



COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 1

Volume 24

Commissioner: Honourable Justice Richard LeBlanc

Wednesday

24 October 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: Were people late this morning maybe? These early mornings, I guess, are problematic.

All right, Dr. Holburn, you remain under oath at this time.

And Former Provincial Government Officials '03 to '15.

MR. J. KING: Good morning, Dr. Holburn.

DR. HOLBURN: Good morning.

MR. J. KING: My name's Justin King. I represent – oh, sorry – Justin King, I represent a group of Former Provincial Government Officials from the years 2003 to 2015. Just a few questions for you this morning.

If we could turn to P-00528, which is your report, and page 3. So this is just your introduction section.

DR. HOLBURN: Yes.

MR. J. KING: So I'm just going to read an excerpt.

DR. HOLBURN: Mm-hmm.

MR. J. KING: It's at the second paragraph there, the bottom of that paragraph. You state, "While there are plans to smooth the impact of a significant increase in the effective rate base over a 50-year period, it is estimated that consumer rates will approximately double soon after commissioning in the absence of government subsidy."

So, in relation to that paragraph, I just wanted to – particularly, in the last portion there in terms of rates doubling. What's the factual basis for that statement?

DR. HOLBURN: This is my understanding from reading press reports that reviewed individuals' estimates of the increase in costs that would need to be accommodated in rates.

MR. J. KING: Okay. So that's just through press releases.

DR. HOLBURN: Correct.

MR. J. KING: 'Cause I note – your footnote there just states –

DR. HOLBURN: Yes.

MR. J. KING: – since sanction date, estimated costs have risen to \$12.7 billion.

DR. HOLBURN: Mm-hmm.

MR. J. KING: So there's no actual source cited. So that's just your own estimate, or through your own reading?

DR. HOLBURN: That was through my own reading of a number of press reports, yes.

MR. J. KING: Okay.

And in preparing your report, did you do any research into any types of safeguards or anything that were put in place by either government or Nalcor in terms of preventing rate increases on commissioning?

I know yesterday Mr. Simmons –

DR. HOLBURN: Mm-hmm.

MR. J. KING: – discussed, for example, the export market or things of that nature. Did you do any research into that?

DR. HOLBURN: What I was aware of was the clause in the federal loan guarantee that requires the cost of the Muskrat Falls Project to be recovered in rates.

MR. J. KING: Okay.

DR. HOLBURN: So that was my understanding.

MR. J. KING: That's your understanding. Okay.

If we go to page 13. And, so I'll read another excerpt for you. You state, "Since the early 2000's, rates have grown slightly faster than the national average, due in part to greater reliance on oil power generation." And I think in your presentation yesterday we also had this graph which relies on Stats Canada data.

DR. HOLBURN: Mm-hmm.

MR. J. KING: So, I just wanted to ask you, in your research it did reveal that Newfoundland rates were rising even without Muskrat Falls?

DR. HOLBURN: Correct, yes.

MR. J. KING: Okay. Does your statement at page 3, which we went through – my initial question – did it take into account that fact?

DR. HOLBURN: Sorry. Take into – so you're asking about the development of rates in the period up until 2015.

MR. J. KING: Well, your statement that rates are doubling or rates are –

DR. HOLBURN: Mm-hmm.

MR. J. KING: – going to double – your prediction of rates are going to double. Did that take into account the fact that rates were already predicted to rise in terms of that period that you state there in your Stats Canada data?

DR. HOLBURN: Yes, it does. That would be from the time of commissioning –

MR. J. KING: Okay.

DR. HOLBURN: – and the data goes up until 2015.

MR. J. KING: Yeah.

If we go to page 22, I think it's in the third paragraph, yeah. And at the bottom of that paragraph you state: "Hence, while" the "government stated that Muskrat Falls was the least-cost option in December 2012 based on recent consulting reports, this finding had not

been verified by the independent, expert regulatory review. By relying on these consulting reports, the government thus took a risk that Muskrat Falls was in the fact the lowest-cost option."

So, this section of the report is in relation to consulting reports –

DR. HOLBURN: Correct.

MR. J. KING: – generally. And, in terms of consulting reports, I know we discussed yesterday, would you agree that they're an essential element of regulatory review on projects of this type?

DR. HOLBURN: Yes, expert consulting reports are an important and valuable edition. Correct.

MR. J. KING: Okay. I think we said yesterday that they're basically a key input in the process.

DR. HOLBURN: Correct.

MR. J. KING: And in terms of those reports, would those be used to fill in areas of expertise or areas that would be outside of the expertise, potentially, of the regulatory body?

DR. HOLBURN: Potentially, yes.

MR. J. KING: Okay. And, yesterday, I think this was in Ms. Best's questioning, she brought up the fact that our PB had limited experience in reviewing megaprojects or, I think, she took you through, potentially, if you had reviewed any megaproject or projects that our PUB had reviewed.

DR. HOLBURN: Mm-hmm.

MR. J. KING: And I think you agreed that you didn't come across any direct evidence that there had been a review of any large scale projects or certainly megaprojects.

DR. HOLBURN: Correct.

MR. J. KING: Okay.

So, in such an instance as that, would you think that in reviewing a megaproject or a large-scale project the regulatory body would be even more

reliant on the knowledge contained in the independent consulting reports?

DR. HOLBURN: I think it would be reliant on a combination of reports that would be filed by independent consultants. It would also be reliant on scrutiny by other intervenors as well.

MR. J. KING: Okay.

DR. HOLBURN: And this is an important part of the regulatory review process, allowing a broad range of intervenors to scrutinize each other's evidence and testimony and consulting reports.

MR. J. KING: And again, in your presentation yesterday, I think we agreed that our PUB would be certainly on the low end of the scale nationally in terms of size and budget?

DR. HOLBURN: Correct.

MR. J. KING: Correct. And specifically in relation to the Muskrat Falls reference in 2011, 2012, you're aware that the PUB retained MHI as their independent consultant?

DR. HOLBURN: Yes.

MR. J. KING: Are you aware of any other independent consultants that they retained for their review?

DR. HOLBURN: No, I'm not.

MR. J. KING: Okay.

Do you know if this was due to budgetary restraints or ...?

DR. HOLBURN: I'm not aware of any details about the particular selection process for their consultants.

MR. J. KING: Okay.

So again, going back to the idea that, you know, they're on the low end of the scale in terms of, you know, nationally, across Canada. The type of, I guess, we called it a robust review yesterday and I think you gave the example of the Nova Scotia –

DR. HOLBURN: Mm-hmm.

MR. J. KING: – UARB and they were able to, you know, have the benefit of, you know, six to eight consulting reports and able to, you know, decide between which ones, you know, they're going to place the most weight on.

Based on what we said in terms of, you know, the lower budget, lower size, do you think this is something that would've been possible at our PUB?

DR. HOLBURN: I think it would depend on the budget that's allocated specifically for a review. My recollection is that in the Maritime Link process, the UARB hired a couple of consultants and, of course, it was relying on the reports and evidence being provided by the intervenors too. So depending on the budget, then potentially more consultants could be retained.

MR. J. KING: Okay.

And are you aware of the conclusion that MHI reached in their report to the PUB? Have you –

DR. HOLBURN: Yes.

MR. J. KING: – did a review –

DR. HOLBURN: Yes I –

MR. J. KING: – of MHI's work?

DR. HOLBURN: Yes, I did.

MR. J. KING: Okay so that – I'll just read that finding that but –

DR. HOLBURN: Mm-hmm.

MR. J. KING: – they found that: "... the Muskrat Falls Generating Station and the Labrador-Island Link ... projects represent the least-cost option of the two alternatives, when considered together with the underlying assumptions and inputs provided by Nalcor." So that was their finding.

So just to tie that back into your paper, again at page 22, you discussed the use of consulting reports – and this was the quote I just read you

earlier – in terms of risk and you state that: “By relying on these ... reports, the government ... took a risk that Muskrat Falls” – Project – “was in the fact the lowest-cost option.”

So I’ll put this to you for your comments. In the circumstances that we just described where we have our PUB with limited experience in a project type and with the budget to only retain a single independent consultant. In that scenario, wouldn’t there be similar risk in terms of our PUB having to, you know, review that matter?

DR. HOLBURN: So the PUB considered that report by Manitoba Hydro International and wasn’t – didn’t feel it was able to reach a conclusion based on the broad range of the cost estimates that it had available to it at the time. So that was a challenge both for the PUB but also for the Manitoba Hydro International report. And that seemed that that was an overriding consideration for the PUB when it reached its conclusion; that it wasn’t able to make a firm conclusion about which cost – which project or option would be the lower cost.

MR. J. KING: Okay.

Just one final question for you – page 25 of your report, and at paragraph two you state: “... under the terms of the federal loan guarantee, NL Hydro is required to recover the costs of Muskrat Falls energy in its regulated rates and revenues.” And I think this is something we discussed in your presentation as well.

So obviously the province has obtained a loan guarantee with –

DR. HOLBURN: Mm-hmm.

MR. J. KING: – the Government of Canada on the project. And that loan guarantee had several conditions that have to be met, with one of those being that the cost of the project had to be recovered through rates. You’d agree with that?

DR. HOLBURN: Yes.

MR. J. KING: So in preparing your paper, your research, did you do any research on the benefits of the loan guarantee for the province?

DR. HOLBURN: My understanding was that it helped to reduce the interest costs, essentially, for the project.

MR. J. KING: Okay.

DR. HOLBURN: And so it would lower the overall costs.

MR. J. KING: And we’ve heard numbers, you know, a savings of \$1 billion for taxpayers.

DR. HOLBURN: Mm-hmm.

MR. J. KING: Did you come across any –?

DR. HOLBURN: I did see a reference to that.

MR. J. KING: Okay.

DR. HOLBURN: Yes.

MR. J. KING: And in terms of your research, generally, are you aware of any other megaprojects in the country that have the benefit of a federal loan guarantee?

DR. HOLBURN: I have not come across any, but I haven’t looked explicitly either for that information.

MR. J. KING: Okay.

Would this make the Muskrat Falls Project somewhat unique in that sense, in terms of the financing structure as compared to other megaprojects that you’ve studied?

DR. HOLBURN: I’m not aware of federal loan participation in other projects.

MR. J. KING: Okay. And would this have any impact from a regulatory perspective that you could see?

DR. HOLBURN: I think the primary impact would be the fact that it reduces the overall costs of the project.

MR. J. KING: Okay. But from a regulatory perspective you couldn’t comment on –?

DR. HOLBURN: No, I wouldn’t be able to say anything beyond that.

MR. J. KING: Okay, great.

Thank you Dr. Holburn.

DR. HOLBURN: Thank you.

MR. J. KING: That's all my questions.

THE COMMISSIONER: Thank you.

Julia Mullaley, Charles Bown.

MS. E. BEST: (Inaudible.) Uh-oh.

I just wanted clarify something from my questioning yesterday. I had used a date of 1996 in my questioning, but I misspoke. I meant to say 1997.

So I wanted to correct that for you on the record.

THE COMMISSIONER: Okay, I'll have to go back and think about where that was – to be quite frank – but can you just sort of point me to the question you were asking at the time.

MS. E. BEST: Sure. It had to do with the PUB reviewing projects, new projects since – and I used the date 1996 –

THE COMMISSIONER: All right. Right.

MS. E. BEST: – I meant to use the date 1997.

