.

MR. BUDDEN: Okay.

So these words weren't you trying to drag it out of him so much as just your way of expressing the need for full information, not challenging him because you doubted he was actually willing to give you full information?

MS. BENNETT: My – I would say that my words were also an encouragement to him to be transparent in the face of political transition. We were transitioning from, you know, a Conservative government to a Liberal government and I was very much encouraging him to be as transparent as he could and to forget the shackles of, you know ...

And I have never known Ed to be a partisan but I wanted to make sure that he understood that in this very difficult transition, transparency and openness were in everybody's best interests. And that's why my words were as straightforward as they were.

MR. BUDDEN: Yet, he was gone within couple of months and I think his evidence would be that he felt essentially your comments in the Budget Speech left him in an untenable position. So how, I guess, do you reconcile what you are saying now with what you said in that Budget Speech?

MS. BENNETT: I can't speak for how Mr. Martin interpreted things or what he said; I can only speak for what I've already shared with him.

MR. BUDDEN: Okay, so there's nothing, even up to and – did at any point you lose confidence that he was being full and frank with you, ever?

MS. BENNETT: With me at the time? I had no reason to think that he wasn't being open and transparent. It's only through the work of the Inquiry that I've come to understand that there was information from Nalcor that different people didn't have at different times.

MR. BUDDEN: Okay.

What do you think about how the board handled Mr. Martin's severance?

MS. BENNETT: I wasn't in the room at the time. I can't comment on the choices that they made. I wasn't part of those discussions.

MR. BUDDEN: You were minister of Finance though, so I guess I'll ask you again: What did you think about how the board handled Mr. Martin's severance?

MS. BENNETT: Well, I was also the minister of the Human Resource Secretariat as well, so I understood that, you know, employment contracts that are detailed broadly across government have an enforceability.

I wasn't in the room that day. I don't know what the board's thinking was and I wasn't close enough to, you know, the decisions they made to be able to offer comments. I think the compensation packages, generally, from Nalcor – my comments would be that they appeared to be – you know, the context of the provincial standards around employment and employment contracts and the agreements that we had with other officials, there's a different set of circumstances at Nalcor which I didn't understand until I went in as the minister for the Human Resource Secretariat.

MR. BUDDEN: Okay, so you're not being critical of how they handled it.

MS. BENNETT: I have no comment. I wasn't in the room. I don't know what they did.

I can say that the dollar amount and its impact on the Treasury was significant. And, like, you know, I may not have made the same choice, but I wasn't there. And I – you know, I can't – I don't know the circumstances that led them to that choice around the severance and I wasn't part of the – I wasn't part of those decisions.

MR. BUDDEN: Okay.

In your interview you also expressed concern over how the Oversight Committee and EY were having difficulty getting information out of Nalcor. And, also, you noted that the committee

itself was limited in its scope, I guess, or abilities because it was a committee of executive bureaucrats. You recall saying that in your interview.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: And I guess my question is: When did you come to that conclusion? Because you gave your interview in May of 2019. It was a – I would suggest, with respect, a fairly obvious observation to make after all the evidence we've heard.

But when did you yourself come to those realizations and what did you do about them when you did arrive at them?

MS. BENNETT: I don't think it was until maybe even well after I resigned from Cabinet that I understood and had time to reflect on the composition of the Oversight Committee. You know, each of the members of that Committee are very skilled and talented in their own way, but they also had many other things that they were looking at, in addition to the Muskrat Falls oversight. There was lots of other files and –

MR. BUDDEN: Mm-hmm.

MS. BENNETT: – an \$8-billion operating spend, which is the – which is what we were spending at the time – that those officials were part of and would have had to, you know, work on and provide advice to the government of the day. You know, it was a massive amount of responsibility for them to hold and, certainly, they would've needed extra support and extra resources to be able to do their work.

So when Natural Resources and the Premier's office had made choices by calling in organizations like EY, that gave me a sense of confidence in the moment that there were others that were looking at it. But in reflection after I left Cabinet, certainly, the volume of work that we all undertook, particularly the executives, was substantial.

MR. BUDDEN: Okay, so you now realize that they had limitations on what they could accomplish, but you didn't have that awareness at the time?

MS. BENNETT: I was – yes, that’s – that would – that’s exactly how I felt.

MR. BUDDEN: Okay. Fair enough.

Madam Clerk, could we please bring up 02390? And what this is, there’s a cover page or two but, essentially, Ms. Bennett, this is a Briefing Note from Nalcor from a March – early March of 2016.

And I’m going to – if we could come to page 3, Madam Clerk, I don’t believe you have this one in front of you –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – but it’ll be on the screen, 02390.

Yes, and if we could go to page 3, that’s the substantive document itself. And I’m just going to read this just to – probably for the quickest way of doing it.

It’s a Briefing Note, confidential and commercially sensitive, titled: “Implications of Cancelling or Significantly Delaying the Muskrat Falls Project.”

Issue: “What are the implications for the Government of Newfoundland & Labrador (‘Government’) making a decision to cancel or significantly delay all or a component of the Muskrat Falls Project (the ‘Project’), and providing the associated direction to Nalcor Energy?”

Summary conclusion and recommendations: “If the Government were to cancel or significantly delay the Project there would be substantive legal and financial implications for the Province. In addition, there would also be future negative implications on the reliability of the Province’s electricity system during any delay period.

“As a result, it is recommended that Government continue to support and facilitate the timely completion of the Project, including ensuring that the appropriate level of equity contributions are made.”

So this is, obviously, Nalcor saying to the government, don’t cancel our prime project here,

our sort of centrepiece project. So that’s Nalcor’s position: Don’t cancel us. Do you remember getting this Briefing Note?

MS. BENNETT: Was it targeted towards Finance?

MR. BUDDEN: No, it wasn’t. It was targeted towards the Government of Newfoundland more broadly. So I guess I should word my question more as a question: Do you remember either getting this note or being briefed as to its essential conclusion at this time, spring of 2016 –

MS. BENNETT: So –

MR. BUDDEN: – late winter 2016?

MS. BENNETT: – what I remember and what I shared with the Commissioner earlier is that in January of 2016 Finance officials briefed me on the implications of the Treasury’s accountability under the loan guarantee. That’s the part that I remember being briefed on with officials.

This document – I don’t remember seeing it but I also don’t remember – I mean, I was working on the Finance and the Treasury Board –

MR. BUDDEN: Mmm.

MS. BENNETT: – submissions during March and April. It’s conceivable that this note would have went to another department and subsequently came into Finance at a later time.

MR. BUDDEN: Sure.

MS. BENNETT: So I’m sorry but I wouldn’t be able to comment on that.

MR. BUDDEN: Okay.

But the essential message as there under summary conclusion and recommendation, does that match the message you were getting from the officials who were briefing you?

MS. BENNETT: The message that I was getting was specifically around the financial obligation under the federal loan guarantee.

MR. BUDDEN: Okay.

MS. BENNETT: And around, you know, what would happen in a default decision. And what I understood was in a default decision of the federal loan guarantee that the assets that the people of the province, rightly or wrongly, had paid for would be lost.

MR. BUDDEN: Okay.

MS. BENNETT: So that's what I understood in January.

MR. BUDDEN: Sure.

At the same time, the very same week this note was prepared at least, my clients, two of them, anyway, Mr. David Vardy, Mr. Ron Penney, had written – and we'll ask the Premier about this, but I'll ask you as well. They had written Premier Ball and they basically called for – it's a letter covering several topics, but it called for the creation of a blue-ribbon panel, they called it, a properly resourced panel –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – to address both the cost of stopping the project and the cost to complete it, as well as to conduct a benefit-cost analysis of the options available to government. So there were concrete voices and other people have described them as, you know, well-respected concrete voices saying, look, there should – this is the time to stop and step back and see whether this project should be completed.

To your knowledge was – did the Ball government ever seriously consider creating such an independent resource, committee or panel, or hiring somebody to do such an analysis? Was that ever seriously on the table for your government?

MS. BENNETT: I – first off, I'm not aware of the letter, I'm not aware of the information that the Premier's office would have had.

MR. BUDDEN: Sure.

MS. BENNETT: And I'm not aware of anything outside the context of what has been shared with the Commission around the Oversight Committee as it existed. So I have nothing that I could add to that.

MR. BUDDEN: Okay. I guess just to –

MS. BENNETT: And I'm not aware of any decision or discussion around that.

MR. BUDDEN: Okay, so to put it another way, to your knowledge the Ball government, in those early days, never seriously considered doing that kind of stuff, though, analysis with a revisiting of the punitive benefits of the project?

MS. BENNETT: If there was a discussion about that, I wasn't part of it.

MR. BUDDEN: Okay. Fair enough.

At what point, if ever, were you personally satisfied that the government had achieved appropriate oversight over Nalcor?

MS. BENNETT: I don't know if I could say that I was ever satisfied.

MR. BUDDEN: Okay. So when you –

MS. BENNETT: (Inaudible.)

MR. BUDDEN: – stepped into the – into government, clearly you felt at the time there wasn't proper oversight of Nalcor. I think you've said as much, haven't you?

MS. BENNETT: Mm-hmm.

MR. BUDDEN: Okay.

And you've indicated – you've given evidence as to efforts that you made. But despite those efforts, you left government still not satisfied that that degree of oversight that you felt necessary had been achieved?

MS. BENNETT: I – yes.

MR. BUDDEN: Okay. Good direct answer.

Just a couple of questions about your role as director. We've heard evidence from other directors, but the – you were still on the board, of course – I think barely on the board, so if you didn't take part in the deliberations you can tell me that as well.

But the PUB released its report April 1, 2012, in response to its tasked question. And its response, basically, was we can't answer the question because we don't believe we've been provided with the appropriate information on which to answer a stop-go question on the project. And I guess my question is, firstly, were you involved in the board's response or analysis of that PUB report?

MS. BENNETT: No, I would – I was finished with the board in May – early May.

MR. BUDDEN: Okay.

MS. BENNETT: This may have been the first 10 days of May, I don't remember. And I don't remember conversations with reference to the PUB's report.

MR. BUDDEN: So you can't tell us anything about that?

MS. BENNETT: No.

MR. BUDDEN: Okay, well, we'll go to – and I think this is where I'm going to end. Perhaps, Madam Clerk, we can call up Exhibit 00041.

And what this is, Ms. Bennett, this is the August 2011 report of the Joint Review Panel which was struck by the federal and provincial government to answer certain questions about the project. And this report was released in August 2011. I think you were actually chair of the board at that point.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: I stand to be corrected, but that's my recollection.

And we go to page 68, perhaps, Madam Clerk; it's a 300-and-something page report, so I'm just going to zero in on one spot. And if you can scroll to the boldfaced grey section – yeah, and I'll just read this to you and then we'll talk about it for a little bit: **“The Panel concludes that Nalcor's analysis that showed Muskrat Falls to be the best and least cost way to meet domestic demand requirements is inadequate and an independent analysis of economic, energy and broad-based environmental considerations of alternatives is required.”**

So – and we – again, we've heard evidence, lots of evidence from lots of people, but we haven't heard from you. So I guess my related questions are: Do you recall how this was presented to the board by – perhaps by Mr. Martin, whoever it was, who as CEO would have come forward with this? Do you recall, I guess, the spin or the way this was presented, this recommendation?

MS. BENNETT: I don't remember any information being presented like this.

MR. BUDDEN: Okay.

Do you have any independent recall at all about the reception of the Joint Review Panel?

MS. BENNETT: Not that I can remember.

MR. BUDDEN: Okay.

Are you satisfied that you, Cathy Bennett, as a long-term board member of Nalcor, did everything you should have done to provide – have provided independent oversight of the Muskrat Falls Project, the Lower Churchill Project?

MS. BENNETT: I'm satisfied that in the places where I could've asked questions provocatively at the board table, I did. I asked questions around a number of issues related to the Aboriginal agreements. I asked questions around labour costs. I asked questions about, you know, the company's ability to execute a project of this magnitude, the complexity of hydro projects compared to oil and gas projects.

The answers that I was provided framed my support for the project, but I'd also say that based on my experience over the last decade I would suggest that Newfoundland and Labrador never take on a capital project of this size ever again. I don't believe that it's in the best interests of the people of the province and it's certainly something that I regret supporting. I supported a \$6.2-billion project and that's not where we are today.

MR. BUDDEN: Of course.

Well, that's interesting. The – why, I guess, do you think we've gone from 6.2 to where we are?

MS. BENNETT: The only – I have no frame of reference on that other than what I’ve heard in the Commission and the updates that I had consolidated from Nalcor. I think that if – you know, as I said at the time in 2013 – 2012, sorry, when we were – you know, a bunch of us were supporting the project, 6.2 seemed to me to be reasonable if properly executed.

If – you know, the benefit of hindsight now, I would suggest that the risks associated with the layers of decisions and execution – operation executions that had to happen, were not quantified enough, and that the full possibilities of and probabilities of what could happen were not fully understood –

MR. BUDDEN: Okay.

MS. BENNETT: – by many.

MR. BUDDEN: There were voices at the time, cautionary voices; I mean one is right on the screen in front of you.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: Do you believe those were given adequate consideration?

MS. BENNETT: No.

MR. BUDDEN: Okay.

We’ve heard Guy Holburn, an expert in the governance of Crown corporations, gave evidence in Labrador in February –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – quite interesting evidence. And he was quite critical of the manner in which the Nalcor board had been constituted.

MS. BENNETT: Mm-hmm.

MR. BUDDEN: Not you guys, individuals, but he talked about –

MS. BENNETT: Hmm.

MR. BUDDEN: – how small the board was, the workload that was demanded of you, the lack – and the lack of certain types of expertise, lack of

megaproject experience. We know that the board was calling out to have some of those deficiencies remedied; we know that just in the last few years some of them have been.

I’ll ask the question of you, I guess a two-part question: Firstly, were you aware at the time that you were an under-resourced board that was not compliant with best practices when it comes to the governance of Crown corporations? Did you have that sense within yourselves?

MS. BENNETT: I definitely think I had the senses myself, personally.

You know, my experience with a board that I had sat on, which was my own company board, we had three directors. We were a very small business, very tiny business in comparison to Nalcor. I had experience that I garnered from sitting on the board of Bell Aliant and – you know, which was primarily an operating company versus taking on the size of a capital project that Nalcor was.

So I – you know, my journey as a board member on Nalcor, culminating with my – our request to meet Premier Dunderdale, I was very, very aware of the limitations that the board was operating under.

MR. BUDDEN: Okay.

We’ve had – we know that individuals resigned from the board on points of principle back – Mr. MacDonald and Mr. Dobbin did before your time, I think –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – or at least in the early 2000s. Ultimately, Mr. Marshall and his cohort left the board in 2016.

Did you ever consider resigning from the board as a – on a point of principle in, I guess, protest at the inadequate resources to which you, as a board, were – how inadequately resourced you were in terms of numbers, resources and expertise?

MS. BENNETT: Well, my resignation, as I said earlier, was triggered by a couple of things; one of them was the fact that my own personal

commitments were taking up so much time that I felt the amount of time I needed to devote to the board work at Nalcor was insufficient. And so was it a protest resignation? I think it was a principled resignation –

MR. BUDDEN: Mm-hmm.

MS. BENNETT: – in recognizing that my own time as a part-time director with the amount of work that had to be done was very limiting and didn't allow us to do the work that we needed to do.

MR. BUDDEN: Okay.

Yeah, because I haven't seen anything and I'm – there's about a trillion documents here and God knows I haven't seen them all – but I haven't seen anything where you say, look, I'm resigning from the board because I feel that the way the board is constituted, we're not able to –

MS. BENNETT: Mm-hmm.

MR. BUDDEN: – properly carry out oversight such as a board should do. There's nothing like that, though, is there?

MS. BENNETT: No, there was certainly conversations inside the governance committee or in in-camera sessions or my attempt to speak to Minister Kennedy, my attempt to speak to Premier Dunderdale were – all of those activities were – had one theme amongst a couple. One of those themes was about the board's ability and the size of the board.

MR. BUDDEN: Okay.

'Cause we haven't heard that from other witnesses – that Ms. Bennett said to us we have this issue. I don't believe we have, anyway.

MS. BENNETT: I – well, I can't comment on the other board members.

MR. BUDDEN: Okay.

Or Mr. Kennedy or anybody, but – well, thank you very much, Ms. Bennett.

THE COMMISSIONER: Thank you.

Edmund Martin?

MR. SMITH: No questions, Mr. Commissioner.

THE COMMISSIONER: Kathy Dunderdale?

MS. E. BEST: Good morning, Ms. Bennett.

MS. BENNETT: Good morning.

MS. E. BEST: I'm Erin Best. I'm counsel for Kathy Dunderdale. We've met.

So you said this morning that, I think, that you didn't feel the need to be remunerated as a Nalcor board member. And I'm just wondering why not?

MS. BENNETT: No, I said – I didn't say that I didn't feel the need –

MS. E. BEST: Yeah, please correct me.

MS. BENNETT: – I think it was definitely – there was definitely an expectation that remuneration was part of what directors should accept when they take on corporate board work. In this particular case, the value and the volume of the remuneration was not of relevance to me in the context of participating as a board director. It was nice to have. It wasn't a driving force for me to be involved with the board at Nalcor.

MS. E. BEST: Okay. So I asked Mr. Marshall there yesterday and I'll ask you as well, then, why were you involved in the board? Why did you sit on the board?

MS. BENNETT: Because I think it was a privilege to be involved in a Crown corporation – in any Crown corporation that has an important role to play in the future of the province. And at the time, my belief was that Nalcor was making a number of decision that would impact the long-term position of our province, and that I could add some value to the discussions.

MS. E. BEST: Okay, thank you.

Now as chair of the board, though, you certainly knew that other board members were requesting remuneration, is that right?

MS. BENNETT: There was definitely ongoing conversations that the remuneration was insufficient based on the volume of work.

MS. E. BEST: Okay. So when you went to government, what did you do to champion that cause, if anything?

MS. BENNETT: Well, I ultimately didn't have any meetings with any elected officials. My meeting with Minister –

MS. E. BEST: No, sorry I mean when – I mean, I understand that the board members aren't compensated to this day, so I mean when you joined government, what did you do to champion that cause – to get remuneration for Nalcor board members?

MS. BENNETT: I didn't champion that cause.

MS. E. BEST: Okay, why not?

MS. BENNETT: I championed – well, we were being remunerated under the Hydro board; the act had not reflected a compensation package for Nalcor –

MS. E. BEST: Right.

MS. BENNETT: - the remuneration at Hydro – like, to me I saw it all as a consolidated company –

MS. E. BEST: Okay.

MS. BENNETT: – which company actually cut the check was irrelevant to me. For other members of the board there was, I guess, a feeling that the Nalcor board and the Nalcor act should have not been silent on that. And I had no opportunity to lobby or to speak to – that I remember – speak to any government officials on that.

MS. E. BEST: So specifically with respect to the Nalcor board – and I'm going back to Tom Clift's testimony wherein he indicated that he felt that the board should have been remunerated – specifically with respect to that request and

their request to government, you say you don't have – you didn't have the opportunity to follow up on that when you joined government.

But I mean, what does that really mean – what do you mean by that; couldn't you have just made the opportunity? Couldn't you have championed that cause if you felt it was important?

MS. BENNETT: I'm sorry, wait – did you – do you mean when I joined government as a minister?

MS. E. BEST: Yes.

MS. BENNETT: I absolutely could have addressed the Nalcor compensation. To be –

MS. E. BEST: Right.

MS. BENNETT: – perfectly frank –

MS. E. BEST: Yes.

MS. BENNETT: – that was – unbuckling the Nalcor act would have been led by Natural Resources. I had many things on my plate those first six months; whether or not the Nalcor board was remunerated through Nalcor or Hydro was irrelevant to me, and it was not a high priority.

MS. E. BEST: Okay. So you didn't think that it was absolutely crucial to the proper running of the project?

MS. BENNETT: It was not something that I had the luxury of time to be able to address in those first number of months. And the Nalcor –

MS. E. BEST: Well, you say the luxury of time but –

MS. BENNETT: – the Nalcor act was held inside the Department of Natural Resources. Natural Resources would've had to drive that agenda.

Certainly, I made my colleagues aware of the salary structure and how it worked, but as to whether or not I, you know, took that on as a championing activity when we were doing the first budget? It was not something I had the time to do.

MS. E. BEST: Okay. So you didn't think it was a priority, and it doesn't seem that anyone else did, either. Would you agree?

MS. BENNETT: I can't comment on other people's – I can only comment on my own, and I didn't have the time to make it a priority.

MS. E. BEST: Well, no, I would like you to comment on others, because what I'm asking you is whether you observed other people championing it in government.

MS. BENNETT: I don't have any information on anybody else championing it.

MS. E. BEST: Okay. So, are you saying you did not observe anyone else championing it?

MS. BENNETT: I don't have any information on it, so I guess you can infer from that that I didn't see anybody championing it. That doesn't necessarily mean that it wasn't championed. I have no information on it.

MS. E. BEST: But you didn't observe it?

MS. BENNETT: Mmm.

MS. E. BEST: Thank you.

Just to add one point – and I don't mean to beat a dead horse here – but you would've actually been in the unique position, wouldn't you, to have championed that point if it had been a very crucial point, since you had the experience of being the Nalcor chair of the board and now you are Minister – that would've been, it seems to me, the right person to move that forward on the agenda.

MS. BENNETT: So the first conversation in crises that I remember speaking to my colleagues around the board composition, was post the board's resignation in April of 2016. And I advocated to both Minister Coady and the premier at the time, that the numbers and the experience on the board, we needed to get a full complement in as quickly as we could.

There was no conversation that I remember around compensation at the time, but it was more around the skills and the number of people that were there.

To your point, was I in a unique position? My focus was on the day-to-day, ensuring that we could fund the significant deficit we were faced with, and also fund the long-term boring that we needed to have in place.

MS. E. BEST: Okay, so remuneration of the board wasn't a priority.

MS. BENNETT: No, I didn't say it wasn't a priority. It was not a priority in that time, and I cannot comment on whether or not that was worth it. Natural Resources had undertaken the Nalcor Act – it's under the auspices of Natural Resources.

MS. E. BEST: Yeah.

MS. BENNETT: The Cabinet Secretariat, et cetera, would've also had to determine whether or not that was a priority. Finance would not have driven that legislative change through government.

MS. E. BEST: Sorry –

MS. BENNETT: That would –

MS. E. BEST: – I'll –

MS. BENNETT: – not have been our –

MS. E. BEST: – clarify my question.

MS. BENNETT: We would not have been the lead department on that.

MS. E. BEST: I'll clarify my question. It wasn't a priority for you at the time?

MS. BENNETT: Absolutely not, I said that earlier.

MS. E. BEST: Yeah, thank –

MS. BENNETT: Mmm.

MS. E. BEST: – you.

Earlier this morning, you mentioned an exit-type meeting – I'm not sure it was called an exit meeting but I think you know what –

MS. BENNETT: Mm-hmm.

MS. E. BEST: – what I’m referring to, the meeting that you requested with the premier?

Did the premier personally do the exit meetings for all Nalcor board members?

MS. BENNETT: No, not that I’m aware of.

MS. E. BEST: Okay, but you did, in fact, I think you said, have a meeting with the premier’s – was it the chief of staff Mr. Taylor –

MS. BENNETT: Mm-hmm.

MS. E. BEST: – and you related your concerns to Mr. –

MS. BENNETT: I did.

MS. E. BEST: – Taylor. After that, did you put your concerns in writing?

MS. BENNETT: No, I didn’t.

MS. E. BEST: Okay, why not?

MS. BENNETT: I assumed that having spoken to the chief of staff directly and – that he would pass those comments on to Premier Dunderdale. I had no reason to believe that he wouldn’t.

MS. E. BEST: Okay, thank you.

Just prior to leaving the board, Nalcor board, you had a dinner meeting with Premier Dunderdale. Do you recall that meeting?

MS. BENNETT: Mm-hmm.

MS. E. BEST: Okay, and did you express your concerns then?

MS. BENNETT: No, there was other people in the room, I would – it was not a topic of conversation.

MS. E. BEST: Okay.

Weren’t those other people Nalcor board members?

MS. BENNETT: No.

MS. E. BEST: No? Okay.

MS. BENNETT: No.

MS. E. BEST: So, with respect to these concerns, and I guess part of it had to do with the constitution of the board, I’m wondering why when you spoke to the public, when you made statements to the public back in 2012 and 2013, you did not mention these concerns?

MS. BENNETT: I – my comments that I’d made publicly were around support for the project at \$6.2 billion and also around the, you know, execution – proper operational execution of the project. Board – I didn’t discuss the board information because I felt that that information was being communicated to government internally and that that was between the board and the government. It wasn’t something that I would’ve chosen to talk about in public.

MS. E. BEST: Okay, so just to go back, back in 2012-2013, your support for the project was around the \$6.2-billion –

MS. BENNETT: Mm-hmm.

MS. E. BEST: – number, and that was the number to the best of your knowledge, was it?

MS. BENNETT: Mm-hmm.

MS. E. BEST: I would like to go back to some of those comments that you made to the public back at that time so that we aren’t caught up in hindsight – viewing things in hindsight.

So, in October 2012, I understand that you told journalist David Cochrane in an *On Point* interview that – and this is a quote, and you can correct me if you think it’s incorrect, but: “Based on what I’ve learned and what I’ve read, I think this is a solid strategic project for the province.”

Does that accurately reflect what you believed at that time in October 2012?

MS. BENNETT: Yes.

MS. E. BEST: Did you have any reason at that time to doubt that – the accuracy of that statement?

MS. BENNETT: No.

MS. E. BEST: And back at that – in that time, you were a very strong supporter of the project, weren't you?

MS. BENNETT: Many of us that were, yes.

MS. E. BEST: So, I would like to read out a statement that I believe you made and got printed in *The Telegram* on the 19th of May, 2012, if you will just bear with me for a moment, please.

I just have to grab it here.

Unfortunately, this is not in evidence, but it was part of your disclosure, so I understand that you have seen it. So, I'm just going to read it out and then I'll ask for your comments at the end.

Making the right decision. A former Nalcor board member speaks out. So, this is written by you, I understand – "... *CEO of ... Bennett Group of Companies. She writes from St. John's,*" it says, dated 19th of May, 2012.

"For the past five years I was a director on the Board for Nalcor Energy.

"I have had the opportunity to see the team at Nalcor, led by Ed Martin, methodically and with great discipline review the business case for the development of Muskrat Falls. In April, I resigned from the board to pursue other business opportunities and I feel compelled to lend my perspective to the public discussion on Muskrat.

"First, let me be clear. In the fall of 2010, as a director of the board of Nalcor, I voted to support the continuation of work needed to get to Decision Gate 3 of the Muskrat Falls Project and I voted to support the principles of the memorandum of understanding between Emera and Nalcor that will lead to a comprehensive agreement for the Maritime link.

"While it would be unethical for me to break the confidentiality of my work as a corporate director, I can say I have not seen or heard anything in the public debate that has taken place over the last year which in any way has affected my resolve or my personal and professional decision to endorse this project. My support of this project remains steadfast.

"I have watched the public discussion and taken every opportunity to explain elements of the project when asked.

"I believe the work Nalcor has completed has an attention to detail and a discipline to best practice management that has positioned Nalcor as a world-class corporation.

"Yet, over the last year I have watched as the team at Nalcor has been questioned about everything from the accuracy of their numbers to their personal and professional commitment to the province. In my role as director, I watched that team repeatedly focus on the shareholders – the people of this province. They have a passion for excellence, a drive to be solutions-focused and a commitment to their work.

"The board and leadership at Nalcor have worked on meeting the province's growing energy needs and also on ensuring we gain maximum value from our energy resources.

"They represent the province's ownership and our offshore oil assets, working on management committees for multiple projects, including the megaproject, Hebron.

"Their base business, Newfoundland and Labrador Hydro, is responsible for the electricity generation and transmission throughout the province. They have successfully led the work around reopening of the facility at Bull Arm and have developed internal expertise for marketing and selling our power, both in Canada and the United States.

"The company also manages a critical portion of our province's natural resource assets – Churchill Falls – representing our interests in this active company, while also taking on the management responsibilities of this operation for this 40-plus-year-old hydro electrical generation facility.

"The Nalcor team is a group of professionals who, with passion and precision, are working vigorously to execute their mandate. As the Energy Plan for the province states: 'Long-term and comprehensive stewardship of our energy resources is critical to the future of our people, our environment and our economy.'

“We must not repeat the mistakes of the past but we must also be able to grow the confidence as a province that we will need to succeed, and take pride when we do.

“When we consider the strategic direction we will take as a province with the development of Muskrat Falls, one of the most powerful insights I gained is that this project will enable our province to generate almost 98 per cent of our electricity from clean, renewable sources.”

So, it does go on, but does that accurately reflect how you thought of the project in May of 2012?

MS. BENNETT: That’s correct.

MS. E. BEST: And did you have any concerns at that time? And if so, why did you not voice them in that statement?

MS. BENNETT: The concerns that I had with reference to the board composition, or the board skills or generally in the project?

MS. E. BEST: Well, all of that because the only reason you’re mentioning, I understand, the limitations of the board or the issues with the board is because I understand it impacts the project, right?

MS. BENNETT: The information that I wrote in that editorial –

MS. E. BEST: Yes.

MS. BENNETT: – was true, based on what I knew at the time. The project that I was referring to was a \$6.2-billion project. And based on the information that I had been provided at the board table –

MS. E. BEST: Right.

MS. BENNETT: – at the time, that’s an accurate reflection. Since that time, there’s been lots of information that I learned that I either wasn’t aware of, didn’t know about, didn’t have in the frame of the decision, and I didn’t talk about that at that point because I wasn’t aware of it.

MS. E. BEST: Okay.

But back at that time, there’s no indication there that you didn’t feel that you had the ability to make that statement truthfully, am I right?

MS. BENNETT: I wrote what I – I believed what I wrote.

MS. E. BEST: Okay.

MS. BENNETT: At the time.

MS. E. BEST: So speaking of at the time, just moving forward in time, there is a 2013 CBC article that quotes you as saying: I believe the business case works. Does that sound also, like, accurate?

MS. BENNETT: At \$6.2 billion, I believe that.

MS. E. BEST: Okay.

