



COMMISSION OF INQUIRY
RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 1

Volume 31

Commissioner: Honourable Justice Richard LeBlanc

Friday

2 November 2018

CLERK (Mulrooney): All rise.

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

Please be seated.

THE COMMISSIONER: All right, good morning.

So when we broke yesterday, we had – an issue arose concerning some discussions that had been ongoing with regards to matters that may be commercially sensitive. I think there were some discussions last evening, and I think the decision has been that we're going to – there is – there are issues that require an in camera hearing.

They're gonna be addressed by way of an application by any party seeking to make an application. We're going to hear those applications on the morning of the 17th of November, which is a Saturday, and try to deal with those at that stage. The reason for this is because we obviously have to get an answer on this so that – because it's impacting the way our hearings are proceeding publicly.

So I understand that there – that through Commission counsel and the rest of counsel arrangements are made and deadlines have been set, and so hopefully we'll be able to proceed with that. But we'll continue on now with Mr. Lemay, with everyone under the understanding about what topics are on and what topics aren't on for today. As far as I know, I think that's been discussed.

Ms. O'Brien, anything you want to add?

MS. O'BRIEN: No, thank you, Commissioner.

THE COMMISSIONER: Okay.

All right. So Mr. Lemay is here? Mr. Lemay, you're here?

MR. LEMAY: Yes.

THE COMMISSIONER: Good morning, Sir.

MR. LEMAY: Yes, I am. Can you hear me?

THE COMMISSIONER: Good morning, and thank you for accommodating us so early in the morning.

MR. LEMAY: That's my pleasure.

THE COMMISSIONER: Okay. You remain affirmed at this time, and – Mr. Budden?

MR. BUDDEN: (Inaudible.)

MR. LEMAY: I beg your pardon?

THE COMMISSIONER: So the next – Mr. Budden is coming back. He was questioning yesterday when we broke, so he's going to continue questioning you this morning.

MR. LEMAY: Excellent.

THE COMMISSIONER: Okay.

MR. BUDDEN: Just before I start with the witness, Mr. Commissioner, I'm going to ask him a question. I think the rest of where I wanted to go may well be so intertwined with the other in camera issues that I may just ask that one question and – in my examination at this point, reserving the right to return to those issues when we go in camera. That would seem to be the most efficient use of our time.

THE COMMISSIONER: Thank you.

MR. BUDDEN: Okay.

So I will just ask one question of this witness now, really, and then I'll be done for now. Can you hear me, Mr. Lemay?

MR. LEMAY: Yes, I do, Sir.

MR. BUDDEN: Okay. Perhaps we could call up Exhibit 00014 and bring us to page 64 of that exhibit.

THE COMMISSIONER: So that's an exhibit you don't have, Mr. Lemay –

MR. LEMAY: Okay.

THE COMMISSIONER: – so you're going to have to –

MR. BUDDEN: Yes, I'm going to read you a brief passage from that, and all I'm really going to ask you is that – if you could confirm that you are the person who gave the statement, if we could perhaps do that.

MR. LEMAY: Okay.

MR. BUDDEN: The – from line 16, Mr. Lemay, I'm going to read you a little bit. It says: "With regards to the concrete pour, the DG3 Project Cost and Schedule Risk Analysis Report includes an email from the SNC Lead Estimator to the Deputy General Project Manager regarding the schedule for the concrete pour. In the email, the SNC Lead Estimator summarized his opinion regarding the concrete pour schedule ... for work packaged," and then you spoke about it being an aggressive schedule – or at least the lead estimator did.

My question, Mr. Lemay: were you the SNC lead estimator who spoke to Grant Thornton about the concrete pour being an aggressive schedule. Was that you?

MR. LEMAY: Yes, it was me.

MR. BUDDEN: Okay.

For now, then, Mr. Commissioner, I'll end my examination with that caveat. I may return to some of this stuff later.

THE COMMISSIONER: Okay. Thank you.

Edmund Martin?

MR. SMITH: No questions, Mr. Commissioner.

THE COMMISSIONER: Kathy Dunderdale?

Not here.

Former Provincial Government Officials '03-'15?

MR. T. WILLIAMS: No questions, Mr. Commissioner.

THE COMMISSIONER: Okay. Julia Mullaley, Charles Bown?

MR. FITZGERALD: No questions.

THE COMMISSIONER: Thank you. Robert Thompson?

MR. COFFEY: No questions, Commissioner.

THE COMMISSIONER: Thank you. Todd Stanley, Terry Paddon?

Don't believe is here.

Consumer Advocate?

MR. PEDDIGREW: Thank you, Commissioner.

As was just said by Mr. Budden, we – there may be some questions we have, as well, that we reserve the right to ask during the in camera session, but for now we'll stick to some of the issues outside –

THE COMMISSIONER: So just to make the point, we haven't decided yet if we are having an in camera session. That will, of course, depend on the applications that are made –

MR. PEDDIGREW: Right.

THE COMMISSIONER: – and how I view them, but – okay?

MR. PEDDIGREW: Yup.

THE COMMISSIONER: But Mr. Lemay will be coming back.

MR. PEDDIGREW: Right. Okay. Thank you.

Good morning, Mr. Lemay. Can you hear me okay?

MR. LEMAY: Yes, I do.

MR. PEDDIGREW: Okay. My name is Christopher Peddigrew, and I am representing the Consumer Advocate. So the Consumer Advocate is – represents the ratepayers of the Province of Newfoundland and Labrador.

MR. LEMAY: Okay.

MR. PEDDIGREW: So I have a few questions for you today. I'm just looking for some elaboration on a Class 3 estimate, and just wondering how it compares to the other classes of estimates. So if we could just go to page – or sorry, Exhibit P-00865. I'm not sure what tab number that is in your –

UNIDENTIFIED FEMALE SPEAKER:
Eleven.

MR. PEDDIGREW: Tab 11 in your binder, and page 44, with the red page numbering.

MR. LEMAY: P-00865?

MR. PEDDIGREW: P-00865, yes, which is tab 11.

Could we just scroll down? Okay, that's good right there, thank you.

And so just wondering if you could explain – well, first of all, a Class 3 estimate at the stage of the project that you were asked to do the stage – or the Class 3 estimate – is a Class 3 estimate the normal kind of estimate you'd be asked to give at that stage, or based on your other work experience, would a Class 2 or a Class 4 be more appropriate?

MR. LEMAY: You know what, the Class 3 estimate that we were involved with referred to the certain level of engineering definition and the accuracy of the cost of the project. So that is the two main item that we were involved with.

MR. PEDDIGREW: Right. So, and just, if you could explain, in comparison to a Class 3, what would be more accurate, a Class 2 or a Class 4?

MR. LEMAY: A Class 2 of what? And 4 – what are you trying to – at what thing do you want to refer? Class 3 for me – there is five class in the AACE description. It starts from Class 1 to 5. One is almost at – like a bid, you know, from the contractor, and as we go up to Class 5, you know, the range of accuracy is larger.

MR. PEDDIGREW: Okay. And that was my question. So as you move along the process, a Class 5 would be more accurate than a Class 3. And so I guess my question –

MR. LEMAY: No, no. Excuse me, the Class 5 is not –

MR. PEDDIGREW: Oh, so the opposite, sorry.

MR. LEMAY: – opposite. Okay.

MR. PEDDIGREW: Right. So the Class 1 would be the most accurate, so –

MR. LEMAY: Accurate.

MR. PEDDIGREW: – in that. So, yes, I guess my question was, you know, based on your previous work experience on other projects, and given the stage you were at or – you were asked to do, the Class 3 estimate for the Muskrat Falls Project, is that a normal class estimate that you would be asked to do at that stage? Or would you perhaps have been asked to do a Class 2?

MR. LEMAY: Yeah. Usually, you know, the Class 3, the AACE, that we had to work with on this project, has a little bit more to do with oil and gas nomenclature. When I was in a project for Baie James, we were not referring to that type of class. It was whether a Class A, B or C, which A was like A1, you know?

So, maybe the Class B, in between B minus and C plus would be the Class 3 of the AACE that we were involved with on Muskrat Falls. Is that –

MR. PEDDIGREW: Okay.

MR. LEMAY: – helping you understand my point?

MR. PEDDIGREW: It is, yes. So are you saying that the Class 1, 2, 3, 4, 5 nomenclature is more common in the oil and gas industry, versus a hydro project?

MR. LEMAY: Yeah, yes.

MR. PEDDIGREW: Okay.

Do you know what class would have applied to the DG – like, the DG3 estimate that was done by Nalcor? Would that have been a Class 2 estimate, or a Class 1? Do you know the answer to that?

MR. LEMAY: Not really. You mean the estimate of Nalcor that they –

MR. PEDDIGREW: That was –

MR. LEMAY: Nalcor did not make estimates. SNC did the estimate, you know?

MR. PEDDIGREW: Right, but I'm wondering – and I know you weren't involved in the DG3 estimate that was used for sanction, but do you know if that would have been a Class 2 estimate, or a Class 1, or does this classification scale not apply?

MR. LEMAY: I think we have a misunderstanding a little bit here. DG3 ends, you know, on December 15, 2011 and Nalcor, in 2012, after that, terminate the estimate for the sanction. I don't see they accept – it is still – for what is still a Class 3 estimate that they were involved with, but I cannot swear on that.

MR. PEDDIGREW: Okay.

Mr. Lemay, just some questions about the – Ms. O'Brien was asking you some questions about the 48-month schedule yesterday. And I was just looking for some clarification, just – I wasn't clear, I guess, based on some of the answers as to how that worked, exactly.

So am I correct that the 48 months is, I guess, the 48-month schedule results from – so you know how much – you estimate how much concrete you need; how much concrete has to be poured, how much steel, everything that goes into your base cost –

MR. LEMAY: Mm-hmm.

MR. PEDDIGREW: – and then you determine how many workers, how much labour you will have? And then based on the amount of work that needs to be done, and the amount of labour that you have, that's how you come up with the 48 months. Is that correct?

MR. LEMAY: Yeah, the number of hours are generated by the HCSS software system, you know, after everybody have give them their information to Bhasker Dubey that I mentioned yesterday. Then we have a printout and we ended up with so many hours. And from there I

said, okay, if we have three or four crews working, you know, during a X period, we would have so many people and it would take that much long.

And then we see is it possible in a concrete job not to have too many crews at the same time, you know, because you pour the concrete and then have a place that you are installing rebar, and the other places they are resetting form for the next pour. So, you know, you have to look at all these stage, and make sure that the duration of these cycles, you know, make sense, and that's what give me the 48 months.

MR. PEDDIGREW: All right, so you – you make an assumption about how much labour you'll have available when you determine that 48-month time period, is that correct?

MR. LEMAY: That is another question about the labour that everybody think. We will address that, I believe, in another section, that was the in camera, because it has to do with the allowance that I have spoken yesterday for labour unavailability; has to do with the labour pool as well. So, we kind of just at the edge of the fence of what it is right to mention at this point in time or not.

MR. PEDDIGREW: Okay. And I certainly don't want you to – thanks for saying that, I don't want you to talk about those things that we've indicated may be talked about during an in camera session.

I'm going to ask you a few more questions. Again, I don't want to – I'm not looking for answers that would be covered by that, but do you know how many workers were on-site when the project started?

MR. LEMAY: At the beginning?

MR. PEDDIGREW: Yes, at the very beginning.

MR. LEMAY: No, I was not on the site at all, you know. I was in Montreal starting January 2014; I had not a clue of how many people or what was going on, on the site.

MR. PEDDIGREW: Okay. So you don't know if there were sufficient number, I guess, that

were deemed necessary to meet that 48-month schedule? You don't know if there were – if there was enough–

MR. LEMAY: No.

MR. PEDDIGREW: – or if there was not enough?

MR. LEMAY: I was not involved in that –

MR. PEDDIGREW: Okay.

MR. LEMAY: – the process at all, sorry.

MR. PEDDIGREW: Okay. Okay.

Mr. Lemay, just gonna ask you to look at P-00865 again, and this time page 47. So that's tab 11 of the binder you have.

MR. LEMAY: Excuse me, I did not find yet the other one, but I remember most of the document. If you have a picture of it, I can look at it.

MR. PEDDIGREW: Sorry, what's that?

THE COMMISSIONER: He hasn't got a –

MR. LEMAY: Do you have a –

MR. PEDDIGREW: Oh you don't have the binder, okay. So – okay, so, well –

MR. LEMAY: I have the binder, but it is offset since we receive – lately the – okay. Excuse me.

MR. PEDDIGREW: Okay. So do you have –?

MR. LEMAY: (Inaudible.)

MR. PEDDIGREW: Do you have P-00865 in front of you there?

MR. LEMAY: I have the sheet, but the P-00865, 11 –

MR. PEDDIGREW: Okay, so it's tab 11 in your binder.

MR. LEMAY: Okay, that's the other one.

Okay, I've got it.

MR. PEDDIGREW: Okay.

MR. LEMAY: Which page is – 47, okay?

MR. PEDDIGREW: Page 47, yes, yeah. The red page numbering.

MR. LEMAY: Yeah, I'm coming. Sorry.

MR. PEDDIGREW: Madam Clerk, if we could just scroll down a little bit there please, to 12.9.

MR. LEMAY: Mm-hmm, okay.

MR. PEDDIGREW: And so, Mr. Lemay, this Escalation Estimating, can you just explain a little bit about what that means? Do you – I guess, is that a term that you're familiar with, first?

MR. LEMAY: Yes, but again – I don't know if you had a chance to listen of the hearing yesterday – I was not involved with escalation at all in the project. Nalcor again.

MR. PEDDIGREW: Okay. And so, I guess that was my question then, when you were asked to do your base estimate, which resulted in about a \$5.1 billion estimate, there was no escalation built into that estimate, is that correct?

MR. LEMAY: No.

MR. PEDDIGREW: Madam Clerk, if we could just go to P-00861, please.

Do you know what tab number that is?

THE COMMISSIONER: Tab 7.

MR. PEDDIGREW: And that's tab 7, Mr. Lemay, in your binder.

MR. LEMAY: Tab 7, okay. Okay.

MR. PEDDIGREW: And page 58, please.

So yesterday you were asked about some items on the previous two pages of this document – pages 56 and 57 – and they were owner costs that you said were not included in your \$5.1-billion estimate. So I guess I'm just looking to – the bottom of page 58, and then going into page 59 and 60.

So these are all of the components, are they, that made up your \$5.1-billion base estimate?

MR. LEMAY: These are the contract package, not the component. The component – we had three component: C1, C3 and C4. I just wanna make sure we’re using the same words so we’re not getting mixed up. So these are contract package, Sir. So those are the ones that form the \$5.1 billion.

MR. PEDDIGREW: Right. So these contract packages would be the work that would be done to make up that 5.1 billion, is that right?

MR. LEMAY: Yup.

MR. PEDDIGREW: Okay.

Mr. Lemay, yesterday I think you said that in 2012, I think you referred to it as a fine-tuning process for your base estimate, and that you said you were working with Nalcor during that time, and I think you said about halfway through that year, in June 2012 is when I think you said Jason Kean’s team took over. Is that – would that be a correct summary of what you said yesterday?

MR. LEMAY: He was always in charge of the fine-tuning estimate; the thing I said, I said at the end of June we went back to the SNC section, continuing helping Jason, but not in the bullpen, but from our area.

MR. PEDDIGREW: Okay, but – so after June 2012, were you continuing to help them work on their cost estimates – “them” being Nalcor?

MR. LEMAY: Yeah, we were – the process of the contract packages was getting more refined and we were helping – not directly Jason, but the contract administrator – that we’re gonna take care of those contract package, so we were more aiming to help these guys finishing this than helping Mr. Kean to fine-tune his estimate. Because like I said yesterday, I wasn’t a part of that, you know. When we move back to the SNC section, we were more oriented in the contract package issue.

MR. PEDDIGREW: And I believe you said yesterday as well, that early – or in the lead-up to your estimate in December 2011, there was some information such as geotechnical, I guess,

information about, I think, the transmission line that I guess you weren’t aware of, so you built provision into your estimate to account for that – is that correct?

MR. LEMAY: Yeah, we have – like I said yesterday, we didn’t have that many information on geotech, so I have made an allowance, you know, to address this issue.

MR. PEDDIGREW: And do you know – did any of that information subsequently become available as Nalcor worked towards DG3? Did more geotech –?

MR. LEMAY: Gradually, yes.

MR. PEDDIGREW: Pardon me?

MR. LEMAY: Gradually, during the course of the years, it become available.

MR. PEDDIGREW: Okay.

And were you privy to that information? Was that information that you were able to look at as well?

MR. LEMAY: No, because I was not there, you know. I came back in Montreal and I don’t know, again, after that period, what was going on with all the rest of the execution of the work.

MR. PEDDIGREW: The period of time, Mr. Lemay, that you had to provide your base estimate – so it was about a seven-month period, is that correct, from May ’til December 2011?

MR. LEMAY: Yeah.

MR. PEDDIGREW: Do you feel that was a sufficient amount of time? Did you feel rushed, or was that a comfortable amount of time?

MR. LEMAY: Well, we always appreciate to have as much time as it can, but it was sufficient, yes.

MR. PEDDIGREW: And in terms of the information, do you feel like you were provided with – was there any information that you wanted, that you were not provided?

MR. LEMAY: Not that I recall, you know, that was – be critical to not doing a good job.

MR. PEDDIGREW: And so – the geotechnical information, is that information you would've wanted to have? Would that have helped build a more accurate base estimate, do you think?

MR. LEMAY: Not really, like I mentioned yesterday, when we assume – especially for the 1,000 kilometre of the transmission line, whether you are going to encounter rocks or good ground and swamp, you know. Of course, you will have a boring at every kilometre, you know, it would help, but it was impossible to get that. But we were able, you know, to get a good estimation of the cost of building this line with the provision that I have include, and the people that was working – the estimator that was working for me that has some – over 30 years of experience in these transmission line construction.

MR. PEDDIGREW: I guess when you say it was not possible to get all the geotechnical information, that's because we're talking about a 1,600 kilometre transmission line – is that the main reason? You can't drill boreholes to test the whole 1,600 kilometres, I would assume.

MR. LEMAY: Could you repeat that?

MR. PEDDIGREW: Yeah, I guess it would be difficult, I guess – maybe impractical – to drill test holes –

MR. LEMAY: Mm-hmm.

MR. PEDDIGREW: – or boreholes –

MR. LEMAY: Yeah, yeah.

MR. PEDDIGREW: – for the full 1,600 kilometres.

MR. LEMAY: Yeah. Yeah, of course, you know.

MR. PEDDIGREW: Have you ever worked on a project with a transmission line of that length? Like the James Bay –

MR. LEMAY: No. James Bay is not that long for the – what we were – for what I was involved in, in James Bay.

MR. PEDDIGREW: Okay. So do you think that created any more difficulty in preparing your estimate? Given, I guess, the length of the transmission line and the – you know, maybe the lack of knowledge about the geography?

MR. LEMAY: Not really. Like I told you, (inaudible) experienced people was working on there, and I think the estimation that we have provide was a fairly good – a good estimation, and like I told you, more information you get, more accurate you are, but you know, you cannot – it cannot be perfect, you know.

MR. PEDDIGREW: Okay.

MR. LEMAY: Perfection does not exist.

MR. PEDDIGREW: No, fair enough, fair enough.

Based on your experience in working at other hydroelectric projects, the James Bay projects, do you have any insight into any common problems from an estimating perspective? Anything that sort of is generally difficult when doing cost estimates on these projects?

MR. LEMAY: Sometime –

MR. PEDDIGREW: What's the hardest part, I guess, you would – I would say.

MR. LEMAY: What again?

MR. PEDDIGREW: What's the most difficult part of doing a cost estimate on these kinds of projects?

MR. LEMAY: Well, there's the time that we have to do the estimate, you know? And the people that you have to deal with and make sure that everybody meets their schedule and the interaction with the engineering people, getting the information, and you know, those things are – those aspect are all aspect of a – that challenge us, but when everybody push in the same direction, you know, we ended up with good result. And I think that we did.

MR. PEDDIGREW: Okay. So in relation to the Muskrat Falls Project, and your work on this project, is there anything that you would say was more difficult than when you compare it to your work on some other projects as an estimator?

MR. LEMAY: Not really, you know. I did not find something, you know, that unusual that I have encountered in my 28 years of estimating on other project. There is time it is more difficult; sometime it is less difficult, but overall, you know, we always, you know, meet our commitment.