THE COMMISSIONER: '97, okay.

Thank you.

MS. E. BEST: Thank you.

THE COMMISSIONER: Thank you.

Julia Mullaley, Charles Bown.

MR. FITZGERALD: No questions Commissioner.

THE COMMISSIONER: Robert Thompson.

MR. COFFEY: Good morning, Dr. Holburn.

My name is Bernard Coffey, I represent Robert Thompson.

I have some questions, and I – just to put some of your evidence, I hope, in context for the Commission.

You've spoken about integrated resource plans at some length.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: Can you tell the Commission, please, when is your understanding integrated resource planning was first published, you know, as an – or taken as an approach by regulatory bodies in this country?

DR. HOLBURN: I'm – unfortunately, I'm not aware of the history of integrated resource planning across the country broadly. I know that it's been used in Ontario for a reasonable period of time.

MR. COFFEY: What's reasonable?

DR. HOLBURN: For the last 20 years or so.

MR. COFFEY: Okay.

So really going back to, you know, perhaps the late '90s.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: And speaking of Ontario, when was it that the regulator in – who is the current regulator in Ontario in the electrical industry?

DR. HOLBURN: The current regulator is the Ontario Energy Board.

MR. COFFEY: And what is the situation now with the Ontario Energy Board in terms of its ability to give a go/no-go decision on a Greenfield, large megaproject for generating electricity? Does the Ontario Energy Board have the ability to make a decision, yes or no?

DR. HOLBURN: For generation, depending on the proponent, yes I think it does have jurisdiction –

MR. COFFEY: Okay.

DR. HOLBURN: – over that.

MR. COFFEY: Okay, depending upon the –

DR. HOLBURN: On the proponent, yes.

MR. COFFEY: And how does that work?

DR. HOLBURN: Yeah. So if a private, natural-gas generator, for instance, would want to make an application to the Ontario Energy Board to develop a facility, it would need a licence to generate from the Ontario Energy Board.

MR. COFFEY: Okay. As opposed to what doesn't it have? The ability to have a – say go/no go – what kind of bodies?

DR. HOLBURN: Are you talking about other agencies?

MR. COFFEY: Yes, other, like, public generation bodies.

DR. HOLBURN: Right.

So – sorry, are you talking about other agencies or are you talking about other generators?

MR. COFFEY: Other generators, like publicly owned –

DR. HOLBURN: Right.

MR. COFFEY: – generators?

DR. HOLBURN: So – actually I think, and I have to consider for a moment – I think all generators require a license from the Ontario Energy Board to generate.

MR. COFFEY: And when did that begin?

DR. HOLBURN: I wouldn't know.

MR. COFFEY: Certainly within –

DR. HOLBURN: I would have to go and check on that.

MR. COFFEY: It would certainly be within the past 20 years?

DR. HOLBURN: I would have to go and check –

MR. COFFEY: You'd have to check on that.

DR. HOLBURN: There's been a history of private generators producing in the province for some time now.

MR. COFFEY: Oh, I'm not talking about private; I asked you about public generators.

DR. HOLBURN: Yes, yeah

MR. COFFEY: How about them?

DR. HOLBURN: I would – I don't know, I'd have to go check on that.

MR. COFFEY: As an example you referred to – you've picked as one of your case studies – the Darlington nuclear plant.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: And in particular, the refurbishing of it. I gather from your evidence yesterday though, that the original construction of the Darlington plant was not – or do you know – was it subjected to a public regulatory hearing?

DR. HOLBURN: I don't know. It was constructed during the 1980s period and commissioned in the early '90s; I'm unaware exactly the process that was followed in determining that facility.

MR. COFFEY: And in relation to – I'll pick another province – Nova Scotia; the – I believe you – in your evidence yesterday, referred to IRPs, I believe, in Nova Scotia – beginning in what year?

DR. HOLBURN: There was an IRP developed by the province and Nova Scotia Power. The latest one was developed in 2006-2007, and it was updated in 2009.

MR. COFFEY: And, I'm going to suggest to you in fact, as a draft in 2014 – but the point being that it wasn't until 2006 slash 07 that Nova Scotia produced its first IRP.

DR. HOLBURN: That may be correct; I haven't looked into –

MR. COFFEY: Oh, okay –

DR. HOLBURN: – I haven’t looked into the history.

MR. COFFEY: – you haven’t looked before that.

DR. HOLBURN: I haven’t looked into the history of IRP planning within Nova Scotia.

MR. COFFEY: Have you looked into the history of IRP planning across the country?

DR. HOLBURN: No, I haven’t.

MR. COFFEY: Do you know if, indeed, a history of IRP planning in this country exists? If anyone’s done a history of it?

DR. HOLBURN: I’m not aware of that.

MR. COFFEY: I’m going to suggest, though – bearing in mind your occupation –

DR. HOLBURN: Mm-hmm.

MR. COFFEY: – and your expertise – and I certainly acknowledge that – that if one existed you’d likely know about it.

DR. HOLBURN: I hesitate to –

MR. COFFEY: I – but you’d likely know about it.

DR. HOLBURN: – to make a claim. I may have come across it.

MR. COFFEY: And you haven’t, that you recall?

DR. HOLBURN: I haven’t seen one, no.

MR. COFFEY: Now in relation to your case studies – and I think Ms. Best asked you, or pointed out that of course – asked you about the number you had conducted or chosen – and I appreciate there are limits of time, resources and so on – you chose four. Now just so – and I’m not taking issue with generally any of the findings that you’ve reached in relation to those – or observations you’ve made on them – but – if we could, Commissioner, bring up P-00004.

P-00004 – thank you.

THE COMMISSIONER: So that’s Dr. Flyvbjerg’s report.

MR. COFFEY: Yes, it’s Dr. Flyvbjerg’s report –

DR. HOLBURN: Mm-hmm.

MR. COFFEY: – and you’ve read this.

Dr. Holburn, you’ve read this report?

DR. HOLBURN: I looked at his presentation.

MR. COFFEY: Okay – oh, the presentation. Okay well, this is the – by the presentation you mean the PowerPoint?

DR. HOLBURN: Yes.

MR. COFFEY: Okay, you haven’t read his report?

DR. HOLBURN: No.

MR. COFFEY: The answer is no?

DR. HOLBURN: No.

MR. COFFEY: Okay.

If we could go please to page 23?

Just a moment, please. And go – yes, go down the page a bit please, go down please, go down. Okay right there, thank you. Just up a bit please.

Dr. Holburn, section 4.1.3, “Data-driven realistic assessments of risk with Reference Class Forecasting.” And this is a section that is described by the heading there. And in that – the third paragraph Dr. Flyvbjerg informs us that, “Reference Class Forecasting makes explicit, empirically based adjustments to estimates. In order to be accurate, these adjustments should be based on data from past projects or similar projects elsewhere, and adjusted for the unique characteristics of the project in hand.”

It continues – “Reference Class Forecasting follows three steps: 1. Identify a sample of past, similar projects – typically a minimum of 20-30

projects is enough to get started, but the more projects the better;" – and he goes on from there.

Now why – what's your understanding of why Dr. Flyvbjerg – and I believe in fact he referred to this in his slide show presentation – a minimum of 20 to 30 projects. Why would he be suggesting that? I'm gonna suggest to you it's because at least you might get some statistical significance, possibly.

DR. HOLBURN: Yes, I think in order to undertake a large statistical study like this, then you need a sufficiently sized sample in order to be able to estimate the effects of particular variables on the performance of a particular project. So yes, you need a large sample to undertake statistical work.

MR. COFFEY: Yes, and statistical work at its most basic, seeks to establish mathematically relevant relationships.

DR. HOLBURN: It's looking for correlations –

MR. COFFEY: Correlations, yeah.

DR. HOLBURN: – between variables that you can measure and observe and include in a statistical model.

MR. COFFEY: And statistically, they have some meaning?

DR. HOLBURN: There needs to be some logical basis for including these variables within the model.

MR. COFFEY: Now in relation to – certainly in relation to suggesting that for megaprojects – that the people involved in the early stages, in looking at their own estimates and comparing them to other projects, these suggest 20 to 30 –

DR. HOLBURN: Mm-hmm.

MR. COFFEY: – as a minimum to get some sense of – some relevance, to actually establish some credibility, I'm going to suggest.

DR. HOLBURN: In order to be able to obtain some statistical significance, correct – yes.

MR. COFFEY: Now to come over then to the four case studies and just – I'm not criticizing the choice, I acknowledge fully that you only had so much time and there are only so many projects that exist, okay – in this country, or have occurred in this country, but four is not very many, is it?

DR. HOLBURN: I agree, absolutely. More would be better –

MR. COFFEY: Yes.

DR. HOLBURN: The trade-off is with sample size and the ability to investigate in depth. And often academics will look for both a combination of large scale statistical work that can isolate the effect of, sort of, one particular factor that's of interest and balance that out against a detailed case study that has the ability to develop in depth a broad range of factors that might be influential in determining project outcomes.

MR. COFFEY: Yes. Now – and you chose the period 2007 to 2017 –

DR. HOLBURN: Mm-hmm.

MR. COFFEY: – for your study.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: Would it be possible to have chosen, for example, the period from – I don't know, I'll pick 1987 to 2017?

DR. HOLBURN: No, that would have been more challenging.

MR. COFFEY: Well, yes, I'm saying –

DR. HOLBURN: Yes.

MR. COFFEY: – it would be possible, but in your case it wasn't practically possible.

DR. HOLBURN: Correct.

MR. COFFEY: Because of the timelines –

DR. HOLBURN: Yes.

MR. COFFEY: – and resources. I appreciate that. I accept that. But it could be – it would be possible to do such a study.

DR. HOLBURN: In theory, it would be nice to go back and look at the history of project developments within Canada over an extended period of time. That would lead to a larger sample.

MR. COFFEY: Yeah. And which ones were subject to a public regulatory hearing and which ones weren't.

DR. HOLBURN: Correct, yes.

MR. COFFEY: And even within them, perhaps which ones were – involved private proponents and which ones involved public proponents.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: Correct?

DR. HOLBURN: Yes, it would be nice to have a large sample with a range of different types of projects.

MR. COFFEY: And which ones – and compare them to private or public proponent projects, which were not subjected to regulatory hearings.

DR. HOLBURN: Yes, and one would want to find some variation in the conditions under which these projects were developed.

MR. COFFEY: Now, did you look at Quebec?

DR. HOLBURN: No, I did not look at Quebec. I looked at four different provinces and – with four projects, then some provinces were omitted.

MR. COFFEY: Now, I think it's generally understood or accepted in Canada that the hydroelectric industry in Quebec is significant in size and apparently in sophistication. Would you agree with that?

DR. HOLBURN: It has a reputation of that –

MR. COFFEY: A reputation.

DR. HOLBURN: – certainly, yes.

MR. COFFEY: Do you know whether not in Quebec, Hydro-Québec, as a proponent of generation or transmission projects, historically, has been subjected to a public regulatory hearing?

DR. HOLBURN: I don't know.

MR. COFFEY: And even within Ontario, you're not in a – do I understand you correctly that except during the past, for example, 15 – well, actually since you showed up at Western in 2001; Western University in 2001, correct?

DR. HOLBURN: That's when I arrived, yes.

MR. COFFEY: Yeah. Since that time – before that you have – do you have any real idea of how the regulation, public regulation of the power industry in Ontario was conducted?