So you’re saying now, this morning, that you don’t believe that the risks at the time were adequately quantified. As chair of the Nalcor board at that time, wouldn’t that be at least partially your fault if the risks weren’t adequately quantified at that time?

MS. BENNETT: We asked and I asked questions specifically around risk. The questions that I asked were in the context of my own personal experience and I was – the answers I was provided indicated that there was a risk – there was a contingency amount that was built into that budget.

Subsequent to that, I now understand that there’s a way to quantify costs associated with multiple risks. And, at the time, that was not information that I knew from my own personal experience and would not have been able to ask those types of questions, because I had no idea that risks associated with this size of this project would’ve been in a variety of areas versus one consolidated risk number, which was – which was I was used to in the private sector. I wasn’t used to multiple categories of risk.

MS. E. BEST: Okay.

And the board did have access to expertise, is that right?

MS. BENNETT: Mm-hmm.

MS. E. BEST: Mr. Marshall, I believe, testified yesterday that the board could hire experts if it so desired.

MS. BENNETT: I'm not aware of that prior – I'm not aware that we understood that prior to when I left the board. The experts that were being used at the time were experts that management was bringing to the table. I don't remember having a conversation about the board directing other outside expertise.

MS. E. BEST: Okay. Did –?

MS. BENNETT: And I also was under the impression that, as I said earlier, that the financial analysis in some of the work that was being done was also being checked and double-checked by Natural Resources and Finance at the time.

MS. E. BEST: Did you, as a board member or a chair of the board – well, both – did you ever approach the idea of hiring an expert to address the issue of risk?

MS. BENNETT: Not with regards to risk, but I did ask around some of the work related to the New Dawn Agreement and the Aboriginal work that we had done in the years prior to that – not Nalcor, but that had been done – on whether or not we had sufficient expertise in the dynamics of the relationships that we needed with our Aboriginal communities and Labrador, and asked if there was others that we should be considering to provide us some advice on that.

MS. E. BEST: Okay. To go back to my question about the expert with respect to risk, why didn't you ever seek out an expert with respect to risk?

MS. BENNETT: Because, at the time, I believed that the information that we were provided from management around the – what they presented as a review of the risks associated with the project, was inclusive. I had no reason to believe that it wasn't.

MS. E. BEST: Thank you.

You led a campaign in support of the project.

MS. BENNETT: Mm-hmm.

MS. E. BEST: Can you just tell us more about it, please? Can you just describe what that campaign entailed?

MS. BENNETT: So I was a member of a group that worked on that. And, as I said earlier today, we provided an opportunity for people in the community to listen to representatives from Nalcor, and mostly Mr. Martin, talk about the \$6.2-billion project. Some of us spoke publicly about the project and about our feelings and beliefs that the project was a good one for the province at \$6.2 billion.

MS. E. BEST: And you mentioned, I believe, earlier – I didn't quite catch it, but this group was – this campaign was privately funded. Is that right?

MS. BENNETT: That's correct.

MS. E. BEST: Okay.

And how long did this campaign go on for?

MS. BENNETT: A couple of months, if that. About – maybe six to 12 weeks.

MS. E. BEST: Okay.

And did you travel around the province?

MS. BENNETT: Not that I remember.

MS. E. BEST: Did the campaign travel around the province?

MS. BENNETT: Not that I remember.

MS. E. BEST: Okay.

Okay, I think those are my questions.

Thank you.

MS. BENNETT: Thank you.

THE COMMISSIONER: Thank you.

Former Provincial Government Officials '03-'15.

MS. MORRY: Commissioner, might I suggest since we've been going for two hours that we have a short break for the witness.

THE COMMISSIONER: I think I'd rather go on. Keep going.

MS. MORRY: Yeah. Sure.

MS. BENNETT: Would it be fair for the witness to request a short break?

THE COMMISSIONER: Oh yes, you can do that.

MS. BENNETT: Thank you.

THE COMMISSIONER: Counsel can't but you can.

MS. BENNETT: Thank you.

THE COMMISSIONER: All right, we'll take our 10-minute break now then.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Mr. Williams.

MR. T. WILLIAMS: Thank you, Mr. Commissioner.

Good morning, Ms. Bennett.

MS. BENNETT: Good morning.

MR. T. WILLIAMS: My name is Tom Williams. I represent a group known as the former elected officials for the period of 2003 to 2015, with the exception of Ms. Best's client.

I just want to go back and – very sensitive of the Commissioner's conditions – without repeating too much. We weren't able to pin down a date that you were appointed. I think you had mentioned that you received a call to attend your first meeting. But in Ms. Best's evidence, when she read out – she read out from an article that

you were cited to have authored. And I believe you had mentioned two – you had been on the board from – for five years. We know that you stepped down in 2012, so that would bring us back to 2007. Would that sound correct?

MS. BENNETT: I believe so, yeah.

MR. T. WILLIAMS: Okay.

So you would've had approximately five years serving as a member of the board. And that would've been a very active time, I would've thought, at Nalcor with the developments of the Muskrat Falls Project?

MS. BENNETT: Correct.

MR. T. WILLIAMS: And your resignation was in the months immediately preceding the sanctioning of the project in December of 2012. Is that correct?

MS. BENNETT: No, I resigned in early 2012 –

MR. T. WILLIAMS: Yeah.

MS. BENNETT: – so I would've finished before sanction.

MR. T. WILLIAMS: Before sanction, in May of 2012, and sanction was December of 2012.

MS. BENNETT: Right.

MR. T. WILLIAMS: So within six to seven months before sanctioning.

MS. BENNETT: Mm-hmm.

MR. T. WILLIAMS: So there was a lot happening in that five-year period.

MS. BENNETT: Yes.

MR. T. WILLIAMS: You were very familiar with the project?

MS. BENNETT: I was very familiar, yes, with what we were discussing at the board table. Mmm.

MR. T. WILLIAMS: And you indicated you resigned because you didn't feel you had the

skill set or the competencies to be chair of the board at that point in time given what was on the plate in relation to the project. Is that correct?

MS. BENNETT: I resigned for a couple of reasons. One of them was my own business interests and personal commitments to things that I had undertaken and didn't feel that I had the amount of time available that the work required. And coupled with the – you know, as we started to move towards a different portion of the project execution, I didn't think that I was in the right position as chair.

MR. T. WILLIAMS: Okay.

You'd mentioned in the exhibit that was brought up in your direct examination and the letter that – I don't know it is was a letter or an email – you'd indicated to fellow board members about this volunteer gig – I think was the language you used. How much did the aspect of compensation play in your decision to step down?

MS. BENNETT: For me, personally, it didn't play a large role. The reference in that email had more to do with the fact that, as we've discussed earlier today, Nalcor in and of itself, as a corporation under the Nalcor act, wasn't permitted to provide remuneration, but the board was all being remunerated under the auspices of the Hydro board. And, you know, while the compensation was a concern, it wasn't the primary driver for my participation in the board or my resignation.

MR. T. WILLIAMS: Did you see your personal business interests as playing priority to your role as a member of the board of Nalcor.

MS. BENNETT: I felt that as I expanded, you know, things that we were looking at, that it was important for me to be present during that business expansion.

MR. T. WILLIAMS: You spoke – just spoke as to the compensation issue. How important do you feel it is that the members of the board of directors of Nalcor or any other equivalent Crown corporation be compensated in a manner similar to those similar corporations in the private sector?

MS. BENNETT: I don't think a Crown corporations can nor should they have consistent compensation with private sector companies or publicly traded companies. Crown corporation work is for – is very different. It requires an expertise. So, things like per diems, travel expenses, you know, annual retainers, I think, are the norm inside Crown corporations, and I think in the context of Nalcor, as I said before, the act had no – was silent on that.

The Hydro act's regulations and the act itself determined the compensation. I think, in recruiting the calibre of individuals that would be interested in doing that work – I think it's a component but it's not the only – it's not the singular reason people sit (inaudible) –

MR. T. WILLIAMS: How much time did – is involved in doing the work that you experienced in the five years immediately preceding your resignation to return to your own business?

MS. BENNETT: There was periods of time when we would have had multiple meetings over the course of two weeks, which – in other board positions that I've worked in at the time or subsequent since I left Nalcor, those requirements would be on a – you know, for the quarterly meetings, for the committee work, but certainly there was more work in that last year than I had anticipated.

MR. T. WILLIAMS: You serve on other large-scale boards, I believe.

MS. BENNETT: Yes.

MR. T. WILLIAMS: You've served on the Bell board if I am not –

MS. BENNETT: Mm-hmm.

MR. T. WILLIAMS: – mistaken. Is the compensation that you received on Bell board comparable to the compensation you received on Nalcor?

MS. BENNETT: No, but a privately held or a – sorry, a privately held by a single shareholder or a publicly traded company has different resources that they can deploy for director retention. Crown corporations have very different expectations because the shareholder is

the public, and most Crown corporations have a defined compensation package that's based on – like, the federal government, they have a suite of salaries or retainers that they pay and per diems they pay based on the complexity of each board's expected work.

MR. T. WILLIAMS: But wouldn't you agree with me that the whole logic behind private corporations paying the compensation what they do is to attract the calibre and scale of directors that are required with the expertise that's needed to serve on those particular boards?

MS. BENNETT: I would agree that that's a primary motive. I think, in the case of Crown corporations, there are many individuals who – and I think we have seen some of them testify – who believe that they are getting into the work, you know, partly because of remuneration but also partly because they're having an influence on something that is for the good of the public and the good of their community.

MR. T. WILLIAMS: So we had Mr. Marshall testify yesterday, and he indicated that he spent an extensive amount of period –

MS. BENNETT: Mm-hmm.

MR. T. WILLIAMS: – on the board suffering from his own personal private work life as well as his family life because of the requirements that a board like Nalcor require. So you feel people should make that sacrifice without being compensated because they are on a Crown corporation, yet you resigned because you had your own private business interests.

MS. BENNETT: No, I think – I believe that people accept Crown corporation roles and they participate in Crown corporation roles because of a combination of things like compensation and contribution back to the place that you live. I think I would comment that I wasn't on the board during the execution and operationalizing the project. But based on, you know what I've – the testimony I've heard, I would think it was an unreasonable amount of work to expect from directors and that it speaks to the fact that there was only five, four, three instead of what – I think the act is somewhere around twelve that could be on the board, I would have been an advocate for a much bigger board.

MR. T. WILLIAMS: Now, we have touched on this already, so I won't spend too much time on it. But upon your resignation, you remained a very strong, vocal proponent of the Muskrat Falls project. Is that not correct? You believed in it personally?

MS. BENNETT: I believed in the project that was \$6.2 billion, absolutely.

MR. T. WILLIAMS: So when you stepped down in 2012, six, seven months before sanctioning, you believed in the project Muskrat Falls.

MS. BENNETT: I believed in a \$6.2-billion project.

MR. T. WILLIAMS: And that's what we're talking about. So I –

MS. BENNETT: Well –

MR. T. WILLIAMS: – trust you also had confidence in the management and project team that ran the Muskrat Falls Project and were at Nalcor. Is that correct?

MS. BENNETT: At that time I absolutely did. In the context of the current information, what I was supportive of and what we have today are two different things.

MR. T. WILLIAMS: And I trust you also had confidence in the board of directors that you had just stepped down from, to be able to govern the project in the manner in which they were doing at the time that you resigned.

MS. BENNETT: I had confidence that everybody was doing their best, but the circumstances that they were in, clearly, we were all advocating at the table or advocating in committee or advocating to Mr. Martin that a larger board is something and – something that was important. And that members of the board felt that remuneration was also something that needed to be addressed.

MR. T. WILLIAMS: And that's something we'll speak of when you become a minister.

So immediately upon this you spearheaded or helped spearhead a group of private, senior

businesspeople in this community who sang from the rooftops the credits and the positive aspects of this project immediately after your resignation. Isn't that correct?

MS. BENNETT: I absolutely –

MR. T. WILLIAMS: Yeah.

MS. BENNETT: – participated with a group of people who supported a \$6.2-billion project.

MR. T. WILLIAMS: And wasn't one of those members – I know you listed a couple. Wasn't one of those members Siobhan Coady, who's currently the Minister of Natural Resources?

MS. BENNETT: I don't remember Siobhan being involved at all.

MR. T. WILLIAMS: You don't remember her involvement in that?

MS. BENNETT: No.

MR. T. WILLIAMS: Okay.

So I have to ask you this question: How long after your resignation from Nalcor did you then express an interest in getting involved in politics?

MS. BENNETT: The first time I thought about it as being something that was a legitimate choice for me, personally, and our family was in June of 2013. I had been asked by several parties to consider running, but it always seemed very incongruent with circumstances I found our – that our family found ourselves in.

MR. T. WILLIAMS: And you ultimately ran for the Liberal leadership –

MS. BENNETT: Mm-hmm.

MR. T. WILLIAMS: – I take it. And when was that convention?

MS. BENNETT: I announced my intention on July 1 of 2013.

MR. T. WILLIAMS: Okay, so you resigned in May. You promoted the project for a number of months after your resignation, which takes us

nearly up to 2013. So within six months you're running for the Liberal leadership –

MS. BENNETT: Mm-hmm.

MR. T. WILLIAMS: – of the project. And then you become a critic of the Muskrat Falls Project. How do you reconcile having been a member of a board of directors for a five-year period, having been a private citizen and then a major proponent of a project and then, within six months, you're a critic of a project once you announce political intentions.

MS. BENNETT: Well, I didn't – I don't believe there's evidence that in the summer of 2013 I was criticizing the project. I believe that I was saying that the project needed to be executed in a best-in-class way. I was still under the belief that there had been very insignificant, if any – I wasn't aware that there were changes in the dollar amount.

When I became fully briefed on the dollars that were being spent and that were anticipated to be spent on the project, that would've been when I was – became a Finance critic to a degree, but more acutely when I became Finance minister.

MR. T. WILLIAMS: So when you got elected in 2014, you became a critic then of the Muskrat Falls Project.

MS. BENNETT: Well, I –

MR. T. WILLIAMS: So how do you reconcile that period?

MS. BENNETT: I'm going to say that the information I had when I left the board and the information I had when I supported the project – I supported a \$6.2-billion project – that was not the project that I was looking at in 2014. Or, subsequently, in 2016 when I became the Finance minister, the circumstances were very, very different.

MR. T. WILLIAMS: Now, you just described being very heavily involved in numerous meetings and numerous hours as a member of the board of directors, as well as the chair for a period of time of the Nalcor board, for over a five-year period, and you're telling me you knew nothing about the numbers until you

became the critic of Finance when you got elected.

MS. BENNETT: Well, I was –

MR. T. WILLIAMS: Is that correct?

MS. BENNETT: I was the chair, I believe, for three meetings; one that was voted on by the directors as a consensus decision. So I was chair for a short period of time from the fall of 2012 in – no, the fall of 2011 into the spring of 2012.

The information that I had been presented, as a board member, I had challenged in the context of my own experience at the board table. And the – I had no reason to believe, at the time, that the information I had was not accurate or not – or that – I didn't have any reason to believe that I didn't have –

MR. T. WILLIAMS: We have –

MS. BENNETT: – access to all the information.

MR. T. WILLIAMS: We have all the Nalcor exhibits and the board minutes. There's nothing to show that you had ever raised concerns with respect to the issues that you did when you entered public life.

So how do you reconcile to the public that this is not an opportunistic, political change or belief that you become a politician and you're anti-Muskrat, when for five – six years nearly – you're a big proponent.

THE COMMISSIONER: So let's just stop here now. This is going to help me in what way?

MR. T. WILLIAMS: Well, I think it does – I think it goes – this witness was not only a board member, she was a board chair –

THE COMMISSIONER: I know that –

MR. T. WILLIAMS: – and she was a minister of Finance.

THE COMMISSIONER: I know what she was. Let's get to my question: How does this questioning help me answer the four Terms of Reference that I have?

What I'm very concerned about – I'm letting this go a little bit here this morning but, again, time is in the back of my mind, because I know there's a little bit of a – you know, there's politics here because there's Liberal, PC or whatever. I don't give a damn about any of that, as I said before.

MR. T. WILLIAMS: And I –

THE COMMISSIONER: So, you know, if you can tell me how this is relevant to the four Terms of Reference basically, that I have to look at, and you can convince me it is, I'll let you keep asking questions. But then if you can't, then we're going to stop now and we're going to go to a different topic.

MR. T. WILLIAMS: Okay.

And, Mr. Commissioner, I anticipated your objection because I've heard it before on other lines of questions that I've asked. And I've heard the lines of questions that have gone on in this Inquiry in the 113 days that we've been here.

The witness on the stand right now is a former board member, a former chair, a minister of Finance who delivered a budget that was very critical of the operations of Nalcor, for which is the focus of this Inquiry. So my question – and I'm moving off the political thing. My question is now is simply is: How could a minister of Finance in a government have been so critical of a project she was so in support of before? That's the only question I have. It's –

THE COMMISSIONER: Okay.

MR. T. WILLIAMS: I'm straying away from political lines.

THE COMMISSIONER: So I'll tell what I'm going to do now.

MR. T. WILLIAMS: Now –

THE COMMISSIONER: I'm going to let you answer – ask that question.

MR. T. WILLIAMS: That's fine.

THE COMMISSIONER: There will be an answer to that question, then we're going to move on to something else.

MR. T. WILLIAMS: Sure. No, that's the last question.

Thank you.

THE COMMISSIONER: Ms. Bennett.

MS. BENNETT: Because the cost had skyrocketed way higher than what I had been a proponent and a supporter of at \$6.2 billion.

MR. T. WILLIAMS: Okay.

Earlier in your testimony, we've identified some of the concerns of the board when you served on it, those being the – not having a full complement of members, the compensation issue that we've dealt with and others. And, again, Ms. Best has touched upon this, but I'd ask you then, as an active member of government, you are now in a position having served as a board of directors member and now you have your finger on the pulse of invoking change, and these were issues of major concern.

What specific action did you take to try to invoke things that you thought could be improvements at Nalcor?

MS. BENNETT: In the first three to six months, no action. I was, quite frankly, focused on the deficit and debt circumstances, the immediate issues that we were facing in the Provincial Treasury. I had responsibilities in the Human Resource Secretariat, as well as the Office of the Chief Information Officer. We had significant public – legitimately – reaction to the budget of 2016 that we were also working with.

The opportunity to address compensation for board members at Nalcor was an issue – it wasn't a high priority for me.

MR. T. WILLIAMS: Okay.

The current CEO, Mr. Stan Marshall, who was appointed in April, I think, of 2016 under the – I guess, you would've been a minister at the time with his appointment in 2016.

MS. BENNETT: I was. Mm-hmm.

MR. T. WILLIAMS: And he's obviously a very knowledgeable and respected hydro official and he's been very vocal as of late in support of the project, and I wonder given the issues with respect to rate mitigation and the future of the project, do you see the Muskrat Falls Project as having a long-term benefit for the province?

MS. BENNETT: I see the – from my vantage point, a significant challenge on both the – either the Treasury or the ratepayers, so the taxpayers or the ratepayers, for approximately seven to 12 years. After that I have no idea. The more you forecast into the future the harder it is to be as precise as you can be in the short term, but I see significant challenges based on the fact that the original plan, which was a \$6.2 project, has had (inaudible) –

MR. T. WILLIAMS: So you see (inaudible) short term – when I say short term, over a period of years –

MS. BENNETT: Yes.

MR. T. WILLIAMS: – but not beyond that.

MS. BENNETT: A significant challenge.

MR. T. WILLIAMS: And I'm puzzled with your comment now, having said that with respect to the comment that you made to Mr. Budden in his questioning, and you sounded quite convincing. You stated that: the Province of Newfoundland should never take on a project of this scale in its future.

Do you feel that's short sighted? I mean, this is a resource-based province that will have numerous megaprojects over the span – do you feel that's a short vision for a future of a province with all sorts of resources (inaudible)?

MS. BENNETT: No, I think it's based on a unique vantage point that I had, both as a director of Nalcor and then as a minister of the Crown, in understanding the operations of government as it stands today.

We have, I think – my opinion is we have high risk of a repeat of circumstances like we find our self in today. If the systems of management of

Crown corporations and accountability of Crown corporations to the Treasury as well as internal operations inside the provincial departments as they relate to the Department of Finance and the Premier's office, et cetera, if those circumstances don't evolve I don't believe we should take on any large-scale capex project on behalf of the people of the province. I think our focus from a government should be on service delivery and making sure that in the short term we can provide the services we need and in the long term we can actually pay the bills for those services, because they're going to be serviced by debt.

MR. T. WILLIAMS: Okay.

Given time constraints, that will be all my questions.

THE COMMISSIONER: Thank you.

Julia Mullaley, Charles Bown.

MR. FITZGERALD: No questions.

Thank you, Commissioner.

THE COMMISSIONER: Robert Thompson.

MR. COFFEY: No questions.

THE COMMISSIONER: Consumer Advocate.

MR. PEDDIGREW: Good morning Ms. Bennett.

MS. BENNETT: Good morning.

MR. PEDDIGREW: I'm Chris Peddigrew, representing the Consumer Advocate. Just a few questions for you here this morning.

I would just like to start out with just a reference to your interview transcript – page 30 and 31. And the context leading up to what I'm about to read to you is your – you're being asked about the Treasury bills and the move, I guess, given the financial pressures and the – I guess the negative aspects of financing by T-bills to move towards the FLG 2.

And so you say at the bottom of page 30 – so you say: So, in this context, we were concerned

– myself and the deputy – and I think you're talking about Donna Brewer there – were very concerned about the ability to meet the subsequent payments that were coming up over the next series of months and my priority became understanding what the books were – the government books – and how much more money we needed to borrow and how fast we needed to borrow it and what could we do to reduce the cost of borrowing. So Muskrat became a piece of that.

And then you say: A piece of the big overarching Treasury challenges that we had. And the deputy minister that I had – Donna Brewer – she sat on the Oversight Committee for the Muskrat Falls Project inside government. She made it clear to me early on that the costs were nowhere near what the people were thinking, and I'm not sure she fully understood what the costs were, but she just knew that something was off.

So I guess – just following up on one of Mr. Budden's questions this morning, when I guess you were asked about trust in Mr. Martin, and I don't think you were – I guess were comfortable saying you didn't trust him. But was the concern expressed by Ms. Brewer in relation to Muskrat Falls and not having the full picture, was that one of the reasons you went to Mr. Martin and to say: Look, you need to be forthright here, you need to be transparent in terms of what you're giving me as minister of Finance?

MS. BENNETT: Certainly, a contributing factor. Yeah.

MR. PEDDIGREW: Okay.

So when you came in as minister of Finance and you were briefed and you were, I guess, informed about the state of the Muskrat Falls Project and the cost and schedule and things like that, were there any surprises for you? That I guess, you know, coming in as minister and having an understanding of where the project was and what the costs were and then once you get briefed and see the numbers, anything that surprised you particularly?

MS. BENNETT: Well, just for clarity, I would've been briefed on the specifics of Muskrat Falls information as Natural Resources

and the premier provided us those briefings through planning and priority. Finance did not have, for the first three to six months, specific individual briefings on the comprehensive numbers.

MR. PEDDIGREW: Did that in and of itself surprise you?

MS. BENNETT: Yes.

MR. PEDDIGREW: Okay. And sorry, I cut you off there, but ...

MS. BENNETT: Hmm.

So the numbers themselves when I was briefed as part of the – my – part of the group of colleagues that I worked with, I was certainly taken aback with the significant shift from what I had understood back in 2012 to where we were. But it became – at least it appeared to me that in the operationalizing of the project that there were many factors that were creating headwinds and tailwinds on the project that were, you know, ones that became about managing the project and managing the operations of the project and managing the day-to-day operations of the project – implementation, execution and construction. And, you know, I had – certainly that's what I appeared to be – that's what appeared to be the problem from my perspective.

MR. PEDDIGREW: And when you received the briefings, were there sort of ballpark numbers given to you as to what the – I believe there was an AFE in September 2015, so before you were elected and in government – of that \$7.65 billion? And so when you were briefed, did you – when did you learn, that that number was not necessarily –?

MS. BENNETT: I would've learned anecdotally from Finance officials that the number had gone up substantially in January. And when I say anecdotally, they would've kind of said: Look, this is the number we think we're at.

Formal briefings from Nalcor that I would've participated in, you know, would've either been through Cabinet – there may have been one meeting that we had in Cabinet where Mr.

Martin presented, and maybe it was shortly after the first budget that Mr. Marshall presented some information before the end of June of (inaudible) –

MR. PEDDIGREW: So in the briefings with Mr. Martin, were there – was there a discussion of the quantification of how much higher it was than the 7.65?

MS. BENNETT: There was a – there was definitely discussions about the pressures that were on the budget and the ranges. There was discussions also about, you know, where – historically, where some of the – that build up had been.

You know, what had happened in the – to be honest with you, what had happened in the past and what had already been spent – my focus was on how we were gonna fund it; not necessarily on the why, particularly in those first six months.

MR. PEDDIGREW: And I understand that would be, certainly, your focus but, I guess, under – to understand how much we needed, you needed some understanding of the numbers. So I guess my question is: Did Mr. Martin talk numbers in – when he briefed Cabinet? And, if so, what were those numbers?

MS. BENNETT: I don't remember the numbers specifically. And my focus – just to clarify, my focus was on, okay, well, I know what we spent so far, what else are we left to spend, because I also had to forecast – we had to forecast, in the Finance Department, future borrowing. And also, you know, if there's a slip in the schedule, that also meant that, you know, actually, they – that the project coming online, that delay would have been another cost if the project was delayed.

So we were very focused on the forecast price –

MR. PEDDIGREW: Right.

MS. BENNETT: – in addition to what was actually – had actually been spent.

MR. PEDDIGREW: Okay.

And was there any sort of discussion with Nalcor, with Mr. Martin or anybody else about, look, you know, here's where we are now. Now that I've seen the books as minister of Finance, you know, it cannot go any higher than this. Was there any discussion of sort of an upper limit to try to keep it under, or was it just keep it as low as possible?

MS. BENNETT: There was ongoing conversations about cost control and where we could save monies, but those were led by Natural Resources and the Premier's office of the day. They weren't led by Finance.

MR. PEDDIGREW: So you didn't have any discussions with Mr. Martin about, you know, we've – we borrowed as much as we can borrow, we cannot go any higher than this. You need to make sure it stays below this number.

MS. BENNETT: No, I had conversations with everybody in Treasury Board, including Nalcor, that the Treasury was not going to be as available as it had been over the past, you know, period of years to Crown corporations that needed it to subsidize them. We weren't going to have the – we didn't have the capacity.

MR. PEDDIGREW: Okay.

And what was Mr. Martin's reaction when you gave him that message?

MS. BENNETT: I think he heard it respectfully.

MR. PEDDIGREW: Did he provide any assurances that, you know, look, we've got a handle on this and, you know, I won't exceed X or ...?

MS. BENNETT: He may have. I don't – I – that may have been part of the conversation but I don't remember the specific conversations.

MR. PEDDIGREW: Okay.

Did you – I guess, once you spoke to him and conveyed that message, did you have a sense that he understood what you were saying and that – I mean, I guess if he felt at that time that, well, look, you know, there was more money that he anticipated needed to be spent, I guess

your expectation was he would have told you at that time.

MS. BENNETT: Yes, that would have been my expectation. And I would also add that every single person that I had to intersect with as Finance minister in that first six months was shifting their thinking significantly from where we were the year before.

You know, the deficit from the – that had been forecast by the former administration, coupled with the price of oil, had seen such a substantial impact on the Treasury. Nobody was acknowledging that. Finance officials and I were very, very anxious about it, particularly at the risk of a significant increase in the cost of borrowing, which we were being warned. The rating agencies had advised that in 2015 that that was a real risk to the province's Treasury.

So everybody was getting the message of our restraint, you know, you can't – you know, can't have one plan and then come ask us for more money. But the details around the technical nature of the project, as it was being managed then, Natural Resources would've been more involved in that than Finance.

MR. PEDDIGREW: Okay.

And, Ms. Bennett, just a question about, you know, where we would have been without the backing of the second federal loan guarantee and the impact that that might have had on the Provincial Treasury. Do you have a recollection of how much the second federal loan guarantee saved us in terms of interest rates and what that would've meant in terms of an annual savings on the Provincial Treasury?

MS. BENNETT: I can't quantify it now off the top of my head. And at the time we did talk about it and our biggest concern was the – you know, the fact then in the summer of 2015 I had been told by officials that the rating agencies had warned the Government of Newfoundland and Labrador as a whole that, you know, the deficits and the risks were high in – on the Treasury side. So we expected it would be significant and we were working very hard to maintain status quo which is, I think, what we, for the most part, were able to achieve.

MR. PEDDIGREW: And so is there any risk that we would not be able to borrow without the federal loan – second federal loan guarantee or was it just that we'd be able to borrow, but at a much higher interest rate?

MS. BENNETT: Yeah, so I think there's – most people would think, well, at some point the province is not able to borrow. Really, it's about the cost of borrowing and how expensive the money would be to actually get.

But the second thing then, is if the investors choose not to invest because the province's bonds are high risk, we would have to be – we would be required to go to the federal government and ask the federal government to back our Treasury debt. And in that situation, you know, we may end up in a situation where the federal government – federal bureaucracy would dictate certain things that we would need to do with our service delivery and nobody was prepared for that to happen. I certainly wasn't.

MR. PEDDIGREW: Right.

Ms. Bennett, when you – again, when you came into government were you provided with any information or calculations about what – or were you seeking any information or calculations about what the impact on rates would be for ratepayers?

MS. BENNETT: That one would not have been something that I had visibility into in the first few months I was there. Over the course of 2016 into 2017, through Cabinet committees and Cabinet, we would've been briefed by Natural Resources on where the rates were expected to go.

MR. PEDDIGREW: And is that something that – you know, I realize you weren't around to see what your predecessors were doing but did you – was that information that was available to you that had been obtained by the previous administration or was it – you were creating something new by seeking this information through –

MS. BENNETT: I –

MR. PEDDIGREW: – Natural Resource or Cabinet?

MS. BENNETT: I can't comment on if the former administration had access to it. I don't know.

MR. PEDDIGREW: Did you see any information that they had been seeking this type of – the same type of information that your administration was seeking?

MS. BENNETT: No, early on in the first three months of being a minister, I would be – I'd asked for material that would have been used by former ministers or former decisions. And we were advised – I was advised that due to Cabinet secrecy we weren't allow to see what others had seen.