MR. PEDDIGREW: Just – and again, I don't want you to go into the area that was identified not to talk about today, and I don't think this question will, but just – in your interview, you did make some reference to – I don't know if you have a copy of it there, but I'm just going to refer to page 84 of the interview transcript.

And Mr. Lemay, I think during the interview you were asked about some of the costs, and I think there was some discussion about the \$800 million increase from the 6.2 up to 7 billion and how that could have happened, and then you said: There was a rumour on the site that the people that were going to work on the site were going for two run – and they never came back. So when they had another crew of men, they had to start over again, and you know, pay a kind of learning curve again to have this guy to know what they were doing. So that was costly.

Just – what do you mean by that? When you say: there was a rumour on the site that the people that were going to work on the site were going for two run? What does that mean?

MR. LEMAY: This is something that I heard during the first contract. People that are – was going on the site was making two run, where (inaudible) for 21 days, and after they did two, two of those (inaudible), sometime people were not coming back. So the contractor has to start with new worker, and have them, you know, to have necessary another learning curve of the work.

MR. PEDDIGREW: So do you mean that people would go there, work, and then – you know, for a turnaround or two, and then not return, and then they would have to bring in new

workers to replace them? Who would be there (inaudible) –?

MR. LEMAY: That is a rumour that I heard.

MR. PEDDIGREW: Okay.

Mr. Lemay, those are all my questions. Thank you.

MR. LEMAY: Welcome, Sir.

THE COMMISSIONER: Former Nalcor Board Members. Anybody here?

MS. G. BEST: No questions, thank you.

THE COMMISSIONER: Thank you. (Inaudible).

UNKNOWN MALE SPEAKER: No questions, Commissioner.

THE COMMISSIONER: Okay, thank you.

SNC-Lavalin?

UNKNOWN FEMALE SPEAKER: No questions, Commissioner. Thank you.

THE COMMISSIONER: All right.

Mr. Lemay, thank you very much for coming in so early this morning – oh. Is there any redirect?

Thank you very much for coming in early this morning. I think there is a plan that – to have you back at some stage. I'm not really privy to that right at the moment. But we'll certainly be in touch with you, and we really appreciate you accommodating our schedule.

MR. LEMAY: It's my pleasure, Sir.

THE COMMISSIONER: Thank you very much.

MR. LEMAY: Have a good day.

THE COMMISSIONER: You too. Bye-bye.

MR. LEMAY: Thank you.

THE COMMISSIONER: Okay. Next witness then? Will we proceed with Mr. Skinner, or we take a break first, or how do you want to handle this?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

THE COMMISSIONER: Start now? Okay.
And –

Shawn Skinner?

MR. SKINNER: Good morning, Sir.

THE COMMISSIONER: Good morning.

And does Mr. Skinner have his binder there?

CLERK: Yes.

THE COMMISSIONER: Okay.

And does Mr. – Sir, do you wish to be sworn, or affirmed?

MR. SKINNER: Sworn.

THE COMMISSIONER: Sworn? Just take the Bible in your right hand, Sir.

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 –

MR. SKINNER: I do.

CLERK: – so help you God?

MR. SKINNER: I do.

CLERK: State your full name for the record, please.

MR. SKINNER: Shawn Skinner.

CLERK: Thank you.

THE COMMISSIONER: Can I just speak to you just for one minute, Ms. O'Brien?

Can you spell your first name, please?

MR. SKINNER: S-H-A-W-N.

THE COMMISSIONER: Okay, Mr. Learmonth.

MR. LEARMONTH: I'd first like to enter Exhibits P-00835 to (inaudible).

I'd first like to enter Exhibits P-00835 through P-00851.

THE COMMISSIONER: Okay. Those will be marked as entered.

MR. LEARMONTH: Okay.

Good morning, Mr. Skinner.

MR. SKINNER: Good morning, Sir.

MR. LEARMONTH: Could you advise us your education after high school, please?

MR. SKINNER: Yes, Sir.

After high school, I attended the – what was then known as the College of Trades and Technology and completed a computer programming diploma. I did correspondence courses from St. Francis Xavier University to get an adult education diploma. And I've done numerous university courses since, and I've done some professional development courses.

MR. LEARMONTH: Okay, thank you.

And could you give us a summary of your work, your career, up to the point where you were elected into the House of Assembly in 2003?

MR. SKINNER: From 1983, which is when I graduated, to 2003, basically, when I was elected provincially, I worked in the field of adult education and training, teaching computer programming courses, business courses, those kinds of things.

MR. LEARMONTH: And you were also a municipal politician, is that correct? A ward councillor?

MR. SKINNER: Yes, Sir. From 1993 to 1997 I also served the citizens of St. John's as a ward 2 councillor.

MR. LEARMONTH: Ward 2 councillor, yes. And you were elected to the House of Assembly in 2003 and you served until October 2011. Is that correct?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: And you – I understand that you were a minister of Human Resources, Labour and Employment from January 2007 until October 2008. Does that sound right?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: And then after October 2008 until December 2010 you were minister of Innovation, Trade and Rural Development?

MR. SKINNER: That's correct.

MR. LEARMONTH: And then you were appointed minister of Natural Resources from December 10, 2010, until October 28, 2011. Is that correct?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Okay.

Now, while you were – I'm going to focus on the period when you were the minister of Natural Resources; that's from December 10, 2010, until October 28, 2010. So when you were appointed, the term sheet with Nova Scotia had just recently been signed, I think, on November 18, 2010. Correct?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Okay.

And while you were minister of Natural Resources, was Nalcor required to report to the Department of Natural Resources as the sort of the lead department?

MR. SKINNER: Nalcor – when you say required to report, Nalcor reported into government generally through the Department of Natural Resources. I'm sure they reported to other departments as well, depending on what it was they would've been involved with, but we were definitely the lead department. And my staff would've been the point of contact for most

of what Nalcor would've been doing related to the Muskrat Falls Project, yes.

MR. LEARMONTH: Yeah.

And who – what person or persons would be the points of contact for Nalcor while you were minister?

MR. SKINNER: Mainly it would've been the – at the time, I believe, his title was associate deputy minister. It would've been Mr. Charles Bown.

MR. LEARMONTH: Okay, and anyone else with Mr. Bown?

MR. SKINNER: Generally speaking, Mr. Bown would've been the main person. And, you know, myself as minister, Mr. Bown would've certainly kept me informed.

MR. LEARMONTH: All right.

And were you aware of any certain situations where the – Nalcor would receive instructions or direction directly from the Premier's office?

MR. SKINNER: I would've expected that they would, yes.

MR. LEARMONTH: So you – that situation occurred while you were minister?

MR. SKINNER: Yes.

MR. LEARMONTH: Okay.

And the premier while you were there was Premier Dunderdale, correct?

MR. SKINNER: Correct.

MR. LEARMONTH: Yeah.

Would you be advised of all those – the meetings that Nalcor would have with the premier?

MR. SKINNER: I would be advised of some meetings. Whether or not I was advised of all, I wouldn't know for sure.

MR. LEARMONTH: Yeah.

MR. SKINNER: I would expect there would've been interactions that I probably would not have known of. Some I would be, if the Premier's office felt that it was something that my department should've been aware of.

MR. LEARMONTH: Okay, thank you.

Now, the – at tab 6 of your document, that's P-00840, there's a reference to the Quebec energy regulator denying the fair and open access to the Quebec transmission system. That's Exhibit P-00840, and your tab 6, Mr. Skinner. Do you see it?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Yeah.

You're saying in paragraph 2: "Despite the requirement for regulatory fairness, our initial review of the ruling indicates the Régie did not address our arguments for open transmission access," said the Honourable Shawn Skinner"

So that was dated April 7, 2011, and you were the minister at the time. Correct?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: So what – did that decision where the Régie upheld the May 2010 decision of TransÉnergie, at that point was the focus on Muskrat Falls as opposed to Gull Island?

MR. SKINNER: I would say, yes. Yes.

MR. LEARMONTH: So that would've been a turning point for that focus, would it have been?

MR. SKINNER: I would think so, yes.

MR. LEARMONTH: Okay, thank you.

Were you – I know you were minister of another department, but were you kept up to date on the progress that was made between – in the negotiations between Emera and Nalcor for the November 18, 2010, term sheet? Were you kept abreast of the negotiations as a Cabinet minister?

MR. SKINNER: I was aware that there were negotiations going on. I was not necessarily aware of the, I would say, sort of, daily things that may be happening, but in Cabinet meetings you would get an update. But I would say generally I was aware.

If you're asking me was I specifically aware of things that were happening, I would have to say, no, but I was generally aware. I wasn't involved directly I guess is the point I'm making.

MR. LEARMONTH: All right.

Now, when the term sheet was announced on November 18, 2010, the information provided to the public was that the cost of – for the Province of Newfoundland and Labrador and Nalcor was \$5 billion and \$1.2 billion for Nova Scotia. Is that correct?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Yeah.

Now, we went through this in your interview. I advised you that – of certain facts. I'll just go over them again, and you can accept them for the sake – purpose of this question to be correct.

MR. SKINNER: Okay.

MR. LEARMONTH: That – okay, in support of Nalcor's cost estimate preparation for DG2, Nalcor engaged a company from Texas called Westney to complete a quantitative risk assessment, a QRA; and that the amount of contingent equity or management reserve for the strategic risk that was identified by Westney was in the \$300-million to \$600-million range at a P50 probability factor; and in a draft document for DG2, Nalcor chose to include an allowance of \$300 million for strategic risk, which was the bottom range of the range recommended by Westney.

Now, during negotiations between Nalcor and Emera for the term sheet, we have information that Nalcor executive made a conscious or deliberate decision to remove the strategic risk reserve in the DG2 QRA in order to respond to Emera's concern regarding its ability to sell the strategic risk concept to the Nova Scotia regulator, the Nova Scotia Utility and Review

Board, which is the equivalent of our PUB. So it was removed.

At any time before the public announcement of the term sheet was made, were you aware that – of these facts that the amount of strategic risk had been removed and therefore was not allowed in the \$5-billion estimate?

MR. SKINNER: No, Sir, I was not.

MR. LEARMONTH: When did you find out about that?

MR. SKINNER: I would – I first heard of it when you mentioned it to me in the interview.

MR. LEARMONTH: Yeah. That's the first time you became aware of that.

And assuming all those facts are true, that there was an amount removed, would that have given you any concern if you had known about it at the time?

MR. SKINNER: Would the amount of money given me concern, is that what you're asking?

MR. LEARMONTH: Not the amount of money, but the fact that it was not included in the –

MR. SKINNER: Oh, absolutely. Absolutely.

MR. LEARMONTH: Okay. Why would that be a matter of concern?

MR. SKINNER: Well, all of the – my position was that all of the information that we had available should be made available, obviously, to me as a minister. And my goal was to make sure it was made available to the public generally so that people understood the project and all the factors around it.

So if there was an amount of money that potentially would have to be spent to develop this project, then I felt that that should be something we should be aware of to help with our decision-making, and it should be made aware of generally to the public so people would understand the costs that we were incurring, potentially.

MR. LEARMONTH: Okay.

And you didn't know anything about it while you were minister, or you didn't know about it until I informed you?

MR. SKINNER: That's correct.

MR. LEARMONTH: In your interview in August of – August 29 of this year?

MR. SKINNER: That's correct.

MR. LEARMONTH: Okay, thank you.

Mr. Skinner, you mentioned Charles Bown. Was he specifically assigned to the Muskrat Falls Project, or was he simply a person who had a lot of input into it? I mean, in other words, was there a specific direction given to Charles Bown while you were minister that, Mr. Bown, you're responsible for the Muskrat Falls Project as far as the Department of Natural Resources is concerned?

MR. SKINNER: It was not a direction that was given by me, but when I was appointed minister of Natural Resources, I was basically told that Charles would be the lead staff member to deal with the Muskrat Falls Project.

MR. LEARMONTH: Yeah, and you said he was associate deputy minister, is that correct?

MR. SKINNER: I believe that was his title at the time, yes.

MR. LEARMONTH: Okay.

While you were minister of Natural Resources, did you have occasion to have direct communications with representatives of Nalcor?

MR. SKINNER: I did.

MR. LEARMONTH: With whom would those communications have been made?

MR. SKINNER: On one occasion I had a specific communication with Mr. Ed Martin. And, generally, I would have communication with representatives from Nalcor during briefing sessions.

MR. LEARMONTH: Okay.

Can you describe a typical briefing session? When – how would it be arranged and what would be the format and who would attend? I know you don't – I should mention that you don't have any notes or records for the time when you were Minister. Is that correct?

MR. SKINNER: That's correct, Sir. I didn't keep any log or any diary.

MR. LEARMONTH: Okay.

So I realize you're going by memory and by what documents you've seen, but can you give us some sense of what these meetings were, how they were set up? What was the purpose of them, generally, and who would normally be in attendance at these meetings with representatives of Nalcor?

MR. SKINNER: So briefing sessions, generally, would be initiated by Nalcor wanting to come in and provide an update or seek direction from the department or it may be at the request of the department; we may want further information. So, either could sort of request the briefing.

When a briefing occurred it would typically occur in my boardroom – the minister's boardroom. Myself, Mr. Bown, generally, was always there; there may be other Natural Resources staff depending on what the issue or the topic being discussed was. There would be representatives from Nalcor who would come in who were involved with the project. You know, it may or may not be Mr. Martin. Mr. Bennett, I believe, some – Gilbert Bennett was there sometimes.

There generally would be a slide deck or a PowerPoint presentation that would be used to guide the briefing. There would be presentation made, discussions asked and then, you know, the meeting would conclude. And if direction could be given in the meeting, it would. If it was for information purposes only, fine. And if direction needed to be sought from Cabinet, then there would be a process we would go through to make the issue hit the Cabinet agenda.

MR. LEARMONTH: Thank you.

I ask you to turn to tab 19, which is Exhibit P-00840 – excuse me. We'll come back to that later. I wanted to ask you some questions about the reference question that was put to the Public Utilities Board.

MR. SKINNER: Mm-hmm.

MR. LEARMONTH: Can you give us some general background as to why government decided to refer the question that was referred to the government? What was the background of it?

MR. SKINNER: So, generally speaking, there was a number of questions being asked in the House of Assembly by the Opposition regarding engaging with the Public Utilities Board. There would have been questions from the public around having the Public Utilities Board view the options that government had undertaken to see whether or not ...

The key point, I guess, was we had determined that Muskrat Falls was the least-cost option and people were wanting to be – have that confirmed. And so the direction came, basically, that we should engage with the Public Utilities Board and see if they could either confirm or contradict the fact that, at this point, our view was that the Muskrat Falls project, as we had defined it, was the least-cost option to provide the power that we wished to have provided.

MR. LEARMONTH: Okay, so before the matter was referred to the Public Utilities Board on June 17, I think –

MR. SKINNER: Yeah.

MR. LEARMONTH: – 2011, the government had concluded that Muskrat Falls was the least-cost option.

MR. SKINNER: Yes.

MR. LEARMONTH: Yeah, right. Do you know when that decision would've been made?

MR. SKINNER: Well, it was an ongoing process and the alternatives that had been looked at had been costed through, you know, Nalcor's assessment, various studies and various reports.

And the presentation from Nalcor to government was that Muskrat Falls was the least-cost option.

We were still, as a government, doing our assessment and evaluation so, at that point, it was still the least-cost option, but we were still going through a process of, you know, fact checking, making sure the information we had before us was, you know, was correct or accurate and reviewing it.

So it was – I think I mentioned in my interview there was a – the terminology used was a Decision Gate process where information would be brought forward. There were various stages that you would look at, you would go back over it and check it and that was the process that I felt we were into. So, at that point, it was least-cost option, but it was still under evaluation.

MR. LEARMONTH: Thank you.

The – and you were – just to – for continuity, I wanted to refer to tab 3 which is Exhibit P-00837. Could you turn to page 3 of that document, Mr. Skinner?

MR. SKINNER: I have it, yeah.

MR. LEARMONTH: Yeah.

And so that's a *Labrador Hydro Project Exemption Order*. Can you tell us your understanding of the effect of that order?

MR. SKINNER: My understanding was that this order, which was put through by a previous administration around the year 2000, I believe, exempted the Muskrat Falls Project from having to go through the Public Utilities Board process. That was the understanding. So it was already exempted and it didn't have to go there but it didn't preclude if the provincial government wished to do so that it could be sent to the Public Utilities Board.

MR. LEARMONTH: Yes. And did you personally feel that it was a good idea to refer the matter to the Public Utilities Board?

MR. SKINNER: I did, personally, yes.

MR. LEARMONTH: Yeah and you made the recommendation, did you, as minister of Natural Resources?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Yeah.

Can you tell us why you didn't send a broader question to the Public Utilities Board; in other words a question that would have said – would allow the Public Utilities Board to examine all options, not just the two that were presented to it in the reference? Why was the scope of the review requested by the Public Utilities Board, I'll say, narrow as opposed to broad like was done in Nova Scotia?

MR. SKINNER: So my perspective – and I would suggest to you our perspective as a government – was that there had been a lot of work over many years, many administrations done, on the potential development of the Muskrat Falls and Gull Island project as well. And there had been numerous studies and numerous reports and a lot of time and energy spent on evaluating other options that existed or could potentially exist. And the point that we were at, at that point in time, was that it was quite apparent to us that the two options that appeared to be the best options would have been either to go with the Muskrat Falls Project, as we had it scoped out, or to go with an Isolated Island Option.

And it was determined by our government that the other options that potentially could exist would not be able to meet what we required in terms of cost, economic generation, time, I guess, all those things. And so we referred the two that we felt were the two that people felt, based on questions from the Opposition and the sentiment in the public, were the two viable alternatives.

MR. LEARMONTH: Okay.

At the time that the government referred the matter to the PUB, were you personally aware that the only numbers that Nalcor was going to present to the PUB were the Denison Gate 2 numbers which were based on, among other factors, a 5 per cent completion of the engineering?

MR. SKINNER: I was aware that the numbers were Decision Gate 2 numbers. I was not aware that it represented 5 per cent of the engineering. That was not a number I was aware of.

MR. LEARMONTH: Do you see that as a problem, now that you're aware of it, that you're asking the Public Utilities Board to make a selection when the Muskrat Falls Project had only been advanced to the point where 5 per cent of the project workup or engineering had been completed? Did you see that as a problem?

MR. SKINNER: I don't know if it is. I don't know if the percentage of engineering that's completed would be a significant or insignificant factor from the Public Utilities Board perspective on that. My understanding was that there was a lot of information gathered. I would assume – I did assume that all of the projects were relatively investigated and considered to the same level. And we had Muskrat Falls at a stage of Decision Gate 2, which I understood was a stage that the Public Utilities Board would be able to use and review the information.

MR. LEARMONTH: Can you see that as being a potential problem? That you're asking for the Public Utilities Board to make a determination on one project where only 5 per cent of the project workup has been done and 1/20?

MR. SKINNER: Again, I mean, potentially it could be, but I wasn't aware of it. And whether it was or it wasn't, I don't know. I don't feel like I have the expertise, I guess, to make that determination.

MR. LEARMONTH: Okay. Thank you.

Now, we know that at the time there was some public pressure to – on government to refer this matter to the Public Utilities Board. Do you acknowledge that?

MR. SKINNER: Yes.

MR. LEARMONTH: Yeah.

And I want to refer you to tab 10, Exhibit 00843, which is a letter from Ronald Penney and David Vardy. Was this letter – I know it wasn't the only factor, but was this letter the type of public

pressure, we'll say, or public opinion that was taken into account by government?

MR. SKINNER: Yes. I would have to say, yes. I didn't consider it to be pressure –

MR. LEARMONTH: No.

MR. SKINNER: – as much as, you know, they were – they had a viewpoint. And the individuals who signed this letter were people that I knew of generally and respected their opinion. So it would certainly influence, I guess, my view of things.

MR. LEARMONTH: Now, you've probably heard, if you follow this – the Inquiry to date, that there's been a lot of discussion about this P-factor, P50, P75. So you probably know something about it now, do you?

MR. SKINNER: I do, Sir. Well, I've heard it. I don't know if I know much about it, but I've heard it, yes.

MR. LEARMONTH: Yeah. But while you were minister of Natural Resources, did you ever hear of this probability factor, P1, P50, P75?

MR. SKINNER: I did not.

MR. LEARMONTH: You never heard it? Okay.

The – if we go to tab 13, which is Exhibit 00846, this is the – this is a document that was prepared with your approval on May 26, 2011, just before the reference to the PUB. And do you recall signing off on this document? It was prepared by Paul Scott and Charles Bown and reviewed by B. Delaney and proofed by – do you recall reviewing this document?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Okay.