DR. HOLBURN: I had a broad understanding, but not – but certainly not in depth.

MR. COFFEY: Now, one of the – if I could, Commissioner – well, just before I leave that. So, then in relation to the – to make a point – in relation to the four case studies – and I do thank you for those – the – you're not suggesting at all that any statistical, you know, significance should be attributed to those?

DR. HOLBURN: No, the case studies are not designed to assess statistical significance of any particular factors.

MR. COFFEY: And it would be useful, would it not, to – in this context – caution the Commission against drawing any such inference, that there's, you know, or any kind of relationship that one can rely upon between public regulation of a mega – of a proponent of a megaproject and non-public – and proponents who get a government go-ahead without regulatory approval.

THE COMMISSIONER: Let me assure you, Mr. Coffey, and everybody else that's here, what I'm gonna look at with this witness is he's testified that in his four case studies, and I don't think that there's any dispute about the result of it.

MR. COFFEY: Oh, no.

THE COMMISSIONER: It's indicative that regulation basically means cost and time are followed.

MR. COFFEY: I'm sorry, could –

THE COMMISSIONER: Are followed.

MR. COFFEY: Followed, yeah.

THE COMMISSIONER: Right. So this witness never came in and asked me to take a statistical analysis or a statistical view of this. He's basically pointed out in these four – aside from the general evidence that he's given about regulation, which I permitted him to give his opinions on – he's presented four cases. So you're making a mountain out of a mole hill here –

MR. COFFEY: Okay.

THE COMMISSIONER: – with regards to what his evidence is and what it should – what you think it might mean. I can assure you I'm going to take it for what it is.

MR. COFFEY: Thank you, Commissioner.

THE COMMISSIONER: Okay.

MR. COFFEY: I appreciate that. But I would – but without having it said, sometimes, you know, people can misunderstand –

THE COMMISSIONER: Mm-hmm.

MR. COFFEY: – the significance of something.

THE COMMISSIONER: I never heard this witness tell me anything about this being statistically significant, up to now.

MR. COFFEY: No, that is true, Commissioner, but he did choose three and one.

THE COMMISSIONER: All right, let's move on.

MR. COFFEY: Thank you.

Now, in relation to, Dr. Holburn, the scope of work that you were asked to do – if you could bring up, please, P-00726, page 5.

THE COMMISSIONER: That's tab 4.

MR. COFFEY: Thank you, Commissioner.

Under contents of – I'm sorry, I'll wait for you, Dr. Holburn, to look at that. It's page 5, okay? Okay, you have that there?

DR. HOLBURN: Yes.

MR. COFFEY: The “Contents of Report 1: The Impact of Exempting the Muskrat Falls Project from PUB Oversight. Report 1 will contain the following content: 1. Overview of government restrictions on PUB oversight of Lower Churchill development and ...” consequently “of Muskrat Falls project. a. Exemptions from PUB oversight in 2000 and 2011 (what specifically was exempted, how were the exemptions enacted).”

Did you – and I believe then in your report itself, I'm gonna suggest – in the report itself, which is P-00528, please. Page – just a moment please – this will be page 3. And the first sentence in the second paragraph in the introduction, reads: “In May 2011, the government announced that costs associated with the Muskrat Falls project would be exempt from regulatory review and approval by the PUB, an independent expert agency that has a legislated mandate to ensure that electricity rates are based on the lowest cost possible consistent with reliable service.”

And you have a footnote number 1.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: If we could go down to the footnote please. This reads: “Development of the Lower Churchill was originally removed from PUB oversight by the Tobin government in 1999 when it was envisaged that the project would generate electricity for export outside the province. While the scope of the Muskrat Falls project subsequently evolved to include a major within-province supply component, subsequent governments did not rescind the exemption.” And you refer to “Newfoundland and Labrador

Regulation 120/13, Muskrat Falls Project Exemption Order. Filed November 29, 2013.”

Now, in relation to the – is that all that’s in your report in relation to the history of the exemption, the 2000 exemption?

DR. HOLBURN: Yes, I believe it is.

MR. COFFEY: So you haven’t examined the legislative background as to how section 5.2 of the *Electrical Power Control Act, 1994*, which was enacted – that amendment occurred in 1999 –

DR. HOLBURN: Hmm.

MR. COFFEY: – December ’99. You haven’t examined, like, historically how that came about? The explanations for it?

DR. HOLBURN: This history? No, I haven’t explicitly looked at the history of that part of the act.

MR. COFFEY: And in relation to the scope of your work, under page 5, paragraph 1(a), how the exemptions were – what specifically was exempted, how the exemptions were enacted – well how, would be presumably legislatively – but, like, the political milieu in which that occurred, you didn’t examine?

DR. HOLBURN: What period of time?

MR. COFFEY: Well, in 2000?

DR. HOLBURN: I didn’t go far – go that far back in time to 2000.

MR. COFFEY: Okay, and I appreciate that. And again, you’re constrained by the amount of time you have.

DR. HOLBURN: Mm-hmm.

MR. COFFEY: So your – I take it your report focused on what existed in terms of the exemption and in terms of – well, the exemption existed in 2010 and was expanded upon in 2013.

DR. HOLBURN: Yes.

MR. COFFEY: That’s where you were focused?

DR. HOLBURN: Yes.

MR. COFFEY: The how and why of what happened before 2010 and the context in which, you know, 2010 went into 2011, based upon the historical experience in this province, you didn’t examine?

DR. HOLBURN: That was largely outside the scope of the work.

MR. COFFEY: Yes, okay.

DR. HOLBURN: Yes.

MR. COFFEY: My point being that under 1(b) of your scope of work, (b) was “Stated reasons for exemptions”; that would be the 2000 exemption including –?

DR. HOLBURN: I was looking specifically at the reasons stated in 2011.

MR. COFFEY: Yes, and you didn’t – as it turns out, you didn’t go back to the stated reasons for the exemptions in two –

DR. HOLBURN: I didn’t investigate in detail. My understanding from reading around was that the reason for the exemption was that the project originally had a very large export focus on it.

MR. COFFEY: Okay. Were you – then you weren’t aware that in December – on December 14, 2000, when that original exemption occurred, that the same day a much smaller, much smaller domestic generation project was exempted?

DR. HOLBURN: I did note –

MR. COFFEY: It was called Granite Canal. Yeah.

DR. HOLBURN: Right. I did note there were a number of smaller hydroelectric projects which were exempted.

MR. COFFEY: Did you make any inquiry into why those were or why those exemptions occurred?

DR. HOLBURN: I did not look specifically into why they were exempted. No. I just noted there were some smaller projects that had been exempted.

MR. COFFEY: So you didn't look specifically into it. I'm going to suggest that other than noting that they were exempted you didn't look generally into it either.

DR. HOLBURN: Into these previous projects –

MR. COFFEY: Yeah.

DR. HOLBURN: – outside the scope of the Muskrat Falls Project? No, I did not do investigation into those.

MR. COFFEY: Did you notice in the 2000 exemption that it included, in the exemption, a transmission line from Labrador to the Island?

DR. HOLBURN: No, I don't think I did note that.

MR. COFFEY: That's already – that is in evidence before the Commission now.

DR. HOLBURN: Okay.

MR. COFFEY: My point being that your understanding was – and it may be correct – that generally the project in 2000 or circa 2000, the Lower Churchill Project was an export project. But I'm going to suggest to you that the actual exemption also included the idea of building a transmission line to the Island. And you weren't aware of that?

DR. HOLBURN: No. At that time, no.

MR. COFFEY: And Doctor, you have been qualified as an expert in relation to the governance of the energy industry in Canada. You're an expert in that and I have no reason to doubt it. You agree with that, wouldn't you?

DR. HOLBURN: That's how I've been qualified, yes.

MR. COFFEY: Yes.

Now, in relation to that, Sir, the electrical industry – I'm gonna suggest to you – in

Canada, the energy industry in particular, the electrical part of it, would it be fair to say that historically it has involved political considerations, politics, some large and small "P" politics?

DR. HOLBURN: I think in every jurisdiction the electricity sector is subject to political considerations.

MR. COFFEY: And significantly so, at times.

DR. HOLBURN: Absolutely, yes.

MR. COFFEY: And some of those political considerations would involve aspects of the electrical industry – electricity industry that are outside merely an analysis of least cost and reliable? Like, the idea of social effects, you've been asked about for example, considering employment, you know, in projects and all that kind of stuff – all the things that are outside the purview of the PUB.

DR. HOLBURN: Correct, yes. Large infrastructure projects have a range of impacts and regulatory agencies are generally asked to look at the economic aspects as opposed to a broader range.

MR. COFFEY: In your experience, are the regulatory agencies equipped, by a way of expertise, to look at the aspects other than those currently within their purview?

DR. HOLBURN: Generally their mandate is to stick to the economic aspects of infrastructure and the costs and the financial and the physically operations of electricity infrastructure as opposed to other considerations.

MR. COFFEY: Are you aware of anywhere in the country that they are asked to consider any of those other considerations?

DR. HOLBURN: Within the electric utility sector? No, I am not.

MR. COFFEY: So that if those aspects of the matter are to be considered, under the current regime anyway, regimes as they exist in Canada, you would not send them to the PUB for an analysis of those other considerations?

DR. HOLBURN: One area where there's a slight change of the mandate sometimes comes with renewable energy. And so we had the example yesterday of Nova Scotia Power which has a target of 40 per cent of its electricity generation sources coming from renewable fuels. So this would be one area where regulators are sometimes asked to account for the environmental aspects and the environmental profile of generation within the province.

MR. COFFEY: They are asked by government –

DR. HOLBURN: Yes, they are.

MR. COFFEY: – to do that?

DR. HOLBURN: Correct.

MR. COFFEY: Just in a similar way, for example, in Nova Scotia and in this province, they are told that there shall not be nuclear generation?

DR. HOLBURN: That's right, yes. These are typically legislative decisions, or at least directions coming from the government.

MR. COFFEY: The point being, they're not being asked whether or not wind power should be used, they're being told that it's to be considered by them?

DR. HOLBURN: That's correct.

MR. COFFEY: And just in relation to your case studies – I skipped over it – go back to it. The Maritime Link one, I just want to clarify something. In your slide presentation, I believe you indicated that – and you're certainly correct – that I believe P50, P90 and P95 values – figures were provided to the UARB in the course of their hearing –

DR. HOLBURN: Mm-hmm.

MR. COFFEY: – for that project. That being said, are you aware that the approval by the UARB was on the basis of the P50 value?

DR. HOLBURN: My understanding was that they approved a value of 1.7 billion, which was a P97 value.

MR. COFFEY: Yeah, but that included IDC, all right? Because we have been talking, and if you're gonna compare apples to apples, you know, (inaudible) let's do that, okay? So there is the estimate and then there's the IDC on top. Like, for example, here in DG3 it was 6.2 – the estimate, including contingencies – and the IDC, AFUDC which is 7.4 billion, okay?

So in Nova Scotia, are you aware – are you sure that the 1.7 – was the 1.7 the P95 value, including contingency, without AFUDC or – and IDC or was it the P50 value and – including contingency – and on top of that the IDC, AFUDC?

DR. HOLBURN: That was a number that was quoted in the UARB final decision –

MR. COFFEY: Oh, yeah, the – yeah.