So in areas where it was imperative that I have some type of context, I would direct the deputy minister to read the material that the former administration had at their disposal and I'd have her orally provide me an update on what that said.

MR. PEDDIGREW: Right.

MS. BENNETT: And that was considered to be fair in the context of Cabinet material management and that's the approach that I took.

MR. PEDDIGREW: Okay.

You were – or, you were asked some questions earlier about the *Financial Administration Act*. And some of the answers you gave, I guess, would indicate that you certainly became very familiar with that piece of legislation.

MS. BENNETT: Mmm.

MR. PEDDIGREW: I think you said you carried it around with you and it became sort of your go-to in a lot of discussion with other government departments. When you came into government, were there any particular aspects of the *Financial Administration Act* that you noted Nalcor was not complying with?

MS. BENNETT: Not specifically to Nalcor, no.

MR. PEDDIGREW: No? Okay.

And just some questions you had as well about the recall power. So there was discussions about

what would happen with the proceeds of the sale of the recall power, so just a question for clarification. Did – was there actual – actually any sales of recall power while you were in position of minister of Finance or was it something you were looking forward to?

MS. BENNETT: This was a plan that Nalcor had that they were going to do. So because we were doing a budget for the future, we wanted to know – we wanted to isolate that income outside of Nalcor's operation or capital budget –

MR. PEDDIGREW: Right.

MS. BENNETT: – and retain that on our records as being available, and it was an estimate at the time, you know. In fairness to Nalcor, nobody could anticipate – you couldn't say precisely what the market was going to pay, but we could get a range and that's what we were looking for.

MR. PEDDIGREW: Okay. You were looking for estimates about what it might be.

MS. BENNETT: Mm-hmm.

MR. PEDDIGREW: Just wanted to – and this is the last area of questioning, Ms. Bennett. Just, if we could call up Exhibit P-01771, please, Madam Clerk.

THE COMMISSIONER: That will be on your screen.

MR. PEDDIGREW: So, Ms. Bennett, this is a – just a paper that's been written – an academic paper – “Public Governance and Accountability of Canadian Crown Corporations: Reformation or Transformation?”

I won't take you through the whole paper but, I guess, given your somewhat unique position – having been on the board, having been in government – minister of Finance – I just want to get your thoughts on the – I guess, the accountability structure within Nalcor and government and the board, shareholder.

So, if you look at page 8, and this is just some discussion about – it's in relation to federal Crown corporations but – in the first paragraph

there – and this is in relation to some interviews that were done with people for purposes of this paper. “The government expresses concern that the traditional expression of accountability, as also stated in the *Financial Administration Act* that has Crown corporations ‘ultimately accountable, *through the appropriate Minister*, to Parliament for the conduct of its affairs,’ has “caused confusion about precisely to whom in government ... the corporation is accountable.”

And then on to the second paragraph: “In an effort to clarify matters, the government then states that a simple hierarchy exists: a Crown corporation CEO is accountable to the board ...; the board is accountable to the minister; and the minister is accountable to Parliament.”

And then down to the third paragraph: “By this interpretation, no one, neither minister nor corporation, is ‘accountable to Parliament’ for ‘all activities of the corporation, including those pertaining to day-to-day operations.’ No one, accordingly, can be held by Parliament to be personally responsible or culpable.”

So, I guess my question to you is just having the background that you do and, I guess, the vantage point that you do having been in a different roles, any comments or thoughts on, I guess, the accountability structure between government and Nalcor during your various roles and anything that we might look to to the future if we did do something like this again, which I know might be against your better advice but ...

MS. BENNETT: While I haven't read the full document –

MR. PEDDIGREW: Right.

MS. BENNETT: – the accountability – I can speak to my own personal experience that my understanding of the *Financial Administration Act* provides the president of Treasury Board a significant legal latitude to hold Crowns and departments accountable based on budget allocations and that that act, you know, based on the advice I had from – as I said earlier this morning – the Auditor General of the day, the Comptroller General, other Auditor Generals and other executives in other governments all

led me to believe that the *Financial Administration Act*'s teeth and execution and the position of the Finance Department was such that it needed to change in the existing – in the government that I was part of.

My – I would say that that would also be true for former administrations based on what I've seen and that, you know, the Treasury Board has a strong accountability mechanism, if used through the *Financial Administration Act*, to be able to implement some accountability. But that accountability is not to the parliament; it's – it would be to a committee of Cabinet, which is the Treasury Board Committee. So I can't comment on what's written here because I –

MR. PEDDIGREW: Right.

MS. BENNETT: – haven't seen it in the full context.

MR. PEDDIGREW: Yeah, I was just trying to put that to you just to give you some context to lead into my question. And as well, in terms of the – I guess the reporting structure between – we've heard some evidence that Mr. Martin had, you know, a direct line to the premier's office or a direct line to some of the ministers as opposed to going through the board. And some of the reasoning that was given for that was that he was the person who was involved day to day; he probably had more knowledge about the project than the board might have – it was a volunteer, part-time board.

But any suggestions about how in that situation – and there's some merit to that, I would suggest, or I would agree. But for the board to be able to ensure that the information is getting from the CEO to government, anything you might suggest about how the board could ensure that would happen?

MS. BENNETT: I think it's government's responsibility to make sure that the Crown corporation is giving them the information. I think that the CEO and management and the board have to operate in the context of the legislative requirements that they're mandated to. But legally so, too, is government accountable for – and bureaucratically and, I'd argue, politically – are accountable to making

sure that those Crown corporations reporting are transparent to them.

In the way of improvement, I think there's opportunities to include the Department of Finance, particularly, in early stage discussions around allocations of the Treasury's money – really, it's the taxpayers' money so – as opposed to being at the end. You know, in a small business or private business, if you wait to ask your accountant or your auditor, you know, how am I doing, they're only gonna tell you the story of history. If I ask them in advance to participate in my budget and my – the KPI's that I'm going to manage operationally, they're going to influence my future.

So it's a very, very specific piece of work that Finance officials can do to help make a robust analysis. They're trained a certain way; they're – they have certain skill sets, and being able to use that early on, I think, is something that's very important.

MR. PEDDIGREW: Okay, thank you very much.

THE COMMISSIONER: Thank you.

Former Nalcor Board Members.

MS. G. BEST: No questions.

THE COMMISSIONER: Dwight Ball/Siobhan Coady – not here.

Okay, counsel for Ms. Bennett.

MR. CASEY: No questions.

THE COMMISSIONER: Okay.

Redirect.

MS. MORRY: Commissioner, I have no questions.

THE COMMISSIONER: All right.

Ms. Bennett, thank you very much. You can step down. And I apologize that we had to delay you to today.

MS. BENNETT: No problem.

THE COMMISSIONER: Okay, thank you.

All right, the next witness, then, is John MacIsaac as I understand it, Ms. Muzychka?

MS. MUZYCHKA: Yes, Commissioner. We're ready to proceed.

THE COMMISSIONER: Okay. So let's take a minute just to get repositioned here, and we'll come back and start with Mr. MacIsaac.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Ms. Muzychka.

MS. MUZYCHKA: Right. We have a number of exhibits. I just make some corrections with respect to the exhibits that were entered by Ms. Morry this morning. So, these are exhibits that would be entered under Cathy Bennett.

THE COMMISSIONER: Okay, just give me one second then.

Okay.

MS. MUZYCHKA: P-04026, P-04029 to P-04034, P-04043 and P-04056.

THE COMMISSIONER: Okay.

All right, so we'll revise that to be the exhibits for Ms. Bennett.

MS. MUZYCHKA: Correct, and then for the exhibits for Mr. MacIsaac, we would enter P-04044 to P-04052, and P-04073 to P-04076 – 04076, sorry.

THE COMMISSIONER: All right, those will be entered as numbered then.

MS. MUZYCHKA: Thank you.

THE COMMISSIONER: So Mr. MacIsaac, if you could stand. Do you wish to be sworn or do you wish to affirm?

MR. MACISAAC: Affirm.

THE COMMISSIONER: Okay.

CLERK: Do you solemnly affirm that the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth?

MR. MACISAAC: I do.

CLERK: Please state your name.

MR. MACISAAC: John MacIsaac.

CLERK: Thank you.

MS. MUZYCHKA: Good morning, Mr. MacIsaac.

MR. MACISAAC: Good morning.

MS. MUZYCHKA: We'll begin by just asking you a little bit about your background.

We understand that you are a former member of the Nalcor management team?

MR. MACISAAC: Correct.

MS. MUZYCHKA: All right.

If we can bring up your résumé. It is at tab 1. It's Exhibit P-04044.

And if we can start with just a brief overview of your education and work experience, I understand you graduated from University of New Brunswick in 1987 with a Bachelor of Engineering in mechanical?

MR. MACISAAC: Correct.

MS. MUZYCHKA: Okay, and obviously the time of interest is the period leading up to your involvement in the Muskrat Falls Project, but perhaps you could just give us a quick overview of your experience.

MR. MACISAAC: So, it fits into a couple of buckets.

Time with Michelin Tire Canada –

THE COMMISSIONER: Excuse me, Sir. Could you just move a little closer to the mic or alternatively move the mic a little closer to you, 'cause I'm having –

MR. MACISAAC: Absolutely.

THE COMMISSIONER: – difficulty hearing you.

MR. MACISAAC: I'm sorry.

THE COMMISSIONER: Okay, that's fine. That's better.

MR. MACISAAC: Okay? Is that good?

So, Michelin Tire Canada Limited, and inside of my engagement there I spent time within maintenance, both central and sector maintenance. I then shifted gears and became the engineering manager for the C1 location, which is in Pictou County.

MS. MUZYCHKA: Okay, so that was in the '90s, correct?

MR. MACISAAC: Correct.

MS. MUZYCHKA: Okay, and then where did you move on from there?

MR. MACISAAC: I then went into operations, still within Michelin, then shifted gears and joined McCain Foods in Continental Europe. I spent time within the Benelux, Continental Europe, Western Europe plants, and then did a greenfield site build in Eastern Europe in Poland, then moved back to Canada and then did a brownfield site development as a part of the corporate engineering team in South America, in Argentina –

MS. MUZYCHKA: Around what year – what time period was that?

MR. MACISAAC: So I moved back in Canada in 2000, after having completed the work in Poland, and was only back in Canada a short period of time – months – before I started travelling back and forth to Argentina for a brown-site development there.

MS. MUZYCHKA: And that was with McCain?

MR. MACISAAC: It was, in a corporate function.

MS. MUZYCHKA: All right.

And then from there.

MR. MACISAAC: I came back and continued to do support work for large capital projects for McCain in the US in the state of Maine, and then transitioned into I'm gonna say a role as asset management and continuous improvement.

MS. MUZYCHKA: With?

MR. MACISAAC: With McCain.

MS. MUZYCHKA: With McCain.

MR. MACISAAC: Corporately, from Foods Canada.

MS. MUZYCHKA: Okay.

And then when did you join Nalcor Energy?

MR. MACISAAC: I joined Nalcor Energy late in 2010 as the vice-president of project execution, technical services and asset management for the existing electrical business.

MS. MUZYCHKA: Okay.

And then you became vice-president of Churchill Falls (Labrador) Corporation?

MR. MACISAAC: In 2011, I picked up the added responsibility as the executive sponsor for CF(L)Co. So I kept the original mandate that I was hired for and picked up the executive sponsorship of CF(L)Co. I kept those two mandates up until 2015, and I was then asked to step into a different role as the president of the regulated utility Hydro, and I continued in that role until Mr. Marshall joined Nalcor in 2016.

So it was the May – April, May time frame and he approached me to pick up responsibility for the bifurcated project, which was transmission, separate from generation. And I also took back, at that same time, responsibility for the non-

regulated electrical business, plus half of the engineering project execution and asset management team.

MS. MUZYCHKA: Okay.

And so if you – your title then was VP for project execution – sorry, not project execution. VP executive vice-president. Is that the correct –

MR. MACISAAC: Correct.

MS. MUZYCHKA: – title? For the transmission portion of Muskrat Falls.

MR. MACISAAC: So it was for a bit broader mandate. It was for power supply, and the intent was that it would eventually roll in the assets from an operations perspective of both transmission and when generation was complete. The generation assets and the operations and maintenance responsibility would be rolled into power supply as well.

So we were building the organizational structure for the future, and I had a mandate at the time to take back what was CF(L)Co and Menihek, some other small bits and pieces. So non-regulated electricity, plus the engineering and asset management that supports that existing business, plus building, you know, a new operating entity, power supply and leadership of the project on the transmission side.

MS. MUZYCHKA: All right.

So prior to taking over the VP position for the transmission of the Lower Churchill Project, had you had any past experience with the Muskrat Falls Project?

MR. MACISAAC: I hadn't been involved –

MS. MUZYCHKA: Or involvement?

MR. MACISAAC: I hadn't been involved in any material way. I had limited participation in some of the steering committee meetings.

MS. MUZYCHKA: All right.

And then prior to your work at Nalcor, did you know Mr. Marshall, Stan Marshall?

MR. MACISAAC: I did not.

MS. MUZYCHKA: Okay.

And it was – he had – you said that he approached you when he took over the CEO role?

MR. MACISAAC: He did.

MS. MUZYCHKA: Okay.

And you remained in this position until you left Nalcor in February 2019?

MR. MACISAAC: Correct.

MS. MUZYCHKA: Okay.

Now, when you took on the position of VP of transmission, can you describe how you transitioned into that role?

MR. MACISAAC: Gradually.

MS. MUZYCHKA: Mm-hmm.

MR. MACISAAC: So inside of, I would say the month of June, I was bringing myself up the curve by participating more in meetings. And by the end of June, I'd effectively handed off to Mr. Haynes my responsibilities from the previous mandate, being regulated Hydro. And I was in the role fulltime, I would say, on a daily basis by the end of June.

MS. MUZYCHKA: Mm-hmm.

MR. MACISAAC: The new role that is.

MS. MUZYCHKA: I understand that you did some assessments early on to bring yourself up to speed and so on. What were your initial impressions of the project?

MR. MACISAAC: Initial –

MS. MUZYCHKA: For the portion of the transmission of –

MR. MACISAAC: On the transmission side. So I should back up and say that inside of – you know, the work that was done with a team, and truly it was a team effort. Our focus was on the

transmission side of the business and the transmission project itself.

So in the first 90 days – I would say 30, 60, 90 days – you go in and make an assessment by actively listening, by walking the sites down, by listening to the project team members, by listening to the leads in terms of what they saw, but also go and look at it on your own so that you had the opportunity to see it with your own eyes, walk the sites down and do it in an unbiased fashion.

My assessment was that there was lots of strengths, and areas for improvement as well.

MS. MUZYCHKA: Okay.

In your interview with Ms. O'Brien, you indicated that most of the significant challenges you saw when you came on were schedule exposure and commercial exposure issues for Valard and for GE. You also indicated that you saw a need to reshape your team to address the technical competencies that you weren't seeing. Is that correct?

MR. MACISAAC: That is correct.

MS. MUZYCHKA: You also indicated that there was a backlog of commercial issues. Can you explain what you were seeing in that respect?

MR. MACISAAC: So inside of that first 90 days, I was listening to our own people, our team leads, asking them where they were but also listening to our major contract entities as well.

Early on, we organized meetings where we brought representation from the contractors in and sat down and listened to them in terms of areas where they had concern, and felt where they saw opportunity as well. So we did have a backlog of commercial issues. I would say manageable backlog at the time.

MS. MUZYCHKA: Okay.

In terms of the gaps in technical competencies, I understand you made some organizational changes.

MR. MACISAAC: We did. Inside of looking at the technical, there was two key pieces. One was HVDC expertise, and, you know, I've said it in front of Mr. Marshall and also in front of our board. I've had the privilege to work in other places, other jurisdictions around the world, and what we have in Newfoundland and Labrador is exceptionally good. We have a lot of really, really good people and we shouldn't take that for granted.

And, at the same time, we did not have within the province and within Nalcor any previous experience with HVDC systems. And it is a unique skill set. It's an expertise that we were missing, and a flag that early – that although we had several people from SNC who had what I would consider to be good technical backgrounds from a design perspective on HVDC, we weren't deep on our bench in terms of people who had actually gone through the phases of completions, commissioning, energization and early operation. And I felt that was an area of concern for us.

The other piece was that in terms of completions and commissioning, again, that's a unique and specialized skill set as well. So in both of those areas we were looking at opportunities for strengthening our bench.

MS. MUZYCHKA: All right.

So in that respect you put together a new management team. And can you tell us how you proceeded? I believe you started by bringing in Greg Fleming.

MR. MACISAAC: So I'll back up for a bit of context. Inside of that first 30, 60 and 90 days, there's three components. There's SOBI, Straight of Belle Isle crossing, then there's the Labrador Transmission Assets, and the LIL, the Labrador-Island Link. And three sub-teams leading each one of those.

And inside of spending time with the team leads and walking down the sites, what I saw inside of SOBI – and SOBI was originally considered from the original risk reviews to be the component with the highest technical risk – it was a highly functional team, and it was tracking consistent with schedule. The original schedule and with the original budget. And it actually

delivered consistent with schedule and came in under the original budget.

More importantly, was what I saw in terms of team functionality and team leadership. And going to the field and walking down the sites with Mr. Fleming and his team, he was engaged and connected with the work. He knew the people by first name. And he was as engaged and connected with the people on his team as he was with the contractor's team as well. And I would consider it to be the functionality that leads to successful outcomes.

MS. MUZYCHKA: And so you took on Mr. Fleming.

MR. MACISAAC: And I looked at the other two components and they were stressed, both in terms of budget and schedule, and the functionality at the interface to the contractors – in this instant Quanta Valard for the overhead transmission and GE for all the other pieces – I'd say that the relationships were somewhat frustrated.

And I would say by early fall I had had discussion with Mr. Fleming, because we could see that substantial completion was approaching for SOBI. I talked to him about the opportunity to make a larger contribution. Inside of the restructuring and bifurcation was the opportunity to become the director for the transmission portion of the work.

MS. MUZYCHKA: Okay.

You mentioned that there was some frustration with the contractors?

MR. MACISAAC: Yes, I would say there was, and not just on the contractors' side, there was frustration with our team members and frustration with the contractors' team members and you could sense it inside of the meetings and the exchanges in the meetings.

MS. MUZYCHKA: Okay.

So, I understand that prior to your involvement Jason Kean was the interface with Valard.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: And so when you brought Greg Fleming over, he became the project director. Then – was he then the prime interface with Valard?

MR. MACISAAC: He became the prime interface, actually, to both Quanta Valard and to GE.

MS. MUZYCHKA: Okay, to both the –

MR. MACISAAC: That's correct.

MS. MUZYCHKA: – major contractors.

And so what was in your mind as you were rearranging the structure in that way?

MR. MACISAAC: An opportunity for a reset, the opportunity for a fresh start, and putting fresh faces and fresh perspective at the table.

MS. MUZYCHKA: Okay.

So, with that change then, putting Mr. Fleming in as project director, did that result in Mr. Kean then having to report to him?

MR. MACISAAC: So inside of restructuring and bifurcating the project, Mr. Fleming was promoted to project director and Mr. Kean was reporting in to Mr. Fleming. And you can appreciate that one was promoted and the other was not promoted, so Mr. Kean then reported in to Mr. Fleming.

MS. MUZYCHKA: Okay.

And I understand that on the switchyards and converter stations Darren DeBourke was the interface with GE; is that correct?

MR. MACISAAC: That's correct.

MS. MUZYCHKA: And you also, as you mentioned, wanted Mr. Fleming to be the interface for GE as well as for Valard?

MR. MACISAAC: That's correct.

MS. MUZYCHKA: And then Mr. DeBourke would then report to Mr. Fleming.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Okay.

All right, I'd like you to turn to tab 14 of your binder. It is P-02300 and we'd look at page 2.

MR. MACISAAC: I'm sorry, which page?

MS. MUZYCHKA: Page 2. But before we get to page 2, we'll just have the title.

So this is an email from – well, actually it starts on page 2. We'll just go to page 2. This is an email from Anoop Kapoor from Natural Resources Canada on June 6, 2016. And he's writing to Jim Meaney and he's copied a number of people, including the independent engineer. So you'll see that there is a – the heading is: Contingent Risk - Management Change to LCP.

So just to look at page 3 of that exhibit – that's good, we can pause there – at the last sentence of that paragraph. This is an email actually that's written by Nik Argirov in which he states that the “announcements of Nalcor regarding the Lower Churchill project has given rise to an identified risk. That risk being the ability of the project to be completed on the current time schedule and budget.”

And then if we scroll up a little bit more, he states: “The risk identified has caused consideration to be given to making management changes that in turn would significantly impact the project.” And then he goes on to raise concerns about uncertainty and so on. So – and this information, obviously, from the independent engineer made it up the line to Stan Marshall and there would've been discussion and consideration of that.

In the course of your involvement, not your involvement necessarily, but in the structural changes that arose when Mr. Marshall came on board and bifurcated the project, you came on board as the executive vice-president, transmission, there was a loss of some key people – correct?

MR. MACISAAC: So this corresponds, actually predates the departure of some of those people. I think this correspondence –

MS. MUZYCHKA: Yes.

MR. MACISAAC: – is more about project bifurcation.

MS. MUZYCHKA: Okay.

But there was still the concern raised that the changes in the management could result in some key people leaving the project. Is that correct?

MR. MACISAAC: That is correct. And I would say that, you know, for folks that know Mr. Marshall, he has industry experience here, deep industry experience. He has big project-related experience. He had made an assessment of what he had and what he felt he needed and he believed – and I shared it in his view – that project bifurcation would enable a much sharper focus inside of two different project delivery teams.

So I believe this correspondence was the question around bifurcation.

MS. MUZYCHKA: Okay.

But now, we do know that following the reorganization, not necessarily in 2016, but certainly in 2017, that Mr. Kean left the project. We also know that Mr. DeBourke left the project months after the organizational changes were made and Ms. Trina Troke, who was the deputy project manager under Mr. DeBourke, also left.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Okay.

Though, I wanted to get your view on how you felt or reacted to these three individuals, and likely others, leaving.

MR. MACISAAC: So, my sense for it is that, again, going back to Mr. Marshall, he's a very astute industry leader and he would have assessed that inside of project bifurcation, it's a big change. And I think he would have recognized that inside of big change, there's the potential for retention risk. I saw the same. And our good fortune was that we had a deep bench.

So, that said, inside of a megaproject like this, invariably, you will have people transitioning in and transitioning out. It's the nature of the work and it's also what project contractors do. It's

unfortunate that we had those departures at that time and, at the same time, I respect those decisions. I said earlier our good fortune was that we had a deep bench. SOBI was wrapping up. Mr. Fleming was in place at that time and he selectively took folks that were on the SOBI bench, which we were starting to downsize, and placed them into a number of those roles that were vacated.

MS. MUZYCHKA: Okay.

So who replaced Mr. Kean? Do you recall?

MR. MACISAAC: Yeah. So that would have been Pete Whelan on the transmission side. Steven Follett would have replaced Mr. DeBourke and –

MS. MUZYCHKA: Ms. Troke?

MR. MACISAAC: Not 100 per cent certain. Don't recall. Sorry.

MS. MUZYCHKA: Okay.

Do you feel that you had good recovery from these losses, with the replacement of these individuals?

MR. MACISAAC: So Mr. Fleming is a very good leader. And from the perspective of being a team builder and a team leader, and we had the benefit of renewal – fresh perspective, the opportunity to come in and share his views on team work. And we actually saw the relationships at the interface to the contractors start to improve and, over time, we realized a productivity improvement as well. Both 2017 and 2018 were very productive. And the relationships with the key contractors continued to improve throughout both '17 and '18.

MS. MUZYCHKA: Okay.

So, overall, it was your sense that the teams performed better after the reorganization?

MR. MACISAAC: I would say that we saw an improvement in the relationships, and team functionality continued to grow, and that we made real progress against both schedule and budget. So I would say, yes, we had good results in both '17 and '18.

MS. MUZYCHKA: Okay.

With respect to Valard, when you came on as VP for transmission, you indicated earlier that you – as part of your process of ramping up and getting to know the project, you had meetings with Valard and you discussed issues with them and any concerns that they had.

Can you identify or tell us what those concerns, if any, were raised by them?

MR. MACISAAC: So inside of being deliberate about achieving a reset on the relationship, we asked the leadership from Quanta, the parent to Valard, and Valard, for the opportunity to sit together and talk about their top three areas of concern or opportunity, and our top three areas of concern and opportunity. Because your gaps are your opportunities to be better, right?

And they came and sat with us, we had productive dialogue. Their areas of concern were – and again, I'm going by recall here – coordination of access on the road or improved coordination of access on the access road, improved coordination of geotechnical data in support of foundation selection and foundation selection. And then, also opportunities for process improvements around invoicing, and the stress that they were feeling inside of cash flow.

MS. MUZYCHKA: Okay. And in those assessments, did you believe that the schedule completion date that Nalcor was working with – with the internal scheduling, was accurate or did you believe that that needed to be reassessed?

MR. MACISAAC: Inside of the first 90 days, very much an active listening phase, and I wasn't really looking at the schedule in terms of how realistic or unrealistic the schedule was at that point. What I was endeavouring to do was first understand what our constraints were and what did we need to do in order to increase production for a safe, strong finish. And I really was focused in the first 90 days, in listening to what their concerns were and then on a step-by-step basis, how do we take some of those concerns and reduce them and eventually get them to a place where they're either off the table or a much lesser concern.

Then, and I would say only then, can you start to have a discussion around what are realistic milestones and resetting a new schedule based on what they believed was achievable inside of where we were at at the time. So, assess the cards that you have; actively listen to the contractor in terms of their areas of concern; talk about how you're going to mitigate and reduce those concerns and then have the discussion about what's possible on schedule. And have them tell us what's possible instead of us tell them.

MS. MUZYCHKA: Okay.

'Cause when you've mentioned some of the concerns that the contractor's raised, one of them was access roads and the ability to, obviously, be able to get to the work sites that they needed to install their towers –

MR. MACISAAC: Yes.

MS. MUZYCHKA: – and that may have slowed things down for them. I'm not sure if you go into the details as to why there were issues with respect to the access roads or if there was any disagreements as to the level or quality that was causing them some concern. And then – then, of course, with the foundations, selection was linked heavily to the geotechnical data that we know and we've heard was absent or minimal.

MR. MACISAAC: So yes, yes and yes. And I'll back up and answer the discreet pieces; there's – in reverse order. And the geotechnical data – and I think there was an acknowledgement on our part – sorry for that, my mistake. Sorry.

On the geotechnical data, I recall there was acknowledgement on the part of the project team, that there was need for more. And what we were encountering in the field versus what had previously been studied and understood, the analysis was that there was a gap between the two. And I do recall reading correspondence that was actually shared as part of the Inquiry process, that suggested that the accuracy of the geotechnical data was trending at about 50 per cent.

So the other piece of the question was, you know: Were there constraints around coordination of access? And, you know, there's always two sides that you need to listen to and then be open-minded, to focus the conversation on: What are the solves? How do we get to a better place?

And inside of bringing new people to the table, you have the opportunity for fresh perspective where you can sit down and say, okay, let's talk about what the solutions are, I mean, we understand what the constraints are; let's get focused on, you know, how do you think we can be better – an opportunity or a day at a time, in improving the coordination of access.

So, there wasn't any one particular thing that unlocked it all. I believe it was a series of conversations where we talked about how we could be better together, together. And our consistent message, at least from 2016 – June of 2016 forward, at the leadership level and down through the field – and I made a point of being in the field and touching as many people as possible – was, our objective was to make the contractor successful. When they're successful, everybody benefits.

MS. MUZYCHKA: Right.

And so, how did you achieve that? You just mentioned that you spent time in the field. And what about members of your team? Had – did –?

MR. MACISAAC: Yes, yeah.

So going into the field with our team was really, really important. And you have to lead by example. So I spent a considerable amount of time in the field and created the expectation for team leads to spend more time in the field as well. And it's no different than the team leads that I worked with since 2010 going forward. It was about – let's make sure that we're spending an appropriate amount of time at the work face. And there wouldn't be one of the folks that I've worked with since 2010 until, you know, 2019, that would not have heard the same consistent message: You know, please get out from behind your computer, put your boots on and go to the work face.

And the reason is twofold. That's where your people are so it drives connection and engagement, and that's where the opportunity is to understand what's preventing us from taking next steps. What's in the way of us being better tomorrow and how do we get there. And, invariably, they have the answer.

So it would be in performance contracts of all the folks that I've worked with in the past, you know, spend more time in the field. And I was very clear in my expectation with the team leads. Until we were in a better place with both contractors, Quanta Valard and GE, I wanted our team leads and our folks on Torbay Road spending more time in the field.

MS. MUZYCHKA: Right and you found that to yield positive benefits for your management of the project.

MR. MACISAAC: Absolutely.

MS. MUZYCHKA: Okay.

In terms of your goal with respect to Valard, you mentioned in your interview that you wanted to have them completed and work done by the end of 2017. Is that correct?

MR. MACISAAC: That is correct. The rationale in that space – and I had had this discussion with Mr. Marshall – was to de-risk the overall delivery, do what we could in practical terms to get the transmission work, the HVDC work, the work with both Quanta Valard and GE, complete ahead of generation so that we weren't racking and stacking complexity of trying to commission and energize both transmission assets and generation assets at the same time.

So what we had agreed strategically at the high level was to bring the transmission assets forward intentionally and deliberately so that we could start to de-risk and reduce complexity on the overall schedule.

MS. MUZYCHKA: Okay. And prior to that the transmission line wasn't on any critical path, was it?

MR. MACISAAC: The focus was to keep the transmission line off of the critical path.

MS. MUZYCHKA: Right.

MR. MACISAAC: Right.

And inside of previous schedules – and I didn't spend a lot of time going back and looking at the past. And it wasn't to diminish the work that had been done in the past; actually, to the contrary. The message with the team was we were building on all of the good work done to date, and that the first 50 per cent makes the second 50 per cent possible.

And, you know, we didn't get, I would say, functional fixations in place by looking at old schedules. What we did was we took the benefit of fresh perspective – both myself and others – and looked at what's possible. And actively listened to the contractors in terms of what they saw as opportunities and had, you know, I would say pragmatic conversations that broke it down into its simplest form.