And this is what got the ball rolling, can we say, to, you know, have the matter considered by Cabinet?

MR. SKINNER: In terms of the reference to the PUB you mean?

MR. LEARMONTH: Yes.

MR. SKINNER: Yes.

MR. LEARMONTH: Okay.

MR. SKINNER: Yeah.

MR. LEARMONTH: Now, on page 3 of this report the alternatives are set out. And one of the cons was it: "Could be criticized as not allowing sufficient time for adequate review."

Was that an issue that you'd taken – took into account because, as we know, as events unfolded, the Public Utilities Board did not feel that it had adequate time for a full review. But I take it that that issue was before you're alert to that point, that problem, potential problem, as early as May 26, 2011. Is that correct?

MR. SKINNER: I was aware of the fact that it would be a challenging time frame. I wouldn't say that I was not aware of that. In discussions with my staff when we were putting this together, it was indicated that the time frame could be challenging for the Public Utilities Board.

MR. LEARMONTH: And I wanted to ask you about the relationship between Nalcor and government in terms of this reference to the Public Utilities Board.

First, was Nalcor consulted on the wisdom or advisability of referring this question to Public Utilities Board before it was actually decided by Cabinet?

MR. SKINNER: I'm – I don't know. I have to be honest, I don't know.

MR. LEARMONTH: So you –

MR. SKINNER: I didn't consult with them and –

MR. LEARMONTH: But others may have, you don't know.

MR. SKINNER: Potentially they may have but I do not know that. No.

MR. LEARMONTH: Okay.

But I suggest to you that some of the documents that I'm going to refer you to suggest that there was a very close relationship between Nalcor and government in terms of the reference to the Public Utilities Board. Do you acknowledge that?

MR. SKINNER: Yes. I would say that there was – you know, I would expect there would have been communication back and forth, but I couldn't specifically tell you that there was.

MR. LEARMONTH: Yeah, but – well, I just want to – this is a – give you a few examples. If you go to tab 4, which is Exhibit P-00838. Do you have that?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Okay so that's an email from – well, there's a couple of emails but apparently Dawn Dalley, who I believe was a public relations advisor for Nalcor, is communicating with government on communications and so on.

Does that strike you as unusual that Nalcor is involved in matters such as those identified in this email? Is it unusual that Nalcor would sort of be advising or liaising with government on matters such as this?

MR. SKINNER: I wouldn't consider it unusual. I mean Nalcor was the entity that was doing the lion's share of the information gathering on this and making presentations to government to help inform government's decision-making.

MR. LEARMONTH: Yeah. So there was no real separation between government and Nalcor at the time of the PUB reference. Do you agree with that?

MR. SKINNER: I –

MR. LEARMONTH: I mean you were both on the same side, on the same team, would you agree with that?

MR. SKINNER: No, I wouldn't necessarily put it to you that way. I mean I considered us to be – us – when I say us I mean government. I considered us to be the people who had to make the final decision. And Nalcor was presenting

information to us and we needed to consider that and review that. But in terms of – you used the term, I think, on the same team. We worked collaboratively on it, but it didn't necessarily mean we always would agree or support what they were doing.

MR. LEARMONTH: Okay.

Were there occasions when you were minister when you didn't support or agree with initiatives that Nalcor was undertaking?

MR. SKINNER: There would have been times when you would certainly ask for information or question what was being presented. You would challenge information that was brought forward to you to make sure you had, you know, all the information or the best information available.

MR. LEARMONTH: Can you give an example of that situation? Do you recall?

MR. SKINNER: There – well, I would say to you any time we would ask for a briefing would be a time when we would be asking Nalcor to come in and explain, you know, whatever it was that we were asking for the briefing on. We would have required further detail or further explanation to help us understand the position or point that they were bringing forward.

MR. LEARMONTH: Now, did you have any communications with Andy Wells, who was the chair of the Public Utilities Board, any time between June 17, 2001, when the matter was referred to the Public Utilities Board and March –

THE COMMISSIONER: 2011.

MR. LEARMONTH: Excuse me?

THE COMMISSIONER: 2011.

MR. LEARMONTH: 2011, excuse me – and March 30, 2012, when the report of the PUB was delivered to government? Did you have any communications with Andy Wells?

MR. SKINNER: No. The only communication I recall with Mr. Wells was when the matter was referred to the Public Utilities Board I did receive a call from Mr. Wells – and I don't know

the exact date – indicating that he had a level of frustration with the pace of information being presented to the Public Utilities Board from Nalcor. And, basically, he contacted me to say, you know, I need you to help us with this, to do something about this. You need to be aware of it and I think you need to do something about it.

And so I undertook to look into that issue. I called Mr. Ed Martin. My understanding from Mr. Wells's column – if we just go back to that for a second – was that the information was being brought to him by Mr. Gilbert Bennett or being forwarded to him through Mr. Gilbert Bennett's office.

And so I called Mr. Martin and indicated that I'd received a call from Mr. Wells. He was concerned about the pace of the information getting to them. And I asked Mr. Martin to look into it and to intervene and to ensure that the information that the Public Utilities Board were requiring was presented to them in a timely manner. And it's my understanding that Mr. Martin then engaged with Mr. Wells and the Public Utilities Board.

MR. LEARMONTH: Okay.

At tab 21, Exhibit 00850, there's an email from Ed Martin to you and Chares Bown about a status report and referring to a number of RFIs that were provided or sent.

Do you know why Mr. Martin would be – I wouldn't say reporting to you but – advising you of this issue while a matter was before the Public Utilities Board? This email is dated September 2, 2011.

MR. SKINNER: Mmm.

MR. LEARMONTH: Do you have any – explain that or give your comments on that, please?

MR. SKINNER: So I took it as being – excuse me. I took it as being a follow-up to the call I had with Mr. Martin in – I would expect it would have been June month, where he is basically providing me – I understand this is a document that Nalcor used themselves internally to update their progress with the PUB. And Mr. Martin sent it to me as a follow-up to the

conversation I had with him to say here's an example of what we're doing.

I hadn't had any communication with Mr. Martin or Mr. Wells in between that time and I think that was the – just his way of updating me.

MR. LEARMONTH: All right.

Now, when you were minister, I think the Public Utilities Board, Mr. Wells, sent a letter – and I'm going to ask you to turn to tab 22, Exhibit 00567, if you could turn that up. And that's a letter not asking for an extension but advising you that an extension was – well, he says the second paragraph: "The Board is not formally requesting an extension at this time because we cannot provide a realistic" date.

So you were aware, at that point, that the report was not going to be – it was highly unlikely that the Public Utilities Board could file a report by December 31. Correct?

MR. SKINNER: I felt it was going to be unlikely. He didn't – I didn't take it to mean they wouldn't, but I felt it was unlikely.

MR. LEARMONTH: Yeah. Well, anyway, when an extension was given, you were no longer minister. So I'll just –

MR. SKINNER: Yeah.

MR. LEARMONTH: I won't ask you about that.

Do you – when – while you were minister, were you aware of the CPW, cumulative present worth analysis that Nalcor was preparing to assist in comparing the two alternatives? The CPW analysis?

MR. SKINNER: I wouldn't say I was aware of the CPW analysis. I know the terminology CPW was used from time to time, but in terms of what it means and analysis, I would say, no.

MR. LEARMONTH: All right. Thank you.

While you were minister the federal and provincial Joint Review Panel filed a report. Do you remember that? I think it was filed in – well,

it was in August 2011. That's referred to in tab 17.

MR. SKINNER: Yes.

MR. LEARMONTH: Do you recall receiving or reviewing this Joint Review Panel report?

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: Yeah.

And I believe that the response to the number – to the Joint Review Panel that was prepared by the government was sent out on March 2012, so you weren't there. But did you do any work on – personally, were you involved in any work in preparing answers to the recommendations of the Joint Review Panel?

MR. SKINNER: No. Not in preparing any answers, no.

MR. LEARMONTH: So you got it and received it, but the work in preparing the recommendations was not something that you had any involvement in. Is that right?

MR. SKINNER: That would be an accurate statement. I basically was given – asked for and received a briefing on the report. Was aware that there were 80-plus recommendations made. And in the briefing there was an indication from staff that – and Nalcor – that a number of those recommendations were accepted, were being worked on, needed further work, et cetera, but it was – that was basically it.

MR. LEARMONTH: Thank you.

Turn to tab 5, which is Exhibit P-00839. This is a March 18, 2000, letter from – well, excuse me, yes, March 18, 2011, email from Charles Bown to you about this contingent equity. Can you tell me your understanding of this subject, generally? I'll refer you to the Cabinet submission later, but can you tell us a little bit about the – what this is about, the contingent equity issue?

MR. SKINNER: So my understanding at that time was that there would've been a requirement to make sure that financing arrangements were put in place so that we could go to the lending

market. There would have to be coverage of any cost overruns. Somebody would, you know, have to ensure that they would be able to pay the bills, I guess, is the way I would put it.

So, generally speaking, it was an accounting function that was required to ensure that the lending was able to happen, and give security to the lenders that the lending that happened – payments could be made on it.

MR. LEARMONTH: All right.

And then, subsequent, if we go to tab 20, Exhibit P-00043, this, Mr. Skinner, was a submission or a memorandum that you sent on August 31, 2011, to Cabinet. Is that correct? It's dated October – August 31, 2011, on page 8.

MR. SKINNER: Yes, Sir.

MR. LEARMONTH: So did you prepare – well, I don't – did your department prepare this?

MR. SKINNER: Yes, my department would've prepared this kind of a document, yes.

MR. LEARMONTH: So you would've prepared it, and then it would've circulated to a number of departments and Cabinet Secretariat before it ended up on the Cabinet table would you say?

MR. SKINNER: I would've expected there would've been a number of departments that would've had input into it. We would've been the – for lack of a better word – the clearing house or the lead department. And then that would've been put out before it hit the Cabinet table for final analysis by Cabinet Secretariat and others, yes.

MR. LEARMONTH: Yeah. And it was approved and done on October 18, 2011. The premier did provide a letter to Ed Martin of Nalcor on this – covering the matters that are identified in the memorandum.

MR. SKINNER: Yes.

MR. LEARMONTH: Now, this – you've said that one of the issues that's covered by this contingent equity was that coverage of cost overruns. Correct?

MR. SKINNER: Mm-hmm.

MR. LEARMONTH: At the time that this commitment letter was prepared, was there any consideration given to the fact that, okay, we're giving this contingent equity, now, we're gonna have to set up some kind of a protocol with Nalcor whereby they would advise us any time they thought there was gonna be a cost overrun. In other words, monitor it, you're giving a commitment, a system to monitor government's exposure to the – that was – that grew from the – from providing this letter of commitment.

Was there any system set up to track possible cost overruns so that you would know – government would know what its exposure was?

MR. SKINNER: I'm not aware that there were. There may have been but I'm not aware that there were.

MR. LEARMONTH: That wasn't when you were there. Is that right? There was no such (inaudible)–

MR. SKINNER: Not to my knowledge.

MR. LEARMONTH: – developed?

MR. SKINNER: No, not to my – now, it may have happened after, it may have been done by a different department, but it wasn't done while I was there, by my department, to my knowledge.

MR. LEARMONTH: Now, you were in government at the time that the federal loan guarantee was – the preliminary negotiations for the federal loan guarantee were carried out. Is that correct?

MR. SKINNER: Yes.

MR. LEARMONTH: And what role, if any, did you have in the negotiations which led up to the signing of the preliminary documents for the federal loan guarantee.

MR. SKINNER: I personally had no role other than being the lead department. We would have been involved, maybe, in producing some documentation around it, but I wasn't involved in the negotiations at all.

MR. LEARMONTH: Okay.

Tab 24 is the cover or is the Memorandum of Agreement. It was dated August 19, 2011, that's Exhibit P-00040. So this is something that you would have been – I think you would have signed, Mr. Skinner. Is that right?

MR. SKINNER: Yes.

MR. LEARMONTH: Yeah, it's on page 3 and 4. We don't have the signed copy but it was eventually – you can confirm it was signed.

So you were not involved in the negotiations, but you signed it on behalf of government because you – and there was a Minister Denine too. You – because it – the subject matter fell under the jurisdiction of the department of national revenue – Department of Natural Resources.

MR. SKINNER: Yeah, we – again, we were the lead department for the government on the Muskrat Falls Project and so we were the department that would've been tasked with authorizing, signing off on documents like this. Yes.

MR. LEARMONTH: Okay.

And then, just for the record, tab 18, Exhibit P-00848, is the announcement on August 19, 2011, of the province signing the Memorandum of Agreement. So that's just a standard document that was issued after it was signed. Correct?

MR. SKINNER: Correct.

MR. LEARMONTH: All right. The – after you left politics you were – there's a document at P-00851, which is tab 23, where you were then a former minister. And you're saying that – the headline is: Muskrat Falls deserves a dedicated discussion.

So why was that – did that subject continue to be of interest to you after you left politics? This article is dated January 16, 2012. Why did you feel that the Muskrat Falls deserved a dedicated discussion?

MR. SKINNER: Well, Muskrat Falls was a – you know, a massive undertaking – potentially

going to be a massive undertaking by the provincial government. It had all kinds of economic potential, economic benefit. It had environmental and climate change considerations. It allowed us potentially energy stability by linking to the North American grid.

This was a big project, certainly the biggest project I would have been involved in as a minister or an MHA in government. And I felt that it was important for us as a government to ensure that the people of the province understood what it was we were potentially undertaking.

And, you know, it seemed to me that we were having a tough time getting our message out. I believed it was a good project. I supported it. Obviously, I was there as a minister. And I felt that any opportunity we could take to promote and explain to the people of the province what it was we were doing, we should do that.

And I just felt like when I – especially when I was in government, I would get people asking me questions and when I left government people would ask me questions about it and I felt that people just didn't really understand it. So I felt we should have devoted some time to trying to get that information out to the people for their consideration and understanding.

MR. LEARMONTH: And did – do you believe that the public was entitled to know the – in a transparent way, the cost estimates that were available at the time of project sanction?

MR. SKINNER: You know, I believe – I'm not sure I understood the question.

MR. LEARMONTH: Do you think it was important for government to tell the people of the province what the actual projected cost was at the time of sanction?

MR. SKINNER: Absolutely.

MR. LEARMONTH: Yeah.

MR. SKINNER: Absolutely.

MR. LEARMONTH: And why is that?

MR. SKINNER: This is the people's money. We're there to steward the resources of the people so, yes, we should be fully open and transparent on that.

We should – whatever – I had no difficulty speaking to what it was we were trying to do and we should have been trying to ensure that the people of the province understood that. No different than I – if I were a citizen watching my government do it, I would want to know. I would want to be given the information so I could make up my own mind.

MR. LEARMONTH: Those are all my questions. Thank you.

THE COMMISSIONER: All right. Thank you very much.

All right, Province of Newfoundland and Labrador?

MR. RALPH: No questions.

THE COMMISSIONER: Nalcor Energy?

MR. SIMMONS: Good morning, Mr. Skinner. I'm Dan Simmons, counsel for Nalcor Energy. Couple of topics I just wanted to ask you about this morning. Can we bring up Exhibit P-00029 please? This is the Energy Plan, Mr. Skinner.

You haven't been asked any questions yet about the Energy Plan. Are you familiar with the Energy Plan that was adopted by the province prior to your tenure as Minister of Natural Resources?

MR. SKINNER: I would say generally yes. I'm not sure if I'm as familiar as I would have been a number of years ago, but certainly, yes, I am familiar with it.

MR. SIMMONS: (Inaudible) good. Well, I won't have detailed questions for you on it. Were you in government at the time that it was adopted?

MR. SKINNER: Yes.

MR. SIMMONS: And I think it was a major policy statement on the part of the government that you were a part of, setting out a future path

for both the development and extracting benefits from energy resources broadly within the province. Have I got that basically right?

MR. SKINNER: Yes, Sir.

MR. SIMMONS: Yeah. And we've heard already from former Premier Williams, who described some of the purpose of the plan and what the vision was for it. Did you have the opportunity to hear his evidence earlier here at the Inquiry?

MR. SKINNER: No.

MR. SIMMONS: No, you did not. Okay. All right.

When you took over the position as Minister of Natural Resources, can you tell me what place the Energy Plan had then in your mandate as minister?

MR. SKINNER: What place it had?

MR. SIMMONS: Yes. Was it still part of the mandate that you had as minister to discharge for your department and for government or –?

MR. SKINNER: I would say yes to you. I mean the intention was that – excuse me – the intention was that we had an arm of the Energy Plan, which was generating revenue – the non-renewables. The idea, generally speaking, was that while we were in the time where we were able to generate that revenue from our non-renewables, we would try to create a revenue stream from non-renewables – from the renewable energy side, sorry – and so we were moving forward with Muskrat Falls –

MR. SIMMONS: Mm-hmm.

MR. SKINNER: – and going to finance that from the oil and gas industry basically. Understanding that as we depleted the resources from the oil and gas, we would hopefully have built up a cash flow, a stream of revenue, from the renewable energy side. So that was sort of a general feeling that was in government and in my department at the time, yes.

MR. SIMMONS: Good, yes. Was the plan itself a reference document that you would turn

to when you needed to consider what the policy direction was that you were going to give to your department? Was it something that you had on your desk or on the shelf that you could pull down and make reference to and say: This is what we adopted as the course we want to take, and this is what – the direction we're gonna go in?

MR. SKINNER: No, I didn't do that.

MR. SIMMONS: Mm-hmm. Okay.

You know there's a section in the plan on electricity, which includes dealing with the Lower Churchill Project, as it was envisioned at that time that the plan was adopted, do you?

MR. SKINNER: Yes.

MR. SIMMONS: Okay. Would you just turn to page 40, please, Madam Clerk?

And, in the green box on the left there, the way the plan is structured, there's discussion of different topics, and then there's statements of policy actions that I understand were adopted as policy of government.

And on this page, it deals with Lower Churchill Project, and it says: "The Government of Newfoundland and Labrador will: Lead the development of the Lower Churchill Hydroelectric Project, through the Energy Corporation."

Did that remain the policy of government when you were minister?

MR. SKINNER: I would say, yes.

MR. SIMMONS: What can you tell me about what government was doing, while you were minister, to lead the development of the Lower Churchill Project? How, on the ground, that worked?

MR. SKINNER: There were a number of departments that would've been engaged in working with Nalcor on making sure that they had the resources and the – human resources, financial resources, whatever – things related to the Lower Churchill that they would have needed to be able to do the work.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: We had staff that would have been assigned as liaisons to work with them.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: Charles Bown, in my department, as an example.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: Those would be some of the things that I would think of.

MR. SIMMONS: Yep.

Well, you've told us that Natural Resources was the lead department, so that was the primary department in –

MR. SKINNER: Mmm.

MR. SIMMONS: – government that had responsibility for discharging this mandate, was it?

MR. SKINNER: Yes.

MR. SIMMONS: Yes.

MR. SKINNER: I would say.

MR. SIMMONS: But what other departments or agencies or branches of government were involved in providing this leadership?

MR. SKINNER: In terms of leadership I would call it more – we were the lead department.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: Other departments that would've been involved with it would've – I would certainly think Finance would've been a big part of it.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: The Department of Environment would've been a part of it. Transportation and Works, you know, the departments, sort of work, you know, together

on things that would be something as major and as big as this.

MR. SIMMONS: Right.

MR. SKINNER: So a lot of government would've been involved in various ways, depending on what needed to be done at that time.

MR. SIMMONS: Now, there's a difference between being involved and communicating, gathering information, providing help. There's a difference between all that and providing leadership, 'cause the policy statement says to lead the development through the Energy Corporation. So can you tell me if you saw what your department was doing at this time and you, as minister, doing – as providing the leadership that was contemplated in the Energy Plan?

MR. SKINNER: We – I'm not really sure if I understand the point that you're asking me. We were involved as the lead department –

MR. SIMMONS: Mm-hmm.

MR. SKINNER: We were the – as I understood it – the point of contact for Nalcor on issues that they needed reference through government.

MR. SIMMONS: Hmm.

MR. SKINNER: We would work with Nalcor to ensure that things they needed Cabinet direction on – 'cause ultimately it would have to come from Cabinet – that the issues that they identified as important to them were brought forward. So in that regard we were leading it for Nalcor through government's, you know, bureaucracy – its systems.

MR. SIMMONS: This – when you speak of leadership, normally we think of leadership as providing direction. As taking the lead –

MR. SKINNER: Mmm.

MR. SIMMONS: – as being the party that sets the course. Now, I understand from what you've described that Natural Resources was fulfilling various functions and you mentioned now that decisions would go to Cabinet to be made. Was the leadership that was called for here in the

Energy Plan being provided by Cabinet then – rather than by the Department of Natural Resources?