DR. HOLBURN: – that – so that number, 1.7 billion, the P97, that's what was quoted in the UARB final report. I'm unaware of the other numbers that you're talking about.

MR. COFFEY: Okay. Well, let's (inaudible).

Has – perhaps Commission counsel can indicate, has the – remind me, Ms. O'Brien, Mr. Learmonth, has the two Nova Scotia UARB decisions, have they been filed as exhibits?

MS. O'BRIEN: I actually don't know the answer to that –

MR. COFFEY: Okay.

MS. O'BRIEN: – but we will verify that and get (inaudible).

MR. COFFEY: Thank you. I appreciate it.

Thank you very much, Commissioner, appreciate it.

THE COMMISSIONER: Thank you.

I have a feeling that they are part of the exhibits, but we'll check that. I was just going through my list but it's too long now to get through.

All right, the next one is Todd Stanley and Terry Paddon. Not present I don't believe.

Consumer Advocate.

MR. PEDDIGREW: Good morning, Dr. Holburn.

DR. HOLBURN: Good morning.

MR. PEDDIGREW: My name is Christopher Peddigrew, I represent the Consumer Advocate and so by extension I'm representing the ratepayers of the province.

So thank you for your report. Obviously, as ratepayers, a lot of the issues in your report were very relevant for ratepayers and are of great concern.

And I promise, I won't be the cause of you missing your flight today. Some of the questions I had have already been asked, so I'll try to sort of pare down what I originally had. I just wanted to flesh out – I don't disagree with any of the conclusions, necessarily, or findings in your report, but I guess a few follow-up questions just on some of the points.

In terms of integrated resource planning, I just have some questions on that topic, and I believe there was some questions yesterday from Mr. Simmons and from Ms. Best as well, just about the cost of integrated resource planning and the fact that that cost will be passed on to ratepayers.

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: Relative to a megaproject, \$6 billion and – 6 billion-plus megaproject, integrated resource planning, the cost of that – a thorough process by the PUB here, relative to a \$6 billion project, not – would you agree, not costly relatively speaking?

DR. HOLBURN: It would be a very small fraction of that overall cost.

MR. PEDDIGREW: Would you agree as well that even though there would be costs in terms of retaining experts, getting expert reports for areas where the PUB may not necessarily have the required expertise, those costs were essentially incurred by government, in any event, by hiring its own experts? Is that – would you agree with that comment as well?

DR. HOLBURN: Sorry, the cost of hiring experts to do what?

MR. PEDDIGREW: So – well, while the full regulatory review process did not happen at the PUB, government did retain Ziff Energy, Manitoba Hydro itself it retained, Navigant – it did retain experts in order to advise, it was just that those – some of those reports were not necessarily subject to a full, thorough review at the PUB.

I guess, my point is that while there would be costs associated with integrated resource planning or a full regulatory process before the PUB, many of those costs were incurred, in any event, by the government.

DR. HOLBURN: The reports you just mentioned, my understanding is that they would've been paid for by the government as opposed to by the PUB, and hence through ratepayers because they weren't part of that regulatory process.

MR. PEDDIGREW: Right. In this province there's about – you know, the population is about half a million, and about 300,000 of them are ratepayers, so it's, you know, in a large sense it's one and the same.

In terms of forecasting, you know, we've heard some evidence in relation to forecasting from some previous witnesses. The rate forecaster with Hydro was one of the first witnesses in this Inquiry and – you know, I'm paraphrasing now – but gave some evidence about he was the person at Hydro responsible for forecasting. And – I mean, to me when you think about planning and you're considering undertaking a megaproject, a \$6 billion megaproject, the issue of forecasting – I mean, what you need is based on the inputs obviously, what you feel the energy requirements will be.

So something like forecasting, I mean, can you just comment on the importance of forecasting in terms of what the energy needs of a province would be when you're considering a megaproject?

DR. HOLBURN: I think it's critical. I think this is a widely recognized – this is one of the critical inputs into determination of needs. So it's a very

important part of an overall integrated resource planning process.

MR. PEDDIGREW: And can you comment, as well, maybe on what some methods are for forecasting, like how it's carried out? In some of your – I guess your experience in reviewing other projects.

DR. HOLBURN: Mm-hmm. So a number of the reports here have recommended what would commonly be referred to as end-use modelling, which looks at the sort of end-user adoption of particular technologies to understand what the usage requirements are of particular appliances and so forth within households. So that's seen as largely being a best practice type of approach.

MR. PEDDIGREW: And based on what you've seen, is it typical or normal to have one person responsible for doing the forecasting for, in this case, a 50-year forecast?

DR. HOLBURN: Within an organization, I wouldn't be able to comment on that.

MR. PEDDIGREW: Okay.

There was some questioning yesterday from Mr. Simmons as well about conservation and demand management. And I believe the comparison was drawn between – well, the suggestion seemed to be that it was somewhat inexact when you compare how much benefit you'll get from conservation and demand management versus knowing exactly how much output you get, say, from a hydro project.

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: When you're talking about forecasting, I mean a lot of forecasting isn't exact. So you can predict or estimate how much benefit you're going to get from conservation and demand management but, similarly, you could also say that you can estimate what demand will be, how much the economy is going to grow, how many housing starts should be, how much electricity may be required in the future. But that's not an exact science as well either, is it?

DR. HOLBURN: No, it's proved to be challenging for many provinces.

MR. PEDDIGREW: And you talked about – I think you said yesterday as well that conservation and demand management; there's been lots of research on the topic in the past 20 years. Is that –?

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: Do you know why that is, why that's sort of become more of a topic in the past 20 years?

DR. HOLBURN: I think there's been a recognition this has been an important era to develop better scientific knowledge about, to understand the impact of different programs on conservation behaviour and on demand management. So this is seen as being a crucial issue for developing sort of, future electricity systems and trying to understand how best to balance future demand with supply.

MR. PEDDIGREW: And is it something that's studied in any significant detail in other jurisdictions in Canada?

DR. HOLBURN: I would say broadly within North America this has had a lot of attention.

MR. PEDDIGREW: Dr. Holburn, obviously for ratepayers the cost of electricity, the price of rates is a very – is probably the most important issue for them in relation to the Muskrat Falls Project. In your presentation yesterday you did talk about how over the past number of years rates have been stable in this province; in fact, I think we've had below average electricity rates for many years in this province. Is that a correct characterization of what you said yesterday?

DR. HOLBURN: Yes, rates have remained below the national average.

MR. PEDDIGREW: And then would you – they've been stable over a significant period of time.

DR. HOLBURN: Over – up until early, I would say, the mid-2000s they were stable in real terms, so after accounting for inflation. If you take out the impact of inflation there's been a gradual, slow but steady increase in nominal terms. We've seen a slightly faster increase over the last 10 years.

MR. PEDDIGREW: Okay.

And have you ever heard the phrase rate shock?

DR. HOLBURN: Yes, indeed.

MR. PEDDIGREW: Okay, could you just explain what your understanding of that term is?

DR. HOLBURN: Rate shock would be unexpected, rapid increase in rates facing household consumers, commercial and industrial consumers.

MR. PEDDIGREW: And what type of percentage increase in a rate would generally equate to a rate shock? Is there, like, a minimum threshold before you reach that –

DR. HOLBURN: There's no scientific definition of rate shock. In Ontario we have seen rates double over the course of approximately a 10-year period and that has been attributed – or people have spoken about that as being an example of rate shock.

MR. PEDDIGREW: So doubling over a 10-year period –

DR. HOLBURN: Mmm.

MR. PEDDIGREW: – while that's not the definition, necessarily, that would probably fall into the category of rate shock.

DR. HOLBURN: Yes.

MR. PEDDIGREW: We don't know for certain; there has been talk here about rates. Rates right now are about 11.4 cents per kilowatt hour, and there is discussion about them possibly going to 23 cents as a result of the Muskrat Falls Project. Would you consider that to be rate shock if that occurs over a period of, you know, 10 or fewer years?

DR. HOLBURN: Yes, I would.

MR. PEDDIGREW: The concept of or the possibility of rate shock, is that something that would be considered as part of an integrated resource planning process or should it be?

DR. HOLBURN: Yes, the goal is to try and produce the lowest cost possible supply for consumers, and so anticipating and modelling rate impacts would be an important part of that.

MR. PEDDIGREW: And I'm assuming you're familiar with the concept of elasticity as well.

DR. HOLBURN: Yes.

MR. PEDDIGREW: And the risk of, once the price hits a certain point –

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: – of people turning to alternative sources of heat or reducing their electricity consumption. Are you aware that the, I guess, the prevalence of electric baseboard heating in this province is fairly high; it's about 70 per cent?

DR. HOLBURN: Yes.

MR. PEDDIGREW: And so, again, in that context, price elasticity – is that something that you feel would be important to consider when doing forecasting and when considering carrying out a project like the Muskrat Falls Project?

DR. HOLBURN: Examinations of the impact of rate changes on demand are more important as you have larger rate increases. So that reflects the price elasticity of demand. So, yes, that would be an important part of forecasting future demand.

MR. PEDDIGREW: And in your experience, in integrated resource planning processes that you've been familiar with, is price elasticity something that is considered?

DR. HOLBURN: I don't know the exact details on that from a previous example, but it is something that the electricity sector is very cognizant about, particularly given some increases, some rapid increases in rates that we've seen in other provinces and the impact that that has had on demand.

MR. PEDDIGREW: And so, I believe as well, Mr. Coffey was just asking you about the idea of integrated resource planning and made some

reference to it being coming on stream more so in the past 20 years. Is that –?

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: Okay and the same thing with conservation-demand management. So fairly recent, I guess, developments in terms of planning and forecasting for electricity projects and usage but, certainly, those would be ideas or it would be information that would have been available during the time of the review and the sanctioning of the Muskrat Falls Project.

DR. HOLBURN: I would assume so.

MR. PEDDIGREW: Dr. Holburn, yesterday during your examination there were some questions about, I guess, the difference between a private entity and a public entity being the proponent of a megaproject or a project like the Muskrat Falls Project. And then, in the context of some of the – the four examples that you gave in your presentation, I guess I'm just wondering if in cases where the prudence test is applied, if the regulator in question determines that the costs were not prudent, who ends up paying those costs?

DR. HOLBURN: The shareholder. So in the case of a private entity, then that would be the private shareholders; in the case of a Crown corporation, then that would have effectively be the government and then the taxpayer.

MR. PEDDIGREW: So in the case of the Muskrat Falls Project, where the proponent is essentially a government and Nalcor, does that impact at all your assessment of the need for a fulsome regulatory oversight?

DR. HOLBURN: One of the goals is to try and elicit and incentivize as efficient decision-making as possible. So I wouldn't regard that as making a difference in terms of the impact or the effect of having a strong regulatory review in either – in the case of a public proponent or a private proponent.

MR. PEDDIGREW: In the context of the ratepayers being on the hook for any cost overruns, is that something that would cause you to feel that a regulatory oversight is more

important. I mean, ultimately the ratepayers will pay –

DR. HOLBURN: Mm-hmm.

MR. PEDDIGREW: – the costs and that was done by way of legislation. I mean, to me that would make it seem even more important to make sure that there's a fulsome regulatory oversight. I'm just wondering if you would agree with that in this context.

DR. HOLBURN: The regulator is – the regulator's goal is to protect the ratepayer's interest. And so I wouldn't like to go beyond that in making assumptions about whether the regulator would be putting more weight on shareholder interests versus general consumer and taxpayer interests.