I can give you an example. Inside of the leadership discussion with Quanta Valard, I talked about, you know, what does good look like by the end of 2017, and how do we get there and asked them for their thoughts. And there had been some reporting that was done at the time and I said: Can we just put that aside and talk about what does it take to make 2017 for the overland transmission. And let's keep it really simple so that everybody can agree on whether we're getting there or not.

And we broke it down into the basic components of the transmission build; you know, had anchors, foundations, towers assembled, towers erected, sections strung. And let's just talk about those commodities inside of a simple dashboard every two weeks, work backwards with the end in mind, in terms of how we're going to get there and what it takes to make by month in order to avoid a big rush at the end.

And instead of saying: We're going to get there, we're going to get there, we're going to get there, let's be really deliberate about measuring what really counts in addition to safety because safety comes first. And the dashboard, then, should tell us that we're on track. And if we're not on track, let's recover in real time.

MS. MUZYCHKA: So you were monitoring on a biweekly basis?

MR. MACISAAC: We were, on a commodity level, by each of those discrete pieces, by zone, throughout Labrador and Newfoundland.

MS. MUZYCHKA: Was that a different approach, to your knowledge, than what had been done before your involvement?

MR. MACISAAC: It was a new approach. It was a new approach to simplify how we were measuring so that we could both be on the same page.

MS. MUZYCHKA: Okay.

And we heard evidence from people from Valard and also from Mr. Kean, and I understand that there were some issues with respect to the amount due to the contractor at the end of the day when the project was – or not even when it was finished but as they were going along. There were change orders and different things that had been brought to Nalcor's attention.

Did – is it fair to say that Mr. Kean saw the entitlement to Valard under the quantities and terms and conditions of the contract differently than you had seen it? Well, certainly there was a difference – well, first, we'll take it that Mr. Kean's view was different than how Valard saw their claims. Perhaps you can give us some background as to how you approached the issue?

MR. MACISAAC: So inside of 2016 and late in 2016, I had asked our team to do – or to commence a pretty hard scrub. We knew that we were going to go into 2017 with the opportunity potentially for an AFE renewal in June of 2017. And I asked our folks to do –

MS. MUZYCHKA: '16, you mean?

MR. MACISAAC: Well, there was an AFE in '16, but I had missed that window of opportunity.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And inside of the fall, late fall of 2016, I had asked our folks to start to do a

very deliberate scrub of what was outstanding so that we could appreciate what we felt were our stressors to our current AFE going into 2017. And I started to become informed by that work, that I saw more potential commercial exposure on some of the items than what was probably the previous perspective.

So in terms of a point of differentiation, I probably saw through a different lens. I'm very conservative by nature and I have a tendency to calibrate in that space where – and, as a result, I believe that I saw the potential commercial exposure on some items in a larger quantum than Mr. Kean. That's correct.

MS. MUZYCHKA: Okay.

And then I understand that there was some concern or perhaps a – not a misunderstanding but a misinterpretation by Mr. Kean as to how the different interpretation was seen or communicated to Mr. Marshall. Do you recall that?

MR. MACISAAC: So, I'm not familiar with the detail between Mr. Kean and Mr. Marshall. I know there were exchanges and I was questioned by Mr. Marshall. And my message in that space was that, you know, Jason's view on potential commercial exposure and my view on potential commercial exposure or entitlement was through a different lens. It's not that he had misstated or not that he had not disclosed, it was that he had a different sense for the quantum of potential exposure than myself, a difference of opinion.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And he's entitled to his opinion. I'm not here to try to change his opinion or influence those in the room about his opinion versus my opinion; he simply had a different opinion than I did. And it's probably because of my background versus his background.

MS. MUZYCHKA: All right.

Well, I just wanted to draw your attention to tab 7 of your book, Exhibit P-04049 at page 1.

MR. MACISAAC: Sorry, tab 7?

MS. MUZYCHKA: Tab 7.

And this is a letter from Jason Kean to Mr. Marshall, dated July 20, 2018. So, this was the year – almost a year and a half after he left the project.

And if you look at the bottom paragraph that begins with: As part of our dialogue, Mr. Kean says, “you stated that you were advised that my resignation promptly followed (i.e. the next day) being confronted by your EVP, John MacIsaac, regarding my supposedly withholding of cost information related to the transmission lines scope. Specifically, you stated that I withheld information related to the cost impact of (i) conductor proud stranding, (ii) geotechnical conditions, and (iii) trade labour escalation. You stated that despite being aware of the cost impact created by these items, I knowingly withheld them from being considered during the June 2016 AFE preparation, thus resulting in the need for the 2017 AFE.”

So, I assume that this would have come to your attention at some point, or Mr. Marshall may have discussed with you.

MR. MACISAAC: Mr. Marshall did. He raised it with myself and I believe he went back and clarified with Mr. Kean. And I don’t know the detail of that conversation, but my message with Mr. Marshall was that – consistent with what I’ve already said.

MS. MUZYCHKA: Yes.

MR. MACISAAC: Sorry to repeat myself. It wasn’t so much that he didn’t disclose. It was the quantum and the extent of commercial exposure within those buckets.

MS. MUZYCHKA: All right.

So in the preparation of the 2016 AFE, then it would have reflected Mr. Kean’s view of the outstanding claims. Correct?

MR. MACISAAC: Correct.

MS. MUZYCHKA: But that differed from your review of those claims that you felt that they were, in fact, a higher amount.

MR. MACISAAC: Not just those claims in particular but, overall, what we had in front of us –

MS. MUZYCHKA: As yet to come.

MR. MACISAAC: – in terms of commercial exposure.

MS. MUZYCHKA: Right.

MR. MACISAAC: Yeah.

MS. MUZYCHKA: Okay so part of your job was to evaluate what else you were going to anticipate the costs were going to be –

MR. MACISAAC: Correct.

MS. MUZYCHKA: – to finish.

MR. MACISAAC: Correct.

MS. MUZYCHKA: All right.

So I –

MR. MACISAAC: That broader scrub that I had alluded to earlier.

MS. MUZYCHKA: Right. Okay.

So I want to draw your attention to tab 23, which is in your binder at page 15 and it’s Exhibit P-04075.

MR. MACISAAC: Tab 23? Okay.

MS. MUZYCHKA: Tab 23.

MR. MACISAAC: Okay.

MS. MUZYCHKA: So we’ll start at – actually, we’ll start at page 1. Perhaps you can bring us through. These are notes that you provided to us during your interview with Ms. O’Brien.

Can you provide us with an overview as to the Settlement Agreement and what ultimately transpired with respect to the Valard contract?

MR. MACISAAC: Sure. I'll do my best.

MS. MUZYCHKA: Thank you.

MR. MACISAAC: So in the interest of time I'll keep this at a high level, and you can bring me back to where you have additional follow-up questions. And this was prepared by the project controls team with support from the commercial folks, but it's going back through the archive of all the documentation and trying to lay out and explain the contract, the commitments leading up to the settlement.

So at the highest level inside of the top of the page, table 1, it talks about the award recommendation in August of 2014. So contract value, Part A, was 809 and then there were other pieces that were added by the team in making an award recommendation, which brings you to a total of 888.5.

The Grant Thornton report alluded to the open-book proposal from Quanta Valard. And I think it's important to provide a bit of context. The open book is based on – and the value of the contract and the completed works is, I would say, 90 per cent quantities and unit rates, 5 per cent lump-sum items and 5 per cent reimbursables. That's me asking the project controls folks to put it into buckets, so rough percentages.

So from the outset, this is an open-book contract largely based on quantities and unit rates that are agreed. It's – I know I'm being very deliberate, but it's an important point because this is not a fixed-price agreement. This is not a lump-sum agreement; this is an open-book quantities, unit-rates agreement, with over 90 per cent or 90 per cent of the value following in that space, in that one bucket.

So their open-book proposal was for 909 for Part A, which is the overland transmission build, and \$240 million for Part B, which was for clearing and access. But if we just focus on the Part A portion for a minute, the overland transmission build, their proposal was for 909. We awarded it for 809. We awarded it for 809 and it did not include the reimbursables at the 809 for Part B.

The other important or salient point inside of this is when you look at work completed and

before disputed items, Quanta Valard finished – and I'll take you to the bottom of the page now in table 6 – sorry, in table 5. For Part A, which is the overland transmission build, before disputed items they finished at 895 against their original open-book proposal of 909, against our team's internal recommendation at award for 888. That's pretty good going.

Now, that 888 included \$40 million for Part B work. So it wasn't just Part A alone. But it's still good performance. Then the opportunity becomes to look at, all right, what's inside of the settlement? Because at this point, we have Part A, which is largely in compliance with our open-book offer.

Inside of the disputed items – and if you want we can move forward into that space.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay.

MS. MUZYCHKA: That would be page 14?

MR. MACISAAC: I'm just looking at the best way to look at this. So I think if we go to page 15.

MS. MUZYCHKA: Fifteen?

MR. MACISAAC: Just for a minute. Top half of page – it says: "The content of the June 30 ... settlement," and it was in a settlement for 110. The disputed items from Valard included the following items. I won't read them to you. Their claim was for roughly \$220 million. Our team – and, again, this is the team that has been on the project for an extended period of time – is made up by commercial people, technical people from the field, technical people from the office – I'm sorry, I thought I already had that off. My apologies.

So, it included technical people from the field, technical people from our office, commercial people from the office, project controls people from the office, our legal people. They went down through all of the items that were in the 220 by the each, assessed each one based on its merits and arrived at a recommendation for both target and maximum for each one of the items. Target in this instance was 82, and we settled for

75. Inside of that 75, however, is largely based on entitlement under the contract.

MS. MUZYCHKA: Is that the unit-price entitlements?

MR. MACISAAC: A lot of it is unit price, so that's in here as well. So if you look at page 21, mine's not very legible, but if you look at just the items – the big-ticket items – sorry, can we go back out just for a minute?

So at the top is "Stringing Suspension." We had actually directed them, because of the prouded strand, to stand down, but also put the crew on standby, on hold. And that's clearly a cost for ourselves. Labour escalation is a condition of the contract. And these are all items that were still in dispute and had not been commercially resolved, and there's payments.

And you can see there's items in here that we gave them a reduced value for, there's items in here that we gave them no value for. Their ask was for 218.7; the recommendation of the team was 82.5, and we settled on 75. Like, there is an item in here for borrow and process material, as an example, for \$92 million, and our team did a hard scrub in that space and said, well, there's only justification in terms of supporting documentation for \$90 million, but by the each, each one of the line items was fully evaluated.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay?

MS. MUZYCHKA: Now, I recall –

MR. MACISAAC: Am I being too deliberate or too slow?

MS. MUZYCHKA: No, no, that's fine, I think it's –

MR. MACISAAC: Yeah.

MS. MUZYCHKA: – important to understand how the settlement was comprised of –

MR. MACISAAC: Okay.

MS. MUZYCHKA: – 'cause we did hear some evidence from Mr. Kean that he was

flabbergasted at the ultimate settlement based upon what he knew of the project when he left in January 2017.

And –

MR. MACISAAC: Okay.

MS. MUZYCHKA: – we had also seen an email, I believe, from somebody in risk management who had assessed the potential claim and had also thought that there was no merit to it, and then we know some months later Valard submitted a claim, I think it was in May of 2017, which set out the basis for their –

MR. MACISAAC: Correct.

MS. MUZYCHKA: – their outstanding claim.

MR. MACISAAC: So let's take a minute and speak to that.

MS. MUZYCHKA: Okay.

MR. MACISAAC: The correspondence, I believe, that you're alluding to is an early note from Mr. Hallock, and Bruce was working as part of Tony Jackman's team on the commercial side. I believe you're correct in that it was an earlier correspondence, maybe in March of 2017, we hadn't yet received a claim from Quanta Valard.

In May, C2G International, McLean & Armstrong and Quanta Valard came in and made a presentation for, what they believed was entitlement, \$139.9 million – \$140 million – for delay and lost productivity. I worked with an open door. I didn't go to the meeting, but I saw our team of folks going to that meeting and I also saw our team of folks coming back from that meeting. The message, I think, that was believed inside of our team going to that meeting was that we had limited commercial exposure. And the folks that came through the door when they had come back had a different line of thinking. And I recall more than one of the individuals coming back from the meeting saying: highly developed – highly developed – well-structured, well-informed claim for both delay and loss of productivity.

So our team did what good teams do. They didn't overreact. And I'm always cautious about not being too enamoured with our own thinking so I wasn't surprised. And our team then took it off-line and did a thorough scrub, and Mr. Hallock – and I recall seeing the correspondence probably more than once, but Mr. Hallock then came back with a written statement that said to the effect that he confirmed that there was entitlement, actually. Both in terms of critical path delay and lost productivity and the dollar amount was material. He was conservative in his statement, but it was north of \$40 million.

So – and again, that piece of information is pertinent, but there's other correspondences back through some of the project change notices that I've seen as part of the Inquiry that would give me sense that this shouldn't come as a surprise because there's project change notices for additional resources around geotechnical work and there's project change notices that talk about, you know, more advanced deliveries on steel. And all of those have words in them like – to avoid further delay for a contractor. So in the event that we were ever to go to something that looked like arbitration on this, all of those documents would need to be disclosed.

So I – you know, I'm thinking about our potential for a success in the event that there was arbitration. And invariably, you know, you have to be really honest with yourself and not be too enamored with your own self-thoughts on that.

So, Mr. Hallock had come back, he had confirmed that there was entitlement for both loss of time on the critical path and loss in productivity. I would say early June, you know, time frame.

MS. MUZYCHKA: Did you –

MR. MACISAAC: So we had that as an input. We understood that there was merits in their claim for delay. We also understood that there was merits inside of the disputed items, right.

The next piece was them talking about coordination of access and the costs for access road maintenance, going forward. They had proposed that there was an ongoing cost and an opportunity as well, they put it on the table. And they suggested, for \$50 million, that they would

accept the risk for coordination of the road but also take on all of the betterments and maintenance of the road to completion of the project.

And our reserved budget at the time for that piece of work was \$64 million or \$65 million. And we ended up in a place where we saw the opportunity to mitigate the risk on coordination of the access roadwork, and we settled and agreed in principle with them for \$25 million.

The last piece was an opportunity for them and for us to get to a place where we could put together a deal that was based on us agreeing what the finish line looked like, an insurance marker, if you will, where I can go back to Stan and say we're done now, we're – financially agreed on what the finish date looks like, and that was to convert to a lump sum agreement for the completion of the work yet to go.

And, we were still in the Long Range Mountains, so that had a certain amount of appeal for us to have them accept the risk for all of the roadwork, all of the quantities, all of the work left to go. This was still in the front half of, you know, the year and we still had a tremendous amount of work left in front of us.

So on a consolidated basis, the high-level view, the ask from them was \$410 million, which is sizeable. Again, what, you know, the team did was they took those inputs off-line because we believed that there was merit to having a deal. And, again, protecting or guarding against being too enamored with our own thinking, we took those inputs and shared with them Westney.

Westney modelled the results and they came back with a synopsis that's in here as well.

MS. MUZYCHKA: Page 24.

MR. MACISAAC: Page – cover page is 24, the results are on page 25. And if you look at Pre-Valard deal, Post-Valard deal, which is in the middle, and that is – the light blue dots are the P75 predictive range. Valard assessment was that the deal had the potential to reduce the commercial exposure to completion, by roughly \$200 million.

So, the straight-line math difference between the two is \$300 million. And I knew that we would not realize all of those savings, and not all of that commercial exposure would be given, but this is an – this is a third-party's assessment who worked on risk modeling, coming back to us saying: We believe, with a probability within the probability of P75, that the deal has the potential to reduce the commercial exposure by \$200 million.

In practical terms and where the rubber hits the road is, I knew that we were realizing real savings inside of the access road. I knew that we were realizing real savings on the delay and lost productivity. And I thought that claim would be, you know, probably half of what they had petitioned us for.

Just in those two items alone, it pays for the settlement agreement and it significantly reduced the commercial exposure overall. And it transferred the risk, the remaining risk, back to the Quanta Valard all the way to the completion of the job.

MS. MUZYCHKA: Okay. Thank you for that explanation.

So, the total deal, in terms of the Valard contract, came in at \$1.078 billion?

MR. MACISAAC: Yes. So, that's a 968 and inside of the 968, it's 895 versus a 909 open-book proposal. And then the other portion is the Part B and the Part B was based on reimbursables which were scrubbed very thoroughly by the same team.

So, our folks were really deliberate, and, you know, I know I said it in previous testimony – perhaps with Kate O'Brien – I don't believe in overpaying and at the same time, I don't believe in underpaying either. There's no question that Stan has a message where he talks about sharing the pain. And in this instance, I believe that Quanta Valard participated in some of the commercial pain here as well.

MS. MUZYCHKA: The – to someone who says that you just threw money at the contractor, what would you say?

MR. MACISAAC: I don't believe that to be the case.

MS. MUZYCHKA: Well, you had a very deliberate and methodical –

MR. MACISAAC: I would –

MS. MUZYCHKA: – approach.

MR. MACISAAC: – say that the team would say. So it's not so much what John MacIsaac would say. I believe our team would say that the right questions were asked, the right work was done and we arrived at a deal that substantiates that we significantly mitigate a commercial risk, and that the settlement provided to the contractor is predominantly based on their entitlement under the contract.

MS. MUZYCHKA: Okay. Now I want to talk about the GE Grid Solutions because I understand that there were also issues that you saw with their packages as you were getting under way.

MR. MACISAAC: Okay.

MS. MUZYCHKA: So, what – what concerns were they raising, specifically, GE Grid Solutions?

MR. MACISAAC: So, I'll back up for a minute. Inside of the engagement with GE, there's actually two contractual entities and three contracts. So, there's GE Power and that is for contract 0534 – and I'm not trying to diminish or mitigate the discussion that we have in that space – that's for the synchronous condenser plants – plant, excuse me. And the growth in terms of dollar value since June of 2016 is zero. So probably not going to spend a lot of time talking about that. There's some technical issues that we've made progress on and we're working our way through. Those syncs are due to come online in time for bipole operation. And they're not required before then. They're on track for, I'm going to say it's September, October of this year.

MS. MUZYCHKA: So there is no issues with that one?

MR. MACISAAC: I didn't say that there was no issues –

MS. MUZYCHKA: Okay.

MR. MACISAAC: – there's always issues –

MS. MUZYCHKA: Always issues.

MR. MACISAAC: – but in relative terms and by comparison. So the other two contracts are 0502 and 0501, and they are with GE Grid. And the amount of cost growth inside of 0502, which is for the AC switchyards, is 3 per cent since June of 2016. Not diminishing the dollars, 'cause every dollar counts, and that's the way we worked.

Inside of the AC switchyards, we put the first one into service, which is Soldiers Pond, in September of 2017. So, the AC assets, starting in 2017 and through 2018, are in service. The last 3 per cent is for addressing legacy issues and cleanup – and I know I'm keeping it at a high level – but cleanup on outstanding claims and bookending or catenating any future claims. Plus substantial completion –

MS. MUZYCHKA: Okay.

MR. MACISAAC: – meaning we're done now on the AC assets. So that has just come across the finish line.

MS. MUZYCHKA: Right. And we'll talk about those completion agreements in a moment.

MR. MACISAAC: Sure.

MS. MUZYCHKA: 'Cause there is one more.

MR. MACISAAC: So, then, the other one, which is the one that's worth spending more time on, is 0501. And that is for the converter stations and transition compounds, and that, too, is with GE Grid. And the growth in that space since June of 2016 is 11 per cent. But I would also say that the substantial growth in all three occurred back in time, between DG3 and award.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay. I know somewhere in the binder is a summary table for the GE

amending agreement, I just don't know where it is, or I don't remember –

MS. MUZYCHKA: So we can turn to that now. It's Exhibit P-03152 and it's in your binder at tab 25.

MR. MACISAAC: Okay.

MS. MUZYCHKA: And I'll also note, just for the record and if you wanted to note them, that the three amending agreements are also at tabs 15, 16 and 17 –

MR. MACISAAC: Okay.

MS. MUZYCHKA: – and they're Exhibits 03017, 03018 and 03153. But I think we'll be just talking about the summary table for the most part.

MR. MACISAAC: Okay. Agreed.

So –

MS. MUZYCHKA: So we can (inaudible) –

MR. MACISAAC: – the way I would characterize the work done in this space is it's the same team of the same people with the same deliberate approach with regard to looking at a contractor's claims and doing a hard scrub to ensure that our payments to them are based on entitlement and that we're not overpaying and we're not underpaying, right?

So I'm gonna focus the discussion, if you're okay – and you can take me back – on the 0501 portion 'cause that's where, you know, the bigger pieces are.

So inside of amending agreement 5 – and I'll back up and say it again – the settlements were intended to reduce our overall commercial exposure so that when we were done of the work, we were also commercially very close to close. It was about not pushing a bow wave of commercial issue because when you're not responsive in that space, it only adds stress and frustration to the equation.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Not good for a company, not good for a contractor.

MS. MUZYCHKA: So there's certainty in coming to an agreement which takes care of the risk and any other further outstanding claims.

MR. MACISAAC: Correct.

So inside of the first line item, at – in the top table, it talks about, "Settlement of legacy" issue "and waiver of claims" up "to February 2017." And that waiver of claims piece, it can't be understated in terms of its relevance and importance on a go-forward basis because that's for all things known and, inside of this agreement, it's for all things unknown as well.

MS. MUZYCHKA: Now, on that point, the delays and claims in relation to that, why would Nalcor want to waive claims against a contractor who was late and missing milestones?

MR. MACISAAC: So the opportunity inside of that agreement is to put the cards on the table and not treat them punitively. If you're trying to achieve a reset inside the relationship, you have to be prepared to demonstrate that we're prepared to hit the reset button here. And there's not going to be treatment by us of yourselves in a punitive fashion.

MS. MUZYCHKA: 'Cause this is the claim – or the part of the project in which we know we've had extensive software issues and problems. Correct?

MR. MACISAAC: We can come to that.

MS. MUZYCHKA: Okay, well, I'll let you –

MR. MACISAAC: But –

MS. MUZYCHKA: – carry on –

MR. MACISAAC: – part of what we're –

MS. MUZYCHKA: – in the context –

MR. MACISAAC: – looking –

MS. MUZYCHKA: – of that –

MR. MACISAAC: Yes, yeah.

MS. MUZYCHKA: – understand the rationale –

MR. MACISAAC: Part –

MS. MUZYCHKA: – of why you would approach –

MR. MACISAAC: Part –

MS. MUZYCHKA: – a settlement, 'cause people would wonder why would they do that?

MR. MACISAAC: Part of the opportunity is that the schedule is continuing to slide to the right.

We had already gotten ourselves to a place where we recognize what could be done from a perspective of using a different approach, a different approach with the contractor. And, you know, I'm not a proponent of, you know, continuing with the same message. I think it's Albert Einstein's definition of insanity: continuing to do the same thing and expecting a different outcome.

So what we were doing, and an approach that had been taken, wasn't delivering the results that we needed.

MS. MUZYCHKA: Was it –

MR. MACISAAC: What we needed –

MS. MUZYCHKA: – in holding feet to the fire of the contractors? That's what we heard from Mr. Kean and others.

MR. MACISAAC: I believe that's the expression I've heard, but I don't want anybody in the room or otherwise to believe that we weren't driving accountability. We continued to drive accountability without treating them punitively.

So, I know there's other correspondences in here where you can see that the new project team members were continuing to drive a high level of accountability, and it's not just with this team. And, you know, with the other team members that I've worked with since joining Nalcor in 2010, you know, the message is very simple – and it is; good business is simple when you keep

it that way – right across the folks that I coached with, you know, be deliberate, be intentional, have a plan, be supportive of your team and your extended team, measure what matters and drive accountability. Have the real conversations and be demanding.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Yeah.

MS. MUZYCHKA: All right, and take us through your chart, then, and –

MR. MACISAAC: Okay.

MS. MUZYCHKA: – explain the settlement – or the amending agreements.

MR. MACISAAC: So inside of the first portion, okay, it's about actually achieving – addressing all outstanding legacy changes and a waiver of claims on a go-forward, so that's the 12.2. The Transportation and Installation of Converter Transformers in here for \$12 million, and I suspect that that would generate some questions. So inside of that \$12 million, is actually a split and the split is \$7 million and \$5 million.

The \$7 million is for – let me provide a bit of context. We had originally planned to ship the transformers in the fall of 2016, and there was activity at the gate of Muskrat Falls. And we did a risk assessment and made the determination that, you know, sea states considered, there was a period of time when we went beyond because the activity at the gate continued where we said the activity at the gate is continuing and sea state window of opportunity for our barge going up the coast, effectively closed the door on the fall of 2016.

MS. MUZYCHKA: And by activity, you mean the Aboriginal protests?

MR. MACISAAC: Yes.

MS. MUZYCHKA: Okay, continue.

MR. MACISAAC: Yeah, I'm normally not one for being less than straight-spoken so, sorry.

We got to a place where we realized we had to demobilize all of the specialized equipment which had been brought in to Newfoundland and Labrador from across North America. These transformers are massive, they're the largest ones I've ever seen. You know, I remember seeing a graph like, of all of the dump trucks stood on end that would equate to – and loaded dump trucks that would equate to the weight of these massive transformers.

So, sorry for the aside. We got to a place where we store them over winter in Bay Bulls and made a new plan for 2017 with eyes wide open in terms of the risks of travelling through Cartwright to Muskrat Falls, inside of what were relationships that we were investing in to ensure that we had community-based support for moving the assets through the communities. Okay?

So we had to remobilize all of that gear from across Canada and into the US, we had to make road improvements, we had to make bridge provisions. We brought in additional provisions with regard to security and got ourselves to a place where in July and August, with support and agreement from the community stakeholders, we successfully moved the transformers through Cartwright.

So that's the \$7 million, but that included demobilization, storage, remobilization and all of the extra provisions taken around ensuring that we had a successful outcome in moving the transformers.

The \$5 million is due to the fact that we had previously planned to ship the transformers in the fall of 2016 and we would then work on them in series. We now had lost half a year – more than a half a year. And we didn't want to lose time on the schedule so we brought in additional crews to work three transformers in parallel as we required three to get the first pole in service.

MS. MUZYCHKA: Okay.

MR. MACISAAC: The next line item is Phased Approach Engineering. And that is separation, in concept and in engineering practical terms, of one pole from the other in delivering one pole on its own as opposed to the engineering previously

had been based on delivering bipole at the same time.

Going back to the earlier discussion where we talked about ensuring that we kept the transmission work off out the critical path, I was an advocate of embracing the monopole solution as a stepped approach to moving us forward. It's an – it was an – imperfect – an imperfect proposal to what was originally proposed, and was a way forward. It was a way forward. And what I saw was the opportunity for – and I call it the discovery phase of bringing the assets on as soon as possible.

MS. MUZYCHKA: Okay.

MR. MACISAAC: That's – you will invariably find things inside of that discovery phase, whether it's assets or software or competencies that you recover from. And, you can call it the learning curve, I call it the discovery phase. So inside of the stepped approach, I would consider it to be helpful and beneficial for us from a number of different dimensions, including having our operators and our maintainers working with the asset sooner.

MS. MUZYCHKA: All right. So then it takes us to the next line which is Approach Cubicles.

MR. MACISAAC: Yeah. And these are duplicates. And they played the role of allowing us to continue the work. And these are duplicates that would be built and delivered while the other cubicles stayed in Stafford in order to enable us to continue to work on bipole software production and without any delay to the work that was happening in the field.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And I consider those two pieces, one person's perspective, to be the true incremental net cost for phased approach. So that \$10 million, between Phased Approach Engineering and Phased Approached Cubicles, was the real incremental ladder. And without getting into the detail because I know some people wouldn't be comfortable with the detail – with out getting into the detail, the operation of monopole in it's first months paid for that incremental cost, plus all of the other benefits of moving forward sooner, meaning our folks

technically troubleshooting; working their way through the issues; growing their competencies and their confidence in operating a new system.

Back to the earlier statement, this is the first time for HVDC assets in Newfoundland and within Nalcor.

MS. MUZYCHKA: So this approach to go with the monopole, paid for itself and has brought in further revenues in terms of the –

MR. MACISAAC: So the –

MS. MUZYCHKA: – power.

MR. MACISAAC: – the agreement between Power Supply and Hydro stipulates that when we achieve bipole, they start to pay for the energy delivered. And up until that time, Hydro and Newfoundland ratepayers are the beneficiaries of the excess recall that's brought down.

MS. MUZYCHKA: Through the monopole line.

MR. MACISAAC: Right.

MS. MUZYCHKA: Okay. And, as you said, it also helped you start to determine whether there were any bugs and challenges with respect to bringing it online.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Okay. So that's the 0501 package.

MR. MACISAAC: Yes.

MS. MUZYCHKA: All right.

MR. MACISAAC: So –

THE COMMISSIONER: I was wondering now if this might be a good spot to break for lunch.

MS. MUZYCHKA: Yes.

THE COMMISSIONER: Okay, so let's take our break. How much longer do you expect to be?

MS. MUZYCHKA: Probably an hour, tops. Maybe less.

THE COMMISSIONER: Okay. So we're a little bit behind schedule, so I'm gonna ask the witness as much as it is possible – I know you're into this deep, there is only so much I understand –

MR. MACISAAC: My apologies.

THE COMMISSIONER: – so let's keep – let's really keep it at a high level so we can get this done.

MR. MACISAAC: Absolutely.

THE COMMISSIONER: Okay?

If I have questions or if counsel have questions with regards to specifics, then we can ask you those questions and you can be more detailed at that stage.

All right. Let's take our break then and come back at 2 o'clock.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: All right.

Ms. Muzychka.

MS. MUZYCHKA: Good afternoon, Commissioner. I have a couple of new exhibits to add, please. They will be P-04077 to P-04079.

THE COMMISSIONER: All right. They'll be marked as entered.

MS. MUZYCHKA: Thank you.

All right, Mr. MacIsaac, when we broke this morning, we were talking about Exhibit P-03152 at tab 25.

MR. MACISAAC: Yes.