MR. SKINNER: I'm not sure if I would say yes or no to that.

MR. SIMMONS: Okay.

MR. SKINNER: I'm not sure.

MR. SIMMONS: What about the Department of Finance? Do you know if the Department of Finance was taking any leadership role?

MR. SKINNER: I would say to you – my understanding was Finance was taking the leadership role in the area of negotiation of the federal loan guarantee.

MR. SIMMONS: Yes.

MR. SKINNER: I would think they would've been, you know, leadership in that regard.

MR. SIMMONS: Yes. Okay.

MR. SKINNER: Hmm.

MR. SIMMONS: In any other regard?

MR. SKINNER: I'm not sure.

MR. SIMMONS: Mm-hmm.

MR. SKINNER: I wouldn't know for sure.

MR. SIMMONS: Okay.

What about the premier's office? Did you see the premier's office as discharging any of the leadership role that's contemplated in the Energy Plan here in relation to the Lower Churchill project?

MR. SKINNER: I would say yes to that. The premier's office certainly provided leadership through her office or her clerk – the Clerk of the Executive Council would have been involved.

MR. SIMMONS: Okay. Can we go to Exhibit P-00043 please?

You were asked some questions about this document which I – if I’m right – was a submission from your department under your signature to Cabinet and it was a recommendation that the premier sign a commitment letter that would give assurances that were needed in order to engage in getting financing for the Lower Churchill Project. Have I got that basically right?

MR. SKINNER: Yes.

MR. SIMMONS: Okay.

So what kind of a process did you go through inside your department in order to get to the point where you could present this paper to Cabinet?

MR. SKINNER: There would have been discussions at the staff level through Mr. Bown, I would expect, with various other deputies, ADMs and various other departments that would have been involved in this, in particular Finance. There would have been an agreement to put forward a position paper on it –

MR. SIMMONS: An agreement with whom?

MR. SKINNER: – in terms of what we needed to do. An agreement among the staff that –

MR. SIMMONS: Yeah.

MR. SKINNER: – this was the direction that was needed to be done, and that would then be brought forward to us as a department for us to consider and say is this something that we want to bring forward to Cabinet? Is this something that we need to get Cabinet direction on? And then it would have been presented to Executive Council for inclusion on the Cabinet agenda.

MR. SIMMONS: Was this – did you regard this as being a significant Cabinet paper that you were bringing forward? And that this was a significant decision for Cabinet to make, to give this commitment letter?

MR. SKINNER: Yes.

MR. SIMMONS: Yes, okay. What expectations did you have of your staff and the people in your department who were doing the work, and the

lead up to this paper – what expectations did you have of them as how they would approach doing the analysis and gathering the information necessary to present this paper to you?

MR. SKINNER: My expectation would have been that they would have done consultation with the other departments as I indicated –

MR. SIMMONS: Mm-hmm.

MR. SKINNER: – that they would have ensured through the clerk of the Executive Council that this would have been something that we were moving forward with through the premier’s, you know, sort of direction on it, that it met the commitments of what we had said in our Energy Plan, that we were moving forward in terms of the direction that we were taking. Those kinds of things would be things.

MR. SIMMONS: Would you have had an expectation that there would have been a thorough analysis done of the consequences of giving this commitment?

MR. SKINNER: I would expect that that would have been done probably through the Department of Finance.

MR. SIMMONS: Okay. So in the lead up to presenting this paper to Cabinet, did you ensure, in your dealings with your deputies, that that investigation had been done and that the consequences of giving this commitment had been fully explored?

MR. SKINNER: I cannot say for sure that I did, no.

MR. SIMMONS: Can we go to page 3, please?

So this is a part of the submission that – can we scroll down? Yes, okay, stop there.

There’s a paragraph there that begins “In summary, the Commitment Letter states Government’s intent to do the following, all of which are critical for financing” and the second bullet reads: “Provide the Government investment into the Project, which includes the amount determined during the financing process (currently estimated at \$1.5 to \$2.0 billion - see Financial Considerations section for more detail)

and any additional Government investment needed to address any contingencies required to ensure Project completion.”

So can you recall what, at the time, you understood that last reference, to investment needed to address contingencies required to ensure the project completion, what you understood that to mean – what commitment government was giving, in that regard?

MR. SKINNER: I understood it to mean that if there were cost overruns, government would cover those.

MR. SIMMONS: Right. And in order to recommend, to Cabinet, that government covered the cost overruns, what had been done, either by you or in your department, to assess the potential for cost overruns and the potential amount of cost overruns – can you tell me?

MR. SKINNER: I would’ve assumed that the Department of Finance would’ve looked at that from –

MR. SIMMONS: Mmm.

MR. SKINNER: – their perspective. They would’ve had the expertise, from my perspective, to be able to look at that and make that determination.

MR. SIMMONS: Right. So you would have deferred to the Department of Finance to, I presume, make any inquiries that were necessary to be made and to apply – or maybe even bring in from the outside any expertise they needed? I’m suggesting thing to you now, but would that sound reasonable?

MR. SKINNER: Potentially.

MR. SIMMONS: Yes.

MR. SKINNER: Yes.

MR. SIMMONS: Okay. And did you have any communication with your counterpart, the minister of Finance, to ensure that those things were being done?

MR. SKINNER: I did not.

MR. SIMMONS: Do you know if your officials in your department had any communications with the Department of Finance to ensure that that was being done?

MR. SKINNER: I would’ve expected they would’ve, but I can’t say with certainty.

MR. SIMMONS: Good.

Okay, thank you very much, Mr. Skinner. That’s all my questions.

MR. SKINNER: Okay.

THE COMMISSIONER: All right. Concerned Citizens Coalition?

MR. BUDDEN: Good day, Mr. Skinner. My name is Geoff Budden, and I don’t think we’ve ever met before.

MR. SKINNER: Okay.

MR. BUDDEN: I’m the lawyer for the Concerned Citizens Coalition, and as you probably know, the Concerned Citizens Coalition is a group of individuals who, for a number of years now, have been concerned about the Muskrat Falls Project.

It might be a good place – actually, this feeds into our first exhibit. Could you call up Exhibit 00330, please, Madam Clerk? And it’s the second page of that exhibit that I’m interested in.

THE COMMISSIONER: I’m not sure that’s in your book, so you’ll have to –

MR. BUDDEN: I don’t believe it is.

THE COMMISSIONER: – (inaudible) the screen.

MR. SKINNER: Okay.

MR. BUDDEN: Yes, but it’ll be on the screen there, Mr. Skinner.

MR. SKINNER: Okay.

THE COMMISSIONER: Oh, wait now.

MR. BUDDEN: It's a relatively short letter. Perhaps it might just save time if you read it to us. It's addressed to you, and it's dated May 3, 2011. Could you read that letter please, read it out loud, Mr. Skinner?

MR. SKINNER: "Dear Minister Skinner,

"We have recently written the Public Utilities Board to ask whether the Muskrat Falls Project will be reviewed by the board. In its response the Board has advised us that the project has been exempted from the Public Utilities Act and the Electrical Power Control Act, 1994, by the Lieutenant-Governor in Council.

"We have followed with interest the public comments on the project and very much appreciated the extensive briefing given to us by senior officials of Nalcor. However" – excuse me – "we were surprised by the indication given at the briefing that the project may not be subject to review by the PUB, in light of the answers to questions in the House of Assembly on March 22, 23 and 24 of this year by Premier Dunderdale, as to the role of the PUB.

"We strongly feel that a project of this size and complexity requires an independent review by the regulatory body charged with that task. This is the only way in which the public interest can be fully protected.

"We do not understand why the project has been exempted. We are confident that the Board can expedite the hearing process so there is no undue delay and urge that you reconsider Government's exemption of this project.

"This is one of the most important public policy issues ever to face the Province and it is imperative that the choice made by the Government be subject to independent review. The Muskrat Falls project may well be the best policy choice but the people of Newfoundland and Labrador need to have the choice tested by the Board which is set up for this purpose. We are requesting that Government reconsider its decision to exempt the project from the jurisdiction of the Board, in light of the magnitude of the project and the necessity to ensure that it is the best option, not only to meet our energy requirements but to mitigate the financial risk to the Province."

MR. BUDDEN: Continue, please.

MR. SKINNER: "We look forward to your response.

"Sincerely,

"Ronald Penney and David Vardy."

MR. BUDDEN: Okay.

THE COMMISSIONER: That's actually at – sorry – tab 9.

MR. SKINNER: Tab 9?

THE COMMISSIONER: Yeah.

MR. SKINNER: Thank you, Sir.

THE COMMISSIONER: Tab 9.

MR. LEARMONTH: Tab 10, I think.

THE COMMISSIONER: Or –

MR. BUDDEN: It's not on our cheat sheet, but I think this might be the one from yesterday.

THE COMMISSIONER: Well, actually it's –

MR. BUDDEN: (Inaudible.)

THE COMMISSIONER: 330 in my book is tab 9.

MR. BUDDEN: Okay.

MR. SKINNER: Yeah, yeah. It looks like the same letter in 9 and 10 with two different dates.

THE COMMISSIONER: Right.

MR. SKINNER: Mmm.

MR. BUDDEN: Okay.

You indicated earlier that you – in your direct evidence that Mr. Penney and Mr. Vardy were – I think your – the way you said it, were known and respected. Known to you and respected by you. Can you tell us just a little more about how you knew these gentlemen and why it was that you respected them?

MR. SKINNER: Excuse me. So Mr. – excuse me.

THE COMMISSIONER: (Inaudible.)

MR. SKINNER: Mr. Penney is somebody that I knew during my time on council. Mr. Penney was our chief commissioner – sort of a city manager type role when I was on council. So I got to know Mr. Penney for a period of that time. I knew him in a work relationship.

Mr. Vardy, I just knew through public – I knew of him through work that he did in the public, his former role as chair of the Public Utilities Board. Not somebody that I knew on a personal level, but somebody that I knew in the community.

MR. BUDDEN: And somebody who you believed to be knowledgeable about energy issues generally.

MR. SKINNER: Generally speaking, yes.

MR. BUDDEN: What was your – obviously, when you received this letter it would've come to you through the department. Can you recall what the reaction was of Mr. Bown and other officials of the department to this letter?

MR. SKINNER: Not particularly. I don't think there was any particular reaction to it. Typically, correspondence would be – if it was addressed to me it would be laid in my inbox, I'd read it, I'd respond myself or give direction to staff if I wanted that kind of thing.

MR. BUDDEN: Sure.

MR. SKINNER: Mmm.

MR. BUDDEN: You've spoken a little bit in your interview with Mr. Learmonth, but perhaps you can just repeat for us: What was your own reaction to getting this letter?

MR. SKINNER: I felt that the – Mr. Penney and Mr. Vardy were people who – for a lack of a better term – you know, carried some weight. I took some, you know – I listened when they spoke. I felt they were people who I should, you know, pay attention to what they were saying; their commentary would carry some weight with

me. And so when I received the letter I felt it was something that, you know, should be taken under advisement or consideration.

MR. BUDDEN: Sure.

MR. SKINNER: Mmm.

MR. BUDDEN: And again, in your interview you said that basically you regarded all correspondence from the public – you took it all seriously, but this – perhaps you knew the names, you knew their reputation, so you took it, perhaps, particularly seriously.

MR. SKINNER: Yes, that would be fair assessment.

MR. BUDDEN: Sure.

MR. SKINNER: Yeah.

MR. BUDDEN: And do I also take it that this letter was a factor but not the only factor, but it was a factor in your decision to make the PUB referral that you ultimately made?

MR. SKINNER: It was certainly a consideration for me, yes.

MR. BUDDEN: Sure, okay. And, perhaps, just briefly what were some of the other factors that led you to make that referral?

MR. SKINNER: The fact that, you know, again we were being – “we” being government – were being asked in the House of Assembly questions relating to the Public Utilities Board. Generally, in the – I'd say – the community, meaning the broader community, there would've been people who would, you know, speak to me directly, there'd be calls to my office, correspondence in local papers, call-in shows. But you know, people – there were some people who were out there who were saying that they felt they needed a, you know, a cold eyes review. The Public Utility Board had a role to play and they should be engaged.

MR. BUDDEN: Okay.

But those, obviously, are all voices that were encouraging you to reach out to the PUB. Not reach out, but you know what I mean, make a –

MR. SKINNER: A referral (inaudible) –

MR. BUDDEN: – referral to the PUB. Were there any contrary voices within government? See anybody saying: Look, we don't need to go to the PUB, it's a waste of time, it's not the right agency? Were you getting those kind of – that kind of input as well? And if so, from whom?

MR. SKINNER: Yeah. So – no, I don't recall that there was anybody who would've referenced the PUB as being a waste of time or anything like that. There were people who felt that the exemption had already been granted, that there was an avenue by which we could undertake the review without the input of the PUB. And they felt that that would expedite the process, it would move the process along and we should go in that direction.

But there was nobody who – in fairness – who said that the PUB wouldn't, you know – were dismissive of it, for lack of a better word. You know, there was an avenue that we could – we didn't have to go there if we didn't want to.

MR. BUDDEN: Sure. Do you recall who some of those people were?

MR. SKINNER: There would've been people in caucus who would've had that thought. There would've been people potentially, you know, in the public; I would have heard that from people. You know, people on – in the department may have had that thought. You know, there were varying opinions on it.

MR. BUDDEN: Sure.

MR. SKINNER: I don't – I have to be honest, I don't – I can't tell you specifically this person in their position. Unless it was documented to me like this, I couldn't specifically reference people. But I know generally speaking, I was getting, you know, different points of view on that –

MR. BUDDEN: Sure.

MR. SKINNER: – we as a government were.

MR. BUDDEN: Sure. You indicated – again, in your transcript – I believe in your direct evidence, that Mr. Bown was the point man

within your department with respect to the Lower Churchill development.

MR. SKINNER: Hmm.

MR. BUDDEN: Can you recall, was he one of the voices suggesting that a PUB reference was not the appropriate way to go?

MR. SKINNER: No, Mr. Bown and staff, generally, would be providing information and explanation but not necessarily, you know, trying to influence, I guess, for lack of a better word. Mr. Bown would – you know, if I asked him about the PUB he would say: Well, you know, you have an opportunity here to bypass it; if you go there, here's the process that you need to go through. I don't recall Mr. Bown being pro or con, for lack of a better word.

MR. BUDDEN: Okay.

MR. SKINNER: Hmm.

MR. BUDDEN: That's (inaudible) answer to my question.

You, again, have testified that you did receive that call from Andy Wells, who also was known to you through your city council days.

MR. SKINNER: Yes.

MR. BUDDEN: And as I understand it, that call – you're not sure when it took place, and perhaps it would've taken place later in the summer of 2011 rather than earlier in the summer. That would seem to make sense. You would agree?

MR. SKINNER: Yes, I would – after June 17.

MR. BUDDEN: Yes, obviously, yeah.

MR. SKINNER: Yes.

MR. BUDDEN: And he was unhappy and expressed to you his unhappiness with the rate at which information was coming to the PUB from Nalcor?

MR. SKINNER: He was certainly frustrated. I don't know if I would classify Andy as happy or unhappy, but he was frustrated.

MR. BUDDEN: Okay.

Do you yourself have any explanation to offer as to why Nalcor were being slow – assuming they were being slow – in coming forward with this information? What was your understanding of their reason?

MR. SKINNER: I think there was a – as I understood it, there were – a great amount of information was being asked, a lot of information. Nalcor were, for lack of a better word, trying to gear up for that. They were trying to prepare for that. At the same time that that information was being asked for by the PUB, they were also trying to continue on with the, you know, development of the project. And it think it was just there was a lot of information being asked.

MR. BUDDEN: Okay. Did you have any sense that they were trying to slow-walk this information or otherwise frustrate the PUB process?

MR. SKINNER: No, I did not. I felt that legitimately – and especially after speaking with Mr. Martin, I felt that they legitimately were trying to meet the requests of the PUB.

MR. BUDDEN: Sure.

MR. SKINNER: I was satisfied to that level.

MR. BUDDEN: Sure, okay. Fair enough.

MR. SKINNER: Mmm.

MR. BUDDEN: I have a passage to read you from your – not directly relating to that question, but continue with the PUB theme – from your interview transcript. You remember, of course, being interviewed by Mr. Learmonth on August 29?

MR. SKINNER: Yes.

MR. BUDDEN: Just a couple of months ago. And I'm going to read you a passage from page 35, then ask you a question or two about it.

And I begin about a third of the way down with Mr. Learmonth saying: Was there any urgency in your belief that – to have this reference to the

Public Utilities Board resolved quickly, was there any rush or was there ...?

And then you say: No, I wouldn't say there was any rush. I would say to you in fairness that there was – you know, we wanted things done timely. I wouldn't say quickly. I mean, I wanted to ensure that it was something that they were working on. I wanted to ensure that we were getting them the information. I didn't want us to be slowing down the work of the PUB. I was interested as minister in seeing what their outcome would be.

Mr. Learmonth says: Okay. So there was no rush from your point of view?

And you say: No, I didn't push. I didn't interfere. I didn't engage. I let them do their work.

You recall saying that, of course, to Mr. Learmonth?

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay. And you don't take issue with any of that here now? That's the way you felt at the time and nothing has changed in your mind since August to say – suggest that it's not how he felt at the time?

MR. SKINNER: No.

MR. BUDDEN: Okay. So do I take it from that, that when you made this reference, you obviously wanted an answer but you didn't feel some intense pressure that we need an answer by a certain date or within a six months or three months or anything like that?

MR. SKINNER: We certainly wanted an answer by the six-month time frame that we gave them. That was, you know, implicit in the reference. And I wanted to ensure that, you know, we provided – we being Nalcor or government – whoever they were asking information for, they got the information.

And so when I received a call from Mr. Wells saying that, you know, this is not going as we want it to go, that was a concern of me to the point where I called Mr. Martin, you know. And I said, you know, I went to Mr. Martin as the

CEO of Nalcor to say I want you to deal with this. I think this is – this is a legitimate concern from the Public Utilities Board, and I want you to look into it and try and address that concern, please.

MR. BUDDEN: Okay.

The six-month period of time that you just spoke of, how was that arrived at? Is there any particular magic to six months as opposed to nine months or a year or three months?

MR. SKINNER: My understanding was that there were interactions back and forth between the department officials, the Public Utilities Board officials, you know, and that was the time frame that was decided on.

MR. BUDDEN: So you didn't select that time frame for any other reason?

MR. SKINNER: Not – no, I did not.

MR. BUDDEN: Okay, sure.

So I take it from that, again, you wanted an answer. The six-month time frame was selected, not by you but by – it was agreed to. And the thing proceeded.

You, of course, were out of government in late October. And what – can you think of any reason why your successor as minister, just a couple of months after you left office, would have denied the board a requested extension?

MR. SKINNER: I don't feel – you know, that's not a speculation I would make. I wouldn't want to try and judge whatever circumstances that minister, at that time, was dealing with. So ...

MR. BUDDEN: Okay. Well, put it this way. You were there and running the department in October.

MR. SKINNER: Yeah.

MR. BUDDEN: A couple of months later, a decision was made to not grant an extension. Can you think of any reason – anything known to you, at the time, at the time you left, that would, in your mind, explain why that decision

was not granted? That extension was not granted?

MR. SKINNER: Again, you know, I can only speak to what I understood. We gave an amount of time. The Public Utilities Board felt they were unable to present in that time. They requested an extension from a different minister, and whatever factors that were there at that time, he made that decision.

MR. BUDDEN: Sure.

MR. SKINNER: I don't know.

MR. BUDDEN: You are familiar, of course, with the decision the PUB ultimately came down with – or I guess non-decision – which would have been, I guess, almost exactly five months after you left office in March of 2012. I guess, what was your reaction to that decision or non-decision? What did you think at the time?

MR. SKINNER: I was disappointed. I was hoping to get a decision. Obviously, I would've wanted a positive decision; hoping that we would get that. But had it been something else, at least you would have had a decision. You would've had something that you could, you know, you could, I guess, you know, re-evaluate your own position then based upon the decision of the PUB. But given that I consider it to be a non-decision, I sort of felt like it was time, you know, time not well spent in some ways.

MR. BUDDEN: Okay.

So you went into this, you were – obviously had certain choices to make or certain options open to you as minister in consultation with the broader government. You made a decision, which obviously was supported by the government, to make a particular use of the Public Utility Board process.

I guess in retrospect, can you comment on how well you believe the – how well the PUB process was utilized? In retrospect, do you think it could have been utilized perhaps more effectively? Any thoughts in that regard?