MR. PEDDIGREW: Fair enough.

DR. HOLBURN: But the impact and the effect of a rigorous regulatory review still remains.

MR. PEDDIGREW: Okay. Thank you.

So we talked yesterday or there was some discussion yesterday about the Darlington County and the four, I guess, separate nuclear power generators or – and off-ramps for each one. So if – you know, if one was – I guess after doing the first one if it was realized that it was more costly than they thought, they could abandon it and not continue to work on the other three.

I believe Mr. Simmons was saying, you know, that sort of off-ramp process wouldn't necessarily be conducive to a project like the Muskrat Falls Project. Is that –?

DR. HOLBURN: I think you'll have to ask Mr. Simmons if –

MR. PEDDIGREW: Okay.

DR. HOLBURN: – that's a correct characterization of what he said.

MR. PEDDIGREW: I believe it is but I guess my question, then, is so for the Muskrat Falls Project – you know, once you start a project like that and get so far into it – and it's not

necessarily a project that has different generating components, it's one generating component, so I understand Mr. Simmons's point.

But for the Isolated Island Option – and that being more of a piecemeal-add-as-you-need type of solution to our energy needs – would you agree that, you know, there would be more off-ramps – if that's the term you want to use: more off-ramps – available in the Isolated Island Option versus the – I mean once you go down the Muskrat Falls path, it's – you're sort of down that path. Whereas with the Isolated Island Option there was, you know, talks of smaller hydro projects to, you know, fill the gaps as we needed them.

So I guess my question is there's more of an opportunity to, say, in the Isolated Island Option, that you can exit it if necessary, if it turns out in the future it's not as – not what you thought it would be?

DR. HOLBURN: Depending on the sequencing of the projects. If the sequence over time, with sort of clear start-stop points, then, yes, it takes the opportunity to evaluate at the end of one component and consider implications for the other components.

MR. PEDDIGREW: Just a couple more questions, if I could just take you to slide 43 from your presentation yesterday. And I'm not sure what exhibit number that is now, Clerk.

THE COMMISSIONER: P-00724

MR. PEDDIGREW: Thank you.

THE COMMISSIONER: Tab three.

CLERK: Slide?

MR. PEDDIGREW: Slide 43, please. Thank you.

Dr. Holburn, if we could just – right. So I guess what I'm wondering is if you look at the timeline of this table here and the yellow being contingency, I guess I'm just – I was just unclear and I just wondered when I saw this table yesterday, what – why does the contingency

change over the course of the years? Is that – do you have any knowledge as to why that was?

DR. HOLBURN: So I don't know the exact details of all the numbers that have gone into this. And my understanding is these are contingencies for cost overruns on the specific units. So there are four units, and so there is contingency built in to allow for cost overruns on those units as they are sequenced over time.

MR. PEDDIGREW: Okay. Thank you.

DR. HOLBURN: So that would be why the contingency starts in 2016 when the first unit is disconnected, and then gradually trails off over time.

MR. PEDDIGREW: Okay. Thank you.

And, Madam Clerk, slide 50, please.

Okay so second bullet point here, Dr. Holburn, talks about: "Transmission Facilities Cost Monitoring Committee, composed of multiple stakeholders, monitored and publicly reported semi-annually on project progress and costs." And then: Observed that Altalink's turnkey contract with Siemens. So the phrase: turnkey contract with Siemens, can you just explain what that means?

DR. HOLBURN: Yes, this was a – my understanding – and, again, I'll make the caveat that I have not read the contract; I have read reports of this – this was a sorted of fixed price contract for Siemens to construct and deliver a converter station. And so Siemens was the one that bore the risk of any potential changes in the cost of that construction.

MR. PEDDIGREW: Okay. Thank you. That may be everything.

It is. Thank you, Dr. Holburn.

DR. HOLBURN: Thank you.

THE COMMISSIONER: Emera Inc.?

MR. O'KEEFE: No questions.

THE COMMISSIONER: Thank you.

Former Nalcor Board Members?

MS. G. BEST: No questions. Thank you.

THE COMMISSIONER: Okay.

Nothing for you, Mr. —?

UNIDENTIFIED MALE SPEAKER: No.

THE COMMISSIONER: Okay.

All right, redirect.

MS. O'BRIEN: Thank you, Commissioner.

I — now a little closer. I won't be long Dr. Holburn, just a few items arising.

One, in the questioning from Mr. Simmons I know he had asked you about a — the Newfoundland and Labrador electricity rates compared to the Canadian average, and so this is really just a point of clarification. I know that was not included in the slide that was in your presentation.

But if we go to P-00528, please, Madam Clerk, page 14, I believe you might've referenced this — and just scroll down so we can just see the bottom of the slide. Thank you. That's good, thanks.

So I think when you were speaking with Mr. Simmons you referenced that that might have been in your report. Is —

DR. HOLBURN: Yes.

MS. O'BRIEN: — this the graph that you're referring to?

DR. HOLBURN: Correct. That's the one.

MS. O'BRIEN: Okay.

So this is showing us over the period of 1990 to 2015, these are the Newfoundland and Labrador electricity rates. And this is showing the Canadian average over that time.

DR. HOLBURN: Correct.

MS. O'BRIEN: Okay. Thank you.

And, again, this is all in 2010 dollars.

DR. HOLBURN: Yes.

MS. O'BRIEN: Okay.

P-00726 please, page 5.

There's been a few questions about your scope of work, Dr. Holburn.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: I just wanted to clarify for the record how that was developed.

So I just want to confirm with you that Mr. Learmonth and I first got in touch with you — and I believe we asked you to look at two of the particular terms of reference that the Commissioner had been given. Is that right?

DR. HOLBURN: Yes, it is.

MS. O'BRIEN: Okay.

And I just — for the record, Commissioner, I just want to clarify what those two were, but those were terms 4(c) and 4(d) of our terms of reference?

DR. HOLBURN: Correct.

MS. O'BRIEN: And just for clarification, 4(c) is whether the determination that the Muskrat Falls Project should be exempt from oversight by the PUB, and whether that was justified and reasonable and what was the effect of the exemption, if any, on the development, costs and operation of the Muskrat Falls Project. And then 4(d) had to do with the government oversight, whether —

DR. HOLBURN: Mmm.

MS. O'BRIEN: — government was fully informed.

And am I correct in saying that we asked you to look at those two terms in particular, told you generally what we were doing, and then asked you to develop a scope of work for us, a proposal, shall we say?

DR. HOLBURN: Yes, that's correct.

MS. O'BRIEN: Okay.

And you've – and so what we see here in the scope of work that's attached to your contract is – were you the first author of this?

DR. HOLBURN: Yes, I was.

MS. O'BRIEN: Okay, so you put a proposal to us and we generally –

DR. HOLBURN: Yup.

MS. O'BRIEN: – accepted it –

DR. HOLBURN: That's right.

MS. O'BRIEN: – and got involved.

And so the report that we – you put in today, your first report, that mostly addresses term 4C.

DR. HOLBURN: Yes, correct.

MS. O'BRIEN: Okay. A little bit maybe of 4D.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: And the report that you're doing for phase 2 will mostly address 4D, is that –

DR. HOLBURN: Yes, looking at best practices and corporate governance.

MS. O'BRIEN: Okay.

DR. HOLBURN: Yes.

MS. O'BRIEN: Thank you.

And in some questioning from Ms. Best – between the questioning from Ms. Best and Mr. Simmons – I just wanted to clarify a few points. Ms. Best had – and I may have misunderstood some of her questions, but I believe she put to you that the PUB – our PUB here only does approval of projects and context of general rate applications. I'm not sure if I understood her correctly.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: But then I know when you were speaking with Mr. Simmons, you talked about the PUB both having a general rate applications before it and also capital budget applications.

DR. HOLBURN: Yes.

MS. O'BRIEN: Okay.

DR. HOLBURN: Yes.

MS. O'BRIEN: And is it fair to say that in the capital budget applications there would be applications put before the PUB asking them to approve the undertaking of certain capital projects?

DR. HOLBURN: Yes.

MS. O'BRIEN: And they'd be analyzing those projects –

DR. HOLBURN: Yes, correct.

MS. O'BRIEN: – based on that? Okay.

And we're gonna hear further from the PUB, but I just left that question wondering whether we missed the point of the capital budget applications. Okay.

P-00724, page 40, please. Page 40. I might not have the – I must've meant 4. I did.

Okay, in some of the evidence that you were giving about the Darlington Refurbishment Committee, you note here it has a majority of external experts that report to OPG's board of directors.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: And I know you had some questioning from Mr. Simmons, in particular, on how that board was composed.

The external experts – and I think you said they would be independent consultants, essentially, who'd been retained as experts. Is that correct?

DR. HOLBURN: Yes, independent experts, correct.

MS. O'BRIEN: Independent experts, okay. Do you know, do they get compensated?

DR. HOLBURN: I don't know specifically –

MS. O'BRIEN: Okay.

DR. HOLBURN: – unfortunately, but I can find that out if that would be helpful.

MS. O'BRIEN: Okay, it might be something worthy of follow-up, just to know whether they, you know, are compensated –

DR. HOLBURN: Mm-hmm

MS. O'BRIEN: – to serve that role on the Refurbishment Committee. Thank you.

Another area where I just wanted to give you a chance to provide further information, if you have it to give. Can we please bring up P-00789? And this was a document that –

THE COMMISSIONER: Tab 5.

MS. O'BRIEN: – Ms. Best put to you, and I think she was – this is the Energy Efficiency Action Plan in 2011. And you may have had an opportunity to say everything –

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: – you wanted to say on this, but I know she was asking you whether this was a first step of IRP. Clearly, this idea of integrated resource planning, IRP, is one of interest before the Commissioner.

You had said that this report was interesting, but I don't know if you had the full opportunity to address how this report fits into IRP or, you know, is this the same as IRP? Is this a first step? Is it something different? Do you have more to give on that topic?

DR. HOLBURN: So, I would just say, generally, that this is an important step in that the government is saying this is important for the province. It's important we focus attention on conservation, demand management and efficiency programs. It covers both the electricity sector and also transportation sector.

A large part of energy usage in the province is in the transportation sector.

MS. O'BRIEN: Sorry, can you give us a little more on that? How so in the transportation sector?

DR. HOLBURN: So, the usage of refined petroleum products. So, a lot of the energy that's expended in the province comes through driving vehicles, essentially, in addition to usage of energy through just coming through electricity. So this is an important first part that would then lead to the impetus for an IRP type of process where specific targets might be established for efficiency, conservation, demand-side management in the electricity sector. So this would be the first step.

A second step would be to undertake that type of process and to look at a cost-benefit analysis of achieving certain targets.

MS. O'BRIEN: Thank you.

And finally, the last area of question I have is I just want to make sure I have a clear understanding of your evidence, and this follows from some questions Mr. Peddigrew asked you as well as other counsel. But this has to do when you get to the prudence test.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: So, as I'm understanding your evidence – and please do correct me if I'm wrong – but in that – in several of the case studies that you looked at when expenditures had to be approved – or to approve expenditures – the proponents were required to come before the regulatory bodies and to establish that these were prudent, that it was prudent to spend these costs. They had to essentially justify themselves, and that then the regulator would then either approve them or not approve them.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: If they're approved by the regulator, they get added to the rate base. In other words; the ratepayers pay them, at the end of the day.