MS. MUZYCHKA: And we had just gone through the Amending Agreement #5 and you had explained to us the details surrounding the changes that were made. So, I'd like you to address the remaining two agreements, #6 and #7, but we don't need to go into as much detail. I understand it's the same teams were involved in the processes and –

MR. MACISAAC: Right. So, taking at us as directional input and the lead just before we went to break, it was the same teams, it was the same discipline and rigour. It is entirely based on taking next steps and ensuring that dollars spent are based on entitlement and being prudent in terms of how we reduce risk or bookend risk in real time through addressing claims proactively, and also ensuring that there's a waiver on claims for the go-forward.

Each one of the next two amending agreements – have the same intent and that is to ensure that we're working with current and realistic milestones. So the last agreement is intended to provide a realistic milestone to completion of bipole and includes the FAT and regression testing of bipole for August of this year, and functional bipole for the end of October of this year.

MS. MUZYCHKA: Okay. And so, did you wanna add anything further in terms of the changes in the claims numbers or –?

MR. MACISAAC: That the only additional comment I would make is that you see below each one of the Amending Agreement tables, that there's a line where it says: Milestone Bonuses – Not Realized. And back to the earlier comment about continuing to ensure accountability and value, what we've tried to or endeavoured to do is remain commercially relevant and incent the right behaviour by providing the potential for bonuses but only actually compensating on those bonuses based on realization of milestone dates and deliverables.

MS. MUZYCHKA: Okay. And that's separate and independent from the waiver of claims –

MR. MACISAAC: It is.

MS. MUZYCHKA: – by each party to past and future.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Okay.

We just touched on it a bit this morning, but when looking at these amending agreements and settlement arrangements that had been made with GE and Grid Solutions whereby you waived any rights to claims against the contractor into the future as well as – and they waived any claims to the past, the bookending, I guess, that you called it.

Again, can you explain why Nalcor would want to do that in the face of this particular contract which we know has had significant problems with respect to software issues and being able to deliver on the milestones?

MR. MACISAAC: I believe inside of the approach taken to date, it's about mutually agreeing to not treat one another punitively.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And the objective is to agree on moving forward. And there are sufficient opportunities inside of the agreements to drive performance and hold one another accountable without treating one another punitively.

MS. MUZYCHKA: Okay.

Well, given the past performance by this contractor, is there a potential that GE would have a valid claim in the circumstances?

MR. MACISAAC: There's always the potential. If I could, I'd like to back up for just a moment and say that, you know, GE has a lot of good people and the realities are important here as well.

Inside of their acquisition of Alstom, Alstom was already 12 months late in their delivery of the project to us before GE acquired them. So, as much as, you know, we talk about GE in a certain context, we have to appreciate that this is not something that, you know, is entirely on them in terms of their doing. And I know they're

accountable and they do step forward and they are owning the issues in terms of moving forward.

The other important piece is us remaining commercially relevant. There's other projects within the portfolio that are very large projects that have consequential damages in their clauses and agreements. We do not in ours. And I cannot tell you why because those decisions predated my involvement.

The other thing is there's constantly new projects coming into the pipeline, too, which have full profit margin still in tact. So we're in a place where we're competing with a full portfolio of projects, though some of those other projects have significant commercial consequence. Ours did not have consequential damages in its wording, in the general terms and conditions. And the other side is there's new projects coming in for GE which have the pull – the full, excuse me – profit margin intact.

So we're competing for a finite pool of resources to help our team and our project get across the finish line, and we have to remain commercially relevant. And the amending agreements are written with a view to striking the right balance.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay?

MS. MUZYCHKA: So to an extent, I guess you're tied by the contractual relationships that predated your involvement?

MR. MACISAAC: It is, and it's the cards we've been dealt. And what we have to do is find, on an opportunity-by-opportunity basis, the best possible path forward to completion.

MS. MUZYCHKA: Okay.

And you're satisfied that this is – the amending agreements that you've entered into are, in fact, the right way forward?

MR. MACISAAC: I am.

MS. MUZYCHKA: Okay.

So that covers off any potential claims that GE would have now or into the future and that that's not simply a – what's the word I'm looking for – a de minimis kind of thought that there is always a potential or do you know of a potential that –?

MR. MACISAAC: I do not know of anything that's out there today that has not been addressed.

MS. MUZYCHKA: Okay. But essentially, that risk has now been effectively closed.

MR. MACISAAC: The way I characterized it is: bookended. So we've catenated or bookended or collapsed the commercial risk, I believe, effectively.

MS. MUZYCHKA: All right.

I wanna ask you now about Growler Energy.

MR. MACISAAC: Yeah.

MS. MUZYCHKA: Can you tell me what Growler Energy's scope of work for Nalcor is? What services are they retained to provide?

MR. MACISAAC: So inside of the engagement with Growler – and I'll back up and provide a bit of context first. In a word, it's about mitigating vulnerability.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Because we're in a place where the resources that we're drawing from Growler, or that we were drawing from Growler and that we no longer do today, are the same resources that we had engaged from ATCO – the expertise for HVDC, oversight in Stafford and the expertise in support of completions, commissioning, energization and early operation of the HVDC assets that comes from ATCO.

Some of those folks migrated to Growler, same people, similar value. So inside of ensuring that we achieve the deliverables in the front half of 2017, we continued to draw those same resources that we were previously getting directly from ATCO, for Growler.

Coming back to the comment about vulnerability, right? And I apologize if I'm

repeating myself, but this is new technology for the people of the province and it's new technology, the HVDC technology for Nalcor. These projects have a history of not starting very well but once you're through that discovery phase and you've worked your way through the issues, they have a track record of high reliability.

The first piece can be complex and it can require or does require having the right expertise on your bench. The vulnerability piece is about ensuring that we have people in Stafford, bringing the right oversight so that we're not entirely dependent – nothing against GE – so that we're not entirely dependent on taking the contractor's word on everything at face value. We need to have that expertise, those folks with eyes and ears on the ground who know the difference.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And quite frankly – nothing against Nalcor – but we don't have that skill set or that expertise today. We're growing it, because we have a lot of good young people plugged into the work and we're growing it rather aggressively, but we don't have it on our own.

MS. MUZYCHKA: Right. And so this is Growler's role then, is to provide the expertise on HVDC.

MR. MACISAAC: It has been. It has been. And, you know, in order to ensure value once we had achieved some of the important milestones inside of the front half of 2018, we then, in the back half of 2018, took a scope of work out to the market and market-tested it through an RFP to ensure that we were getting value for money. And we ended up getting a number of the same people back again at comparable value, but they've come back to us, actually, through ATCO.

So, some have actually migrated back to ATCO because they could see that the work was starting to wrap up and ATCO was provided – providing the same resources back to us through the response to that RFP.

MS. MUZYCHKA: So, ATCO is separate, though, from Growler.

MR. MACISAAC: They are.

MS. MUZYCHKA: And so ATCO's providing services as well as Growler.

MR. MACISAAC: The engagement with Growler has been all but reduced to: we'll call you when we need you.

MS. MUZYCHKA: Okay.

So initially, Nalcor brought on Growler. Is that correct?

MR. MACISAAC: That's correct.

MS. MUZYCHKA: And so was this more to design the – and approve the testing plan or was this GE's role?

MR. MACISAAC: So inside of the engagement – and I think you heard an earlier testimony from GE that the folks from Growler/ATCO were very helpful in supporting the work that was taking place in Stafford. On a daily basis, they work on the test plan the day before for the next day. And it's leveraging Growler's input and expertise, and GE's input and expertise on what the next day of test plan looks like. So they're – I would say that, in addition to bringing oversight, they're also bringing support.

MS. MUZYCHKA: Okay. Yeah, it seems like their role is a little bit more than oversight, from what you've described.

MR. MACISAAC: I would say that the intent of the agreement is that of oversight and that they're actually bringing support on an as-required or as-needed basis.

MS. MUZYCHKA: Okay.

Now on the Growler company, we know that – or we understand that Greg Fleming, who was once part of the team working on the transmission project, is –

MR. MACISAAC: Correct.

MS. MUZYCHKA: – in fact, a principal of Growler. Is that correct?

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Okay.

And did he leave Nalcor to start this company or do you know the circumstances behind that?

MR. MACISAAC: That's correct. He did leave the project to start his company.

MS. MUZYCHKA: And so then you hired him back to do the factory acceptance test, the FAT.

MR. MACISAAC: So, getting back to the question on value, part of what we were doing with Growler as well was quantitative risk analysis and risk management. And inside of those engagements, we applied the same hourly rate to what we had previously paid – I'm gonna say the same or similar because I know I was deliberate in asking the question to do a check to make sure that we're deriving the same value in terms of hourly rates on the engagement. So it was a standing work order and we would call on an as-required basis when we needed them to do work.

MS. MUZYCHKA: Okay. So – 'cause I mean, if he had stayed with the company, you would have had that expertise in-house –

MR. MACISAAC: So –

MS. MUZYCHKA: – or part of it or maybe –

MR. MACISAAC: – so Mr. Fleming's expertise is not with HVDC.

MS. MUZYCHKA: Okay.

MR. MACISAAC: It was the ATCO folks that had the HVDC expertise.

MS. MUZYCHKA: I see. So the ones that he recruited to the company.

MR. MACISAAC: And the marriage of the two was around putting the project management skill sets with the HVDC expertise.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And that was their future vision.

MS. MUZYCHKA: Right. And was there an RFP issued for the services that Growler is providing, and ATCO?

MR. MACISAAC: In the back half of 2018, there was.

MS. MUZYCHKA: Yes.

MR. MACISAAC: In the front half of 2018, it was a direct engagement.

MS. MUZYCHKA: And was that done for a particular reason? Has it – was there – because there's a limited pool of individuals or corporations that can provide this or what was the rationale behind that?

MR. MACISAAC: So, inside of the work that we had in the front half of 2018, what we didn't want to do because there was critical work in the pipeline. What we didn't want to do was create the uncertainty of taking that scope of work back out to the market and create a distraction for the team of resources that were working on it. And just in putting it in practical, people terms, there were folks that had plans and had taken up camp here in St. John's in support of the project, from Alberta.

And we didn't want to get into creating doubt in peoples' family lives at a time when, you know, we had critical deliverables. Once we had some of those deliverables in hand, we had proactive conversation with both ATCO and with Growler that we were going to take that scope of work back out to the market to retest it to ensure that we were getting value for money.

MS. MUZYCHKA: Okay. So now if there hadn't been problems with GE's performance and the testing and so on, would Growler have been necessary or was it their role expanded because of the fact there were issues with respect to the software problems?

MR. MACISAAC: Sorry. Can you re-ask the question?

MS. MUZYCHKA: Okay. It's essentially as to why Growler was needed? Is it because of the difficulties that you were having with GE –?

MR. MACISAAC: So, whether the invoice – and I don't mean to interrupt, but I now understand the question. Whether the invoice that ATCO – or it said Growler, it was the same people. And the reason that we did it goes back to that single word earlier and that's vulnerability.

MS. MUZYCHKA: Okay.

MR. MACISAAC: We didn't have the in-house expertise and knowledge. We didn't speak the language, we didn't know the language. And the reason for engaging the experts was so that they could be on the ground and bring oversight that we couldn't effectively do for ourselves.

MS. MUZYCHKA: And then, because of their knowledge and being on the ground, you indicated they also added value to GE through their other –

MR. MACISAAC: I believe that's what GE indicated in their testimony.

MS. MUZYCHKA: Right. Okay.

MR. MACISAAC: That it was team work and it was working effectively.

MS. MUZYCHKA: So has their scope of work changed or increased at all as a result of the –?

MR. MACISAAC: So, our engage – I should say, Nalcor's engagement with Growler is now down to something that is: We'll call you when we need your help. It's almost non-existent.

MS. MUZYCHKA: Okay.

But was the engagement of Growler or ATCO factored into the DG3 estimate or is this something new or extra that was added on?

MR. MACISAAC: So this goes back to my earlier comment where we made an assessment on what our strengths were and the areas that we needed to strengthen, and this was one of the areas that we needed to strengthen.

So, inside of the dollars that we had in our budget, it was in compliance with the approved AFE. Was it in the DG3 numbers? Again, you're taking me back to stuff that predated my involvement.

MS. MUZYCHKA: Okay, fair enough.

All right. Well, we've heard, as you know, from GE. And in the course of their testimony we've gotten the sense that there were issues with agreement on test plants and having to do alignment workshops and such. Can you tell me what those issues were, why they required workshops?

MR. MACISAAC: I would call them meetings.

MS. MUZYCHKA: Meetings? They called them workshops, or you –

MR. MACISAAC: They called them workshops, I would call them meetings where, you know, we'd come together with half a dozen people in the room – their subject matter people, our subject matter people – and we'd talk about what are the next steps over the next weeks and months.

MS. MUZYCHKA: Were there disagreements between the Growler team and GE?

MR. MACISAAC: Nothing that couldn't be resolved inside of what I would consider a normal business meeting and agreeing on how you move forward –

MS. MUZYCHKA: Okay.

MR. MACISAAC: – in the time that I was involved. Now, I wasn't in all of the meetings, but my sense was they were healthy and productive.

MS. MUZYCHKA: Okay, well, ultimately there was an approved FAT, correct?

MR. MACISAAC: Yes, correct.

MS. MUZYCHKA: And – okay.

Mr. DeBourke said in his testimony that he didn't understand why it was necessary to bring in Growler, and that their role was essentially

just a go-between between Nalcor and GE. But I guess you've somewhat alluded to the difference of that in your previous answers to my questions –

MR. MACISAAC: Right.

MS. MUZYCHKA: – that, I guess, in your view it wouldn't – they wouldn't be a go-between, they provided much more value to this.

MR. MACISAAC: I believe they provided substantial value and considerably mitigated our vulnerability, and at the same time, in real time, are helping grow our staff who are working alongside them in terms of their competencies as well.

MS. MUZYCHKA: So they're sharing the expertise in training –

MR. MACISAAC: They are.

MS. MUZYCHKA: – Nalcor people.

MR. MACISAAC: They are.

MS. MUZYCHKA: That's – okay.

MR. MACISAAC: So, in addition to having turnarounds that put the ATCO/Growler people on the ground, we also have our young engineers who are very good, they're learning by doing with ATCO/Growler folks in Stafford, but on the ground when we're energizing the systems, stepping through test plants.

MS. MUZYCHKA: Okay.

Now, just one of the new exhibits that was entered this afternoon is at tab 26 and it's the master agreement for professional services for Lower Churchill Project between the Lower Churchill Management Corporation and Growler Energy. We don't really need to look to it; I just wanted to draw it to your attention –

MR. MACISAAC: Okay.

MS. MUZYCHKA: – that it's there.

MR. MACISAAC: Okay.

MS. MUZYCHKA: Okay.

So I want to also now ask you about another company, Rising Edge Technologies. Are you familiar with that company?

MR. MACISAAC: I am.

MS. MUZYCHKA: Okay.

They were retained by Nalcor in 2017. Is that correct?

MR. MACISAAC: Yes, and earlier than that, as well. And, again, I'll try – Mr. Commissioner, I'll try to keep this at a high level, but it goes to the discussion around expertise. And what Rising Edge bring is expertise inside of completions and commissioning.

So backtracking just a bit, back in 2013 I was in conversation with our Project Execution and Technical Services and asset management team – and, again, this is for context. And I said, you know, in not too many distant years we will be struck with a bow wave of completions, commissioning and energization of new assets that we're not prepared for. Not that we don't have good people, we have good people, but the model is based and the resources are based on the existing installed asset base.

And we were, in a very short period of time, going to be bringing on board a megaproject. And although the contractors have responsibility we, too, have responsibility; it's a shared responsibility, one man's opinion. And I believe very strongly in the fact that when it comes to completions, commissions and energization, as the company owner you need to have a very active involvement.

So back in 2013 and 2014 we were test driving new organizations – specifically with the expertise that Rising Edge has on regulated capex projects. We were test driving with Orbis and with Rising Edge, all with a view to being equipped and prepared for the bow wave of work that was going to come at us for completions and commissioning. And Rising Edge outperformed Orbis and I would characterize them as a pain in the neck – and I'm sure the Rising Edge folks don't want to hear this, but this is the candid truth. They're a pain in the neck because they're very demanding of their customer, but they make you better.

And it's kind of like, using a sports analogy, having three or four key players inside of your team that elevate the performance of the entire team. That's what Rising Edge does around completions and commissioning.

MS. MUZYCHKA: Okay.

MR. MACISAAC: So we test drove them inside of our capex program and they were then deployed. So, GE had engagements with Rising Edge. We also had engagements with Rising Edge.

MS. MUZYCHKA: Independently of Nalcor's.

MR. MACISAAC: Independently of GE's.

MS. MUZYCHKA: Or GE's. That's what I meant.

MR. MACISAAC: Correct.

And, you know, GE does really good work, they have really good people and we need to have resources right there alongside them. That was the role of Rising Edge. Rising Edge are back working for GE now on the completions and commissioning for bipole; not working for Nalcor, working for GE.

But I'll give you one other brief example – and I promise Mr. Commissioner, not to belabour the point. But I remember walking Stan Marshall through Soldiers Pond in the fall of 2017, and we had already handed over the AC switchyard. GE did a lot of really good work in that space, as did Rising Edge and our own folks.

But I remember one of the supervisors – maybe even both of them – as I was walking Stan through the control room for the new AC switchyard, coming up to me and saying – it was Rod Champion saying to me – he said, you know what, really, really impressive people. Everything works. And I mean there's always small issues, but it worked and it needed to work and it needed to work in that time frame. And Rising Edge made a real difference and they continue to do so.

Do I think there was value for money – and I know you're going to take me back to that question about DG3. What I (inaudible) to is are

we inside of our current AFE. And we're inside of our current AFE. I cannot comment on what was contemplated back in DG3, I only know that Mr. Marshall asked me to ensure a safe, strong finish. And we're very deliberate and diligent about administration of how we spend our dollars; we spend them like they're our own.

MS. MUZYCHKA: Okay.

So I guess given that you had already done a test run of –

MR. MACISAAC: Test drive, yes.

MS. MUZYCHKA: – test drive of Rising Edge, there wasn't a need to put out an RFP as such, for the process.

MR. MACISAAC: We had already been working with them. The work that they had in terms of engagements with projects for the regulated capex program had all gone through the public tender process.

MS. MUZYCHKA: Oh, was this something that was – that came about because of your involvement and Mr. Marshall's involvement that you saw a need for the services? Or was it already contemplated as part of the contract that –

MR. MACISAAC: I saw the need for the services.

MS. MUZYCHKA: So this is something additional.

MR. MACISAAC: I saw the need for the services and I would say that it's my accountability. I've been around enough large project work recognizing that if you don't have good completions and commissioning folks, everybody has efforts – everybody else's efforts can be wasted in the last, you know, 5 per cent or the last 7 per cent. It's critically important and invariably they're not given sufficient time.

So what I wanted to do was to make sure that we had the right resources inside of a flexible model ready to deploy and support our team in getting across the finish line.

MS. MUZYCHKA: Okay.

Now, despite the praise, I guess, that you've given Rising Edge and, you know, the good things that you're saying about GE, we did hear from GE that there were a number – and from other witnesses too – that the energizing of the monopole hasn't been without its problems, in terms of trips and different things like that.

MR. MACISAAC: That's correct.

MS. MUZYCHKA: Do – is that a sign of –

MR. MACISAAC: That's a sign of –

MS. MUZYCHKA: – bad things to come or is that to be expected? Or how do you see that?

MR. MACISAAC: That's to be expected. I think I've said since 2016, since becoming involved on the project, that these systems have a track record of being very challenging out of the gates to start. They're complex – they are. They're complex and they have a track record, globally, across suppliers of being very difficult to get started.

So the fact that inside of the first 30 days we were working with software with limitations – software with limitations – and manual intervention, but in the first 30 days the availability – the measured availability was 99 per cent. And on a new project with software with limitations and new operators, for us to have achieved 99 per cent availability – measured availability is, I would say, a really, really good starting point.

MS. MUZYCHKA: Okay.

So, you're satisfied then that with the services that have been put in place with these companies, the right support is there to bring this to a successful –

MR. MACISAAC: I believe we have the right people around the work. The combination of people that GE has with the ATCO/Growler folks, supported by the ongoing work from Rising Edge, I think that the critical mass of expertise that we need in order to ensure a successful outcome are all of the right pieces.

MS. MUZYCHKA: Okay.

I just want to go back to the brief discussion we had on the GE converter transformers you had mentioned –

MR. MACISAAC: Right.

MS. MUZYCHKA: – when we were looking at the chart. And you described the issue of the difficulties in trying to transport the transformers in the fall of '16, I believe it was, or '17 because of the –

MR. MACISAAC: We didn't ship in '16 and we did ship in '17. Correct.

MS. MUZYCHKA: In '17, right. So that meant a delay, essentially, of one year from the original plan.

MR. MACISAAC: Yes.

MS. MUZYCHKA: And then, of course, you said you had to install them in parallel as opposed to sequentially and I think you said the costs came out to between \$5 and \$7 million, arose from the storage of the transformers in Bay Bulls and all that sort of thing, correct?

MR. MACISAAC: So the storage, transportation and logistics of demobilizing, remobilizing, that portion was 7. The additional crews and acceleration and working around the clock, that portion was the other five of the 12.

MS. MUZYCHKA: There was a \$12 million cost to this particular issue, which arose principally out of the delay in being able to access the gates in 2016?

MR. MACISAAC: And the cease dates. So we had lost our window of opportunity, so that's correct.

MS. MUZYCHKA: Yes, okay.

So that wasn't factored into the budget for that scope of work, was it?

MR. MACISAAC: No.

MS. MUZYCHKA: No, so that was an extra cost. Was there any way to mitigate that expense or was that just a loss, unfortunately?

MR. MACISAAC: So there's no way inside of a large project like this that you don't have unforeseen events. I think that the best that you can do is to work your way through a mitigated solution and do your best to ensure that you have value for money in your recovery.

MS. MUZYCHKA: Okay.

So are you satisfied that the steps that were taken were, in fact, the best steps that could've been in the circumstances?

MR. MACISAAC: I do.

MS. MUZYCHKA: You were involved in that process, the decision-making?

MR. MACISAAC: The decision-making was – there's no question I was informed. The decision-making, in terms of the steps around building that solution, happens with the project director and his or her team of resources. So they work through the different scenarios in terms of how we recover the work that has been placed on hold. They would bring it to myself, we step through it, we agree it. And this is based on them having received proposals and us testing against the market, in terms of those proposals being competitively priced.

MS. MUZYCHKA: Okay.

Just a couple of questions now on Mr. DeBourke and GE. We heard that there was some friction between GE people and Mr. DeBourke. And we did touch on it briefly before when we were talking about your initial involvement in the project. But were you aware of any specific conflicts between Mr. DeBourke and the individuals at GE or is there ...?

MR. MACISAAC: I was not.

MS. MUZYCHKA: No. Okay.

Now, we understand from Mr. DeBourke that he did not agree with the new approach to managing the contract. And I guess his role changed somewhat when you came on board, and there were changes with the addition of Greg Fleming and so on. Can you provide any further context as to the issues surrounding Mr. DeBourke's departure?

MR. MACISAAC: So, I'm going to back up just for a second and – because I think this issue has been played and replayed a little bit.

Inside of a large project – and this a very large project, this is a megaproject – it's not abnormal to have people transitioning in and out. It's part of contract work. And although we did have a number of folks depart of their own volition, I believe that inside of that renewal, we very effectively promoted from within and had a very good recovery.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Did Mr. DeBourke have a different opinion than myself about monopole versus bipole? Yes and I believe GE was very transparent. They came through the door and said they were not in a position to deliver bipole and they talked about a potential solution. And I'm open for when someone comes through the door and has a problem and a potential solution.

So I listened actively, took it offline, had our team, including the folks from ATCO at the time, give consideration to the proposal of a stepped approach to in-service, monopole, then bipole and they supported that that had merits. And, as a result, I ended up with a different opinion, an informed opinion, I believe, from my perspective than Mr. DeBourke's opinion.

And I am an advocate of embracing imperfection and taking an 80 per cent solution and making it an 85 per cent solution and then a 90 per cent solution. Not everybody is built that way.

MS. MUZYCHKA: All right.

Just a couple of more questions, things that arose in the course of Mr. DeBourke's testimony and it sort of ties it to a few questions we've had of other members of the PMT. And there seems to be some debate over time on site and you touched on it earlier when we spoke this morning.

But one of the issues that I believe Mr. DeBourke mentioned was this that you had required him to be on site five days a week, which was different than what he had been doing before.

MR. MACISAAC: So –

MS. MUZYCHKA: Maybe it's not five days, maybe it was something less, but it was certainly was a much higher frequency and, as you indicated, that it was your philosophy that you should be on the site to see what's happening.

MR. MACISAAC: My – I'm going to say that earlier in my testimony, my commentary was that the expectation that I put in front of the project team – not just Mr. DeBourke but others as well – is consistent with the expectation that I have with the other leads that I coach with, and that is get out from behind your desk –

MS. MUZYCHKA: Right

MR. MACISAAC: – shut your computer off, put your boots on and go to the work face. And I wasn't prescriptive with Mr. DeBourke. My expectation, however, was clear that I wanted our leads to lead by example and spend more time in the field and have more of their team members spend more time in the field. And I said until we're in a better place with our contractors – our principal contractors – let's target spending up to 50 per cent of our time in the field.

And I didn't specifically indicate that you had to spend 5 days a week in one location, it was about spending time in the field between Soldiers Pond, Churchill Falls, Muskrat Falls and let's start with a target of 50 per cent of our time in the field. And, again, I said it earlier; I try to lead by example. So I was spending a lot of time in the field and I know that there's real value in our leads doing that.

I consistently put it in contract – performance contracts with our team leads, and invariably they'd come back and say: I'm really enjoying spending more time in the field and it's making a real difference in terms of my connection with my team.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay?

MS. MUZYCHKA: All right.

Also, in your interview, you noted that you made an observation, I guess, about Mr. DeBourke coming from a large oil and gas project background and he said – where 80 to 90 per cent of management's team's time is in home office. But then you compared it to this project, which is not an oil and gas project, so it's a construction job essentially, isn't it, that's dispersed over a large area, and especially transmission covers a large span.

Do you feel that difference in philosophy could be at least partly attributed to the project team's experience largely in oil and gas? In terms of their –

MR. MACISAAC: The way I'd –

MS. MUZYCHKA: – reluctance to be expending this much time and –

MR. MACISAAC: – the way I'd characterize it is: a different background. And I'm not saying one is better than the other.

MS. MUZYCHKA: It's a different perspective.

MR. MACISAAC: But I'm saying it's a different perspective based on a different background.

MS. MUZYCHKA: Okay.

MR. MACISAAC: Okay.

MS. MUZYCHKA: But that might explain the reluctance to embrace –

MR. MACISAAC: Right.

MS. MUZYCHKA: – a different –

MR. MACISAAC: Correct.

MS. MUZYCHKA: – approach. 'Cause your approach certainly is different –

MR. MACISAAC: I'm not here to diminish anyone else's opinion –

MS. MUZYCHKA: Right.

MR. MACISAAC: – and it is that, it's an opinion and I respect that. I had a different

opinion in terms of the importance of spending more time in the field and I wanted our leads to lead by example. So, I wasn't prescriptive, but I was very clear on the expectation.

MS. MUZYCHKA: Okay. I just want to turn to tab 18, that's P-03508.

MR. MACISAAC: Okay.

MS. MUZYCHKA: This is an email from Mark Ellis to Darren DeBourke and Trina Troke, it's dated November 20, 2016. And perhaps you can tell us a little bit more about this, but it appears that it's notes taken at a meeting with CF(L)Co and yourself, and it relates to the various issues that were discussed at that time.

MR. MACISAAC: Okay.

MS. MUZYCHKA: Do you recall this particular meeting?

MR. MACISAAC: So, let me start by saying in clear terms: At no point did we discuss with GE them not being involved –

MS. MUZYCHKA: Okay –

MR. MACISAAC: – in –

MS. MUZYCHKA: – that wasn't my question.

MR. MACISAAC: – in the commissioning or the completion of the work.

MS. MUZYCHKA: Right.

MR. MACISAAC: At no point did we discuss with GE them not being involved.

MS. MUZYCHKA: All right. Well –

MR. MACISAAC: (Inaudible.)

MS. MUZYCHKA: – first of all, do you recall the meeting?

MR. MACISAAC: Not in detail, but now that I've read the memo, I do recall that Brian Smith and Rob Henderson were going site by site, talking to our operations team. So this is inside of ready for operations, and Brian was sharing proactively the philosophy for start-up. And, you

know, I did interject. And it says here that I did interjected several times.

I did interject, but my interjections were to place emphasis on safety 'cause this is about energization of new assets. It inherently has risk and where I was coming from was the perspective of people safety and asset safety, in my interjections. And inside of saying, you know, no one group has this, it was about this is teamwork.

MS. MUZYCHKA: Okay.

MR. MACISAAC: And it's not incumbent on GE, we actually lead this. So I think the miss on the communication here is I was placing emphasis on the fact that this was not up to GE to lead; this was up to our team to lead and own the energization steps and processes. And it also makes reference here to –

MS. MUZYCHKA: Well, if you scroll up, let's just – oh, wait now, just bring it back down to the bottom. That's perfect, thanks.

If we look at the bottom bullet, it says – I guess it's relating to you: "JMc also informed the group that we need to be mentally prepared to remove GE from the commissioning and lead it ourselves (regardless of contractual issues it may cause)."

MR. MACISAAC: So it's not about removing GE; it was about having the mindset to lead it ourselves. So I think –

MS. MUZYCHKA: So this was fairly early in your tenure as the EVP of transmission.

MR. MACISAAC: Yeah, I think part of the message here is right. It was about being mentally prepared to lead the work ourselves.

MS. MUZYCHKA: But why would you be thinking of that at that time? Was it because of the performance issues up to that point?

MR. MACISAAC: No, no. Because around the go/no-go decision for energization of assets, it's critically important that it's not left in the contractor's hands. The organization has to own that for themselves and the coordination comes

from the project team through the project team coordinator, back to the Energy Control Centre.

So this wasn't about displacing GE; this was about ensuring that we owned the process steps and we made the call – the go/no go, if you will. And this alludes to Don Samson having the final word and that's because Don Samson is the site manager for the work and he visually walks down and makes absolutely certain that we're critically safe to go forward.