MR. SKINNER: How could it have been – I mean, I guess time was the issue. That appears to be – in retrospect, time was the issue. So

maybe more time, you know, that might have been what would have potentially solved it. But, you know, how much time? How long would it take?

You know, Mr. Vardy and Mr. Penney's letter indicated they felt they could expedite it. I felt at the time – we felt at the time six months maybe was enough. Obviously, it wasn't. So if it wasn't six, was it 12, was it nine, was it 24? Who knows?

MR. BUDDEN: Sure.

In your transcript you also refer to – in another context, but, in any event, you refer to Muskrat Falls as a long-term project. From which I took it this wasn't a response to an immediate need or crisis but rather a response to a perceived need down the road a bit in Newfoundland's future. Is that fair?

MR. SKINNER: It would have long-term benefits to the province was my feeling. In terms of the project, I mean, the project would have a completion date. So if we're talking – you know, Muskrat Falls, as a project, construction project – if I could use that term – had a certain time frame. Muskrat Falls, as a project of government, would have long-lasting – I hoped and felt – benefits to us for many years to come.

MR. BUDDEN: Sure.

I guess my question is more along the lines of: Can you think of any reason why it was important that Muskrat Falls be completed in 2017 as opposed to 2020; 2018 as opposed to 2021?

MR. SKINNER: There was all kinds of scheduling. There was, you know, financial commitments, human resources, labour. There would be weather conditions. There were – there was planning done based upon the timeline, so you would obviously try to adhere to the timeline; the project schedule that you had outlined.

MR. BUDDEN: However, you would agree that these things you're thinking about are assuming that the decision is ultimately made to sanction?

MR. SKINNER: Correct.

MR. BUDDEN: So, if we're zooming back out a bit – 'cause, obviously, the weather isn't a factor in whether the thing is completed in 2017 or 2020.

So, can you think of a particular reason in Newfoundland's – I guess, the world of Newfoundland energy, or any other aspect, anything else you're aware that made it imperative that the sanction decision be made at this time as opposed to, perhaps, six months or a year thereafter?

MR. SKINNER: Well, the only thing I could refer to, Mr. Budden, relative to that – if I understand your question correctly – is that I was presented with briefings which indicated we would have an energy – potential energy deficit at a certain point in time, where we potentially would not be able to meet our energy needs. And so that was one of the reasons why we were involved with Muskrat Falls, at the time we were, in trying to get it done.

Yeah, and, I think – if that answers what you were asking me.

MR. BUDDEN: Sure. Though, if I understand the information – I think we've seen the same information – you're talking about well into the 2020s: 2022, 2023 at the earliest. You agree with me there?

MR. SKINNER: My recollection – and I'm going from memory – is that it could have occurred somewhere between 2019 to 2022.

MR. BUDDEN: Okay.

MR. SKINNER: But that's my recollection.

MR. BUDDEN: Okay, so your understanding was that there was some urgency driven by a perceived energy shortfall that could begin as early as 2019.

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay.

And how confident are you in that recollection?

MR. SKINNER: I am answering your question to the best of my ability. If you ask me to swear

that that's 100 per cent accurate, I wouldn't do that. But to the best of my recollection, I remember seeing some presentations that I thought showed us an energy deficit, I would call it, or a lack of enough energy to meet our needs, somewhere in the 2019 to 2022 time frame.

MR. BUDDEN: Okay.

You're aware, of course, that the – Nova Scotia has a similar PUB type agency called the UARB.

MR. SKINNER: Yes.

MR. BUDDEN: And are – you're aware that the UARB was given a certain role in the sanction of the Maritime Link from their end of the tunnel, so to speak.

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay.

And you're aware, as well, that their role – the role of their UARB was a much broader one than the role that was given to Newfoundland's PUB?

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay.

Again, looking back on it from a bit of perspective, a bit of history, do you believe that process, perhaps, might have been a better fit than the one Newfoundland ultimately adopted?

MR. SKINNER: We made a policy decision as a government. I used – we used the best information that we felt we had, made our determination and we made the decision. So, you know, that would be speculation. I don't know.

MR. BUDDEN: You would agree that that process provided an additional check or balance on a sanction decision that wasn't present in the Newfoundland context.

MR. SKINNER: No, I'm not so sure what you're asking me there.

MR. BUDDEN: Okay.

What I'm getting at is that the UARB process, as I understand it, had a mandate to determine whether that sanction decision was in the best interest of the tax – the ratepayers of Nova Scotia from a cost-benefit, kind of, analysis. And there's no real parallel process in Newfoundland, was there, where they –

MR. SKINNER: That wasn't the reference we made, if –

MR. BUDDEN: Yes.

MR. SKINNER: – that's what you're asking.

We gave two options to the Public Utilities Board and asked them to do an evaluation of the least-cost alternative. My understanding was there was something different done in Nova Scotia, but I'm not intimately familiar with what was done there.

MR. BUDDEN: Sure.

But would you acknowledge that it was a broader review process than was present in Newfoundland?

MR. SKINNER: I would say it was a different process. We put forward a specific reference; they did something else. I'm not exactly sure what they did, so I'm hesitating giving you a yes-or-no answer because I'm really not sure the detail of what they did.

MR. BUDDEN: Okay.

MR. SKINNER: I know what we did; I'm not 100 per cent sure of what they did.

MR. BUDDEN: Okay. Well, fair enough. I'll move on.

To your knowledge, during your term as minister are you aware of any of the senior bureaucrats of your department, or of government generally, publicly advocating in a speaking – a public speaking circumstance, advocating for the sanction of the Muskrat Falls Project as opposed to other energy options?

MR. SKINNER: Any of my officials in government? Or who else did you say?

MR. BUDDEN: Any of your officials, or of government bureaucrats generally at the senior level.

MR. SKINNER: If you would consider Mr. Martin a government bureaucrat, I know Mr. Martin certainly talked about it. We did, as government officials ourselves, but if you mean my line staff, I'm not – no, not that I recall.

MR. BUDDEN: Okay.

Are you aware of Mr. Thompson – you knew, of course, Mr. Robert Thompson –

MR. SKINNER: Robert Thompson?

MR. BUDDEN: Yeah. Are you aware of him speaking in a public forum, advocating for the sanction of Muskrat Falls Project?

MR. SKINNER: Off the top of my head, no. I'd have to say no to that.

MR. BUDDEN: Okay.

And, to your knowledge, were any of the bureaucrats of your department – Mr. Bown in particular – to your knowledge, were they working with proponents of the project to – in a public forum, such as a debate – discredit opponents of the project, such as Mr. Vardy? Was that something that you were aware of, under your watch?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

And I take it, from your demeanour, you wouldn't have approved of that, if you had known of it.

MR. SKINNER: I wouldn't have approved and I'd be very surprised if something like that were to occur.

MR. BUDDEN: Okay.

With regard to the board of directors, I realize that the board of directors of Nalcor was

appointed from the Office of the Premier, not from your department. I'm correct on that, I believe.

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay.

Was your opinion ever sought as to whether a particular individual would be a good appointment or who might be a good appointment?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

Were you ever made aware that certain members of the board felt that they were understaffed, that more board members were required to allow them to properly do their job?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

And, more particularly, were you aware that members of the board thought that the board would benefit from board members who had expertise in the hydroelectric project sector?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

If you had been made aware of such concerns, what would you have done?

MR. SKINNER: I would have probably had a meeting with the premier and addressed that with the premier to see what her thoughts were. And, you know, I would have confirmed, I guess – first of all, I should say I would have confirmed whether or not that was an accurate reflection of the board. I would have probably spoken to the board or to Mr. Martin or somebody like that.

But assuming what you're telling me would be accurate I would probably address that with the premier. If they felt they needed something to help them do their job, I would have done my best to try and see that they had that resource available to them.

MR. BUDDEN: Okay, sure.

Perhaps we'll call up Exhibit 00041, please?
And you can go right to page 68, if you could.

What this is, Mr. Skinner, as you can see, it's the report of the Joint Review Panel which you were asked about in your direct evidence and, also, you spoke at length in your interview with Mr. Learmonth.

And perhaps you can scroll down to – there's a section there in a black box. Can you just – firstly, you're aware of having received, while you were minister – the government having received the report of the Joint Review Panel.

MR. SKINNER: Yes, Sir.

MR. BUDDEN: Okay.

And this particular recommendation highlighted there in that box, can you just read it to us?

MR. SKINNER: "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."

MR. BUDDEN: Okay and perhaps you can scroll down just a little more and read the first one – two or three sentences of the next section, the one that begins: The Panel recommends. I'll stop you when you've read the part that I wish you to read.

MR. SKINNER: "The Panel recommends that, before governments make their decision on the Project, the Government of Newfoundland and Labrador and Nalcor commission an independent analysis to address the question 'What would be the best way to meet domestic demand under the 'No Project' option, including the possibility of a Labrador-Island interconnection no later than 2041 to access Churchill Falls power at that time, or earlier, based on available recall?'"

MR. BUDDEN: That's good. Yeah, thanks.

So, firstly, what was your understanding of what the Joint Review Panel was?

MR. SKINNER: The Joint Review Panel was commissioned to do an overview of all of the issues around the development of the Lower Churchill Project, and all of the factors that should be taken under consideration to ensure that it was a good project.

MR. BUDDEN: Okay.

And you were aware – did you know who the chair – it's a joint panel with two chairs. Did you happen to know who the chair of the Newfoundland – the Newfoundland-nominated chair was?

MR. SKINNER: I do not.

MR. BUDDEN: Okay, it was a gentleman named Herb Clarke, I believe.

MR. SKINNER: Okay.

MR. BUDDEN: Are you familiar with Mr. Clarke?

MR. SKINNER: I am not.

MR. BUDDEN: Okay.

So if I were to say to you that he was an individual had long experience in business and government and in the energy sector, you wouldn't know one way or the other whether that was the case?

MR. SKINNER: I do not know the man, no.

MR. BUDDEN: Okay.

And you're aware that the Joint Review Panel held extensive hearings in Labrador, heard from Nalcor and various other interested parties. You would have known that?

MR. SKINNER: Yes.

MR. BUDDEN: Okay.

I'm – and I guess to put it this way, when you received this – perhaps you can scroll down just

a tiny bit so we can see all of the black box?
Thank you.

So you would have received these recommendations. And I've read your transcript and I realize it's a lengthy document, and that you couldn't be expected to read, necessarily, every line of it, but you surely would have been briefed as to these conclusions.

MR. SKINNER: Yes.

MR. BUDDEN: Okay, so they – you would have been aware of them and aware that this independent panel, which had heard evidence and of which your government had played a role in establishing, that had made certain pretty strong recommendations.

MR. SKINNER: Yes.

MR. BUDDEN: I guess, how – when you see a recommendation like: “The Panel concludes that Nalcor’s analysis that showed Muskrat Falls to be the best and least cost way to meet domestic” energy “demand ... is inadequate and an independent” level of – “independent analysis ... is required” – I guess I’m wondering, what was your reaction to hearing that?

MR. SKINNER: Generally speaking, I would say to you that my reaction would have been one of – I would question staff on, you know, why would they come to that conclusion? What information do we have that, you know, would help us understand their point of view? And do we feel it's a reasonable point of view, or do we feel it's unreasonable, and what rationale do we have to support the position that we would take?

MR. BUDDEN: Okay.

So you would take it as a conclusion that – or, rather, I guess, a submission such as the one you received from Mr. Vardy and Mr. Penney – something to review with staff.

I guess I'm surprised that, perhaps, it wasn't taken a little more cautionary. I mean, here you have this panel – I wouldn't call them quasi-judicial –

MR. SKINNER: Mmm.

MR. BUDDEN: – but certainly they were – they had a major role to play, and here they were saying that the – Nalcor’s analysis is inadequate. And I’m wondering, I guess, in retrospect do you feel the government’s response to that was robust enough, that you took that cautionary tale as seriously as perhaps it should – you should have – that cautionary note?

MR. SKINNER: I certainly had, you know, I would have concerns over recommendations like this that would come forward. But I also, in engaging with departmental staff and Nalcor, had confidence in the information that they were bringing forward as well. And in a recommendation – excuse me – like this, you know, there would have been contrary opinions and contrary supporting documentation that would indicate why they felt that this would have been a flawed recommendation.

So again, that's – you know, as a government official, those are the things we deal with every day – varying points of view, varying analysis, varying reasons why something is done, and you –

MR. BUDDEN: (Inaudible.)

MR. SKINNER: – you know, you form your opinions from that. I'm not saying it's right or wrong; I'm just saying you try to, as best you can, understand the point that's being put forward and determine whether or not it requires further investigation and work or whether you're comfortable moving on.

MR. BUDDEN: It's pretty pointed, there. They're saying Nalcor is inadequate and an independent analysis is required. That's what they're saying –

MR. SKINNER: Mmm.

MR. BUDDEN: – isn't it?

MR. SKINNER: Yes.

MR. BUDDEN: And your government chose to not proceed with an independent analysis.

MR. SKINNER: Well, I would argue to you that the reference to the PUB would have been an independent analysis.

MR. BUDDEN: Okay.

However, if one continues: "... an independent analysis of economic, energy and broad-based environmental considerations of alternatives" – do you believe that an independent analysis of economic alternatives – was that what the PUB was tasked with – alternatives in the plural?

MR. SKINNER: Well, it was given two alternatives.

MR. BUDDEN: It was given Muskrat Falls and a single alternative to Muskrat Falls.

MR. SKINNER: Well, there were two options for us to consider – two alternatives. We could go one or the other, so ...

MR. BUDDEN: Right. Yeah.

MR. SKINNER: Yeah.

MR. BUDDEN: And then it speaks below of an independent analysis to address a broader question; that certainly wasn't part of the – if you just continue to the second part I had you read – that certainly wasn't part of the PUB referral, was it?

MR. SKINNER: Well, I guess that's a matter of interpretation, Mr. Budden. I won't say you're right or you're wrong. I'm – when you say "broad-based environmental considerations" – (inaudible) –

MR. BUDDEN: Okay.

I'm looking at something down there now; I'm going a little below that –

MR. SKINNER: Sorry?

MR. BUDDEN: "The Panel recommends that, before governments make their decision on the Project ... " – i.e., before they sanction the project – "the Government of Newfoundland and Labrador ... commission an independent analysis to address ..." a particular question.

(Inaudible) I'm suggesting to you that the PUB reference did not address that question, did it?

MR. SKINNER: My apologies, I didn't –

MR. BUDDEN: Oh yeah, that's fine.

MR. SKINNER: Yeah.

MR. BUDDEN: So what we have here, I would suggest, is the PUB was a partial response, perhaps, to – the PUB referral is a partial response to this, but it certainly doesn't reflect the entirety of the recommendations.

MR. SKINNER: One could say that, yes.

MR. BUDDEN: Okay.

The – just a couple more questions.

Are you aware – we had – a suggestion was made yesterday that – I believe yesterday – the days all run together, but – the CFO for Nalcor made a suggestion something to the effect that CIBC – that he was perhaps encouraged to turn to CIBC for financing at a certain point, rather than reaching into the broader market. So that's, sort of, the background of this question.

Are you aware of members of the government, during your time, pressuring Nalcor with respect to selecting certain vendors or contractors for the Muskrat Falls Project?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

So if that happened, it happened entirely without you being aware of it.

MR. SKINNER: Correct.

MR. BUDDEN: Okay, thank you.

And finally, do you recall appearing on David Cochrane's show, *On Point*, in the period of time in late 2012 leading up to the sanction decision, when this was obviously a topic of great interest in the news. Do you recall that appearance?

MR. SKINNER: I appeared on it many times. I'm not sure which one, specifically, you're referring to, but I did appear on that show a number of times, yes.

MR. BUDDEN: Okay.

What I'm thinking about is the show where you would have said something to the effect of – that you had heard rumours that the Muskrat Falls Project costs were actually going to be much higher – perhaps as high as \$8 billion.

Do you recall saying that or something to that effect?

MR. SKINNER: Generally speaking, yes.

MR. BUDDEN: Okay.

What was – you – I think you referred to rumours, or something similar – may not be the exact word, but can you elaborate a bit more on what you were hearing, because it was obviously entirely different than what was being publicly discussed in the sanction debate.

So what were you hearing; how were you hearing it? Tell us a little more.

MR. SKINNER: So I was just involved – after I left government, I was involved in the mining industry, with a large Canadian construction company that had a mining division, doing some work here in Newfoundland and Labrador for them. And so I would attend, you know, trade shows, mining shows, events where I would meet people who would be involved in the construction industry.

And they would just talk generally about Muskrat Falls and companies that were working there and things that were going on, so I would just hear things. And one of the things I heard was that the costs of Muskrat Falls were increasing beyond what people originally expected it to be.

MR. BUDDEN: Okay.

And you're hearing that back in late 2012?

MR. SKINNER: Mmm.

MR. BUDDEN: Okay.

In those discussions, did you hear anything about risk or, perhaps, undisclosed risk costs that hadn't been – hadn't emerged in the public debate.

MR. SKINNER: In those discussions – being the ones I just referenced –

MR. BUDDEN: Yeah.

MR. SKINNER: – with people in – no, Sir.

MR. BUDDEN: Okay.

And had you heard talk that the project was – there's no way it was going to meet its scheduled date of July 2017?

MR. SKINNER: Not at that time, no.

MR. BUDDEN: Can't recall that.

MR. SKINNER: No.

MR. BUDDEN: Okay.

And these individuals that you speak of, were any of them connected to Nalcor or to the government?

MR. SKINNER: No, Sir.

MR. BUDDEN: Okay.

Thank you, Mr. Skinner. I have no further questions.

MR. SKINNER: Thank you.

THE COMMISSIONER: All right.

I think we'll take our morning break here, and next will be Edmund Martin. So we'll just take our break. Ten minutes.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Okay.

Edmund Martin?

MR. SMITH: Good morning, Mr. Skinner.

MR. SKINNER: Good morning, Sir.

MR. SMITH: Harold Smith for Ed Martin.

I'm just curious about one area of your testimony, and that area is the reference to the Westney qualitative risk analysis that was raised with you by counsel for the Commission, wherein there's a reference to a \$300 to \$600 million contingency.

I'm just wondering, you know, what you understood, you know. I know that you only learned of this when you were interviewed in August, so I'm just wondering what your knowledge is of the contingency; what that was, that 300 to 600 million?

MR. SKINNER: My understanding is that there was a risk that the cost that we understood the project would incur – potentially could incur – could potentially be increased by that amount based upon some event.

MR. SMITH: And it was suggested to you, I understand, that the amount was in and then taken out. And I'm wondering whether or not there's a difference in your mind between being in in one set of numbers and not being put in in another set? In other words, the difference between having it intentionally removed versus not being placed in? Do you see that? Do you see there's a difference?

MR. SKINNER: Yes, Sir.

MR. SMITH: Okay.

MR. SKINNER: Yes.

MR. SMITH: And in relation to these contingencies, what do you know about how they are dealt with, you know, in construction projects? For example, do you know that managing the risks is an important feature of a construction project?

MR. SKINNER: I would say to you, generally speaking I would understand that. I would expect that the experience of the people who are managing the project could help to mitigate or reduce or eliminate risk. So that would be my understanding.

MR. SMITH: Okay.

Thank you very much. That's all the questions I have.

THE COMMISSIONER: All right.

Kathy Dunderdale?

MS. E. BEST: Good morning, Mr. Skinner.

MR. SKINNER: Good morning.

MS. E. BEST: Excuse me, I'm Erin Best, counsel for Kathy Dunderdale.

You were the minister of Natural Resources for less than a year, right?

MR. SKINNER: Yes, ma'am.

MS. E. BEST: So about 10 months?

MR. SKINNER: About 10 or 11 months, yeah; 10½ months.

MS. E. BEST: Okay. And so you had actually left government before the 2012 sanction year?

MR. SKINNER: Correct.

MS. E. BEST: Okay.

Earlier this morning you mentioned some meetings between Nalcor and the Premier's office that you weren't at during those 10 months, but you didn't mean to imply that – sorry, you're shaking your head, no?

MR. SKINNER: No, no.

MS. E. BEST: Oh, you were –

MR. SKINNER: No, no, sorry, no.

MS. E. BEST: Okay, okay.

You didn't mean to imply that nobody else from government, besides the premier, was at that meetings, did you?

MR. SKINNER: No, absolutely not.

MS. E. BEST: Okay.

So there could have been other members of government from other departments present as needed?

MR. SKINNER: I suspect there probably were, yes.