DR. HOLBURN: Yes.

MS. O'BRIEN: And if they're not approved then it would be the shareholder – they don't get to be added to the rate base.

DR. HOLBURN: Mm-hmm.

MS. O'BRIEN: So they don't – the ratepayer is not – it doesn't get added to our electricity bills. But, obviously, if those costs still are incurred then it would be up to the shareholder – the company – to incur the cost of those.

DR. HOLBURN: Correct.

MS. O'BRIEN: Okay.

And in private – in privately-owned – for privately-owned generators, shall we say, that would be, maybe, private shareholders, but when we're talking about Crown corporations, the shareholders really come back to the taxpayers –

DR. HOLBURN: Yeah.

MS. O'BRIEN: – of the province.

DR. HOLBURN: Correct.

MS. O'BRIEN: Okay.

And, as I'm understanding that you're saying – my understand is that there is still, regardless of who ultimately pays, whether the shareholders are ultimately public taxpayers or with the shareholders are private individuals who have invested money in a private corporation – regardless of who ultimately pays on the shareholder's side, I understand you're saying that there is some value to the process of having the proponent have to go before the regulator and justify their expenditures?

DR. HOLBURN: Yeah, so the value of the process is it affects the incentives of the proponent – be that proponent, sort of, public or privately owned – up front to try and manage cost as tightly as possible. To have costs disallowed during a regulatory review process is not a desirable outcome for any proponent.

So the expectation of having to go through a prudence review at the end of a project sharpens the incentives for proponents to manage the

project as efficiently as possible during the construction stage.

MS. O'BRIEN: Okay.

So the idea being, generally, if we know somebody is gonna be looking over our work and scrutinizing our work, there is a general tendency to be more careful –

DR. HOLBURN: Correct.

MS. O'BRIEN: – in undertaking the work.

DR. HOLBURN: Yes.

MS. O'BRIEN: Okay.

Those are the questions I had for clarification. Thank you.

The Commissioner may have some further questions –

DR. HOLBURN: Okay.

MS. O'BRIEN: – for you, Dr. Holburn.

DR. HOLBURN: Thank you.

THE COMMISSIONER: No.

Thank you very much, Dr. Holburn. You're free to step down and you're free to go.

DR. HOLBURN: Okay.

THE COMMISSIONER: Thank you very much.

DR. HOLBURN: Thank you.

THE COMMISSIONER: All right.

I guess what we should do is – do you wanna start now, Mr. Learmonth, and then wait for our break, or do you wanna break now and we'll go through the rest of the morning with your next witness?

MR. LEARMONTH: I think we should break now and then we can go straight through to lunchtime. That would be my choice.

THE COMMISSIONER: Okay.

So we'll take 10 minutes here now then.

CLERK: All rise.

Recess

CLERK: Please be seated.

THE COMMISSIONER: Go ahead.

MR. LEARMONTH: Thank you.

The next witness will be Maureen Greene, who's in the witness box but before Ms. Greene is sworn I want to enter some exhibits into the record. The exhibits are P-00531 through P-00553; P-00555 through P-00605; P-00608 through P-00609; P-00727 to P-00728; and P-00792. May they be entered into the record?

THE COMMISSIONER: All right. Those will be entered as marked.

So Ms. Greene, as I understand you're a presently practicing member of the bar in Newfoundland and Labrador?

MS. GREENE: Yes, I am, Mr. Commissioner.

THE COMMISSIONER: All right. So at this stage it will be your choice as to whether you wish to be sworn or affirmed or if you want to just – because you are a solicitor – an actively practicing solicitor in the bar, it's not necessary that that be held because of the ethics and the standards that you are held to as a member of the bar. So do you wish to be sworn or affirmed or do you wish to –

MS. GREENE: I'll be sworn, Mr. Commissioner.

THE COMMISSIONER: Okay. Thank you.

MR. LEARMONTH: Can you just stand, Ms. Greene, yeah.

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

MS. GREENE: I do.

CLERK: Please state your full name for the record.

MS. GREENE: Maureen Greene.

MR. LEARMONTH: Okay.

CLERK: Thank you.

MR. LEARMONTH: Ms. Greene, you live in St. John's, do you?

MS. GREENE: Yes, that's correct.

MR. LEARMONTH: Yeah.

And I just want to ask you some background questions about your education and then your work history. So your education first. When did you graduate from high school?

MS. GREENE: You would have to start with that, Mr. Learmonth.

MR. LEARMONTH: Okay. Well then if we don't – okay –

MS. GREENE: I'm only joking, I graduated from Holy Heart in 1969.

MR. LEARMONTH: 1969.

And upon your graduation from Holy Heart, what further education did you obtain?

MS. GREENE: I went to Memorial University where I obtained a BA in political science, a Bachelor of Arts from Memorial in 1972. I went Dalhousie law school and graduated from there in 1975, and I obtained a Masters of Law in 1976 from the London School of Economics.

MR. LEARMONTH: You have a Masters?

MS. GREENE: Yes, I do.

MR. LEARMONTH: Yeah.

So after you got your Masters degree in law from the London School of Economics, what work did you pursue?

MS. GREENE: I had articulated in between second and third year and before I commenced my full-time studies in my Masters, with the law firm of O'Dea Greene, and upon call to the bar in 1979, I practiced with that firm until 1979.

MR. LEARMONTH: And what happened in 1979?

MS. GREENE: I joined Churchill Falls (Labrador) Corporation Limited as their legal counsel. They had moved their head office from Montreal to St. John's and were – had hired me as their legal counsel at their head office here.

MR. LEARMONTH: Okay.

So your position when you first went to CF(L)Co was legal counsel?

MS. GREENE: Yes, it was. That's correct.

MR. LEARMONTH: And how did your career evolve after you became appointed legal counsel? What positions did you obtain after the legal counsel position?

MS. GREENE: I transferred to Newfoundland and Labrador Hydro in 1979, again, as that time I was appointed as the director-manager of the legal department, and corporate secretary. That was in 1985. During my time at Hydro – I stayed with Newfoundland and Labrador Hydro until 2005 – I was responsible for a number of positions throughout that period as – in my role. I was appointed a vice president in 1986 or '87.

MR. LEARMONTH: Of Newfoundland and Labrador Hydro?

MS. GREENE: That is correct.

MR. LEARMONTH: Yeah.

MS. GREENE: And at the – early on when I was with – solely with Hydro, I would have been responsible for the legal department and the corporate secretarial department. Over time additional responsibilities were added. I became responsible for human resources, labour relations, safety and health, purchasing and administration.

MR. LEARMONTH: Right.

MS. GREENE: At the time – after 2001 or '02, I would have been a – vice-president and general counsel was my title.

MR. LEARMONTH: Okay.

And you were at Newfoundland and Labrador Hydro until 2005.

MS. GREENE: That's correct.

MR. LEARMONTH: Okay.

While you were at Newfoundland and Labrador Housing [sp Hydro] – what, if any, experience did you have with the Public Utilities Board?

MS. GREENE: In my role as general counsel I would've done the regulatory work associated with Public Utilities Board that was required for Hydro.

MR. LEARMONTH: Okay –

MS. GREENE: Hydro was not regulated fully by the Public Utilities Board until 1996. Prior to that time, however, they would have to refer to the Public Utilities Board their proposed rates, and the board at that time made a report to government, which government could accept or not.

So, even in – prior to 1996 – there were referrals to the board on all proposed rates. After that period of time, when Hydro became fully regulated, it was necessary to submit capital expenditures for approval as well as proposed rates. And I appeared for Newfoundland and Labrador Hydro before the board on numerous regulatory matters over the period from 1985-2005.

MR. LEARMONTH: Were they – and I think you indicated they would include rate applications and also applications to approve –

MS. GREENE: Capital –

MR. LEARMONTH: – to obtain approve of capital expenditures.

MS. GREENE: The annual capital budget had to be approved by the board. And still is, of course.

MR. LEARMONTH: You were the legal counsel that actually appeared in person –

MS. GREENE: Oh yes.

MR. LEARMONTH: – before the board on these applications. Did you have any input into the preparation of the capital cost applications? Or was that done by someone else and just reviewed by you?

MS. GREENE: It would've been done by somebody else, but in the course of preparing the application for the board, I would've had to review in detail those estimates, and I would've had to work with the witnesses from Hydro with respect to their evidence that they would've had to give before the board.

MR. LEARMONTH: Okay, thank you.

Okay, and that would be right up until the end of your tenure in 2005, is that right?

MS. GREENE: That's correct. There was two major rate cases for Hydro. One that spanned 2001 to 2002, which went for – I forget the exact number – but for several weeks, and again, there was another rate case that spanned 2003 and '04.

MR. LEARMONTH: Okay, thank you.

Now, after you left Hydro in 2005, what – how did your career unfold after that – after 2005?

MS. GREENE: I joined Cox & Palmer in their Halifax office, and I was the chief operating officer for Cox & Palmer in Nova Scotia.

MR. LEARMONTH: And that was from 2007 –

MS. GREENE: '07, I believe, to 2010.

MR. LEARMONTH: Yeah.

And after you left Cox & Palmer in Halifax, what did you do career-wise?

MS. GREENE: I returned back to St. John's. I had been commuting back and forth from St. John's to Halifax. I returned to St. John's and initially thought that I might retire, but in 2011, I determined that retirement was not for me at that

point in time in my career – or my life – and I started to do work for the Public Utilities Board in March of 2011.

MR. LEARMONTH: What was your first engagement with the Public Utilities Board? What were the circumstances surrounding it? Like, why were you retained? Did you apply? Did they seek your services? Just give us some information on that, please.

MS. GREENE: The legal counsel for the board at that time was Ms. Glynn – and she still is today – went on leave. The Public Utilities Board actually advertised for a replacement – a one-year replacement – and I applied for the position. So from – March of 2011 to March 30, 2012, I was contractual – on a contractual basis as their internal legal counsel at the board.

Since that period of time, I am – have been retained by the board as external legal counsel for public hearing work. So since that period of time, I have been – from 2012 until currently, I have done numerous applications acting as the board hearing counsel. There is currently a Newfoundland and Labrador Hydro rate case before the board; this is the second one that I would have been counsel for the board for a Hydro rate application. There is currently a third general rate application from Newfoundland Power in the – since 2012, and I am currently counsel – external hearing counsel for the board for that application.

I assisted the board with the investigation into the outages as external counsel – the 2014 outages – and the reports done from the board. I did counsel for the board as a prudence review of certain capital expenditures by Hydro, which were disallowed by the board, and I am currently external counsel on the reference concerning rate mitigation concerning Muskrat Falls.

MR. LEARMONTH: So these are contractual appointments for – per assignment, is that correct?

MS. GREENE: Yes. The board would ask me to take on a particular matter if it is anticipated that there is going to be a public hearing on that matter. I do not – Ms. Glynn would do – would be board counsel, and I am called board hearing counsel.

MR. LEARMONTH: Thank you.

Now, before I begin my questions, there's just a couple of points I wanted to make.

First, I just wanted to acknowledge the presence of Peter O'Flaherty, who is the legal counsel for Ms. Greene today.