MS. MUZYCHKA: Though, you're clear it wasn't a plan to remove GE from this process?

MR. MACISAAC: I am absolutely certain that if you talk to GE, they would have no recall of us ever talking to them about them not being involved in the commissioning and energization process.

MS. MUZYCHKA: Either at this time, 2016, or any other time later?

MR. MACISAAC: I don't recall ever having that conversation with GE. Okay?

MS. MUZYCHKA: Okay. So you disagree with the minutes as are recorded by Mark Ellis?

MR. MACISAAC: I think the way he's captured it –

MS. MUZYCHKA: Or was it a question of interpretation?

MR. MACISAAC: – I think he's captured part of it where he has said – I said we need to be mentally prepared to own this work. What I was trying to do was not have our team step back and wait for GE to take the lead on something that is so person safety critical.

MS. MUZYCHKA: Okay.

MR. MACISAAC: That's it. So I am very passionate about safety and this is going into that realm where you're energizing assets and you can't afford to have people not fully engaged and understanding what my accountability is, and that was the reason for emphasis in this space.

MS. MUZYCHKA: Okay. All right.

I think that brings me to the end of my questions.

Commissioner, Mr. Collins has a number of questions he wants to address on reliability.

THE COMMISSIONER: All right.

Mr. Collins?

MR. MACISAAC: And, Mr. Collins, just – I’m gonna say, you know, what I’ve said previously inside of my testimonies before. I’m not the expert, Sir, in this space. So when it comes to referring to, you know, the Liberty report and system planning studies, I’ll do my best to help, but I don’t think it benefits the interest of the Commissioner or the Inquiry for me to provide a speculative response.

So on the things that I say that I really don’t know or I should refer or defer to others, it’s not because I’m being evasive, I just don’t wanna waste the Commission’s time. And at the same time, I don’t want to leave you with the impression that I’m fully informed in this space when –

THE COMMISSIONER: All right.

MR. MACISAAC: – in fact, I’m not.

THE COMMISSIONER: Well, why don’t we leave it this way, Mr. MacIsaac? Seeing I’ve entrusted Commission counsel to decide what questions to ask and what should be answered, I will allow that Mr. Collins ask the questions. If you feel you can’t answer the question, you just indicate that and –

MR. MACISAAC: Appreciate it, Sir.

THE COMMISSIONER: – we will be fine with that.

MR. MACISAAC: Great.

THE COMMISSIONER: Go ahead, Mr. Collins.

MR. COLLINS: While you were vice-president responsible for power supply, were there any significant changes, to your knowledge, to the design of the overhead direct current line?

MR. MACISAAC: Sorry, can you ask the question one more time?

MR. COLLINS: While you were the vice-president responsible for power supply, were there any significant design changes that you were aware of, to the design of the overhead direct current line?

MR. MACISAAC: I’m not aware of any material design changes in the time frame that I was involved from June 2016 forward.

MR. COLLINS: Would you – if there had been a significant design change, would you have been aware?

MR. MACISAAC: I’m quite certain that I would be.

MR. COLLINS: So the design as built is the same as the design you inherited in mid-2016.

MR. MACISAAC: In the May-June time frame of 2016.

MR. COLLINS: And so whatever the reliability return period was in May or June 2016, that’s the reliability return period and the loads for which the structure was designed; that’s what was built.

MR. MACISAAC: So from 2016 forward, I’m not aware of any design changes that materially would affect reliability.

MR. COLLINS: The Commissioner has also heard that in the original plan for the Labrador-Island Link, significant parts of the route were going to be accessed through seasonal trails, seasonal roads, by helicopter sometimes. And as things turned out, many of those seasonal access areas, that wasn’t feasible and permanent roads, all-season roads, were built. Can you tell us to what extent was the purpose of those changes construction and to what extent was the purpose of them improving reliability?

MR. MACISAAC: So I’ll take you back to my earlier statements. So I wasn’t involved back in design or the deliberations around the access roads and the standards for the access roads. So you’re predating my involvement in those decision points, those inputs to the decision

points. That was lead by others. I couldn't offer an opinion of what those inputs were. I believe that the roads that were built were built for the purpose of construction of the transmission line.

MR. COLLINS: Thank you.

If maintained, those all-season roads could shorten repair times on the Labrador-Island Link and thus improve reliability. Do you know if they're intended to be maintained?

MR. MACISAAC: So from the time that I was involved in 2016 forward, there's only one intention. And that was to retain the roads. And in 2017 going into 2018, we were having discussions around an approach back to government to alter the permitting.

What happened before that, I really can't comment. What I can tell you is, to my knowledge, the intent was to retain the roads for the benefit of maintainability and reliability. The roads were initially on temporary permits, and there was a piece of work that was led by our environmental lead back to government in terms of what works would need to be done to the roads in order for them to transition from temporary permitting to permanent road permitting. It was Marion Organ led that work, I believe.

MR. COLLINS: As I understand it, the Labrador-Island Link operated for much of the past winter on monopole, using version 15 of General Electric's converter station software.

Apart from being a monopole version of the software, do you know of any other significant differences between version 15 and the finished product we're looking forward to?

MR. MACISAAC: So again, I'm not a software expert, but I do know that there's key pieces of functionality with bipole software that are not existent in the current version, version 15, that was used for this past winter.

MR. COLLINS: And you – can you indicate any of those particular differences?

MR. MACISAAC: Well, I think there is a couple of pieces of functionality in particular that are important, and that is auto lane

switching between the two lanes of control on each pole and, then, in addition of that, the ability to – reactive power control. So it's the ability of the system to recognize an anomaly on the system and react in real time through the intelligence that's built into the software.

MR. COLLINS: And so as I understand auto lane switching, inside the single pole 1 that's operating, there are two separate lanes of power supply –

MR. MACISAAC: No, it's two separate lanes of control. We're talking two different things. One is power, and the other is control.

So there's two separate lanes of control, and one lane is controlling all of the functionality, and in the event that that lane starts to encounter difficulties, the other lane of control that is there in a standby mode picks up. Now, that's supposed to happen automatically, but in the version 15 of the software, it includes or requires a manual intervention.

MR. COLLINS: And so auto lane switching increases the reliability of the line, and –

MR. MACISAAC: It does.

MR. COLLINS: – version 15 does not have that.

MR. MACISAAC: Auto lane switching should provide the benefit of increased reliability.

MR. COLLINS: How much power can be transmitted in monopole in theory?

MR. MACISAAC: Okay, so I'm a mechanical engineer, and I'm not down in the detail. That technical detail is work that happens one level down or two levels down. So I'll give it my best shot.

So in the event that we didn't have limitations – in the event that we didn't have limitations – you're talking about half the load. In the event that we worked with version 15, the – I believe the agreement had an upper limit of 225.

So let me provide some additional context. This is a decision that happens on a daily basis based on probably three important inputs, and it's from

the ECC. The ECC looks at the previous performance and reliability, and so there's a confidence factor here. The ECC also looks at the system load and what's available coming out of Labrador. Because if the load is low and the availability is high out of Labrador, it then has the potential to become the single largest contributor to the load on the Avalon, which – in the event that it's having issues – it poses some reliability risk.

So the ECC steers this process based on confidence, based on performance and based on the system conditions, not the technical constraint. Once you move past the technical constraint, it then becomes an operational consideration. And, again, it's based on the three-legged stool. It's confidence, system conditions and what's available.

MR. COLLINS: Mr. MacIsaac, what I'm taking from what you're saying is that in principle it should be possible to transmit 225 megawatts in monopole, but that Nalcor and NL Hydro decide, based on their assessment of the reliability and their ability to reliably integrate that power, how much of that to transmit.

MR. MACISAAC: That's an accurate assessment, yeah.

MR. COLLINS: And has – have Nalcor and NL Hydro felt comfortable to use the whole 225 or have they had to use a smaller amount?

MR. MACISAAC: There has been limitations in terms of technical limitations, then drive a different level of confidence, which then recalibrates how much they're prepared to take across the LIL.

MR. COLLINS: And are those technical limitations – is it simply the absence of features such as auto-lane switching and reactive power control? Would –

MR. MACISAAC: Well, it's back to this discovery process or the discovery phase that I talked about before where inside of energizing and operating the assets, you step through issues or incidents or trips and, you know, two are necessarily not the same. And to use an example, you know, this past winter, there was an anomaly on the Newfoundland Power side

which sent a transient back through the system and it actually tripped the system off.

But inside of the ensuing investigation, there was a component, an asset-level component and a piece of software coding that were discovered to be incompatible. And as a result of that, the ECC turned around and said until that issue is addressed, thou shall not operate the system above this certain level.

MR. COLLINS: And so what I'm taking from what you're saying here is that the software we have doesn't have all the features it's supposed to have, and also it's buggy. And for those two reasons together, Nalcor and NL Hydro had to limit the amount of power they're transmitting, and they're getting less value out of the software than they otherwise would have.

MR. MACISAAC: Okay.

MR. COLLINS: Is that –?

MR. MACISAAC: I think you've captured it. I don't know that I would characterize it as buggy. I think – I'll take you back to the earlier statements – and I've made this statement in front of the Oversight Committee and our board and whoever else is interested and listening – is that these systems take a long time to sort out in terms of stepping through all of the issues that you're going to have. And our good fortune is that we have good people who are patiently working at the system on a daily basis and taking steps and taking steps and taking steps.

From a broad perspective, you have to look at what we have, too, not just what we don't have. And we have SOBI done and salted, it's put away, it's commercially resolved and it's been in service. We have the overhead transmission lines done and salted, commercially satisfied and put away. We have one pole of the two poles commissioned and in service, our people are learning in real time.

We're going through the front end of the bathtub curve on equipment and software and learning in real time. We're currently commissioning the second pole, so we're now down to a place where what's outstanding is growing the software functionality for bipole. And I know that there have been issues, and there will be

more and we will work our way through those as well.

MR. COLLINS: So I understand that version 16 of the software arrived fairly early in the winter. Do you know if it was installed and, if not, why not?

MR. MACISAAC: So, I don't know about version 16 of the software in detail, but what I – so I don't know that that's the right nomenclature. But regardless of whichever version it is, what I do know is that from a customer perspective, it's really important and Hydro treats their customers, you know, with a high level of importance with regard to reliability.

Once you get to late fall, once you're into December, folks start to look at things differently in terms of introducing change. So I'm sure that between our project operations people, meaning the coordination for testing, and our ECC and system operations folks inside of Hydro and Nalcor, they look at introducing new software inside of, you know, the winter load period as something they would frown upon because you're introducing another new variable.

MR. COLLINS: So, what I understand for what you're saying is that in the winter there is less spare capacity on the system and you're also burning more fuel, so the cost of tinkering with things is higher. If you're going to commission a new asset or introduce any changes, you want to do that in the spring or summer when – or perhaps fall – when there's more spare capacity available.

MR. MACISAAC: Okay.

MR. COLLINS: Is that fair?

MR. MACISAAC: Yes.

MR. COLLINS: When is the bipole expected?

MR. MACISAAC: FAT and regression testing – and, again, this is what was contemplated back in January and February, so I should defer to Nalcor in this space because I don't have the most current information. But based on what's in the current amending agreement, the intent

was factory acceptance testing and regression testing for August, work through the summer and get to the fall, and for the end of October bipole being in service with the intended functionality.

MR. COLLINS: Do you know how long it will take to commission bipole? And how far can we afford for the dates you just set out to slip before we lose the ability to use the bipole during the next winter?

MR. MACISAAC: Sorry, can you ask the question again?

MR. COLLINS: How far can the schedule for commissioning bipole slip before we lose the ability to use bipole next winter?

MR. MACISAAC: I'm not sure that I understand the question. I think what you're asking is: Is there ability to backtrack to monopole? Is that what you're asking?

MR. COLLINS: No. So you've indicated that there's a reluctance to commission new software in the winter when you're more reliant on having your assets available. If –

MR. MACISAAC: I think it –

MR. COLLINS: If December rolls around and the – and bipole hasn't shipped yet, do we – is there still time to commission it?

MR. MACISAAC: So that's a decision that will be based on inputs from ECC and Hydro and also from the project team. I do know that inside of October, the discussion will already start to have a different flavour to it. In November, folks will start to say: Let's talk about backtracking if that's an option that needs to be pursued. But, again, I really shouldn't offer comment because I'm not current on where things stand.

MR. COLLINS: When the bipole arrives, will it be good enough to be a long-term solution for Nalcor?

MR. MACISAAC: That's the intent.

MR. COLLINS: Do you believe that intent will be fulfilled?

MR. MACISAAC: I know that back in February the project team were optimistic.

MR. COLLINS: But not certain.

MR. MACISAAC: And –

MR. COLLINS: There is an uncertainty here, is what I'm –

MR. MACISAAC: I know that back in February the project team, including Mr. Dunphy who's the director, were optimistic for the outcome. And I was cautiously optimistic because I'm probably calibrated to be more cautious.

MR. COLLINS: So is there a real chance that Nalcor may end up going and looking to ABB or Siemens or some other company for replacement software?

MR. MACISAAC: I don't believe that's the intent.

MR. COLLINS: I understand it's not the intent, is it a realistic possibility?

MR. MACISAAC: I honestly don't know what other people would say but, you know, I think it's prudent to always have Plan B. I think it's prudent to always have a Plan B, but I know that emphasis, the impetus and the commitment is around Plan A.

MR. COLLINS: Is there a Plan B?

MR. MACISAAC: I believe that there has been consideration to Plan B.

MR. COLLINS: How much would Plan B cost?

MR. MACISAAC: I don't know the details, Sir.

MR. COLLINS: Do you know if we went with Plan B, would the cost of Plan B be operating costs or capital costs?

MR. MACISAAC: There would be a component that would be a cost to the project, so it would not be an operating cost.

MR. COLLINS: To your knowledge, has Plan B been implemented now?

MR. MACISAAC: No. Pre-work only, Sir.

MR. COLLINS: Those are my questions.

Thank you.

THE COMMISSIONER: All right, thank you very much.

Province of Newfoundland and Labrador.

MR. LEAMON: No questions, Commissioner.

THE COMMISSIONER: All right, Concerned Citizens Coalition.

MR. HISCOCK: Good afternoon, Mr. MacIsaac.

Will Hiscock here from the Concerned Citizens Coalition.

MR. MACISAAC: Good afternoon.

MR. HISCOCK: As part of the senior management team, were you aware of the P3 schedule and cost data before sanction?

MR. MACISAAC: I don't believe so, Sir.

MR. HISCOCK: Okay.

Were you aware of the P3 schedule and cost data prior to financial close?

MR. MACISAAC: In any level of detail, I don't believe so, Sir.

Can I back up for just one second?

MR. HISCOCK: Yeah.

MR. MACISAAC: And I'm going to make certain that we're on the same page. My involvement was based on 2016 going forward. My involvement before that was on a very limited basis, going to steering committee meetings that I could make and I'm not – I'm probably not your best reference in terms of all of the detailed work that predated June of 2016.

MR. HISCOCK: No, and I can appreciate the changing role and the much – obviously the much more intimate role after June 2016; however, I am interested in what your knowledge base was I guess from the steering committee meetings and generally in your operations in Nalcor prior to that as well. So I do have a couple of questions that relate to your knowledge base prior to June 2016, the majority are after that.

MR. MACISAAC: Okay.

MR. HISCOCK: So again, and this is another one of them, in 2014 and 2015 and please specify when exactly if you're aware, but in 2014-2015, did you become aware of the final forecast to complete numbers? Would you have known in 2014-2015 the changing final forecast to complete numbers?

MR. MACISAAC: So I'm going to back up and – the way I work –

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: – is that I focus on the mandate that I've been provided.

MR. HISCOCK: Yes.

MR. MACISAAC: And I don't spend a lot of time dwelling on the mandate of others and I have a single-minded focus. So if I wasn't directly involved in the project at the time, those pieces of information could be out there and I wouldn't notice them because I was focused on the mandate that I had at the time.

MR. HISCOCK: So would it be fair to say that, to the best of your recollection, anyways, you weren't aware of the final forecast to complete numbers at that time, but, if you had been, it wouldn't have been something you would have retained.

MR. MACISAAC: If I was aware, it was cursory –

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: – and it was something that I would not have given much consideration to

because I had a mandate that I was focused on otherwise.

MR. HISCOCK: Okay.

Did you have any concerns taking on your role – the role you took on in June 2016 due to a lack of hydro or electrical engineering experience?

MR. MACISAAC: No, mine was that of a coach.

MR. HISCOCK: Yep.

MR. MACISAAC: It was about team building and facilitation, coaching team members, identifying where we needed to strengthen the team and ensuring that we had the right competencies for a safe and successful outcome.

MR. HISCOCK: Right.

You – so you're – you did have a fair bit of civil experience in civil construction and process construction experience at that point. Correct? That was something that was sort of missing, I'll say, or in short supply on the senior management team –

MR. MACISAAC: I –

MR. HISCOCK: – do you agree with that?

MR. MACISAAC: – wouldn't say that I have extensive civil experience –

MR. HISCOCK: Okay.

MR. MACISAAC: – I've done greenfield and brownfield construction projects where I've had responsibility for all disciplines – mechanical, electrical and civil.

MR. HISCOCK: Okay.

What was your view on the cost control and forecasting on this project?

MR. MACISAAC: I believe the project controls are robust. The project controls are robust and inside of looking at the work that's done by project controls and tracking of commitments, I believe that it's consistent with what I've seen previously as best practice. I

cannot speak to the other pieces because since becoming involved, we're tracking with compliance to the current AFE.

MR. HISCOCK: Right.

So you didn't have serious concerns with the cost controls or the forecasting that had gone into the work when you came in in June 2016?

MR. MACISAAC: We updated the AFE for 2017. I didn't have an opportunity, or a limited opportunity, in terms of a window of time for the update in 2016.

MR. HISCOCK: (Inaudible.)

MR. MACISAAC: Sorry – go ahead.

MR. HISCOCK: No, no, no, finish your (inaudible).

MR. MACISAAC: Oh, that's fine.

MR. HISCOCK: In terms of your involvement, or perhaps you could describe your involvement with the Oversight Committee?

MR. MACISAAC: Updates to the Oversight Committee on the regular schedule, and it was typically a project director, including Rosanne Williams and/or Tanya Power, myself, based on availability, on the transmission side.

MR. HISCOCK: Okay.

Did you feel that the Oversight Committee was effective, that they had the appropriate skills to question you and to dig into the information you were providing to them?

MR. MACISAAC: I thought they asked good questions.

MR. HISCOCK: And so this has been alluded to by Commission counsel, but in your testimony earlier you spoke convincingly about the need for senior management to be on site or in the field, I guess, and we've heard about a lack of on-site management in relation to the powerhouse work.

Did you feel at the time that your colleagues on the power supply team had failed to spend sufficient time in the field?

MR. MACISAAC: Sorry, one more time.

MR. HISCOCK: Yeah, no, I mean you've spoken today about the need to have the lead team, the leadership, in the field, boots on, away from their computers, as you put it.

MR. MACISAAC: Okay.

MR. HISCOCK: There's been fair evidence at this Inquiry from contractors and others that on the powerhouse side of things, that there was a lack of leadership in the field.

Is that –?

MR. MACISAAC: I don't know that, Sir.

MR. HISCOCK: Okay.

MR. MACISAAC: I don't know that.

MR. HISCOCK: So that was not a view of yours at the time, that you felt that there was a failure on the powerhouse side –

MR. MACISAAC: I'll take you back to my earlier comment, in that I have the benefit of being able to go to a single-minded focus around the mandate that I was engaged in, and my mandate was around the transmission side of the project. And I didn't spend a lot of time considering or critiquing or given thought to how much time was being spent in the field by the folks on the generation side, never gave it any consideration. Never thought about it, it wasn't an area that I spent time thinking about. So, I have no comment in that space.

MR. HISCOCK: Thinking on it now, can you think of any reasons why the powerhouse power supply team leads wouldn't be in the field as much as you were directing your team leads to be in the field?

Would there be a reason for that to occur?

MR. MACISAAC: I don't know that they weren't.

MR. HISCOCK: Okay.

What was the real impact of DarkNL, as it's known, I guess, on the standard of construction for the LTA and the LIL? You are aware of the fallout from DarkNL having an impact on the construction standards?

MR. MACISAAC: I'm not aware of it having an impact on the construction standards. I would suggest that it's a high-reliability link. It was – there's two types of links in this space.

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: One is a merchant link that is intended to service the exchange of electrons from one commercial customer to another commercial customer, for trading purposes, not necessarily directly linked to customer-service level. And then the other type of link is a high-reliability link with a direct linkage to customer-service levels. And, as far as I know, this was always intended to be a high-reliability link.

MR. HISCOCK: Okay.

So, the best to your understanding, nothing changed subsequent to the DarkNL blackout, we'll say?

MR. MACISAAC: To my knowledge, I don't know of what may or may not have happened as a result of DarkNL. I wasn't involved and I don't know.

MR. HISCOCK: Going – moving to – the roads, the maintenance or construction roads, I guess, construction roads, would an upgrading to the access road system be an effective way to improve reliability of problems on the lines occur – was – is that – my understanding from your testimony earlier that the roads are seen as an advantage in terms of improving reliability, having permanent maintenance roads.

Is that correct?

MR. MACISAAC: Can you restate your question? Because you said two things: one was you said upgrading of the roads; and then you went on to say roads as an advantage to ongoing maintenance (inaudible).

MR. HISCOCK: Yeah, it was my understanding is they were built as temporary roads; basically, temporary construction roads. If they were to be upgraded or permitted as permanent roads for maintenance purposes, we would expect that that would improve the reliability of the system, would it?

MR. MACISAAC: No, I think it's a question of retention of the roads.

MR. HISCOCK: Okay.

So, it's not upgrading, it's a retention at the current – in the –

MR. MACISAAC: (Inaudible.)

MR. HISCOCK: – current form?

MR. MACISAAC: Inside of the 'permitry' going from temporary status to permanent-status roads, there's feedback from different government departments on, I would say, adjustments that need to be made to the roads – minor adjustments that need to be made to the roads at this point in order to satisfy 'permitry' for permanent status. And I don't know the history of the evolution of the roads.

MR. HISCOCK: Could you give us an example of what one of those adjustments – like, an adjustment that might be requested from government or whatever to make them a permanent road? Can you give me a sense as to what we'd be talking about here?

MR. MACISAAC: I really can't speak to it in any level of detail, but it could be something as simple as the type of culvert used, you know, bridge crossings, waterways. It has an environmental – because you're now changing – the fact that the roads are staying, and it has an environmental lens to it.

MR. HISCOCK: Were there regulatory or environmental issues that prevented you from upgrading the roads for reliability purposes and for making it an all-weather road?

MR. MACISAAC: I don't know that, Sir.

MR. HISCOCK: Okay.

To what extent are the roads in alpine locations accessible year round?

MR. MACISAAC: I do not know that, Sir.

MR. HISCOCK: Okay.

To what extent did Nalcor adopt a one-in-500-year standard? I believe that was advanced by MHI, by Manitoba, so I'm wondering if the one-in-500-year weather standards were adopted.

MR. MACISAAC: So I'm not aware, but I think it's important that folks appreciate that it's not one in 500 right across the system. It's based on optimizing the design through the different zones, based on the load conditions of the different zones so that there's sections that are one in 150, there are sections that are one in 350, there are sections that are one in 500. And that's an optimization of the design to ensure that the system is fit for purpose and it's neither overbuilt nor underbuilt.

MR. HISCOCK: Okay.

MR. MACISAAC: Okay?

MR. HISCOCK: On page 9 of your interview, there was a discussion on making the roads permanent rather than temporary. Who would bear the cost of upkeep in that scenario? Was it – was the province involved in setting the design standard? Would they be involved in the upkeep of that?

MR. MACISAAC: I don't know the history of that, Sir.

MR. HISCOCK: Okay. I'll ask you this question – you may not know the answer to this one either – which is: What criteria were applied to determine the retention of the roads rather than to discontinue maintaining?

MR. MACISAAC: Can you ask the question again, please?

MR. HISCOCK: Yeah. What criteria – or are you aware of the criteria that were applied when determining to retain the roads rather than to discontinue maintaining them? Were there certain criteria to certain roads that we would

maintain and were gonna keep these ones up, others that we're gonna discontinue or –?

MR. MACISAAC: I don't know that. I'm –

MR. HISCOCK: Okay.

MR. MACISAAC: – not familiar with that.

MR. HISCOCK: Yeah.

There's reference to, in your interview, an EFLA study? I understand that's an Icelandic engineering firm. Could you tell us what that was, what the EFLA study was?

MR. MACISAAC: The EFLA study?

MR. HISCOCK: EFLA, yeah.

MR. MACISAAC: Yes.

MR. HISCOCK: Sure.

MR. MACISAAC: So, I can only speak to it at a very high level.

MR. HISCOCK: Okay.

MR. MACISAAC: And it was around operational readiness. And because they have a relevant experience in other Scandinavian jurisdictions that have similar weather patterns to ourselves, they were engaged to do a risk assessment and come back with recommendations around operational readiness of our system on a go-forward basis.

The report in draft was taken by Nalcor project team and Hydro, and reviewed. Their recommendations were reviewed and prioritized down to something that folks were more comfortable with. And a long-term plan, and I don't know the detail on this piece, whether it's a three-year plan or a five-year plan for staged implementation of the recommendations – excuse me – that were commenced in 2018.

MR. HISCOCK: Okay.

Did Emera review the standard of transmission lines which you built?

MR. MACISAAC: I do not know that, Sir.

MR. HISCOCK: Okay.

Were the designs subject to approval by the North American Reliability Council [sp. North American Electric Reliability Corporation] or any regulatory body concerned with such system reliability?

MR. MACISAAC: Again, I don't know that, but I think it's – we would apply a CSA standard for design, and –

MR. HISCOCK: Right.

MR. MACISAAC: – and I do know that the CFA would've been the standard that we anchored our work to.

MR. HISCOCK: On page 11 of your interview, you're asked a question about the Liberty reports presented to the Public Utilities Board and you said you don't wanna get into depth in those. You responded that you weren't that familiar with them.

Do you think you – that you should be knowledgeable about the work being done by the Public Utilities Board, on the reliability of LIL?

MR. MACISAAC: So, there's no question reliability plays a very important role here.

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: And, you know, coming out of my role as the president of Hydro, I know how aware the entire organization is – Nalcor, right across the board – that reliability and safety are of paramount importance. The folks that do the work – there is nobody coming to work on a daily basis to do a bad job. Everybody, having travelled through, works with an awareness of the criticality of reliability. And I don't believe that anybody is dismissive in ensuring that we all work with a shared mandate to ensure safe, reliable service to the entire customer base.

MR. HISCOCK: Well, given that, why wouldn't you be more familiar with the Liberty reports? Given that they're dealing with those reliability issues or –

MR. MACISAAC: It's a question of how much mandate do you take on your plate and how much room you make for others to lead in their respective mandates.

MR. HISCOCK: Okay. And so whose mandate would you have seen that as being? That would have been –

MR. MACISAAC: So, if that's inside the purview of the regulated utility –

MR. HISCOCK: Okay.

MR. MACISAAC: – back to Nalcor.

MR. HISCOCK: (Inaudible) couple – just a couple of questions on building the HVDC team. On page 27, you said that, quote – this is of your interview – and inside of completions, commissioning, energization of their early operation – all high risk, all high risk – but all require a unique and specialized skill set that I didn't see in large numbers on our team – end quote.

This problem was identified by Liberty in one of their reports concerning the lack of HVDC skills at Nalcor. To what extent has Nalcor built the skill set required to operate the HVDC system from scratch?

MR. MACISAAC: It's an ongoing piece of work.

MR. HISCOCK: So this is the bit you were talking about the junior engineers who were working with Growler and so on that – that's the team that you plan on building up to be able to continue operations.

MR. MACISAAC: It's not just the engineers. It's the operators as well, so –

MR. HISCOCK: Okay.

MR. MACISAAC: So, we have – right from our senior leadership down to the folks that are operating the system, they're all in a place where they're going up the learning curve, you know, roughly the same period of time. The folks from ATCO/Growler and GE have been working with our team to transfer knowledge on an ongoing basis. The critical piece is learning by doing, and

the opportunity inside of being engaged in completions, commissioning, energization at an early operations on a system like this is invaluable.

MR. HISCOCK: So I think, from your statement, it's fair to say that Nalcor has taken Liberty's recommendations seriously around developing an HVDC team. Have you considered bringing in – I mean, you're developing your own corps of talent within the company. Was there consideration given to bringing in senior people with HVDC experience specifically to incorporate into the company?

MR. MACISAAC: Yes, and we've done some of that as well on a contract basis.

MR. HISCOCK: On a contract basis. Okay.

MR. MACISAAC: That's correct.

MR. HISCOCK: Would it be the intent of Nalcor – to the best of your understanding, obviously, you haven't been there in a couple of months – but to maintain that as a contractual – these people on a contractual basis or to bring them in house?

MR. MACISAAC: They're contract hires –

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: – and we've had an approach where we use contract engagements to allow folks to take Nalcor for a test drive and for Nalcor to take folks for a test drive together and used it as an opportunity for us to find folks that are a good fit. It's –

MR. HISCOCK: Yeah.

MR. MACISAAC: – it has produced results, and I suspect that we'll continue to do that.

MR. HISCOCK: Okay.

I wanna talk a little bit about visibility and accessibility and perhaps we could refer to it, I guess, as (inaudible) contracts, maybe, with the top-down oil and gas approach. Did you believe that visibility and accessibility needed to be improved? I guess, from your answers earlier,

we can say that you did. You wanted your senior leadership on the ground in the field with the contractors, right?

MR. MACISAAC: I want to be clear.

MR. HISCOCK: Yeah.

MR. MACISAAC: So I'm not saying that the previous approach doesn't work. I'm not in any way saying that. What I'm saying is that I have a management style. I have a management style and approach, and if I'm in a place where I'm provided a mandate and supported to go and deliver on that mandate, I'm going to coach with folks on an approach that I've had success with in the past.

And it is in no way a statement that one is better than the other. It's a personal approach that I know, based on my own personal experience, has delivered results in the past and it's one that I'm comfortable with using on a go-forward basis.