MS. E. BEST: Okay. Thank you.

And just to talk about the federal loan guarantee negotiations for a minute. So you indicated – you certainly weren't part of the discussions with the federal government that triggered the federal loan guarantee?

MR. SKINNER: Correct.

MS. E. BEST: You weren't part of those. Thank you.

But I believe you said in your interview you don't know if maybe the department of Finance or others may have been involved. Is that –?

MR. SKINNER: That's correct. I'm not sure who was involved. You know, I assume maybe they were but I don't know.

MS. E. BEST: Okay. And do you know if anyone from your department may have been involved?

MR. SKINNER: Again, I don't know. No, not that I'm aware of.

MS. E. BEST: Okay. And you left government during the process of the federal loan guarantee negotiation, right? You don't know anything about what happened after you left, and who might've been involved?

MR. SKINNER: I do not.

MS. E. BEST: Thank you.

I believe you said earlier this morning that Nalcor may have received some instructions directly from the Premier's office. What was that about? Was that concerning the federal loan guarantee?

MR. SKINNER: Not necessarily instruction. I mean, my understanding was that the Premier's office may, from time to time, engage with

somebody at Nalcor, no different than Charles did or, you know, it was just my sense was that it was fluid. Various departments, various offices, may have dealt with Nalcor, depending on what the issue was.

MS. E. BEST: Okay, but even if something like that were to have occurred and you weren't present, by its very nature, you wouldn't know if other government departments may have been present or involved in that decision making process? Would that be correct to say?

MR. SKINNER: Yes, I would say that's correct.

MS. E. BEST: Okay. And, in fact, you don't actually have an example – a concrete example – of that happening, do you?

MR. SKINNER: Of other departments meeting with Nalcor or –?

MS. E. BEST: No, sorry, of the Premier's office giving instructions directly to Nalcor.

MR. SKINNER: No, I do not.

MS. E. BEST: Mr. Budden raised this issue about the CIBC being put forward to provide the financing for the project. If that was a suggestion that actually came from the federal government as opposed to the provincial government, would you know about that?

MR. SKINNER: No.

MS. E. BEST: Thank you.

You stated this morning something along the lines of – and I can't quote you directly but I think I made a fairly accurate note. I think you said: I felt people didn't understand it – being the project, I guess – and we needed to get that info out.

Are you aware of the two householders that government had delivered to everyone in the province in 2012 with information about the project?

MR. SKINNER: Generally, yes.

MS. E. BEST: Okay.

MR. SKINNER: Yeah.

MS. E. BEST: And linking to – and the website as well that accompanied that campaign linking to the detailed information and the reports about the project?

MR. SKINNER: Yes.

MS. E. BEST: You were aware of all that, that campaign that occurred?

Okay, and you're aware of, as well, the public AGM that Nalcor held?

MR. SKINNER: Yes.

MS. E. BEST: You are? Okay.

So did these things help to get the information out to the public?

MR. SKINNER: I would certainly think they did, yes.

MS. E. BEST: And, in fact, that was their purpose. Would you agree?

MR. SKINNER: I would.

MS. E. BEST: Yeah.

MR. SKINNER: Yeah.

MS. E. BEST: Thank you. Those are my questions.

MR. SKINNER: Thank you.

THE COMMISSIONER: Okay, Julia Mullaley, Charles Bown?

MR. FITZGERALD: Good morning, Mr. Skinner.

MR. SKINNER: Good morning, Sir.

MR. FITZGERALD: I'm Andy Fitzgerald; I represent Charles Bown and Julia Mullaley. I'm going to be fairly brief.

There was a reference by Mr. Budden that Mr. Bown was a contact with – or a primary contact

with the Department of Natural Resources and whatnot with respect to the project, correct?

MR. SKINNER: Yes.

MR. FITZGERALD: And, obviously, Mr. Bown was a contact. We're not taking issue with that. At the time, he was the associate deputy minister of Natural Resources. Did he work on other files in your office?

MR. SKINNER: Absolutely.

MR. FITZGERALD: Could you provide some examples? Generally, I don't need – you know.

MR. SKINNER: Oil and gas, agriculture, forestry, there'd be lots.

MR. FITZGERALD: Yeah.

MR. SKINNER: Yeah.

MR. FITZGERALD: So he clearly wasn't just assigned to this file?

MR. SKINNER: No.

MR. FITZGERALD: You also indicated in your evidence that you were the – Natural Resources was the lead department, but there were other departments involved such as: Finance, Environment, Transportation. I note you left out Justice.

MR. SKINNER: Justice, yeah. It wasn't meant to be all inclusive; I was trying to spit 'em out off the top of my head.

MR. FITZGERALD: Fair play.

Would it be fair to say that on a project of this size there would be different responsibilities and they would vary across different government departments?

MR. SKINNER: I would agree with that.

MR. FITZGERALD: And what I'm getting at, I guess, is would you agree with me that when the government is gonna spend billions of dollars and determine whether or not it's the correct way to proceed, that the Department of

Finance would play a significant role in that aspect of it?

MR. SKINNER: Yes.

MR. FITZGERALD: Would you also agree with me that when it comes to the federal loan guarantee and some of the financial arrangements that are involved, that's really more of a Department of Finance issue as opposed to Natural Resources?

MR. SKINNER: That was my feeling and my understanding, yes.

MR. FITZGERALD: Yeah. Now, I recognize we're talking about a hydroelectric project and it is a natural resource, but in terms of the dollars and cents of this, I would state – suggest to you that that's really a Finance issue more than a Natural Resources issue, wouldn't it?

MR. SKINNER: We would lean on them for financial analysis and financial information.

MR. FITZGERALD: Do you recall who you were dealing with at Finance at the time, the officials?

MR. SKINNER: I'm not a – I have some names, but I – in terms of committing, you know, being sure, there were people I dealt with on various issues, so I wouldn't want to identify –

MR. FITZGERALD: Fair enough.

MR. SKINNER: No, I'd have to say, no, I can't –

MR. FITZGERALD: But there would have been numerous officials in Finance –

MR. SKINNER: Yes.

MR. FITZGERALD: – that were involved in this.

MR. SKINNER: Yes.

MR. FITZGERALD: Now, Mr. Simmons asked you a question about whether there was a formal financial analysis done by government of the project. Would you agree with me that

there's only value in a formal financial analysis if government is provided with correct, up-to-date and complete disclosure from Nalcor?

MR. SKINNER: Yes, I would say yes to that.

MR. FITZGERALD: For there to be value in the analysis, you would need to have all the information, wouldn't you?

MR. SKINNER: Yes, you – I would agree with that.

MR. FITZGERALD: Thank you very much.

THE COMMISSIONER: Robert Thompson?

MR. COFFEY: Good morning there, Mr. Skinner.

My name is Bernard Coffey, I represent Robert Thompson.

MR. SKINNER: Good morning, Sir.

MR. COFFEY: Mr. Skinner, you were taken through this, but I'd like perhaps to explore this with you a bit more. During the 10 months you – well, you spent 10 months as the minister of Natural Resources and before that you were in the Cabinet.

And you – this morning you explained, I believe, to Mr. Learmonth that you recall generally the Cabinet being briefed on the developments of the Lower Churchill Project from time to time? You're –

MR. SKINNER: Yes.

MR. COFFEY: – nodding, yes.

And in relation to that then, I'm going to ask you to, kind of, cast your mind back before or the time leading up to November 2010 which was the announcement of the Emera term sheet. Do you remember?

MR. SKINNER: Yeah.

MR. COFFEY: Okay then.

Who – do you recall who did the briefings?

MR. SKINNER: When you say the briefings I'm hesitating because, depending on what the briefing would be about, there could be various people who would – people or a department that would lead a briefing.

MR. COFFEY: Okay.

And this is before your time as minister now.

MR. SKINNER: Yeah, yeah.

MR. COFFEY: Because you're a minister, but you're not minister of Natural Resources. So you're sitting in the Cabinet room and, like, in relation to the Muskrat Falls – what would have been in relation to, in this particular case, the Muskrat Falls Project and the term sheet with Emera, do you recall who did the briefings? Like, was it somebody from Nalcor, was it the minister or whom, do you recall?

MR. SKINNER: Generally speaking, the discussion around the Cabinet table on the file would be led by a minister. There may be other officials in the room to support that.

MR. COFFEY: Okay.

And, at times, would the briefings involve PowerPoint presentations?

MR. SKINNER: Sometimes, yes.

MR. COFFEY: And in situations like that where PowerPoint presentations were made, might there be personnel from Nalcor doing the presentations?

MR. SKINNER: Yes.

MR. COFFEY: Providing the slideshow –

MR. SKINNER: Yes.

MR. COFFEY: – and making comments?

MR. SKINNER: Yeah.

MR. COFFEY: Okay.

And then to go to your time as minister of Natural Resources, you've indicated that from

time to time you would ask for a briefing. And you're nodding yes.

MR. SKINNER: Yes, correct.

Yeah, sorry. Yeah.

MR. COFFEY: And – or at other times, you would be given the understanding that Nalcor wanted to come in to speak to you about a matter from time to time and it might vary.

MR. SKINNER: Correct.

MR. COFFEY: Okay.

And during those presentations whether you asked Nalcor then, or they asked to come in, the presentations took the form of PowerPoint presentations.

MR. SKINNER: Generally speaking, yes.

MR. COFFEY: And if – in this context, the personnel from Nalcor would be doing the presentations?

MR. SKINNER: Yes.

MR. COFFEY: That would be –

MR. SKINNER: Yes, Sir.

MR. COFFEY: Okay.

And if you had questions you would ask them? And you're nodding, yes.

MR. SKINNER: Yes, sorry. Yeah.

MR. COFFEY: Okay.

So, if I could ... and your expectation during those briefings was what, in relation to the fulsomeness of the briefing, I'll put it that way, and the accuracy of the information you were being given?

MR. SKINNER: Well, certainly, accuracy. You would expect it to be accurate information. In terms of fulsomeness, you know, there would be levels of detail that, in fairness to whoever was doing the presentation, I wouldn't necessarily, as

minister, need to get down into the weeds, I'll call it.

MR. COFFEY: Right.

MR. SKINNER: But there would be a level that I would need to understand. And sometimes that would be evident by the presenter and I'd get it and sometimes you might have to dig a little deeper but, you know, I was briefed. I wasn't, you know, given – and I understood I wasn't always being given all the level of detail because it wasn't relevant to me as a ...

MR. COFFEY: Sure.

MR. SKINNER: You know, when I say it wasn't relevant, it wasn't something I needed to know. I needed the high-level understanding of it.

MR. COFFEY: Okay. And in relation to the cost of the project – okay? During your interview by Commission counsel, I believe you were asked about your understanding concerning – understanding from Nalcor concerning the cost estimates and the potential revenue from selling excess power outside the province. Do you recall?

MR. SKINNER: Yes.

MR. COFFEY: Okay. In your own words, could you please tell the Commissioner what it was you told Commission counsel at that time your understanding was? About the costs – what was Nalcor conveying to you? What did you understand about costs, in terms of overruns, or you know, how high or low the cost estimates were?

MR. SKINNER: Okay. So, the understanding I was given, was that in – information that was being shared where there would be costs that would be discussed – there would be, you know, if there was a range of costs, they would give us the higher end of that range. And if there were revenues that were being considered – and again, you know, this wasn't an exact science – so you'd get a range of revenues. They would tend to err on the side of caution, or the lower end of those revenues.

MR. COFFEY: Okay. So, then, your understanding during all of your dealings with Nalcor officials – from time to time – and all the briefings you had, the impression you had was that Nalcor was telling you the – from their perspective – (inaudible) the high end of where they thought the cost might be. This is probably high as –

MR. SKINNER: Generally speaking, yes.

MR. COFFEY: – (inaudible) and of course, the converse was true in terms of the potential revenues.

MR. SKINNER: Yeah, they would say that, you know, if there was a range, they would tend to err towards the higher end of it. And that would be – that was because they were trying to be – I guess for lack of a better word, conservative, in the approach and in showing that, you know, any risks or contingencies were considered.

MR. COFFEY: And I believe you also – when you were asked about it by Commission counsel, about strategic risk and tactical risk and whether or not you recalled Nalcor officials ever discussing that with you – and I believe you told them no. That they talked about risk but not in – they didn't differentiate between tactical and strategic.

MR. SKINNER: My recollection is that we certainly – there were discussions around risk generally, but not specifically differentiating between tactical and strategic.

MR. COFFEY: Now in relation to the October 2011 commitment letter that Mr. Simmons asked you about – and you recall, I think, in fact, Commission counsel may have as well – and the submission to Cabinet, which you brought forward, could you tell the Commissioner, please, what your recollection now is concerning how that initiative came forward?

I mean, you're a minister and by that point – say, by the summer of 2011, you'd been minister for about six months. So can you tell us –?

MR. SKINNER: Generally speaking, my recollection is that that would have been a document that would have been discussed

amongst the senior bureaucrats within the various departments. I'm assuming – well, I would think Natural Resources, Finance, whomever else was felt was needed to be a part of that and the document was then presented to Charles, to present to me for moving it through the system to get it on the Cabinet agenda.

MR. COFFEY: Okay.

And the commitment letter was to be a commitment or a statement of commitment in favour of whom? It was in favour of Nalcor, wasn't it?

MR. SKINNER: Favour of whom?

MR. COFFEY: Like, Nalcor needed the commitment letter, is what I'm getting at.

MR. SKINNER: It was supporting the project that government needed to advance forward, and wanted to advance forward. It was needed to allow the project to continue to move forward in terms of the timelines that had been established. That was my understanding.

MR. COFFEY: Yes.

And you did understand at that time – the time the paper went forward to Cabinet that the province was committing to fund cost overruns.

MR. SKINNER: Yes.

MR. COFFEY: (Inaudible) that. But as well, at that time, I'm going to suggest to you – bearing in mind what you told me a matter of minutes ago – at that time, you were under the impression, I gather, that because the costs Nalcor were suggesting – they were perhaps overestimating the costs associated with the project – that the overruns might be more unlikely.

And if you're overestimating the cost of something, if you're gonna, you know, if you're thinking maybe – I'll just use a figure – if you're thinking maybe 5 billion but you're actually estimating at 6, then the likelihood of a cost overrun is lower, isn't it?

MR. SKINNER: I would respond to you, Mr. Coffey, by saying that the possibility of cost overruns did exist.

MR. COFFEY: Yeah.

MR. SKINNER: Whether I would say they were higher or lower, likely or not – they were a possibility.

MR. COFFEY: Yes.

MR. SKINNER: That's the understanding I took –

MR. COFFEY: Yes.

MR. SKINNER: – whether they – I wouldn't want to quantify they were more likely or less likely, but they were possible.

MR. COFFEY: But you did understand during all your dealings with Nalcor – your understanding from them was that if they were pricing something or estimating what something might cost, they were using the higher end of the estimate there.

MR. SKINNER: Correct.

MR. COFFEY: Thank you, Commissioner.

THE COMMISSIONER: Thank you.

Todd Stanley, Terry Paddon?

MS. VAN DRIEL: Good morning, Mr. Skinner. My name is Gerlinde van Driel, and I represent Todd Stanley and Terry Paddon. Just a –

MR. SKINNER: Good morning.

MS. VAN DRIEL: Just a few questions – clarification more than anything.

So this morning in answer to Mr. Learmonth's question – he asked you very briefly about this contingent equity. And I understand basically what you said in answer to his question was that this would cover any cost overruns.

So you mentioned this was an accounting function to ensure that, where the lending had occurred, that there would be money available to

make sure the payment would go back to lending agencies.

MR. SKINNER: Yes.

MS. VAN DRIEL: Is that a fair –

MR. SKINNER: Yes –

MS. VAN DRIEL: – assessment?

MR. SKINNER: – I would say that’s a fair assessment, yeah.

MS. VAN DRIEL: Yeah, so cost overruns if you bear that in mind, then, in answer to a question of Mr. Simmons this morning – and if you could just bring up for a moment, Madam Clerk, Exhibit P-00043, page 3.

THE COMMISSIONER: Tab 2. I’m sorry, tab 3. Oh no, I’m sorry – tab 20.

MR. SKINNER: Tab 20?

THE COMMISSIONER: Yeah.

MS. VAN DRIEL: And I think it was in relation to a second bullet. Now maybe I have the wrong page – no there it is, there I go.

So the second bullet there was read out and it said, “Provide the Government investment into the Project, which includes the amount determined during the financing process (currently estimated at \$1.5 to \$2.0 billion – see Financial Considerations section for more detail) and any additional Government investment needed to address any contingencies required to ensure Project completion.” And you were asked a simple question, but your understanding was of this bullet. And you said well, if there were cost overruns, then the government would cover it.

And my question simply is your understanding is that this would – these cost overruns in the second bullet relates back to your understanding of what the contingent equity was all about?

MR. SKINNER: Yes, that would be related to it. Yes.

MS. VAN DRIEL: Correct. Yeah.

So then, I think you also said that – not quite sure how the flow of the conversation went with Mr. Simmons – but that you answered at some point that you would’ve expected the Department of Finance – and I think you said – to have a handle on – on what? Was it the contingent equity, on equity – what was it exactly you were saying there?

MR. SKINNER: My – I think what you’re referring to – if it’s the conversation I had with Mr. Simmons, it had to do with was there any analysis done of; if there were cost overruns, what the effect would be on the province.

MS. VAN DRIEL: Okay.

MR. SKINNER: And that’s what I think we’re referring to.

MS. VAN DRIEL: Yeah.

MR. SKINNER: And so my response to him was that I would’ve expected that analysis to be something the Department of Finance would’ve completed.

MS. VAN DRIEL: So if the estimate of cost overruns would’ve been between 300 to 600 million, you would’ve expected the Department of Finance to have done that analysis to see whether there would be sufficient funds available to meet that cost overrun demand?

MR. SKINNER: I would’ve expected the Department of Finance to be able to speak to how government would respond if there were cost overruns of 300 to 600. Maybe they would say we shouldn’t, you know, cover it. Maybe their –

MS. VAN DRIEL: Right.

MR. SKINNER: – assessment would be we shouldn’t cover it. Maybe it would be yes, we should cover it, and here’s how we’re going to. But you know, I would assume they would do their analysis and give us their opinion as to what course of action government could take. Not necessarily that they would cover it, but what course of action should we take should this overrun occur.

MS. VAN DRIEL: But it's obvious that the government would've needed to know what the expected – more or less, expected cost overruns would be –

MR. SKINNER: Yes.

MS. VAN DRIEL: – in order to make the determination.

MR. SKINNER: I would think so, yes.

MS. VAN DRIEL: That's all my questions, thank you.

THE COMMISSIONER: All right. Consumer Advocate?

MR. HOGAN: Mr. Skinner.

MR. SKINNER: Good morning, Mr. Hogan.

MR. HOGAN: How are you?

MR. SKINNER: Good, Sir, thank you.

MR. HOGAN: I'm counsel for Consumer Advocate. Consumer Advocate represents the ratepayers – about 300,000 ratepayers.

Just want to do a few follow-ups and go back to the reference to the PUB. I think you were asked about this, that whether Nalcor had some input into the reference or not – the drafting of that. Did you say yes or no to that, or do you know?

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

MR. HOGAN: You're not sure, okay.

MR. SKINNER: I'm not a hundred per cent sure.

MR. HOGAN: And do you know who at government would have been responsible or who would have been involved in drafting the reference?

MR. SKINNER: My point of contact would have been Charles. I certainly would, you know, expect Charles would have been involved in that.

MR. HOGAN: Yeah.

MR. SKINNER: And he would have reached out to other senior officials in government, but I'm not sure who.

MR. HOGAN: Okay, so it was Charles's responsibility to look after the drafting of the reference, is that fair to say? Charles Bown.

MR. SKINNER: Charles would have been responsible for bringing it to us as a department to channel it through government. In terms of the actual drafting, that might have been done by legal, by Justice, by – I'm not sure who. I wouldn't say necessarily that Charles had – held the pen on that.

MR. HOGAN: Okay.

MR. SKINNER: But in terms of gathering that information and bringing it in for us to take through to Cabinet, that would have been my expectation of Mr. Bown.

MR. HOGAN: The final sign off would have been through Cabinet?

MR. SKINNER: Yes.

MR. HOGAN: Okay.

You recall that being discussed at Cabinet?

MR. SKINNER: The reference to the PUB?

MR. HOGAN: Yeah, the actual decision, what was going to be put into the reference specifically?

MR. SKINNER: Yeah, I'm sure we – that would have been discussed at Cabinet, yes.

MR. HOGAN: Yeah.