And the second matter I want to discuss is a correction that Ms. Greene wishes to make to her interview evidence, which was held on February 22, 2018. And the clarification or correction that Ms. Greene wants to make – I'm gonna ask her to confirm it – is that in her interview she stated that there was a – the – she had a meeting with Charles Bown, of the Department of Natural Resources, on September 14, 2011. That's what she said at her interview, on page 34 of her transcript, and actually that was – the correct date was October 31, 2011.

So you can –

UNKNOWN MALE SPEAKER: (Inaudible.)

MR. LEARMONTH: Page 34 of the transcript.

Ms. Greene, have I got that right? If so, can you confirm that that's the amendment or correction that you want to make to your interview transcript?

MS. GREENE: That is correct. The meeting with respect to a discussion of request for information –

MR. LEARMONTH: Yes.

MS. GREENE: – was on October 31, not September 14.

MR. LEARMONTH: Okay, thank you for drawing our attention to that.

Now, I want to – you have binders in front of you, Ms. Greene. I'm going to take you through, hopefully, in the best chronological order that I can determine. And the first document I want you to look at is Exhibit P-00023, which is at your tab 1 in your book.

Do you have any familiarity with this? This is an exemption. This is a Newfoundland and

Labrador Regulations 92/00 Labrador Hydro Project Exemption Order under the Electrical Power Control Act. Are you familiar with that document?

MS. GREENE: I have seen the document before, Mr. Learmonth. I was general counsel for Newfoundland and Labrador Hydro at the time the exemption order was passed.

MR. LEARMONTH: Yeah.

And generally can you give us your understanding of the substance of this short document? Perhaps on page 2?

MS. GREENE: It exempted facilities with – on the Lower Churchill River from regulation by the board, essentially.

MR. LEARMONTH: That's what – there's been some evidence about this 2000 exemption, and I just wanted to ask you to confirm that you were aware of that exemption.

MS. GREENE: Yes, I am.

MR. LEARMONTH: Yeah.

And you were working, actually, for Hydro at the time that this exemption was granted. Is that correct?

MS. GREENE: That's correct.

MR. LEARMONTH: Yeah.

The next document I'd like you to look at is at tab 3, which is Exhibit P-00532. Could you look at that document and just give us a summary of the significance of that document, Ms. Greene.

MS. GREENE: This would – an information note that was prepared by Ms. Blundon, director of corporate services. And you will see in the documents a number of other either information notes or briefing notes where the board would be given background with respect to a particular issue.

So this would be a process the board followed for – to obtain information before making a decision. This particular one concerned the reference for Muskrat Falls Project and the

retention of additional resources to assist with the reference that have come from government.

MR. LEARMONTH: Okay, so the information note states at the beginning that “May 16, 2000” – of – “the Board was informed” – presumably by government – “that it would be receiving a Reference ... from the Government of Newfoundland and Labrador under section 5 of the Electrical Power Control Act.”

At or near this time, were you retained by the Public Utilities Board for the purpose of providing legal advice and services on this reference?

MS. GREENE: Yes, I had started with the board – I believe it was early March, and I was – this would’ve been part of my responsibility as legal counsel for the board.

MR. LEARMONTH: Okay.

MS. GREENE: I was contacted as legal counsel for the board by Mr. Charles Bown on May 16 to advise the government we’re considering sending a reference to the board, and that he would like to arrange a meeting to discuss that.

MR. LEARMONTH: Yes.

So, this was before the reference was received, I take it, and it was just a – the purpose of it, and correct me if I’m wrong, was to give notice to the board so the board could, you know, start the preparations for the reference, is that correct?

MS. GREENE: My recollection of the purpose of the meeting was to discuss that government was considering sending a reference to the board to discuss such things as the process, the schedule, and I was shown a draft of the proposed terms of reference.

MR. LEARMONTH: So then – so you met with Mr. Charles Bown. Where was the meeting?

MS. GREENE: The meeting was at the Public Utilities Board boardroom, and Mr. Paul Scott attended that meeting, as well.

MR. LEARMONTH: They came to your office, did they?

MS. GREENE: Yes, both –

MR. LEARMONTH: Do you know the date of that meeting?

MS. GREENE: May 16.

MR. LEARMONTH: It was May 16, was it?

MS. GREENE: Yes.

MR. LEARMONTH: Okay.

Did you have a subsequent meeting with Mr. Charles Bown before you received the – or the board received the reference?

MS. GREENE: Yes, there was a second meeting, I believe, on May 20 with respect to the draft terms of reference and again a discussion of the reference. At that time we understood that the reference was going to be coming fairly quickly. It didn’t actually come until mid-June. We were anticipating receiving it around, just shortly after this initial contact.

MR. LEARMONTH: And I take it that in anticipation of receiving the reference that you – when I say you, I mean the board – I’ll call it the board or the PUB. We all know what that means, the Board of Public Utilities. But, part of your preparation, I take it, would be to hire an engineer to assist you and provide advice throughout this process, is that correct?

MS. GREENE: That is correct. Given the scope of the reference, it was – and the time frame that government outlined for the response from the board to the reference – it was determined that there would be significant amount of engineering, financial and economic analysis that would be required, and the board did not have adequate resources without retaining external expertise to assist with the reference.

MR. LEARMONTH: Yes.

I’d like you to refer to Exhibit P-00534, which is at tab 5 of your binder, Ms. Greene?

MS. GREENE: Yes.

MR. LEARMONTH: And can you identify this document?

MS. GREENE: This is a contract between the Public Utilities Board and Mr. Fred Martin, who was retained as an engineering technical advisor with respect to the analysis that would be completed for the reference.

MR. LEARMONTH: Yup.

And was Mr. Martin retained on your recommendation?

MS. GREENE: Yes, he was.

MR. LEARMONTH: And what was Mr. Martin's background at the time that the board retained him, as far as you know?

MS. GREENE: Mr. Martin was a senior engineer who had decades of experience with Newfoundland and Labrador Hydro, and had worked in various capacities throughout Hydro on the – at hydro plants, thermal plants, transmission, rural operations, and had been transmission – had been vice-president of transmission and rural operations, and had been involved in analysis with respect to previous negotiations with Quebec concerning the development of the Lower Churchill, as I had been.

MR. LEARMONTH: Yes.

And he was vice-president at Hydro until when – do you know when – I understood he retired in or about 2005. Is that right?

MS. GREENE: I believe it was the end of that year, Mr. Learmonth.

MR. LEARMONTH: End of that year.

So you knew his background and you recommended him because, presumably, that you believed you could rely on his expertise?

MS. GREENE: That's correct, and given the short time frame, the – which was going to be just approximately six to seven months from the middle of May when we anticipated receiving the reference – that it would be necessary to do significant analysis in a very short period of time, and that Mr. Martin had expertise with respect to hydroelectric projects and transmission projects, and that his expertise

would be of assistance in coordination with external expertise.

MR. LEARMONTH: Yes.

Well, the – from the first meeting you had with Charles Bown – was the schedule – the – you just said a very short time – was that an issue that was at the forefront of your mind in terms of dealing with this project? Was that something that evolved as an issue, or was it an issue right from the beginning?

MS. GREENE: It was an issue from the beginning –

MR. LEARMONTH: Why?

MS. GREENE: To do this type of analysis in a six-month period would be very challenging. The reference was coming in an environment where Nalcor was not regulated by the Public Utilities Board. There was no background information with respect to these proposed projects or with respect to Nalcor. So, the board did not have any context or background with respect to Nalcor or the current project. And the time frame of six months to do an analysis of this type of project would be very short.

MR. LEARMONTH: Yup.

MS. GREENE: So, that concern was expressed to Mr. Bown at the very first meeting.

MR. LEARMONTH: Did Mr. Bown, at this first meeting in May 2011, provide you any assurance as to the level of preparation that Nalcor would – you know, had achieved?

MS. GREENE: I'm not sure if it was the May 16 meeting or the May 20 meeting but it was early in the process before the release of the reference, where we did discuss the resources that would be needed from the board perspective – that we would need to go hire an expert – an external expert – national consulting-type firm and possibly other technical advisors.

There was a discussion around additional resources, and there was also a discussion around process which led to the issue of – it will be essential that the appropriate information is

provided as soon as possible because of the short time frame.

MR. LEARMONTH: Provided by Nalcor?

MS. GREENE: Yes. By Nalcor, yes.

MR. LEARMONTH: Yes. Okay.

MS. GREENE: And – I had – my recollection is that Nalcor was aware that the reference was coming and that the information would be immediately and readily available to the board.

MR. LEARMONTH: And that was based on your discussions with Mr. Charles Bown?

MS. GREENE: Initially, yes –

MR. LEARMONTH: Yes.

MS. GREENE: – and later with Hydro.

MR. LEARMONTH: All right.

Next, I want you to look at Exhibit P-00535 which is at tab 6 of your binder, Ms. Greene. Can you – this is an email from you to Andy Wells, Darlene Whelan, Dwanda Newman, and James Oxford. Those were the members of the board. Can you explain the purpose of your sending this email?

MS. GREENE: Based on the discussions and the meeting with Mr. Bown – and I believe Mr. Scott was present for those two meetings that I've mentioned – we were on the understanding that the reference was coming fairly quickly – when I say quickly, with – in the May time frame. So, given that and given, again, the concern with respect to the schedule and the need to hire additional resources, the board did retain Mr. Martin to assist in the preparation of a request for proposals.

So, from May 16 until this date of the June 8 email we were trying to do everything possible to get ready for when the reference was received and we – I would've – this email records that I called Mr. Bown to determine the timing for the reference of when was it coming.

MR. LEARMONTH: Yup.

Can you just read the email into the record, please? This is June 8, 2011.

MS. GREENE: "I just spoke with Charles to inquire about the status of the Muskrat Falls Reference. He said again, as he did last week, that there was a 'system' delay (whatever that means!). He advised that, as far as he is aware, it is definitely proceeding and could be released at any time. To his knowledge there is no change contemplated in the Reference Question or the timing. We did discuss the issue of timing and how tight the schedule was and how we have lost 2 weeks essentially from what was originally thought when we first met. I expressed concern on the short time provided to do the Review and how critical it is that work actually start on the Reference if a report is expected by Dec. 31st. He said he would let us know when he hears about the timing of the public release of the Reference."

MR. LEARMONTH: Okay, so the timeline or time frame was something that was on your mind on June 8, 2011, and based on your evidence before that, is that correct?

MS. GREENE: That is correct.

MR. LEARMONTH: Yeah.

Next, ask you to turn to tab 7 and then we're looking at Exhibit P-00536.

Can you identify Exhibit P-00536, Ms. Greene?

MS. GREENE: This was the request for proposals that was prepared to send to identify firms to undertake the engineering, financial and economic analysis required to provide information for the board with respect to the reference.

MR. LEARMONTH: Okay, so you, in addition to having the services of Mr. Fred Martin, you had identified at this time that there was a need to retain an expert to provide you with advice on the matter described in the reference?

MS. GREENE: Yes, Mr. Martin would not have had the breadth of experience to provide the expert opinion. We determined that it was necessary to seek proposals from firms that would hopefully – and initially we were not sure

if one consulting firm would be able to provide the type of analysis and expertise required with – for the scope of the reference question.

MR. LEARMONTH: All right.

The next document is Exhibit P-00537, that's at tab 8, Ms. Greene. What is this?

MS. GREENE: This is the transmittal of the actual reference question; the date is June the 13. We were – it was actually released June 17 and we received – the board received the hardcopy of the reference on June 20.