MR. HISCOCK: I'd suggest to you – and I can appreciate what you're saying – but I'd suggest you're being, perhaps, more diplomatic than straight with me here. Because I think if you actually felt that there wasn't a – it wasn't just the better way of doing business, you wouldn't direct your juniors. You'd say: Well, I mean, if you wanna sit behind the desk 90 per cent of the time and you're only in the field 10 per cent of the time, that's fine as long as the job's getting done.

But that wasn't your direction to your juniors. It was get out from behind your desk, put on your boots and be in the field 50 per cent of the time. That doesn't suggest that it's a view that, you know, either is fine; it's just this is my style, this is the way that I've operated, you know.

MR. MACISAAC: So we can agree to disagree.

MR. HISCOCK: Yeah.

MR. MACISAAC: I think what I had said earlier was that is the approach that I've consistently used with team leads since joining the organization back in 2010 and it is in performance contracts with team leads that I've worked with inside of Project Execution and

Asset Management, inside of CF(L)Co, inside of Power Supply. I'm very much an advocate of go to the work face, engage your folks, talk about, you know, the opportunities and the challenges that we have because those constraints are actually what stands in the way of us taking next steps.

That's not something that I've applied on the project as a new, fresh approach; that's something that I've done with the teams that I coach with on a consistent basis, Sir.

MR. HISCOCK: Do you feel that Mr. Harrington shared your concerns or your approach in that regard on the other side of it, on the supply side of it, to the best of your knowledge?

MR. MACISAAC: I never had the discussion with Mr. Harrington on that point, so I don't know.

MR. HISCOCK: Okay. Did senior executives support you in your approach in the way you wanted to manage your side of the team?

MR. MACISAAC: I've only had support.

MR. HISCOCK: You made the comment in your interview – and this is on page 37 – that this is not an oil and gas project. Did you sense that the preponderance of people from oil and gas favoured this top-down approach while your approach was more empowering and less centralized in head office?

MR. MACISAAC: Can you ask the question again?

MR. HISCOCK: Yeah.

You spoke about it being not an oil and gas project – (inaudible) the management being oil and gas people. Did you get the sense that the preponderance of people from oil and gas favoured this top-down approach and that came because of the background in oil and gas was why the corporate culture was more based in the office than in the field? Is that background (inaudible) –?

MR. MACISAAC: I'm not quite sure what it was that is a quote in that space. I think the point

that I was making was that this was a construction job that was spread out geographically across the Province of Newfoundland and Labrador.

MR. HISCOCK: Okay.

In your view, should there have been fewer oil and gas people and more senior people with hydro and heavy civil experience on the senior management team?

MR. MACISAAC: (Inaudible) –

MR. HISCOCK: (Inaudible) for a better composition?

MR. MACISAAC: It comes down to having folks with the right competencies for the role that they're in. And oil and gas has an awful lot of good people with strong competencies, as well, Sir.

MR. HISCOCK: Okay.

MR. MACISAAC: So this wasn't a generalization about oil and gas people. My comment to Commission counsel was that it was a different background. I didn't say one was better than the other.

MR. HISCOCK: No, fair enough. I have a couple of questions on the Strait of Belle Isle risk mitigation. Were there any challenges with the Strait of Belle Isle since you took over the lead role in transmissions?

MR. MACISAAC: Going of icebergs is one that I recall.

MR. HISCOCK: Okay.

You're aware the Strait crossing was always viewed as a high risk?

MR. MACISAAC: It was.

MR. HISCOCK: Okay.

Were those risks mitigated and what was your role in mitigating those risks? You've spoke about the icebergs. Is there anything else about the Strait that – where were the risks and how

can we mitigate them, I guess. What has been done in that regard?

MR. MACISAAC: So a lot of the risk mitigation that was done with the Strait of Belle Isle component work would have predated my involvement.

MR. HISCOCK: Okay.

You'd be aware of it, though, because these were obviously –

MR. MACISAAC: I wouldn't necessarily have been aware of all the work that was done on risk mitigation around the Strait of Belle Isle crossing, because I come into it as it was in the homestretch.

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: A lot of the risk identification and risk mitigation, quantification, happens at a very early stage and that would – all of that work would predate my involvement.

MR. HISCOCK: Okay.

What was your experience working with SNC-Lavalin as an engineering advisor?

MR. MACISAAC: I didn't have much engagement with SNC-Lavalin, Sir.

MR. HISCOCK: Okay.

A couple of questions on bifurcation: Was what – and this is, obviously, between the generation and the transmission. Was bifurcation of the project successful in your view? Did it create any problems for you?

MR. MACISAAC: In my view, it moved us forward. It reduced the risk commercially.

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: It allowed sharper focus and produced improved relationships that drove increased productivity.

MR. HISCOCK: Were there hard feelings between yourself and Gilbert after the bifurcation?

MR. MACISAAC: None, Sir.

MR. HISCOCK: Okay.

At the outset, there was resistance from people being shifted from generation to transmission. Did you further – did any further migration of personnel take place? Either it was – from the generation to the transmission. You spoke about it this morning, I believe. But there was some resistance in the early stages, wasn't there, about the transitioning of people from one side to the other? No?

MR. MACISAAC: Not that I am aware of.

MR. HISCOCK: Okay.

MR. MACISAAC: No.

MR. HISCOCK: Was there any movement from transmission to generation, given that transmission was further advanced in the project schedule?

MR. MACISAAC: On a very limited basis as some of the pieces of transmission work were completed, there were a limited number of folks that then filled vacancies on the generation side.

MR. HISCOCK: Do you think the bifurcation facilitated that movement of personnel or hindered it? Or was it indifferent, I guess.

MR. MACISAAC: I don't know. I don't have an opinion on that.

MR. HISCOCK: (Inaudible.)

MR. MACISAAC: And I didn't see the results, to be honest, so I can't comment.

MR. HISCOCK: No, that's fair.

On page 23 you refer to the – downsizing your team from approximately 300 to approximately 200 people.

MR. MACISAAC: I think that was incorrectly captured.

MR. HISCOCK: Okay.

MR. MACISAAC: We were actually just north of 300 people, and by the end of 2018 we were down to just under 100 people. So there were 200 people taken out of the organization.

MR. HISCOCK: Oh, okay. Would those – would some or most of those have been transitioned elsewhere internally, or –?

MR. MACISAAC: No, Sir.

MR. HISCOCK: Okay.

Why did you leave this job?

MR. PORTER: (Inaudible.)

THE COMMISSIONER: Speak into the microphone.

MR. PORTER: I'm not sure this is a line of questioning that would fall within the Terms of Reference or be of much relevance to the Commissioner. There's also some privacy interests that would have to be addressed and would take some time. In that regard, I think that the relevancy being very limited would mitigate against the continuation of this line of questioning.

MR. SIMMONS: Commissioner, from the Nalcor Energy point of view, I know that this was a topic that was looked into by Commission counsel and in – within, there was some co-operation provided by Nalcor concerning it. And my understanding is that there's been – had been a determination made that the subject was an area that was not going to be inquired into any further.

And I understand, from my learned friend's comments there, that it would be an intrusion into Mr. MacIsaac's privacy to do so and where there's – I understand there's been a determination made that there's no basis connected to the Terms of Reference to do so. So I'd support Mr. Porter's objection.

THE COMMISSIONER: Can I hear from counsel?

MS. MUZYCHKA: Commissioner, counsel has reviewed the circumstances and determined that

there really is no bearing on the Terms of Reference.

THE COMMISSIONER: Is there – Mr. Hiscock, maybe you could – is there a reason behind your question or – I'm trying –

MR. HISCOCK: Well, I hadn't realized I was walking on – we were supposed to be walking on eggshells here, but I wasn't part of any of those discussions so I hadn't realized I was – and certainly no intention to –

THE COMMISSIONER: Right.

MR. HISCOCK: – embarrass or step into personal matters.

THE COMMISSIONER: I guess more significantly the issue is, is whether or not the reason Mr. MacIsaac left his position, has it got anything to do with what I'm doing here, and my understanding, based upon what I'm hearing, is, is that it isn't, and for privacy reasons we shouldn't go into it.

So –

MR. HISCOCK: And I'm not – I actually, in that case, I, obviously, was unaware of that until it was –

THE COMMISSIONER: Oh.

MR. HISCOCK: – being raised now, but – in which case I'm gonna withdraw that question –

THE COMMISSIONER: All right then.

MR. HISCOCK: – if those concerns are there and Commission counsel's already addressed that.

THE COMMISSIONER: Okay, continue.

MR. HISCOCK: So my last question, I suppose, in that case is, in your own personal view, knowing what you do today, do you believe that this project should've been sanctioned, and having been sanctioned, was there a time at which the project should've been stopped?

MR. MACISAAC: So that really is outside of my mandate on the project and predates my involvement at Nalcor, and I'd defer to, you know, others on that question.

MR. HISCOCK: You've had a very senior role on this project for more than two years, and you have a lot of background, both with the company and outside of the company, you were intimately involved in the process.

I would think that you would have some view as to whether the long-term merits of the project outweigh the costs, and whether there were times during this project where your own view, certainly knowing what you do today, and I'm not saying even knowing what you knew at that time necessarily, but with the benefit of hindsight, do you think that the project should've been sanctioned and gone ahead, or do you think that there were times when it maybe should've stopped?

MR. MACISAAC: I never questioned the mandate that I was provided by Mr. Marshall –

MR. HISCOCK: Mm-hmm.

MR. MACISAAC: – and before 2016 I wasn't focused on the project, so I didn't question the merit or the value of the project to the people of the province, and I certainly didn't question the merit or the value of the project since being provided the mandate in 2016.

My focus was to ensure our team was focused and ensure that they were not distracted so that we could ensure a safe, strong finish, and I didn't spend any time, Sir, giving consideration to whether we should or should not have sanctioned the project.

MR. HISCOCK: And that you haven't given any consideration in that since leaving Nalcor or with the –

MR. MACISAAC: I did not.

MR. HISCOCK: – benefit of the Inquiry?

MR. MACISAAC: No, I have not.

MR. HISCOCK: Okay.

Thank you.

MR. MACISAAC: Thank you.

MR. HISCOCK: Those are all my questions.

THE COMMISSIONER: And I think we'll take our afternoon break here for 10 minutes and then we'll come back and continue on.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: All right.

Edmund Martin.

MR. SMITH: My name is Harold Smith for – Harold Smith for Edmund Martin.

I only have a couple of questions and I'd like – I think it's Exhibit 03152, Madam Clerk.

THE COMMISSIONER: Okay, that's at tab 25.

MR. SMITH: Okay.

MR. MACISAAC: Yes, Sir.

MR. SMITH: I'm looking at amended agreement 5 and 6. I take it that amending agreements 1 through 4 was – were not under your watch. Is that under –?

MR. MACISAAC: That's correct, Sir.

MR. SMITH: That's my understanding?

MR. MACISAAC: That's correct, Sir.

MR. SMITH: But there were other amending agreements to the contracts.

MR. MACISAAC: There were, Sir, and I'm not familiar with them.

MR. SMITH: Okay.

Now, looking at these amending agreements, if I – just scroll up, please? I see approximately \$80 million. Is that what I’m reading? But I had read somewhere else that it was 110. That’s why I’m trying to reconcile these –

MR. MACISAAC: The 110 was the amending agreement for Quanta Valard.

MR. SMITH: That was Valard only?

MR. MACISAAC: Correct.

MR. SMITH: Okay.

So it’s about \$80-odd million then, for the GE.

MR. MACISAAC: I’m just doing the mental math.

Okay.

MR. SMITH: Okay.

And so am I correct it’s \$80-million plus?

MR. MACISAAC: I haven’t taken the time to add them up –

MR. SMITH: Okay.

MR. MACISAAC: – to be truthful, so I’ll take your word for it.

MR. SMITH: I think it’s 56.8 for the first two –

MR. MACISAAC: Mm-hmm.

MR. SMITH: – and another – scroll up again –

MR. MACISAAC: Another 20.

MR. SMITH: – another 25 roughly.

MR. MACISAAC: Yeah.

MR. SMITH: So, again, my math is not all that great, but that sounds like about 81 or 81 and a half, right?

MR. MACISAAC: Okay.

MR. SMITH: So there’s \$80 million was the total.

MR. MACISAAC: Okay.

MR. SMITH: For GE.

MR. MACISAAC: Okay.

MR. SMITH: And 110 for Valard.

MR. MACISAAC: Okay.

MR. SMITH: So the transmission lines went up in cost after June of 2006, sorry, ’16 – 2016 –

MR. MACISAAC: 2016.

MR. SMITH: – by about nearly \$200 million.

MR. MACISAAC: Okay.

MR. SMITH: Is that correct?

MR. MACISAAC: Inside of the amending agreements is what you’re alluding to because they would have – it would have – there’s another piece. It depends on what you’re referencing.

MR. SMITH: Yeah.

MR. MACISAAC: So if you’re referencing award values, it’s more than that, but it’s – since June of 2016, inside of the amending agreements, that’s rough numbers. Correct.

MR. SMITH: The point being is that after bifurcation we can point to the fact that about \$200 million is added to the contracts based upon, essentially, the philosophy which was we got to reset this and we have to make sure we don’t spend more than we feel they’re entitled to and we don’t under spend. Is that – that was my understanding of your evidence.

MR. MACISAAC: Based on entitlement, based on collapsing the commercial risk and ensuring that there was value for money. Not more than what was the entitlement, not less than what was the entitlement, is the overarching premise.

MR. SMITH: And in that context of what is and what is not, in other words, what – excuse me, I’ll reset that. What I’m understanding you to say is that based upon the analysis that was

done by your team, that's – these are the results. Is there any subjectivity in that analysis?

MR. MACISAAC: It's based on the work that was done by the team. The largest amending agreement was reviewed by a third party, and inside of entitlement under contract being a driver for the largest portion inside of the Quanta Valard and inside of the GE ones, there is more subjectivity.

MR. SMITH: So there is some subjectivity in relation to the amount. That this is not a line item that we're paying for under the contract itself; these are claims, for the most part, and there's subjectivity assessed –

MR. MACISAAC: Inside –

MR. SMITH: – to those claims.

MR. MACISAAC: Inside of the review of –

MR. SMITH: Yeah.

MR. MACISAAC: – the claims, we have folks that have the background to apply. So we have commercial folks that that's what they do.

MR. SMITH: Okay.

MR. MACISAAC: It's kind of like hitting golf balls, you know. You get better at it as you do it or you move on to your next sport.

MR. SMITH: I can assure you, you don't, if you're me.

MR. MACISAAC: Okay.

MR. SMITH: Would – I'd like you to address, if I could – again, Madam Clerk, would you scroll the other way now. I think it is the other way. Yes, yeah.

You mentioned in your direct evidence that the phased approach for engineering and a phased approach for cubicles was related to delivering the monopole. Is that how I – did I read that correctly?

MR. MACISAAC: That's correct.

MR. SMITH: Okay.

And you indicated also that this amount of money – about \$10 million – was recovered. Could you tell us how it was recovered? I didn't hear that.

MR. MACISAAC: So it may have been a loose comment on my part, so let me back up and restate. In terms of value, that value was recovered at the Nalcor level. So back to Hydro; so in the excess recall that was coming from Labrador inside the agreement between Power Supply and Hydro, there's no exchange of compensation for the value of that excess recall until they agree that we've reached – or that Power Supply has reached a certain level of reliability.

It's a number of days, including a set amount of functionality. And the intent was always that once you achieve that milestone, that then Nalcor would compensate Power Supply based on the pricing structure that's in place between the two.

MR. SMITH: Oh, I see. Okay.

So just a follow-up question, if I could. When you do the recall power, is it after '17, I think, the LIL was finished – has that been used?

MR. MACISAAC: Yes, it has been used, Sir.

MR. SMITH: In what regard?

MR. MACISAAC: It's being used to displace generation that would have otherwise occurred at Holyrood or other locations.

MR. SMITH: Okay. Because that's where I thought you were saying you had recovered the \$10 million because you weren't spending it in oil, you were –

MR. MACISAAC: Well, it actually does displace. So the estimate, in terms of value, is based on displacement of an equivalent amount of megawatts generated in Holyrood.

MR. SMITH: And have there – is this a planned use of the recall power over the LIL to, you know, curtail the use of Holyrood, or is this in response to the unreliability of Holyrood? Or both?

MR. MACISAAC: No, so there was always the plan that in the event that we were successful in bringing monopole into service, that excess recall would be brought to the Island for the benefit of Hydro customers, and that would effectively displace some component of fuel consumption at Holyrood.

MR. SMITH: Has there been – during your tenure with Nalcor, was there ever an event that required the LIL to bring power from Churchill Falls?

MR. MACISAAC: On an ongoing basis, you know, there is benefit of both of the links for Hydro Interconnected customers.

The Maritime Link, because it has reactive power control, which is functionality that the Labrador-Island Link will eventually have as well, but the Maritime Link has that reactive power control in place today and has had it for a period of time, and it has the ability to pick up on anomalies when events happen at Holyrood, and boost reliability. The benefit that we've derived from the LIL to date, until reactive power control is in place, has been that of displacing oil-fired generation. Did I answer your question?

MR. SMITH: Yeah, thank – it does, thank you very much.

Now, you mentioned in your, again, I believe your direct evidence, that projects of this size, megaprojects, it's – and I'm paraphrasing – it's – it seems somewhat absurd to expect that the original estimate will be the final estimate or the final cost. Is that how I read your – you said you can always expect unforeseen events in megaprojects, and unforeseen events, we've learned at this Commission, have cost – usually cost some money – unforeseen events, unforeseen circumstances.

MR. MACISAAC: I don't recall using the word absurd.

MR. SMITH: Well, I paraphrased. You know, I – you probably didn't use the word absurd. I'm just saying how realistic is it? And how – I'll ask you the question: How realistic is it to expect that the – on the megaproject that the original estimate would be the final cost?

MR. MACISAAC: And I'm not being evasive on this, but it depends. It really and truly does depend on a number of things: on the amount of – it's a tolerance for risk. And whether you construct your contracts a certain way as well. So if you have a very low risk threshold or risk tolerance, then obviously you adjust accordingly. If you're going to make a decision where you're prepared to absorb the risk for some of that variability, then you go into it with a different type of contract structure and a different mindset.

And they're by the each. And I'm – I don't think you can apply a general response to all projects. I think my comment was on projects of this size, some change within the scope is going to happen. And it's a function of how much of the engineering work is done in advance and how much of the scope is confirmed before you start. But in a project of this size, it's not uncommon to encounter scope change is what I was alluding to, I believe.

MR. SMITH: Well, part of the, I understand, the transmission or the supply contracts was open book. I think you mentioned that in your testimony that –

MR. MACISAAC: Right.

MR. SMITH: – that at least –

MR. MACISAAC: Yeah.

MR. SMITH: – one of the projects was open book. And if I'm not mistaken, I believe it was Valard.

MR. MACISAAC: Correct.

MR. SMITH: And in that type of situation, would you ordinarily expect there to be, beyond the estimate, additional costs in that type of contract?

MR. MACISAAC: So it depends on the construct of the contract. So if it's open book and it's quantities and unit-rates based, everybody goes into it with an understanding that it's potentially going to be less or more. And the reason that you go on board in terms of that is your tolerance for risk or the information

that you have or do not have in starting out of the gate.

MR. SMITH: Okay. Thank you very much.

MR. MACISAAC: Thank you.

MR. SMITH: All my questions

THE COMMISSIONER: Thank you.

Kathy Dunderdale is not here.

Former Provincial Government Officials '03-'05. [sp. '03-'15]

MR. T. WILLIAMS: Nothing, Mr. Commissioner.

THE COMMISSIONER: Nothing.

Julia Mullaley, Charles Bown.

MR. FITZGERALD: Very briefly.

Good afternoon, Mr. MacIsaac. Andy Fitzgerald, I represent Julia Mullaley and Charles Bown.

MR. MACISAAC: Good afternoon, Sir.

MR. FITZGERALD: I noticed in your response to, I believe Mr. Hiscock, you indicated that the Oversight Committee asked some good questions.

MR. MACISAAC: I believe on an ongoing basis inside of the meetings that I was present at that there was always good questions asked by the Oversight Committee.

MR. FITZGERALD: And it's also my understanding that, I guess, prior to June 2017, the Oversight Committee would send questions to yourself and Ms. Rosanne Williams with respect to inquiries they had regarding the project. Is that correct?

MR. MACISAAC: Can you ask the question one more time?

MR. FITZGERALD: Sorry. June 2017, there was a project budget and schedule revision. Is that correct?

MR. MACISAAC: June 2017, correct.

MR. FITZGERALD: Yeah, and prior to that, it's my understanding, Mr. Carter was the executive director of the Oversight Committee and he –

MR. MACISAAC: Paul Carter –

MR. FITZGERALD: Paul Carter, yes.

MR. MACISAAC: – yes, correct.

MR. FITZGERALD: And he would ask questions on behalf of the committee and he would send those to a, I believe, a Ms. Rosanne Williams or Rosanna Williams and –

MR. MACISAAC: Rosanne Williams, that's correct.

MR. FITZGERALD: – and yourself – that's how it operated?

MR. MACISAAC: That's correct, Sir.

MR. FITZGERALD: And it's also my understanding that in asking these questions, Mr. Carter, on behalf of the committee, they wanted the quantified risk exposure both with the AFE and any exposure beyond the AFE. Do you recall that?

MR. MACISAAC: In detail?

MR. FITZGERALD: No, but just generally?

MR. MACISAAC: On an ongoing basis, they wanted to know if there was any new or emerging risks there.

MR. FITZGERALD: And it's also my understanding that when you got involved in this, you would provide that information to the committee. I believe it was after the June 2007 budget and schedule revision.

MR. MACISAAC: To the best of our ability. And I would give credit where credit is due. There was a lot of really good work done by Rosanne Williams and Tanya Power to make sure that we were endeavouring to provide information in a timely response that was answering the question asked.

MR. FITZGERALD: Did you believe in your experience, I guess, in dealing with the Oversight Committee, was there any issue with respect to providing this information to the Oversight Committee with respect to commercial sensitivity or anything like that?

MR. MACISAAC: If there was ever constraints or concerns around commercial sensitivity, we would talk about them and saying – and share, let's be careful how we use this information. But I saw what I believed was an effective exchange of information with the Oversight Committee.

MR. FITZGERALD: And I guess – and you can only speak to your own experience – you never had any issue with providing information to the government-appointed Oversight Committee, did you?

MR. MACISAAC: Not that I recall.

MR. FITZGERALD: Okay.

Those are my questions.

Thank you, Mr. MacIsaac.

MR. MACISAAC: Thank you.

THE COMMISSIONER: All right. Thank you.

Robert Thompson is not here.

Consumer Advocate?

MR. HOGAN: My name is John Hogan. I am counsel for –

THE COMMISSIONER: Adjust your mic.

MR. HOGAN: John Hogan, counsel for the Consumer Advocate.

MR. MACISAAC: Good afternoon, Mr. Hogan.

MR. HOGAN: Good afternoon.

Just want to turn what you described – and you've talked about already – the technical competencies that were lacking; you realize that in 2016. I just wondering if you can be any more specific on to what exactly was missing.

MR. MACISAAC: I don't think I used the word lacking. I think what I had said was opportunities to strengthen our bench. So in –

MR. HOGAN: I'll just –

MR. MACISAAC: Okay.

MR. HOGAN: You can finish. I just – what you – you're right, you didn't use the working lacking. From your transcript, what you said was: The last piece I would add is: I was also becoming increasingly aware in the back half of '16 that we had a big team, with a need to be reshaped, to address technical competencies that I didn't see.

MR. MACISAAC: Thank you for the clarification.

MR. HOGAN: So – yeah.

MR. MACISAAC: Thank you for –

MR. HOGAN: You go ahead.

MR. MACISAAC: – the clarification.

MR. HOGAN: Thanks.

MR. MACISAAC: So what I was – and this goes back to earlier statement, was the expertise around HVDC. We had a small number of people that I was aware of that had the HVDC expertise, but their experience was more technical in nature, and what I was looking for was resources that had the continuum of experience inside the delivery of HVDC from a technical point of view, from a practical construction point of view, from a commissioning completions and operations point of view.

MR. HOGAN: Okay.

MR. MACISAAC: In fairness to our own people, they were all doing good work, and this is new technology for the people of the province and for the Nalcor, and we simply didn't have those people on our bench at the time.

MR. HOGAN: So in 2016, was it – who was in charge of – who would've been in charge of filling those voids before you got there?

MR. MACISAAC: I'm – and I'm going to say that previous to my making that assessment, and again, it comes down to opinion, I don't know that others would have said in the same time frame, because I have a tendency to get further out in front – that's, I believe, a key enabler – so others may have seen that those competencies were required but further down the road. I can't –

MR. HOGAN: We're into 2016, we don't have much road left.

MR. MACISAAC: I understand.

MR. HOGAN: Right, okay.

MR. MACISAAC: Yep.

MR. HOGAN: Okay, so were you aware then or did you know that the plan was in place to fill these voids?

MR. MACISAAC: I can't comment on what I don't know. So this is an unknown unknown. I don't know what other people did –

MR. HOGAN: You just knew there was a void.

MR. MACISAAC: From my own perspective, I saw an opportunity for strengthening.

MR. HOGAN: Okay.

Turn to the backlog of commercial issues for GE and Valard, which you mentioned today. Are you able to provide a scope of the backlog in terms of dollars?

MR. MACISAAC: We would have to go back to the project controls team and they would have to do some work to quantify it. So no, I couldn't put a number on it for you.

MR. HOGAN: In terms of your different opinion on how to deal with the backlog, that you had a different opinion than Mr. Kean – correct? When you talked about that today.

MR. MACISAAC: Okay.

MR. HOGAN: Different view or approach, I guess, how to deal with the backlog.

MR. MACISAAC: No, I think we had a different point of view on what was the commercial exposure. I don't recall us talking about a different view on how to speak to or address the backlog.

MR. HOGAN: Okay.

The commercial view that you had a different opinion on, are you aware of anyone else who would have shared Mr. Kean's view?

MR. MACISAAC: Not that was voiced with myself.

MR. HOGAN: Okay.

Just to turn to the software issue with GE, you described it as the single biggest risk in your interview. Do you recall saying that?

MR. MACISAAC: I don't. So you can go ahead and refresh me, if you don't mind.

MR. HOGAN: Would you consider it to have been the single biggest risk to the project or to your portion of the project?

MR. MACISAAC: I recall saying to the Oversight Committee quite some time ago, back in 2016-2017 time frame, with the work that was progressing that our largest opportunity in terms of enabling success was to make meaningful progress on the software. I did say that to the Oversight Committee –

MR. HOGAN: I'm just going to put it to you this way, an opportunity for success –

MR. MACISAAC: Yes, a key enabler.

MR. HOGAN: – is much – those buzz words are much different than saying it's the single biggest risk.

MR. MACISAAC: I have said that it's the risk that we're focused on.

MR. HOGAN: Okay. So I guess –

MR. MACISAAC: In front –

MR. HOGAN: – I just want you to –

MR. MACISAAC: In front of Oversight, as well. And it's –

MR. HOGAN: I just want –

MR. MACISAAC: – documented in the Oversight reports where I'm – I can say that inside of the Oversight reporting, new and emerging risks was something that was on the dashboard and it was something that you didn't have to search for. I'm – I'd lean forward when it comes to identification, quantification and communication of risk.

MR. HOGAN: Okay.

MR. MACISAAC: So I don't believe in providing surprise.

MR. HOGAN: So was this risk in existence when you arrived in 2016?

MR. MACISAAC: I believe that we were in a place where we were starting to grow a sense for software being a real constraint.

MR. HOGAN: When did you realize that it was the single biggest risk?

MR. MACISAAC: I realized software as a constraint early on and when we put people on the ground in Stafford who had the skill sets, where they had experience, and the feedback coming from them, I then started to have an appreciation for where we were on the software, where we were not on the software and the magnitude of the work that we had left in front of us.

MR. HOGAN: So would this have been your first 30, 60, 90 days (inaudible)?

MR. MACISAAC: No, it would have been after that. It would have been after we had gotten some of our first rotations with the folks from ATCO through Stafford. I honestly can't tell you the timeline. I'm not being evasive. I just don't know for certain. But I know that the work that had to be done was to get people that had the experience on to the ground in Stafford and have them get a real sense for where we were in the software development process.

So once we had that feedback from them, I then started to communicate to Oversight and, you know, internally within Nalcor that we had work to do in front of us on the software side.

MR. HOGAN: Right.

Now you – it was referred to in your interviews as bespoke software and you talked about today it was new technology. Correct?

MR. MACISAAC: So two different things.

MR. HOGAN: Okay.

MR. MACISAAC: So the others who are within the big three in this space – so it's Siemens and ABB and now GE. The other two have a platform where, you know, they basically build one platform and, for each one of the projects – for lack of better description – toggle off and on the functionality that's required to customize it for a specific project.

Alstom and then subsequently GE had a different approach where the software was developed on a bespoke basis for each one of the projects.

MR. HOGAN: Each project that they're retained to –

MR. MACISAAC: So they have – inside of going to their next series of controls, they have embraced the approach now that their competitors are already using where they're building a platform and they selectively toggle functionality for each one of the applications.

MR. HOGAN: And they've moved to this approach, subsequent to what's happened at Muskrat Falls?

MR. MACISAAC: And I wouldn't say it's because of –

MR. HOGAN: I didn't say that.

MR. MACISAAC: – Muskrat Falls –

MR. HOGAN: That's not what I said.

MR. MACISAAC: – okay. They have – inside of the launch of their next version of control

software, they're migrating to a new package called Illuminati and it actually has a baseline functionality, a broad base similar in approach to ABB and Siemens.

MR. HOGAN: So are you aware of any discussions – I assume it would have been before your time, obviously – about whether they should – whether Nalcor should have went with one of the other two of the big three that had this base platform that was adjusted accordingly as opposed to what GE proposed?

MR. MACISAAC: Not aware and I wasn't involved.

MR. HOGAN: You – can you agree that it would be less risky to go with a tried, tested and true platform as opposed to something that was new and hadn't been tested and used before or created before?

MR. MACISAAC: I think that's a bit unfair because what you have to do is look at the weighted scoresheet inside of the evaluation of the responses. And, you know, I'm sure that inside of the work that was done – 'cause there's a very robust approach used on all big decisions where there's a weighted scoresheet. And I can't comment beyond that, but I don't think you can single out one piece and say you should have considered this piece more than you should –

MR. HOGAN: No.