During your transcript, you mentioned that there was all kinds of, I guess, other factors to look at other than the least-cost option. Do you recall that, when you were speaking with Mr. Learmonth? And to be fair, I'll read this out to you.

MR. SKINNER: Price wasn't – cost wasn't the only consideration, is that what you're –

MR. HOGAN: Yes –

MR. SKINNER: – implying?

MR. HOGAN: I'm going to read this out –

MR. SKINNER: Yeah.

MR. HOGAN: – to you. You said: I guess I would also say, you know, cost was certainly an overriding factor, make no mistake about it, but we did consider other things. We did consider, you know, things like economic generation, creation of jobs, the fact that we would no longer be an isolated Island; we would be able to connect with the North American grid. There were other factors that were considered as well, but certainly, cost was a big one, yes.

MR. SKINNER: Yes.

MR. HOGAN: Do you agree with that statement still?

MR. SKINNER: Yes.

MR. HOGAN: So what was the discussions around, let's say, caucus and Cabinet about the other factors?

When Mr. Williams was here, at one point in his evidence, he actually brought in a piece of paper where he had listed out all the economic benefits of it. So can you just give us some background yourself about what the discussions was around that, other than it being the least-cost option?

MR. SKINNER: So the project was seen to be supporting the Energy Plan in terms of us becoming energy self-sufficient. That was a big part of it, the fact that we were able to generate our own energy; if there was a catastrophic incident here, we could import energy because of our connection.

The ability to stimulate the economy, to create jobs was a big talk around, and I mean, a lot of MHA's would have men and women who would be able to work on a project like that from many communities in the province, so that was a discussion.

The development of expertise and the creation of knowledge within the province in terms of being able to do a major construction project like that and, potentially then, other industries or other

opportunities arising from that that may come from it. We would hope something like that would happen.

MR. HOGAN: Would that include, like, mining in Labrador?

MR. SKINNER: Mining in Labrador. You know, new techniques might be developed as to how to construct things; you know, you were doing a dam; you were doing transmission lines; you were going underwater. There was a lot of stuff here that you may be able to improve upon the processes or learn from the processes.

MR. HOGAN: My question is how would that factor into the analysis? Let's say cost was important – was the overriding factor, you say – but how do you make a decision with these, sort of, arbitrary economic impacts and compare it to the cost of two projects? So how do you make that analysis then, objectively, of which project is better?

Because we sort of – we've heard evidence that, listen, it was a domestic project, least-cost option, but we've heard from some ministers and the premiers that no, no, no, there were other factors to be considered. So I'm trying to figure out what government was thinking about, and it sounds like they were not necessarily thinking about it just being the least-cost option. So how do you do that analysis?

MR. SKINNER: So I can only, again, speak from my own perspective.

So I would've looked at each project and the potential costs that would be involved. Does it meet the objective that we have of being energy self-sufficient? Does it allow us to deal with a catastrophic incident – if we lose power here, are we able to power up again, so to speak? Are we able to create the jobs and so on, and what's the general good that's going to come from this in a broader perspective other than the very specific things we want, which are power related, but what is the broader good that would come from that? And you would have to find your –

MR. HOGAN: Level of comfort?

MR. SKINNER: – comfort level, is probably a good way of putting it. You'd have to be able to

come to your own peace as to being able to defend that, 'cause as an MHA, as a minister, you're constantly being challenged on decisions that government makes, and I always found that I have to have my own comfort level to be able to speak to it, and so I would try to find that level.

MR. HOGAN: Okay.

Was there any discussion about economic impacts of the Isolated Option? I know we can't talk about the connecting it but – to the grid but –

MR. SKINNER: Generally speaking, but it was seen to be a much more, for lack of a better word, drawn out project, whereas the impact of Muskrat was seen to be more short-term, if I can use that word.

MR. HOGAN: Okay.

We also heard some evidence about – everybody's heard about it – like, I'm going call it, sort of, some anti-Quebec, anti-Hydro-Québec rhetoric and – you follow what I'm saying? You've heard that?

MR. SKINNER: I understand what you're referring to.

MR. HOGAN: Might be some more today. I don't know if you've heard the Supreme Court of Canada's –

MR. SKINNER: Yes, I have.

MR. HOGAN: – decision or not, so we'll see what happens.

MR. SKINNER: Mmm.

MR. HOGAN: As a member of caucus and Cabinet, can you talk about the discussions within those groups about the decisions to speak out negatively against Quebec or Hydro-Québec?

MR. SKINNER: There were, you know, there were people who had opinions on that. My thought was in terms of doing the work of government, I don't know if that added a whole lot of value to what we were trying to achieve. I

tried not to engage in it. I tried not to, you know – it was history: I was trying to move beyond it.

MR. HOGAN: So that was your perspective. I don't know if your perspective is what necessarily was –

MR. SKINNER: Mmm.

MR. HOGAN: – came out from the government. So there were people in – within caucus that, sort of, didn't feel that that was the best route to take?

MR. SKINNER: And what was (inaudible) route to take?

MR. HOGAN: To attack Quebec and Hydro-Québec.

MR. SKINNER: There would be people who felt that we didn't necessarily need to be doing that. There were people who felt just as strongly that we should be. Yes, I –

MR. HOGAN: And were the feelings against it – was, well, what is it going to accomplish?

MR. SKINNER: It – again, I can only speak for myself.

MR. HOGAN: Sure.

MR. SKINNER: My sense was that that battle had been fought, we'd had a number of decisions or opportunities over the years for things to change and they hadn't. If we could engage with Quebec and maybe turn a page, I think there would be people who would've wanted to do that. And if we couldn't, then it was better to focus our time and energy on accomplishing rather than trying to stir that up. That's how I and others felt.

MR. HOGAN: Do you think, potentially, it did any damage to getting the deal with Quebec?

MR. SKINNER: I would hope not. I would think not. I mean, if – you know, there's lots of times you're – you know, as a political person you're advocating or putting forward certain points of view, but at the end of the day you want to get something done.

MR. HOGAN: Mm-hmm.

MR. SKINNER: So somebody may or may not be speaking negatively about, say, Quebec as an example. But at the end of the day, if there's an opportunity to do a deal and it's for the betterment of your province, you're going to do the deal, I would think.

MR. HOGAN: Again, just in terms of your knowledge as a member of caucus and Cabinet – I'm trying to get some clarification on this and it's coming out in bits and pieces. When Premier Williams was here he talked about a \$3 billion number that was on the table between Hydro-Québec and Nalcor. He didn't – couldn't recall exactly what it was for. And yesterday I asked Mr. Sturge about it, from Nalcor, about possibly it being for transmission assets and he seemed to have some recollection about that part of it.

Do you recall that number or that deal or those discussions and that figure at all during your time in caucus or Cabinet?

MR. SKINNER: No Sir, I don't have any particular recollection about that amount or those discussions. No.

MR. HOGAN: Do you have any recollection about any deal with Quebec to –?

MR. SKINNER: I know that the premier of the day, Mr. Williams at that time, had indicated he had hoped to accomplish a deal with Quebec, and had conversations with Mr. Charest and others. And I think, you know – but it just didn't happen.

MR. HOGAN: Didn't happen.

MR. SKINNER: The political climate was not there for it. Whether that was our climate or theirs or both, I don't know, but it didn't – I think we had a couple of willing partners in Premier Williams and Mr. Charest, but I guess the details didn't work out. But I don't know that for sure.

MR. HOGAN: You don't know the details or the – how far the discussions went, or if it was ever brought to Cabinet or anything like that?

MR. SKINNER: Not to my knowledge, Sir. No.

MR. HOGAN: We also heard some evidence that some civil servants – specifically in the Department of Natural Resources – felt disgruntled by, sort of, being left out of the process in terms of Nalcor going directly to the Premier's office. Did you hear that evidence or do you –?

MR. SKINNER: Nope, I –

MR. HOGAN: Does that ring a bell to you at all?

MR. SKINNER: Not in my time. It wasn't something that was brought to my attention.

MR. HOGAN: Okay.

MR. SKINNER: I felt – again –

MR. HOGAN: (Inaudible) 10 months, let's say –

MR. SKINNER: No, Mr. Bown, who was my main point of contact, was, you know, from my perspective, very capable, competent, comprehensive. I trusted him. I valued his judgment. He – if he came to me with something like that, I would've certainly acted – or tried to act upon that on his behalf. But no, I didn't have anything like that.

MR. HOGAN: Given that they were going to – at times, going directly to the Premier's office – Nalcor was, and you said that sometimes you thought the premier had given – the Premier's office had given instructions directly to Nalcor.

But is there any feeling within Cabinet or caucus that they were being left out of the process?

MR. SKINNER: Not from my perspective. This was a major, massive project. There was many angles to it, and things were happening simultaneously across a bunch of departments and with a bunch of officials and a bunch of Cabinet ministers. And so that to me was just, sort of, a part of the normal course.

MR. HOGAN: Okay, and – I mean, we're lucky to have you here as you have served two

political lives – city councillor and MHA and Cabinet minister.

MR. SKINNER: “Lucky” is a term you used.

MR. HOGAN: Okay, it’s the wrong word, is it?

We’re lucky – can I say, maybe? I don’t know.

MR. SKINNER: Okay.

MR. HOGAN: Can you distinguish maybe between how city council worked as opposed to – or versus a Cabinet. Like, I’m wondering if it was a more of a top-down approach from the Premier’s office in this situation, as opposed to, you know, the sort of open debate we see in city council, which maybe goes off the rails sometimes. But can you comment on that?

MR. SKINNER: I found the provincial politics to be much more collegial because you were in a caucus. You, supposedly, knew who your friends were and who your enemies were. My reference – and I’ve said this to people who’ve asked me about council – every issue on council required new alliances.

It’d be like the TV show *Survivor*. You needed to figure out who was with you and who was against you to get anything done at council, and that sometimes became very challenging. Not to say that it wasn’t challenging on the provincial side. But when I walked into a caucus room, supposedly these people were where I was. When I walked into a council meeting, you had to figure it out.

Does that answer your question?

MR. HOGAN: Yeah, so I mean, I guess it does answer my question a little bit. It seems like everyone is going to be aligned from – within the leadership of that caucus, which would be the Premier’s office.

MR. SKINNER: I wouldn’t say “aligned.” I would say you’re going to be agreeable partners to sit down and have the discussion about whatever it is you need to discuss. Make no mistake, the premier is the premier.

MR. HOGAN: Okay, so when you say that, did people have to stay in line – is another way to put it?

MR. SKINNER: I will say this to you: There’s a common understanding in Cabinet that you carry your resignation letter in your inside pocket, and if you come to an issue that you can’t accept, you offer it up.

MR. HOGAN: Was Muskrat Falls an issue that if a Cabinet minister sided differently than the premier – I mean, that was gonna be one where that letter might be delivered?

MR. SKINNER: I can only speak for myself. I, you know, I would be prepared if I felt that I could not support something and couldn’t support the direction of government, I would offer my resignation to the premier. I would not sit there if I couldn’t support what was being done. That wouldn’t be fair to Cabinet and caucus and everyone else.

MR. HOGAN: Okay, just a couple more questions.

You’ve been asked about cost overruns. Was there any analysis done about – so cost overruns would – the ratepayer is on the hook for the cost overruns, you understand that?

MR. SKINNER: Yes.

MR. HOGAN: So was there ever an analysis done, to your knowledge, about what rates could be affordable to the ratepayer? And we don’t know what the cost overruns are going to be at this –

MR. SKINNER: Yeah.

MR. HOGAN: – point but there going to be something. So when is it too – when’s – when is it too much?

MR. SKINNER: So I can’t give you a direct answer to that. I’m just going to try to give you a qualified answer.

The analysis, if I could use that word, that was done was there was a projection done in some of the briefings that we had of what the rates potentially could get to under an Isolated Island

Option or under the project that we were pursuing. And there was a time where, based on past history, we knew the rates increased by, I think it was, anywhere from 0.8 to 1 percentage point per year on an annual basis and they would keep escalating, if we, sort of, stayed as was.

If we went with the Muskrat Falls option, there would be a, sort of a short-term increase in rates, 13 cents rings a bell in my mind; 13 to 15 cents. And then once you sort of went through the construction and initial cost increase, things levelled out.

So you, sort of, you jumped up quickly but then for the rest of the 20, 30, 40 years it levelled out. And the implicit in that – this is getting to your question, I hope – implicit in that was that it was felt that 13 to 15 cents would be affordable. Whereas, if we left it to continually increase overtime by 0.8 to 1 per cent, eventually it would become a hardship for people.

MR. HOGAN: That flattening out is assuming no cost overruns, right?

MR. SKINNER: That flattening out was assuming the cost that we had before us at that time –

MR. HOGAN: Right.

MR. SKINNER: – yes.

MR. HOGAN: So what happens if the cost is not – the cost before you is not the cost and it doesn't flatten out and it keeps going? Was there any analysis done about what happens then?

MR. SKINNER: Not that I'm aware of.

MR. HOGAN: Yeah.

So it sounded like you were happy pushing for the fact that this was going to go to the PUB. Is that fair to say?

MR. SKINNER: I was – yes, I was glad –

MR. HOGAN: It was positive (inaudible).

MR. SKINNER: – that that decision was made, yeah.

MR. HOGAN: We heard yesterday from Mr. Sturge that he – Nalcor couldn't go to the banks to get financing for this with DG2 numbers because they weren't finalized yet or thorough enough yet. So wouldn't it be more prudent to wait to send this – these issues to the PUB when you had the DG3 numbers as opposed to the DG2 numbers?

Okay, was any discussion with caucus about that?

MR. SKINNER: There was no issue, to my knowledge at that time when we made the reference, about the DG2 numbers.

MR. HOGAN: Okay. There was no discussion: Let's wait 'til DG3, that's –

MR. SKINNER: No.

MR. HOGAN: – not enough yet?

MR. SKINNER: No, there was – as I understood it, there was consultations with the PUB at the time about potentially doing the reference. It wasn't identified as an issue.

MR. HOGAN: Looking back now, Mr. Budden was asking you about the timing of this. The extension wasn't given as you know. So was that a reason maybe not to wait until DG3, there was a rush to get it done? You don't know.

MR. SKINNER: Again, I never felt rushed, from my perspective. No, I never felt rushed.

MR. HOGAN: Is it possible we would've went back to the PUB again with the DG3 numbers? Or you don't know?

MR. SKINNER: Well, you know, again, all I can say is that we did what we did at the time feeling it was the best decision based on the information we had. In hindsight, who knows? And I, you know, that's speculation, I don't know.

MR. HOGAN: Okay. Thank you.

THE COMMISSIONER: Thank you.

So I just want to make sure I got this right. There's no one here from the Innu Nation; no one here from the Nunatsiavut Government.

NunatuKavut?

MR. COOKE: Good morning, Mr. Skinner.

My name is Jason Cooke, I don't think we've met before.

MR. SKINNER: Good morning, Mr. Cooke.

MR. COOKE: And I'm the lawyer for the NunatuKavut Community Council.

So I understood from your evidence that you were minister from, I guess, December 2010 to October 2011. Do I have those dates right?

MR. SKINNER: Yes, Sir.

MR. COOKE: Okay. And I also understood from your evidence and others that really Natural Resources was the kind of lead department on the Muskrat Falls Project?

MR. SKINNER: Yes, Sir.

MR. COOKE: But that other departments were also involved and you gave some evidence on that previously, correct?

MR. SKINNER: Correct.

MR. COOKE: Okay.

I just wanna ask you about consultation with Indigenous groups, particularly NunatuKavut, but it doesn't have to exclusively be that.

So, during the time you were Minister of Natural Resources, what role did your department have in terms of consultation with Indigenous groups regarding the project?

MR. SKINNER: We didn't have any specific role. I do know there were times when it would be, you know, potentially, a topic in a presentation or a discussion, but it was generally felt that Labrador and Aboriginal Affairs would sort of lead that council – lead that part of it and ensure that the consultations that would be required would happen.

MR. COOKE: And so were there – was there a relationship between an official in your department and Aboriginal Affairs, in terms of these consultation questions? And I'm only asking because I would expect there'd be times when your department's expertise would be necessary in order to do the consultation.

MR. SKINNER: So there was a gentleman in the department by the name of Paul Carter, who was a – I don't remember. He was a Labrador liaison, I can't remember his official title. I met with Mr. Carter – I was introduced to him and I met him a few times, and anytime I had any questions about something Labrador related, I'd ask Mr. Carter. And, generally, he'd be the person who would advise or consult or inform us of anything Labrador related.

MR. COOKE: I guess, pretty much part way through, not quite halfway through your time as minister, the Joint Review Panel report was released. I believe in August 2011.

MR. SKINNER: Yes.

MR. COOKE: Is that consistent with your recollection?

MR. SKINNER: Yes, Sir.

MR. COOKE: Okay, and was – I wasn't clear on this – was Natural Resources tasked with kind of being the lead department in terms of responding to the JRP report?

MR. SKINNER: I'm not 100 per cent sure of that. I have to – off the top of my head, I don't know if we were, you say, tasked with it. I mean, it would've been an area of responsibility we would've been involved with. Whether or not we – when you say tasked, you mean did we hold the pen to write the response to it? I'm not sure of that.

MR. COOKE: I guess that can be part of that. And I guess I'm just – because, you know, the evidence you gave before is really that Natural Resources was the lead department on the project –

MR. SKINNER: Yeah.

MR. COOKE: – as a whole. So, I guess, my assumption would've been that therefore Natural Resources would've been the lead in terms of responding to the JRP report.

MR. SKINNER: We would've certainly collected responses from a bunch of different departments. We would've had to reach out to a number of departments I would've expected to respond to that report. So, in that regard, yes, I would say you are correct.

MR. COOKE: And you, as minister, obviously, would've had to have reviewed the JRP report?

MR. SKINNER: I would've been briefed on it and would've had discussions with staff about it, yes.

MR. COOKE: I'm just gonna take you to one part of the report and that's at Exhibit P-00041. And if I could take you to page 202, which I believe is the red number at the top.

THE COMMISSIONER: So you're probably gonna have to look at your screen in this one.

MR. SKINNER: I will, Sir, yeah.

MR. COOKE: And I'm just taking you to what's in that box there. And maybe it'd be easiest – could you just read what it says? What the JRP says in that –

MR. SKINNER: In the first box there at the top?

MR. COOKE: Yes, please.

MR. SKINNER: Yeah.

MR. COOKE: Thank you.

MR. SKINNER: “Based on the information on current land and resource use identified through the environmental assessment process, there are uncertainties regarding the extent and locations of current land and resource use by the Inuit-Metis in the Project area. The Panel recognizes that additional information could be forthcoming during government consultations. To the extent that there are current uses in the Project area, the Panel concludes that the Project's impact on Inuit-Metis land and resource uses, after

implementation of the mitigation measures proposed by Nalcor and those recommended by the Panel, would be adverse but not significant.”

MR. COOKE: Thank you.

And just to clarify, you understand that when they refer to Inuit-Metis, the Joint Review Panel, it's the same group that I represent – NunatuKavut?

MR. SKINNER: Okay.

MR. COOKE: Okay.

So my question is really on that middle sentence where it says: “The Panel recognizes that additional information could be forthcoming during government consultations.” And so my question for you is are you aware that consultations with NunatuKavut occurred after the release of the JRP report?

MR. SKINNER: Not specifically, I'd have to say, no. In terms of timing, no.

MR. COOKE: Okay.

Thanks. Those are my questions.

MR. SKINNER: Okay.

THE COMMISSIONER: Thank you.

Grand Riverkeeper Labrador and Labrador Land Protectors?

MR. SMYTH: Good day, Mr. Skinner.

My name is Jim Smyth, and I represent the Labrador Land Protectors and the Grand Riverkeepers of Labrador. So that's a –

MR. SKINNER: Good morning.

MR. SMYTH: – group – two groups made up of residents of Labrador, both Indigenous and non-Indigenous, and the idea is to protect and preserve the water quality and ecology of the river itself.

MR. SKINNER: Yeah.

MR. SMYTH: So I just have one question for you. At page 42 of your interview – can you refer to that?

MR. SKINNER: I don't think (inaudible) –

THE COMMISSIONER: That's not an exhibit, so we don't refer to that so – but if you have – if you want to refer to it, you can read it, or you can provide it to Mr. Skinner, so he can have a look at it, because I don't believe he has a copy of his –

MR. SKINNER: I don't, no.

THE COMMISSIONER: – interview.

MR. SMYTH: I'll just read a bit of it. It says: Obviously, there are people who would argue that and say it's not environmentally friendly in terms of some of the destruction of habitat. But overall, again, balancing that, the advice I got was that, from an environmental perspective, this was a good project.

So my question is who would have given you that advice?

MR. SKINNER: That advice would have come through in presentations that – briefings that had been made to me – would have been made to me by Nalcor or by my own officials. There would have been consultations with the Department of Environment on some of those things. Generally speaking, there was an understanding by me, as minister, that there would have been – I refer to it as – destruction of habitat happening –

MR. SMYTH: Yes.

MR. SKINNER: – and then there would have been an analysis done of, you know, what consequences there could be or would be from that and whether or not they would be, you know, significant, long-term or not significant or could we mitigate against it. So that was something that occurred from time to time in the briefings. That discussion would happen based upon various briefings that would occur.

MR. SMYTH: And these briefings would occur in your department or at the Cabinet level?

MR. SKINNER: Well, certainly in my department, and I would suggest to you, yes, they probably would have been identified at Cabinet as well.

MR. SMYTH: Okay.

MR. SKINNER: Yeah.

MR. SMYTH: And would that have included the joint report – Review Panel report?

MR. SKINNER: What do you mean by would it have included –?

MR. SMYTH: The briefings that you received and the papers that you received.

MR. SKINNER: I did get a briefing, yes, on the Joint Review Panel report, yes.

MR. SMYTH: And those used to make – so you came to a conclusion after receiving that information that this was a good project and that these issues were being addressed properly.

MR. SKINNER: That is my understanding. That those issues were being mitigated against to, you know, ensure that there was no negative impact – negative long-term impact. We were able to mitigate the issues, yes.

MR. SMYTH: Okay.

That's all the questions I have, thank you.

MR. SKINNER: Thank you.

THE COMMISSIONER: All right.

Nalcor – Former Nalcor Board Members?

MS. MORRIS: No questions, thank you.

THE COMMISSIONER: Thank you.

Newfoundland Hydro – Newfoundland Light and Power?

MR. KELLY: Good afternoon, Mr. Skinner.

Ian Kelly for Newfoundland Power.

MR. SKINNER: Good day, Sir.

MR. KELLY: I have a couple of questions relating to the reference to the Public Utilities Board. And can I start by taking you to Exhibit 00845.

THE COMMISSIONER: Okay, so that would be tab 12.

MR. KELLY: Right.

Now, Exhibit 00845 – and the relevant part is on the screen. The bottom of it is the actual draft prepared by your department, and then, what we see on the screen is your approval to actually accept this, correct?

MR. SKINNER: Yes, Sir.

MR. KELLY: And I take it that you read it and approved it?

MR. SKINNER: Yes, I would assume so, yes –

MR. KELLY: Okay –

MR. SKINNER: – absolutely.

MR. KELLY: – now the best copy is to take you now to Exhibit 00846 where the quality of the print is much bigger. So can I take you to 00846?

THE COMMISSIONER: Tab 13.

MR. KELLY: And on the – you’ll see on the first page about – under background, four bullets down. It says: “In the House of Assembly, the Premier has committed to some level of involvement for the Board in deciding the issue of whether the Lower Churchill is the least-cost alternative for Island ratepayers.” Do you see that?

MR. SKINNER: Yes, Sir.

MR. KELLY: In the answer to one of your questions to Mr. Learmonth, you said words to the effect, the direction came that we should engage with the PUB. Did this initiative to refer to the PUB come down from the premier’s office or from your department?

MR. SKINNER: The initiative as I recall it would’ve come through to me from Charles

Bown as a potential course of action. And he would’ve then had engagements, consultations, with others in government about that.

MR. KELLY: What –

MR. SKINNER: So –

MR. KELLY: I’m sorry, go ahead.

MR. SKINNER: So in terms of it – it was an initiative that I was hoping to see, but it would’ve been something, I guess, that based on my discussions and my, you know, my commentary to people within government that eventually, based on the premier saying in the PUB she was looking at it, it was decided that we should look at this course of action.

MR. KELLY: So was there some discussion back and forth between you and the premier’s office to actually make this reference?

MR. SKINNER: Not specifically that I recall, no.

MR. KELLY: What did you mean, when you said to Mr. Learmonth, the direction came to refer to the Public Utilities Board?

MR. SKINNER: That it came, basically from officials from Mr. Bown receiving I guess direction to look at this as a course of action.

MR. KELLY: Okay.

Let me take you over to page 3 of this document, and at the top of the page, you’ll see there’s laid out a number of bullet points: pros, which I take it are the positives in favour of making this reference, and the cons, which I take it to be the negatives in making the reference?

MR. SKINNER: Fair enough, yes.

MR. KELLY: Okay.

The first bullet says: “Fulfil commitment to have the Board involved.” So is that the commitment we saw in the previous bullet on the first page from the premier?

MR. SKINNER: Yes. I would say yes to that.

MR. KELLY: Okay, let's go down, under cons, to the third bullet.

It says: "Requires the Board to hold a public hearing." Why would you and your department consider it a negative that the board would hold a public hearing?

MR. SKINNER: I would think that that was probably just a scheduling thing, a time issue, in terms of trying to have a public hearing – do you have one, do you have multiple? I would think it was related to time.

MR. KELLY: Okay. Well, let's go back up to under pros, and the second one, which it says: "A Consumer Advocate will represent consumer interests and reduce the number of potential Intervenor." "

Now, intervenors are people with standing who could ask questions.

MR. SKINNER: Mm-hmm.

MR. KELLY: Why would you or the department want to limit the number of intervenors before the Public Utilities Board?

MR. SKINNER: I would, again, just think that that would be a scheduling or time thing. If you're trying to do – you know, if you're going to go across the province – I've been involved in consultations where that's been done – that takes a lot of time. And, in this particular case, we have a schedule of things we're trying to get done, so you're balancing the input that you're allowing people to have with the schedule you're trying to keep.

MR. KELLY: Okay.

Now, if you go down to cons then, you specifically address, though, the schedule and you recognize in the first bullet: "Time frame will be very challenging for the Board" –

MR. SKINNER: Mmm.

MR. KELLY: – and the second one: "Could be criticized as not allowing sufficient time for adequate review."

MR. SKINNER: Yeah.

MR. KELLY: So would it be fair to conclude that in May, when this is being set up, you knew that December was going to be a very tight timeline?

MR. SKINNER: Yes.

MR. KELLY: Okay.

MR. SKINNER: I would say yes to that.

MR. KELLY: Okay.

Now, just turn over then to the next page, which is page 4. And at the – in the first block there, the paragraph which starts: In the Energy Plan 2007, and if you come down – I'll paraphrase the first little bit.

There's going to be two options put forward, a Schedule A and a Schedule B alternatives. And then it says: "both of which shall be outlined further in a submission made by Nalcor Energy ('Nalcor') to the Board of Commissioners of Public Utilities (the 'Board')."

So if you were concerned about time, did the department have discussions with Nalcor about how quickly the submission would get filed?

MR. SKINNER: I don't know that.

MR. KELLY: Okay.

When would you – since you were signing off on this and sending it up to Cabinet, when would you have expected the submission to be filed, bearing in mind that you, for the reasons you just explained, had established a December date?

MR. SKINNER: At the very earliest convenience.

MR. KELLY: What does earliest convenience mean and whose convenience?

MR. SKINNER: As soon as possible, as soon as they could get that information to the PUB.

MR. KELLY: Okay.

Were you aware that when you left as minister at the end of October, that submission had still not been made to the PUB?

MR. SKINNER: I was not.

MR. KELLY: Okay.

And nobody in your department had made you aware of that delay?

MR. SKINNER: No, Sir.

MR. KELLY: Thank you.

Those are my questions Mr. Chairman – or Mr. Commissioner.

THE COMMISSIONER: All right.

Former Provincial Government Officials '03-'15.

MR. T. WILLIAMS: Good morning, Mr. Skinner.

MR. SKINNER: Good morning.

THE COMMISSIONER: Can I just –

MR. T. WILLIAMS: As you're aware –

THE COMMISSIONER: Can I just –

MR. T. WILLIAMS: Sure.

THE COMMISSIONER: I'm assuming that there's a desire to finish with Mr. Skinner this morning, if we can?

UNIDENTIFIED MALE SPEAKER: Yes.

THE COMMISSIONER: (Inaudible.)

MR. T. WILLIAMS: I think so.

THE COMMISSIONER: Okay.

MR. T. WILLIAMS: I think there was a bit of a consensus at the break that if we could move through and complete –

THE COMMISSIONER: That's my kind of thinking, so I appreciate it.

MR. T. WILLIAMS: As you're aware – but for the record – I represent a number of former government officials for the period of 2003 to

2015, with the exception of former Premier Dunderdale. And I just want to touch base on a couple of the issues that came up this morning. We won't be long.

Going back to some of the cross-examination, Mr. Simmons had made reference to the Energy Plan; he made reference to government being the lead in moving that plan along. And I know you made reference and we're not here to test your memory this morning.

I think one of my colleagues also referenced other departments you had in your response to that that mentioned obviously your department, and Finance and Environment, but it's also been brought to your attention of involvement of the Department of Justice. Would there have been involvement from departments such as Aboriginal affairs?

MR. SKINNER: Absolutely.

MR. T. WILLIAMS: And Intergovernmental Affairs?

MR. SKINNER: Yes.

MR. T. WILLIAMS: Transportation?

MR. SKINNER: Yes.

MR. T. WILLIAMS: Okay, so I think if I list them out there's: Finance, Environment, Justice, Natural Resources, Aboriginal affairs, Intergovernmental Affairs, Transportation and Works, as well as the Premier's office. So to various aspects of this project, all of these governmental departments would've been involved to one degree or another?

MR. SKINNER: Generally speaking. On any papers that would be brought forward to – for Cabinet's consideration, at least, there would be a number of departments that would provide – would be given an opportunity to provide input. Whether they had anything would be a different thing, but they would be given the opportunity to comment on it. So there would be – all the departments would potentially be involved.

MR. T. WILLIAMS: So the Cabinet process is such that issues going to Cabinet go through

other departments to see whether or not they have any input to make –

MR. SKINNER: Yes.

MR. T. WILLIAMS: – in that discussion.

MR. SKINNER: Generally, yes.

MR. T. WILLIAMS: Okay.

With respect to the commitment letter that we referred to, I think was – I don't need to bring up the exhibit, but I think it was P-00043. I note that letter is dated September 2011. Now, that would have been in excess of a year prior to sanction. Would that be correct?

MR. SKINNER: Yes. I'm not sure the exact date.

MR. T. WILLIAMS: Yeah, sanction was in December of 2012.

MR. SKINNER: Okay. Yeah.

MR. T. WILLIAMS: So I presume that any qualifications on any commitments would be subject to final sanction –

MR. SKINNER: Yes.

MR. T. WILLIAMS: – by government with respect to the project?

MR. SKINNER: Yes, I would expect so.

MR. T. WILLIAMS: And that at the time that letter was prepared, the project had only gone through DG2 and had not gone through DG3 scrutiny at that point in time?

MR. SKINNER: That is my understanding as well, yes.

MR. T. WILLIAMS: And would authority have still vested in government that if they were not satisfied at that point in time, they could put a halt to the project?

MR. SKINNER: I would expect they could, yeah.

MR. T. WILLIAMS: Okay.

MR. SKINNER: Mm-hmm.

MR. T. WILLIAMS: With respect to the reference to the PUB, you were brought to the exhibit from Mr. Penney and Mr. Vardy. That was a letter dated in May of 2011. And the contents of the letter – and, again, we don't need to bring it up, but the contents of that letter was a request, at that point in time, for a referral to the PUB of issues pertaining to the Muskrat Falls Project. Is that correct?

MR. SKINNER: Yes.

MR. T. WILLIAMS: Okay.

And so that would have been actually only approximately 30 days before government responded, and not necessarily just to that letter but –

MR. SKINNER: Yes.

MR. T. WILLIAMS: – responded to sentiment in the community that they would want to –

MR. SKINNER: Made a reference, yeah.

MR. T. WILLIAMS: Okay.

MR. SKINNER: We did.

MR. T. WILLIAMS: And at any time had any opponents or critics, or those with any interest had requested nor – had requested that you wait the period until after DG3 numbers were complete before referencing it to the PUB?

MR. SKINNER: No, that was not a discussion or an issue that was brought forward by anyone, you know, commenting publicly or otherwise about the project being referenced to the PUB. No.

MR. T. WILLIAMS: Okay.

And at the time that you were minister – and I know that was for a limited period of time, but you were the minister had – who had forwarded the reference to the Public Utilities Board. At any point in time did the Public Utilities Board come back at any stage prior to your departure and say: We do not feel that we would be able to

do this project without having received DG3 numbers?

MR. SKINNER: No, not to my knowledge.

MR. T. WILLIAMS: At no point was that ever brought to your attention?

MR. SKINNER: No.

MR. T. WILLIAMS: And there was no requests?

MR. SKINNER: No.

MR. T. WILLIAMS: Okay.

With respect to the time span that was given – the time segment that was given to the Public Utilities Board, we had evidence early this morning – very early this morning, as well as yesterday – from a Mr. Layman who was a chief estimator on the project. And memory serves me correct I think he indicated that he was responsible for doing – completing the entire estimate on that project with the exception of the transmission piece. So that would have been the generating stations as well as the converter stations, et cetera.

THE COMMISSIONER: I think it was just the – with the exception of the SOBI is, I think, is what it is.

MR. T. WILLIAMS: Oh yes, I'm sorry.

Yeah, I – thank you, Mr. Commissioner, I made – with that – with one exception to one piece.

But he allowed that he was retained in May of 2011 and had a delivery date of December of that year, which is approximately seven months to complete that piece of work. That being said, do you feel – with that time reference, do you feel that the six months that had been originally granted, in addition to the three-month extension that was granted to the PUB, that they had sufficient time to review documentation that existed in relation to the project at that stage?

MR. SKINNER: I certainly felt that the PUB had time. I recognized, and I think we recognized as a government, it would be challenging, but we put forward the reference

with those timelines because we felt they could be met, yes.

MR. T. WILLIAMS: Okay.

And in addition to the challenging timeline, there was an additional three months provided. Is that correct?

MR. SKINNER: I understand there was an extension given after by my successor, yes.

MR. T. WILLIAMS: Okay.

With respect to the reference question, are you aware that – and I think you said it in your direct evidence – that government was not obligated to put anything to the PUB at that point in time?

MR. SKINNER: Correct. My understanding was that we did not have to reference the PUB on this. There had been a previous administration that had allowed an exemption to occur.

MR. T. WILLIAMS: And so there was no legal requirement or otherwise to put it before the Public Utilities Board at that point in time?

MR. SKINNER: Not to my knowledge, no.

MR. T. WILLIAMS: And do you have any knowledge of any other hydro projects that have been developed in this – projects that have not been put before the Public Utilities Board, in respect to their development?

MR. SKINNER: My understanding is that there had been some smaller-scale projects that had been put forward in previous years.

MR. T. WILLIAMS: And can you – do you know which projects in particular or – that you're aware of?

MR. SKINNER: I think there might have been like – I think Granite Canal, and I think there was a Hind Lake [sp Hinds Lake] – I'm not sure specifically.

MR. T. WILLIAMS: But there were other projects?

MR. SKINNER: Yeah.

MR. T. WILLIAMS: So this wasn't precedent setting, in terms of this project not going before the Public Utilities Board?

MR. SKINNER: That was my understanding, yes.

MR. T. WILLIAMS: Yeah.

The final issue I wanted to talk about is Mr. Hogan had made some references with respect to Cabinet and Cabinet discussions. While I don't want to get into particular discussions, obviously, the nature of discussions – were Cabinet ministers free to express opinion during Cabinet meetings?

MR. SKINNER: Yes.

MR. T. WILLIAMS: And I'm thinking of only my own close group of clients – I would suggest, knowing the personalities, would there ever be heated discussions, or –?

MR. SKINNER: Yes.

MR. T. WILLIAMS: Okay, you as a Cabinet meeting – Cabinet minister – did you ever feel free to express opinion with respect to –

MR. SKINNER: No?

MR. T. WILLIAMS: – your viewpoints on various issues whether they be related to your department, or otherwise?

MR. SKINNER: I always felt free to express.

MR. T. WILLIAMS: Okay. Were there ever occasions during Cabinet meetings that opinions would be changed or decisions would be changed as a result of discussions held at Cabinet?

MR. SKINNER: Yes.

MR. T. WILLIAMS: Okay. And were – did you have a sense of – when you speak of collegiality, that ministers – while you were a minister of the Crown and not just of Natural Resources – that there was always free, open, and healthy discussion around the Cabinet table?

MR. SKINNER: There was always free, open and healthy discussion around the Cabinet table. Strong wills, strong opinions, strong viewpoints – so at times, things flowed very nice and at times it got very, very heated and very raucous –

MR. T. WILLIAMS: Okay.

MR. SKINNER: – depending on the topic and depending on the individuals involved.

MR. T. WILLIAMS: Okay, thank you.

That's all the questions I have, thank you.

THE COMMISSIONER: Redirect?

MR. LEARMONTH: Mr. Skinner, in answer to one of Mr. Williams questions about the time – the sufficiency of the time given to the Public Utilities Board. First, it was December 31, then it was extended to March 31. I believe you indicated generally that you thought that the time was sufficient with the extension, is that right?

MR. SKINNER: Generally.

MR. LEARMONTH: Yeah.

MR. SKINNER: Yes.

MR. LEARMONTH: Well, were you aware that one of the problems that was encountered by the board, which was acknowledged by Nalcor, was that Nalcor took a very long time to provide documentation. That there was a significant delay by Nalcor in providing documentation and that delay was observed by the members of the Public Utilities Board, their consultant and also by Manitoba Hydro. Were you aware of that?

MR. SKINNER: I was aware that there was delays in getting some information to them. I forget one of the gentlemen – Mr. Kelly, I believe – just mentioned there was an actual document that didn't get filed in my time that we asked to have filed; I wasn't aware of that.

MR. LEARMONTH: No, but – so are you saying then that you – that the – your comment, that you believe that the Public Utilities Board

had sufficient time, even considering the delays that were encountered.

MR. SKINNER: Okay so knowing now that – the delays that have –

MR. LEARMONTH: Yes.

MR. SKINNER: – occurred? Okay I would say to you that I think the timeline was definitely very, very challenging for them. The, you know, the expectation going in was that the time we'd given them should be –

MR. LEARMONTH: Yeah.

MR. SKINNER: – sufficient. Given what I know today, that was a – you know, that would have been a tough task for them, yes.

MR. LEARMONTH: Yes.

And, for example, the submission of Nalcor wasn't filed until November 10.

MR. SKINNER: Yeah.

MR. LEARMONTH: Which was a considerable period of time –

MR. SKINNER: Yeah.

MR. LEARMONTH: – and there was – I think I'm confident in saying that the evidence was very clear that the documentation was not provided early in the game and that –

MR. SKINNER: Yes.

MR. LEARMONTH: – the Public Utilities Board panel and everyone else who testified pointed that out as a reason for – the need for a delay.

MR. SKINNER: And I would agree with that, yes.

MR. LEARMONTH: Yeah.

Okay, thank you.

THE COMMISSIONER: Thank you, Mr. Skinner; you can step down.

MR. SKINNER: Thank you, Sir.

THE COMMISSIONER: So just before we break this morning. I think it's – I think – no problem – I want to mention that after some very deep thought yesterday afternoon and last evening, I have spoken with Commission counsel and we've rejiggered the schedule for next week. And doing that is partly based upon some of the issues related to what might be private and what might not be.

But doing that means I need to ask for some co-operation from Commission counsel and some of the witnesses that were going to be called next week. We're in the process of trying to get documents to everybody. I think all the interviews – as I understand it, all the interviews have been provided except for one late one from Mr. Kean.

So I'm gonna ask counsel to help us out here – I don't want to waste time early next week on Monday and Tuesday. So right now the plan is, is that we're gonna bring Mr. Bruneau back on Monday morning. I think you've been notified of this already by email. I would like to start Mr. Paddon or Mr. Marshall on Monday afternoon if possible, because I do not see them finishing in a day, to be quite frank, and we're gonna need two full days for Mr. Kean.

So whatever you can all do to assist me in trying to get this accomplished for next week – because next week is going to be a very heavy week – I would appreciate it. I have no intention of sitting next Friday – I planned a four-day weekend to give everybody a break, and I think we all need one – at least I can speak for myself. So we need to finish what we have planned for the four days next week in the time that we have allotted, so whatever counsel and the parties can do to assist me in getting that done, I would greatly appreciate it.

So we'll adjourn then now until Monday morning at 9:30.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.