MR. MACISAAC: – have considered that piece.

MR. HOGAN: But surely, that would be a riskier piece. Now the other components might balance it out or adjust it accordingly, but –

MR. MACISAAC: I couldn't say that either 'cause –

MR. HOGAN: Okay.

MR. MACISAAC: – I'm not an HVDC expert and there's – I don't think there's any of us in the room that have the expertise to be able to say that.

MR. HOGAN: I know you've talked about settlement agreements. Are you able to quantify the software issue itself in terms of dollars?

MR. MACISAAC: No, Sir. But, again, we could go back to Project Controls at Nalcor and they can talk – they can build the summary of what's included in the amending agreements that is specific to software.

MR. HOGAN: And what's your feeling, having left in February – was it –

MR. MACISAAC: Correct.

MR. HOGAN: – at that point in time, in terms of certainty for the future regarding the software as opposed to outstanding risk, I guess?

MR. MACISAAC: And I apologize, but I'm gonna say the same thing that I said before, you know, the project team was optimistic, back in February – January, February time frame, and I was cautiously optimistic.

MR. HOGAN: Cautiously optimistic, okay. So, you did talk about the effect it had on Holyrood and fuel; Mr. Smith took you through that a little bit. Correct?

MR. MACISAAC: Okay.

MR. HOGAN: Do you know what the fuel cost is per year at Holyrood? In the winter months?

MR. MACISAAC: So I – it's a function of, you know, what you include in the costing structure. I'm not intimately familiar, and – and it's a function of the contract that's in place. But I think inside of this past year, I've heard – I've heard, as an estimate, a fully loaded number of \$140 per megawatt hour, but I could be corrected on that, I don't know that for certain.

MR. HOGAN: And do you know if the fuel costs for the winter months, post-original schedule when we were supposed to have Muskrat Falls online, have been included in the project cost now?

MR. MACISAAC: I don't know that, Sir.

MR. HOGAN: You know if they – do you think that they should be?

MR. MACISAAC: I have no idea. I really have no idea, that's an investment-evaluation question.

MR. HOGAN: I'm gonna ask you a question about the Maritime Link. Do you –

MR. MACISAAC: Okay.

MR. HOGAN: – what's your background and work on that?

MR. MACISAAC: Little to none, but I'll give it my best try.

MR. HOGAN: Okay. Well, your title is VP of Power Supply, correct? So maybe you'll know the answer. Executive VP, Power Supply.

MR. MACISAAC: Well, the Maritime Link is actually – you know, it's their asset, not ours.

MR. HOGAN: Okay. But the – eventually, Holyrood was supposed to be closed, that was the plan. Correct?

MR. MACISAAC: That is still the plan, Sir.

MR. HOGAN: That is still the plan. And if there's an issue with the Labrador-Island Link when Holyrood is closed, do you know what the backup plan is?

MR. MACISAAC: I'm sorry, you go ahead and try that one –

MR. HOGAN: So we have no more Holyrood.

MR. MACISAAC: Okay. And – and Muskrat Falls is –

MR. HOGAN: We have Muskrat Falls.

MR. MACISAAC: – online.

MR. HOGAN: And then there is –

MR. MACISAAC: And Muskrat Falls is online.

MR. HOGAN: – right, and Muskrat Falls is online.

MR. MACISAAC: Okay.

MR. HOGAN: And then there's an issue with the Labrador-Island Link.

MR. MACISAAC: Okay.

MR. HOGAN: What is the backup plan to get power to the Avalon?

MR. MACISAAC: But you're asking me a question about, you know, what percentage of the Maritime Link is considered to be a requirement for supply on the Island?

MR. HOGAN: I am.

MR. MACISAAC: That's a power supply system planning question. The generation from Muskrat Falls was always intended to satisfy the Island needs. So it wasn't dependent on the Maritime Link.

MR. HOGAN: No, but if there's an issue with providing power to the Island needs –

MR. MACISAAC: From where it's the issue that we're talking about?

MR. HOGAN: Somewhere at Muskrat Falls, at the generation facility, with the Labrador-Island Link, there has to be a backup plan.

MR. MACISAAC: Okay.

MR. HOGAN: So we've heard that the Maritime Link is part of or is the backup plan?

MR. MACISAAC: So you're asking me questions in an area where I have no familiarity and no knowledge. And I don't think it's in the Inquiry's interest for me to offer comment where I have no knowledge.

MR. HOGAN: Okay.

I want to turn to issues around – just a couple more questions on the geotechnical data.

MR. MACISAAC: Okay.

MR. HOGAN: And you said in your transcript I can – the quote was something along the lines of: The data was different than the baseline assumptions. Do you recall saying that, the geotechnical data?

MR. MACISAAC: Yeah, yes.

MR. HOGAN: So how much was it – by how much was it different?

MR. MACISAAC: What I was sharing was something that I had gleaned as part of documents provided from the Inquiry. There was project change noticing – I'm going back in time, but I believe what that particular PCN, project change notice, said around advanced geotechnical work was that the actual data and the actual results in the field versus the previous assumptions from a geotechnical analysis that the trending on the data was a difference of roughly 50 per cent.

MR. HOGAN: 50 per cent.

MR. MACISAAC: Again, we should go back and check if that's a really important question for you, but that's my recall.

MR. HOGAN: Okay.

So what's the result of having geotechnical data that's different than baseline assumptions?

MR. MACISAAC: It has the potential to impact the decision process around foundation selection, both in terms of time and the optimal selection of the right type of foundation. So, having the right geotechnical data for a sufficient period of time, out in advance, allows for timely decision-making and selection of the right type of foundation.

MR. HOGAN: Cost and schedule can, obviously, be affected.

MR. MACISAAC: It has the potential for an impact on schedule, yes.

MR. HOGAN: This is what you also said about geotechnical conditions. You said: There's a lot of variability in terrain, there's a lot of variability in geotechnical conditions, there's a lot of variability in climatic conditions. So wind, wind load, snow load, ice load: all of these things are considered important inputs to the design.

So I guess my question is: How do you protect against this variability?

MR. MACISAAC: I'm sorry; can you give me a bit more context to what you're reading?

MR. HOGAN: Well, that was the quote. You keep going and say that starting away with the design, it was normal to optimize the design. As you get more information and as you get closer to award and execution, you continue to optimize the design so that it's neither underbuilt or overbuilt.

MR. MACISAAC: That's helpful, so the question again?

MR. HOGAN: How do you guard against this variability to make sure that you do have the design and you do – and you don't go over budget and you don't go (inaudible)?

MR. MACISAAC: No, no, it's not so much about guarding against the variability.

MR. HOGAN: All right, okay.

MR. MACISAAC: It's about optimizing the design based on inputs, so that you're neither overbuilt or underbuilt. And it is a normal process that, inside of getting to a place where you have your baseline data nailed down, you then do an optimization step. And, in this instance, what I was alluding to was the different zones down through Labrador and here on the Island are different based on the inputs.

And the inputs are the geotechnical data, the wind-loading data, the ice loads, the difference in elevations coming through the mountains, the spacing between towers. Those are all inputs to optimization of the design. That's what I was alluding to in that case.

MR. HOGAN: The more data you have, the more certain it is; the more inputs you have, the more certain you're going to be, correct?

MR. MACISAAC: I think that's stating the obvious, yes.

MR. HOGAN: Well, yeah, it is, but having data that's off by 50 per cent then is not ideal, is it?

MR. MACISAAC: So it's a question of – and I think this goes back to the geotech and what's a prudent amount of geotech data to have before

you decide to come out of the gate. I think that's really the question you're trying to ask me. Am I right?

So, extending on that, it depends, and it goes back to your constructive contract and your tolerance for risk. So you're not going to go and do all of the geotechnical data before you even start the project. The more geotechnical work that you do, it certainly gives you more certainty, but there's added cost.

So the question is: What's the appropriate amount of geotechnical work to do in advance? And then what is the appropriate amount of geotechnical work to do once you've decided that you're going to go and build? Two different considerations and it all comes back to your appetite for risk in how much you're prepared to take onboard, okay?

MR. HOGAN: You don't have any knowledge of how much data was there and what would've been a prudent level?

MR. MACISAAC: I'm –

MR. HOGAN: Prior to 2016, obviously.

MR. MACISAAC: And I'm not being evasive. I wasn't involved so I don't know what was the inputs and the consideration at that point in time.

MR. HOGAN: Okay.

Thank you very much.

MR. MACISAAC: Thank you.

THE COMMISSIONER: All right, Innu Nation – not present.

Nunatsiavut Government.

NunatuKavut.

MR. COOKE: Hi, Mr. MacIsaac. We've actually met before.

MR. MACISAAC: We have.

MR. COOKE: Yeah, Jason Cooke here for NunatuKavut Community Council. I don't have a ton of questions for you but I do have a few.

MR. MACISAAC: Okay.

MR. COOKE: First is, you were giving evidence before when you took the position in 2016 to be executive VP on the transmission side, and you had indicated that you really weren't that involved with the Muskrat Falls prior to that in your other roles with either Hydro or Nalcor.

MR. MACISAAC: I would characterize it that way that it was limited involvement. And made it to steering committee meetings based on whether there was a need for myself to be there or if I was asked to be there but, otherwise, I was normally not there.

MR. COOKE: And you in – I think it was around June 2016 that you assumed the new position? Is that –?

MR. MACISAAC: I started to ramp up inside of June. And I – Stan and I had conversation in May and I started to ramp up inside of June. And by, I would say, the back end of June, I had myself plugged into it on a daily basis.

MR. COOKE: Okay.

So once you took the position – and I'm thinking now on issues of consultation with Indigenous groups –

MR. MACISAAC: Okay.

MR. COOKE: – were you able to be informed of what consultation had taken place prior to you coming on in 2016 in relation of the project?

MR. MACISAAC: So, one of the things that I relied upon was in terms of consultation with the various stakeholders, including Indigenous groups and the communities involved, was I relied upon the folks that were already engaged. So I would talk with Kevin Burt on an ongoing basis. Kevin and I had a pre-existing relationship from his time at CF(L)Co. And Rosanne Williams also kept me briefed on her touchpoints with the various communities and stakeholders.

MR. COOKE: And what was Kevin Burt's position at the time at Nalcor?

MR. MACISAAC: I don't remember the title, but it was focused on being directly an interface to Indigenous groups.

MR. COOKE: Yeah –

MR. MACISAAC: You might even be able to help me with this title.

MR. COOKE: Yeah, I can't remember the title either, Mr. MacIsaac.

MR. MACISAAC: I don't know it.

MR. COOKE: But I understood that he was the point person in terms of –

MR. MACISAAC: He was a dedicated resource specifically for that.

MR. COOKE: And Rosanne Williams?

MR. MACISAAC: So Rosanne wears multiple hats, but she's a community stakeholder engagement. And it crosses all of the communities and, obviously, it included the Indigenous communities as well.

MR. COOKE: And you mentioned, I think, when you took the position, you kind of went on – I can't remember if you called it a listening tour or – but a listening –

MR. MACISAAC: Walking the sites, walking the sites down.

MR. COOKE: Yeah.

And did that involve stakeholders outside of the project itself? And I am thinking specifically about Indigenous groups?

MR. MACISAAC: Not intentionally, but, again, I was getting briefed by Kevin and Rosanne if there are any issues that we needed to touch base on or get involved in. You know, one of the ones that had touch points was us moving transformers through Cartwright, as an example, and there was a lot of community engagement there.

MR. COOKE: And I think you gave some evidence about this this morning, Mr. MacIsaac, but you had mentioned in 2016 either, I think,

pretty soon after you started, or maybe even before you started, but there was a number of protests going on at the gates of the access points to Muskrat Falls. Correct?

MR. MACISAAC: I don't know the time frame in detail but I do know that part of the cause for pause on moving the transformers was us working with awareness and sensitivity to activity, I think, was the way I characterized it – the activity at the gate and, on a broader basis, in Labrador. And I hope I didn't say anything there that was offensive. I was trying to be neutral.

MR. COOKE: No, no, no.

MR. MACISAAC: Okay.

MR. COOKE: No, no, no. No, I didn't think so at all. And – but I took your evidence, and I think it's in the record, that, really, one of the effects of the 2016 protests was that it pushed back the transformer delivery to 2017.

MR. MACISAAC: That's –

MR. COOKE: Is that –

MR. MACISAAC: – correct.

MR. COOKE: – correct?

MR. MACISAAC: That's correct.

MR. COOKE: And was that the sole reason why the transformers – the transformer delivery got pushed back, essentially, a year?

MR. MACISAAC: I think what I had said was: It was a combination of two. It was sea states and what we saw as the potential for concern in moving the transformers through Cartwright to Muskrat Falls, through the front gates. So, it's a combination of the two. It wasn't one in isolation of the other.

So, as you go later into the year, the sea states change, and your windows of opportunity for moving a low-sided barge reduce. So, it was those two things that influenced the decision point on us waiting for the following year after ice-out when sea states – and we take the lead from the mariners and their expertise in terms of when it's safe to move a low-sided barge.

MR. COOKE: And in terms of the impact of protest, am I correct in assuming that the concern is somehow there would be interference with the transportation process – was that the concern?

MR. MACISAAC: There was, on social media, some statements that were causing us some cause for pause.

MR. COOKE: Okay.

I'm going to take you to Exhibit 03152, which I think is in your documents. We – you looked at it this morning.

THE COMMISSIONER: Tab 25.

MR. MACISAAC: Okay.

MR. COOKE: And you'd given some evidence this morning about – and this is the – on the GE Grid – and in terms of the additional \$12 million that you identified for transportation/installation of converter transformers.

MR. MACISAAC: Yes, Sir.

MR. COOKE: And you had – you'd split it into – I understood your evidence – you kind of divided that into a \$7 million amount and an additional \$5 million amount.

MR. MACISAAC: That's correct.

MR. COOKE: Okay.

And in terms of the effect of – that you attributed to the ongoing protest and protest around it – the Muskrat Falls Project, how did you – what costs – where did that lay in that – in those amounts? What cost did you attribute to the effects of the protest in terms of the transformer installation?

MR. MACISAAC: Not sure that I'm clear on what it is that you're asking.

MR. COOKE: Okay. Well – and maybe – maybe you didn't break it down that way. I mean, I take it that the – let me start this way, how much of that \$12 million came from the delay from 2016 to 2017?

MR. MACISAAC: Both pieces, Sir.

MR. COOKE: Both pieces.

MR. MACISAAC: Both pieces, because had we shipped the transformers on the original plan, the incremental costs for demobilization, storage and remobilization would not be there. And the need to apply additional crews, which was the 5 million piece, and work on a 24/7 rotation in parallel. So both of those pieces were related to the decision point of not shipping in 2016 versus shipping in 2017.

And I – it could've been for other reasons but I articulated the two that I'm aware of. So there could've been other considerations, but based on my recall it was sea states and concern over activity in Labrador.

MR. COOKE: Okay. So just jumping ahead to 2017 now.

MR. MACISAAC: Okay.

MR. COOKE: It's fair to say that there were still – even though the intent was to have the transformers transported and installed. There were still concerns about the effect of protest on that process in 2017, is that fair?

MR. MACISAAC: I think that depends on who you ask. I think the temperature had come down to a place inside of our relationships with the folks that we were engaged with, that we felt comfortable that it made sense to go ahead and proceed.

MR. COOKE: So in terms of engagement with stakeholders, I'm interested particularly your recollection on engagement with NunatuKavut Community Council, do you recall the – what engagement occurred around the – I am thinking particularly around 2017, the first half of it.

MR. MACISAAC: It's unfortunate because I reviewed as recently as this morning –

MR. COOKE: Mm-hmm.

MR. MACISAAC: – a note that we had summarized the planning and the logistics around the delivery of the transformers, and had

actually laid out the number of community test points that we had had.

MR. COOKE: Well why don't I take you there, 'cause –

MR. MACISAAC: Okay, that'd be –

MR. COOKE: – I think I know the document you're talking about –

MR. MACISAAC: – that'd be really helpful.

MR. COOKE: – which is a document, Madam Clerk of 04073.

MR. MACISAAC: And I only very briefly scanned it, because I think that it was only uploaded this morning.

THE COMMISSIONER: Tab 21.

MR. MACISAAC: Okay, my mistake – my apologies.

UNIDENTIFIED MALE SPEAKER: Yes, Sir.

MR. COOKE: So just to confirm, is this the document you were talking about?

MR. MACISAAC: It is.

MR. COOKE: Okay.

And it's an email from you dated June 23, 2017, to a number of recipients.

MR. MACISAAC: Okay.

MR. COOKE: And that includes the premier, Minister Parsons, Minister Bown, and others including a representative of the RCMP, correct?

MR. MACISAAC: Correct, Sir.

MR. COOKE: Yeah. So maybe this will refresh your memory and if I could just take you to –

MR. MACISAAC: Okay.

MR. COOKE: – maybe page 2. So – and maybe before we go there, just whoever – just taking who this was addressed to, obviously the

issue of the transport and installation of the transformers seems to have reached the highest political level in the province, being that you're writing to Premier Ball, among others. Correct?

MR. MACISAAC: Okay.

MR. COOKE: No, no, I'm asking you.

MR. MACISAAC: Sure.

MR. COOKE: Yeah.

MR. MACISAAC: So I'm not quite sure where we're going here. The purpose of the note and the meetings that we were having on an ongoing basis was to ensure that everybody was on the same page in terms of what the plan was but to also share the extent of consideration and awareness to engagement with the community and the Indigenous community. That's what I was trying to communicate here.

MR. COOKE: Okay.

And just going back to page 2 –

MR. MACISAAC: Okay.

MR. COOKE: – Mr. MacIsaac, and then there's a section called, "**Community Engagement**," do you see that?

MR. MACISAAC: I do.

MR. COOKE: Could you just read that for the record?

MR. MACISAAC: I will.

"Nalcor has made three visits to Cartwright in the past three months to meet with the Town and assess community infrastructure. Nalcor also met with the Cartwright Town Mayor in Happy Valley-Goose Bay last week. Discussions included an overview of" – the transport, sorry, excuse me, – "transformer transport logistics, schedule, local accommodations, community concerns, local fishery, town infrastructure ... community events, and local benefits." Did –?

MR. COOKE: (Inaudible.)

MR. MACISAAC: Did you want me to continue?

MR. COOKE: Yeah, if you could.

MR. MACISAAC: “Nalcor has also met with NunatuKavut Community Council ... Nunacor eight times over the past six months to discuss community concerns, community capacity agreement, Cartwright transformers, and Southern Labrador fiber capacity.”

MR. COOKE: And can you just read that – the next paragraph as well.

MR. MACISAAC: “We will continue to engage and communicate our plans to the community and NunatuKavut over the coming weeks and months.

“Please do not hesitate to contact” myself – or “me if you have” any “questions.

“Best regards, JM.”

MR. COOKE: And in terms of the – you mentioned eight meetings over six months with NunatuKavut and Nunacor, and you understand Nunacor to be the economic development corporation owned by NunatuKavut?

MR. MACISAAC: I do.

MR. COOKE: Yeah. Were you personally involved with any of those meetings, Mr. MacIsaac?

MR. MACISAAC: I sat in on, I believe, a limited number. I know I sat in one meeting in Happy Valley-Goose Bay. And I sat in on one meeting in Hydro Place.

MR. COOKE: And in terms of the actual transportation of the transformers, was it – did it in fact face any difficulties in terms of protest or interference?

MR. MACISAAC: It did not, Sir.

MR. COOKE: Okay. And do you attribute that at all to the engagement process that you led on behalf of Nalcor?

MR. MACISAAC: I would say I supported it. I’m – I want to give credit where credit is due, I think others played a larger role than I did, but I was very supportive of their actions. I think Kevin Burt did a fantastic job, and others, of getting us close to the concerns, and helped us ensure that we were responsive.

MR. COOKE: And you mention in your email – discussing a community capacity agreement, and am I correct that you’re referring to what eventually became known as a Community Development Agreement between Nalcor and NunatuKavut?

MR. MACISAAC: You’re right, Sir.

MR. COOKE: Okay.

And I’ll just take you there quickly; we’re not gonna go through it in any detail. It’s at Exhibit P-01709, which I don’t think is in your book, so it’ll come up on your screen.

MR. MACISAAC: Okay.

MR. COOKE: Have that, Madam Clerk?

Yeah. And it’s dated December 1, 2017. You’ve seen this document before, I assume.

MR. MACISAAC: So a big piece of this work was led by Jim Keating – as you’re aware.

MR. COOKE: Yes.

MR. MACISAAC: Yeah.

MR. COOKE: Yes.

MR. MACISAAC: And I only played a role where Jim asked me to bring help or support.

MR. COOKE: I only have a couple of more questions, and they’re really about – you were asked some questions about the access roads –

MR. MACISAAC: Okay.

MR. COOKE: – earlier.

MR. MACISAAC: Okay.

MR. COOKE: And I'm not – I now you're not the expert on the access roads.

MR. MACISAAC: I hope – I'll do my best.

MR. COOKE: But – and – but are you aware that at least from NunatuKavut's perspective, there were some concerns about leaving the access roads in terms of the effect on land use for NunatuKavut members?

MR. MACISAAC: I would say that I was informed that there was an ongoing discussion. I actually understood it to be different than that. I thought it was in support of the roads, but that there would need to be some considerations for enhancements or adjustments and – but, in general, there was a basis of support for the access roads staying in place. But I could be wrong or corrected –

MR. COOKE: Yeah.

MR. MACISAAC: – on my recall.

MR. COOKE: Do you recall that one of the issues may have been controlling access to some of the roads?

MR. MACISAAC: I don't remember that piece, sorry.

MR. COOKE: Okay.

So, I'm just going to take you – same exhibit that's on your screen – to page 12. And it's the item that has an (h) in front of it – so about – a little over halfway down. Could you just read that for the record? This is from the Community Development Agreement.

MR. MACISAAC: "Nalcor shall jointly engage with NCC regarding land and access issues including Nalcor's intended access road use and decommissioning plans in the LTP and MFP areas, with the purpose of addressing issues arising with respect to" the "use of land and potential associated disruptions."

MR. COOKE: Okay. Were you familiar with that section prior to me bringing it to your attention?

MR. MACISAAC: No, but I do recall that there was conversations, early on, that – so I'm not surprised in the wording that's here.

MR. COOKE: Okay.

And, to your knowledge, in the time after the – after December 1, 2017, to February 2019, in your time as VP, were you aware that this kind of engagement did in fact occur between Nalcor and NCC?

MR. MACISAAC: Well, I know that on an ongoing basis, Kevin was working very diligently within the community with the different stakeholders. At that level of detail, I'm not aware, Sir.

MR. COOKE: Right, thank you.

MR. MACISAAC: Okay, thank you.

THE COMMISSIONER: Thank you.

Conseil des Innus.

All right, Grand Riverkeeper Labrador/Labrador Land Protectors.

MS. URQUHART: Good afternoon, Mr. MacIsaac.

Caitlin Urquhart, and I'm representing Grand Riverkeeper and Labrador Land Protectors. You'll know them as citizens' organizations in Labrador who are dedicated to protecting the ecological integrity of the Grand River.

MR. MACISAAC: Okay, good afternoon.

MS. URQUHART: (Inaudible.)

So I actually only had one question, and it was just sort of building on what you were just speaking about with Mr. Cooke, not about the roads so much as about the relationship with community. And I just wonder if you could describe somewhat the way that relationship was when you first started onto the project.

MR. MACISAAC: It – I would say that definitely at Stan Marshall's level, down through the organization, he placed priority and emphasis on ensuring that we were actively

listening and engaging to the extent that we dedicated a resource, Kevin Burt, and a small team of folks that worked with Kevin, to build and grow our connection with the Indigenous communities within Labrador – Newfoundland and Labrador, excuse me.

MS. URQUHART: And beyond the Indigenous communities?

MR. MACISAAC: Community stakeholders was a very important piece, and Rosanne Williams was our key point of contact on the transmission portion of the project. And, again, a starting point being active listening first and proactively responding to concerns or issues that were flagged.

MS. URQUHART: So I guess one example that specifically relates to transmission and that we've talked – you've talked about fairly extensively is the roads –

MR. MACISAAC: Okay.

MS. URQUHART: – and – so, for example if you were to have – you know, the original plan was that all these roads would be decommissioned. Are you aware of that? Or that many of the roads leading in would be decommissioned?

MR. MACISAAC: So I don't know the detail and I'm not being evasive; I really can't speak to the (inaudible) or the work that was done with regard to permanent versus temporary and what the long-term intent was.

MS. URQUHART: Mm-hmm.

MR. MACISAAC: I really wasn't involved and I'm not being evasive, I just don't know.

MS. URQUHART: Okay.

So and you – do you have any recollection of hearing pushback from folks such as my clients who are environmentally – environmental groups that there were concerns about not decommissioning the roads?

MR. MACISAAC: About decommissioning or not decommissioning?

MS. URQUHART: About moving from temporary roads to permanent roads.

MR. MACISAAC: I honestly don't recall and again I just – I'm not aware is probably the best response.

MS. URQUHART: Okay.

And so, similarly, in terms of the concerns around access that's created through these roads for the purposes of poaching, for despoiling of environments and such things –

MR. MACISAAC: Yes.

MS. URQUHART: – that's not something that was raised to your level? That you recall.

MR. MACISAAC: Not that I recall.

MS. URQUHART: Thank you.

MR. MACISAAC: Thank you.

THE COMMISSIONER: Thank you.

All right. Astaldi Canada, Inc isn't here.

Former Nalcor Board Members. Not here.

Newfoundland and Labrador building trades construction council.

Dwight Ball and Siobhan Coady.

ANDRITZ Hydro.

Grid Solutions.

MR. BOAN: No questions.

THE COMMISSIONER: Okay, thank you.

Barnard-Pennecon.

All right. Nalcor Energy.

MR. SIMMONS: No questions. Thank you, Commissioner.

THE COMMISSIONER: All right.

Counsel for Mr. MacIsaac.

MR. PORTER: No questions, Commissioner.

THE COMMISSIONER: All right. Redirect.

MR. COLLINS: Mr. MacIsaac, I have just a few questions. You talked about how, in designing a transmission line, you'd want to ensure that it isn't underbuilt and it isn't overbuilt. Is that right?

MR. MACISAAC: I've previously stated that, yes.

MR. COLLINS: And my understanding is that the same structure can be underbuilt or overbuilt, depending on the specification that the owner wants. So if you build a structure that can withstand a 500-year storm, that is underbuilt if you only wanted it to be able to withstand a thousand-year storm. But overbuilt if you only wanted it to withstand a 50-year storm. Is that right?

MR. MACISAAC: I'm not clear on the question. I'm sorry.

MR. COLLINS: Is – so I'm gonna outline my understanding of what underbuilt and overbuilt mean and get you to confirm that I have it right.

MR. MACISAAC: So, perhaps I can offer by restating what I had previously said. You start with your baseline design. Once your knowns are in place, and you're working to a certain standard, that's your baseline. In this instance as you travel down through the zones from the transmission path, the loading criteria in the zones are different.

And you optimize the design based on the loading criteria. So in an area where loading is higher due to whatever inputs, whether it's wind load, ice load, snow load, you know the elevation differences which is an uplift load, you then take into consideration all of that loading criteria and then go back to your base design and you end up with something that is one in 150, one in 350, one in 500 and I'm just using that as an example.

I'm not – I'm not – the right person to refer to in the detail here, but what I alluded to was that it's normal to optimize the design based on the different loading criteria in the different zones as

you go down through the province. Because we have microclimates, we have changes in elevation, we have changes in terrain, we have changes in geotechnical conditions, all of those things influence the overall load that the line would be subjected to.

And as a result of the load in the different zone, you would then optimize the design to be stronger or not. Did that help?

MR. COLLINS: I'll give you the point of my question.

MR. MACISAAC: Okay.

MR. COLLINS: And you can – and we'll see if you can –

MR. MACISAAC: I'll do my best.

MR. COLLINS: – answer it. Would the return period usually be an input into design or an output from the design?

MR. MACISAAC: The outcome. It's the outcome, what's the result of the loading criteria. That's correct, Sir.

So you're in a place where you look at what is the appropriate strength of the structure or spacing between the structures based on the load in that zone, which then becomes the one in 150, the one in 350, the one in 500.

MR. COLLINS: If I want a bridge to cross a stream once, and I'm just gonna put a log across the stream and crawl across, I don't need that to be very reliable. If I want it to last a thousand years, I need it to be very reliable. I'm gonna suggest that how long you want it to last and how reliable you want it to be are inputs into the design process and not outputs.

MR. MACISAAC: So I'm not a transmission designer. I've tried to answer your question to the best of my ability. It comes down to optimization of the design by design loading criteria by zone as you travel through. And it's entirely a function of the consolidated load inputs.

And what you then do is you build the requirements for that section to how taxing the load requirements are in that zone.

THE COMMISSIONER: What you may be misunderstanding about the question – because it's not exactly the way we've heard it up to now, and I realize you are not an expert on transmission – but in order to set the criteria for how much – and to look at the load factors, when you finally decide what you're gonna build, you also take into account things like longevity; you take into account other issues –

MR. MACISAAC: Absolutely.

THE COMMISSIONER: – for instance, you know, we have one report that suggests that, you know, it should have been a one in 500 – or a one-in-150-year line – one-in-150-year reliability – and that Nalcor had less than that.

So I think you two are sort of mixing up a bit of semantics here because I think the issue of what the owner's desire is with regards to the line that the actual finished product does is an input that basically goes into determining what kind of structure is built at a specific place. I agree with you there are other factors like, you know, weather and elevations and things of that nature. But I don't – I think you two are just talking the same language but just – in a little different way and I'm not sure you're understanding each other.

But, anyway, that's just my two cents worth at this stage of the game – 5 o'clock in the afternoon.

MR. MACISAAC: I think I concur –

MR. COLLINS: I have –

MR. MACISAAC: – with your assessment.

MR. COLLINS: – no further questions.

THE COMMISSIONER: Right. Okay. All right, good, thank you very much.

Thank you, Sir, for your time today. It's been a very long day, and I do appreciate the efforts of counsel being here since 8 o'clock this morning.

So we'll begin tomorrow morning at 9:30 with Mr. Martin.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.