MR. LEARMONTH: Okay. And on page 2 that is the official terms of reference and the reference question, is that correct?

MS. GREENE: Yes, that's correct

MR. LEARMONTH: At this stage could you explain, what is your understanding of what is meant by a reference? Would that be the normal type of proceeding that the Public Utilities Board would be involved in? A reference?

MS. GREENE: It actually was before 1996 when Hydro's rates weren't offset by the board. Hydro would send a proposal to the board, the board would have a hearing and – it was called the reference – and then the board would write a report to government that government could either accept or not accept. However, after 1996 when Hydro became fully regulated there is provision in the Electrical Power Control Act to send a reference question to the board.

So, from 1996 forward it would be a reference under the provision of the legislation, where the Lieutenant-Governor in Council can send a question or questions to the board for their review and report.

MR. LEARMONTH: Yeah. But that's different from the usual –

MS. GREENE: Certainly now, yes.

MR. LEARMONTH: – form of hearing now, and just explain the difference, if you could.

MS. GREENE: Under the *Public Utilities Act* there are a number of requirements for a utility

to seek approval of the board. The most obvious one, of course, is for rates. Before a utility can charge rates to customers it must get the approval of the Public Utilities Board that actually issues an order and approves the rates. So, that would be the typical and the normal way since 1996 where applications are filed with the board. There is an applicant and you proceed in the normal way, similar to litigation.

A reference is not an applicant seeking relief, it is a direct referral by the Lieutenant-Governor in Council to review and report back to the government and the government can then either accept or reject any of the recommendations, decisions, et cetera, contained in the report.

MR. LEARMONTH: So, I take it that in summary, in a reference, the board provides an opinion or a recommendation to government and it's free to government to accept it in whole or in part, whereas, in the ordinary hearing, the board makes a decision which is final subject to a right of appeal but it's a final decision. It doesn't go back to government as a recommendation. Is that correct?

MS. GREENE: That is correct, yes.

MR. LEARMONTH: Yeah, okay.

And before we leave exhibit P-00537, which is at tab 8, I just wanted to note that at the bottom of page 2 there is a date of December 30, 2011. So that was the original date that you had understood would be in the reference based on your earlier discussions and meetings with Charles Bown? Is that correct?

MS. GREENE: That is correct.

MR. LEARMONTH: Yeah. And you were – would it be fair to say that you were concerned about the short time frame that allowed the board to consider this matter?

MS. GREENE: Yes, it was. And you will see that in various briefing notes and correspondence with Hydro as you move through these exhibits.

MR. LEARMONTH: Okay.

I'd like to turn to tab 10, first. And that's P-00539.

MS. GREENE: Yes.

MR. LEARMONTH: Do you have that?

MS. GREENE: Yes, yes.

MR. LEARMONTH: Okay. What is this document, Ms. Greene?

MS. GREENE: These are minutes of a meeting that occurred on June 17 at the board hearing room between representatives of the board and representatives of Nalcor.

MR. LEARMONTH: Yeah. And they're identified – Nalcor: Geoff Young, Dave Harris, Gilbert Bennett, Paul Humphries, Angela Dunphy. And for the PUB: Cheryl Blundon, Doreen Dray, Maureen Greene and Fred Martin.

Can you just summarize the – I just want you to read the paragraph 2. iv) and advise us of the import of that section; 2 Roman numeral iv on page 1.

MS. GREENE: June 17 was the date that the terms of reference were publicly released, is my memory. We had a – I arranged a meeting through Geoff Young with representatives of Nalcor to discuss the reference, including the process, the schedule, et cetera.

MR. LEARMONTH: Just to clarify. You didn't even wait a day. You got the reference and then you wanted this meeting right away? Is that right?

MS. GREENE: That is correct and –

MR. LEARMONTH: Why so sudden?

MS. GREENE: We were, again – you'll note from the various letters that were exchanged and minutes of meetings that this concern about ability to do the reference within the time frame, which was expressed to government by myself to Mr. Bown as early as when we were first contacted, it was a concern from the beginning of the reference. We didn't feel that we had any time to lose.

Between May 16 and June 17, Mr. Martin was retained, a request for proposals for external experts was drafted and approved by me to have ready to go as soon as it was officially – the reference was officially released. So I had also called the general counsel for Hydro during this period in May to advise – I had been advised that they were aware that it was coming to say it's a lot of work to get done in a short period of time, we need to get moving.

MR. LEARMONTH: Okay.

MS. GREENE: So with respect to these minutes, what you've taken me to is the section on the critical dates where I would have outlined to Nalcor, at that time, what the board had envisaged as a schedule to allow them to complete the report by the end of the year.

MR. LEARMONTH: All right. And just turning to paragraph 4 of these minutes of the June 17, 2011, meeting – by the way, who prepared these minutes?

MS. GREENE: Ms. Blundon, who was the board secretary and director of Corporate Services, would have prepared the minutes and her notes are there as well.

MR. LEARMONTH: Yeah.

MS. GREENE: I would have reviewed these minutes when they were completed.

MR. LEARMONTH: Okay and so –

MS. GREENE: But Ms. Blundon actually prepared them.

MR. LEARMONTH: So the handwritten notes start at page 9 – maybe we can – of this Exhibit P-00539. Maybe we can turn to that.

MS. GREENE: Yes.

MR. LEARMONTH: Yeah, so that's the handwriting of Ms. Cheryl Blundon?

MS. GREENE: That's correct.

MR. LEARMONTH: And the notes were prepared by her – the typewritten notes were

prepared by her and reviewed by you. Is that correct?

MS. GREENE: That's correct.

MR. LEARMONTH: Yeah.

Now, paragraph 4 on page 2 of Exhibit P-00539 says: "Nalcor believes it has most of the information requested by the Board; however it may not be in the format required. They will have to review and assess the level of detail contained in the reports and also whether the timeframes when the information was completed is useful for comparability purposes. Nalcor advised that they will have a comprehensive/meaningful package available by June 30, some parts might come sooner."

So that's a proper summary of the information you received from Nalcor at that meeting?

MS. GREENE: That is my recollection, Mr. Learmonth. These minutes were prepared immediately after the meeting, so it would have recorded our understanding of what had occurred at the meeting.

MR. LEARMONTH: Okay.

And then paragraph 7 on page 3 of Exhibit P-00539, I'm just reading: "Initially Nalcor thought they would have about three weeks to respond to filing of information to make a submission. Nalcor acknowledged the schedule and critical timelines, and advised they were confident that they will meet the timelines."

So at that point would it be fair to assume that you thought everything was in order in terms of Nalcor meeting its timelines for the delivery of documents?

MS. GREENE: Yes, that's correct.

MR. LEARMONTH: Okay.

Now I want to just go back to tab 9, Exhibit P-00538, which is a letter from Cheryl Blundon to Geoffrey Young, senior legal counsel at Nalcor. Would Ms. Blundon have prepared this letter by herself, or would it have been approved by you before it went out?

MS. GREENE: I would've prepared the letter, the draft letter. And I would have prepared the letters that we will come to with respect to the schedule and process that Ms. Blundon may have signed. That is the process. Legal counsel would draft the letter –

MR. LEARMONTH: Yeah.

MS. GREENE: – and if necessary, depending on the nature of the letter, provide it to the commissioners for review and Ms. Blundon would sign the letter.

MR. LEARMONTH: Can we assume that – in terms of the documents that we're reviewing today, that in the cases where Ms. Blundon sent the letter, that they would've been drafted by you?

MS. GREENE: Yes, I would have certainly have drafted the letters. And in some cases, depending on the nature of the letter, it would also have been reviewed by one or more of the commissioners.

MR. LEARMONTH: Okay.

Now, this is done – this letter is dated June 17 – so that's the same day as the meeting. So you had a meeting with representatives of Nalcor and you got certain commitments, we'll say, from Nalcor. So why would you write a letter to them on the same day?

MS. GREENE: With respect to the record, the public record for (inaudible) the board maintains a public record and posts on its website all of these types of letters. It is to provide for public transparency and to – for the official record.

MR. LEARMONTH: Okay.

Now, on page 2 of Exhibit P-00538, there's a – in the third paragraph there's a list of documentation that you state that – or the letter states that your – the engineering adviser determined an initial list of information and reports that are necessary to provide to the board for its review.

Would that list have – and then there's a statement that: "We require that the above information be provided to the Board no later

than June 30, 2011.” Would that have been the same list of documents that you would have provided to Nalcor representatives at the meeting of the same day?

MS. GREENE: Yes, that is correct.

MR. LEARMONTH: Okay.

And then, yes, they emphasize: “We require that the above information be provided to the Board no later than June 30” Did you – at this meeting or at any subsequent meeting did you come to understand or were you provided any information as to the quantity of documents that you could expect to receive on June 30?

MS. GREENE: We understood that there would be a significant amount of information provided to the board by June 30. And that when we reviewed the information requirement at the meeting of June 17 we were advised that – as you can see from the minutes, our understanding was that Nalcor had this information and that there was – would not be any difficulty in providing it to us by that date.

MR. LEARMONTH: Yeah.

Now, in your discovery transcript you made reference to a term that you attributed to Gilbert Bennett. And if the term was that – well, I want to ask the question: Is it correct that Mr. Gilbert Bennett told you that you could expect to receive a – quote – truckload of documents by June 30?

MS. GREENE: My recollection is it was Mr. Bennett who confirmed that there would be significant documentation coming. My recollection is not in any written document, but that it was to be a truckload.

MR. LEARMONTH: Yeah, that’s what you said in your interview.

MS. GREENE: Yes and that is my recollection. Yes.

MR. LEARMONTH: Okay.

All right, now, just carrying on, tab 11 is Exhibit P-00540. Can you identify that, Ms. Greene?

MS. GREENE: This was a media release released by the board on June 17 to state that the board had received the reference and was – would provide further information on the process and schedule in the future.

MR. LEARMONTH: All right, tab 12 is Exhibit P-00541. This is a letter from – once again, from Cheryl Blundon to Geoffrey Young.

Now, this is written just four days after your – obviously, your June 17 letter. So what was the – why was it felt necessary to send another letter four days after your June 17, 2011, letter to Mr. Young?

MS. GREENE: At the meeting we had agreed to provide Nalcor with a copy of an RFP that we had developed with respect to external engineering expertise. And you will see in the first paragraph of the letter that that request for proposals was being forwarded as we had agreed to do.

And, again, we stated in there that it’s critical – in the second paragraph that it’s “critical that the information be provided as soon as possible for the independent engineering review.” And we had asked that individual reports be provided as soon as possible rather than just wait for one overall big package or dump of information.

MR. LEARMONTH: Okay.

And at tab 13 is Exhibit 00540 – P-00542. So, once again, you’ve sent the letter June 17, you’ve sent another letter June 17. You’ve sent another letter June 21, and now, on June 27, you seem to be dealing with the same subject matter. Read out, please, paragraph – the second paragraph?

MS. GREENE: “As we advised in that correspondence and at our meeting on June 17, 2011, it is critical that the relevant information be provided as soon as possible for the independent engineering review. While the Board has requested that the information be filed no later than June 30, 2011, we also requested that it be filed earlier, if available, and that individual reports be provided as soon as they are ready rather than waiting to file a complete package. When I was speaking to you early on the morning of June 24, you agreed to advise me

on the time that we could expect to receive the first filing. As I have not heard back” – from you – “heard back, I write to inquire as to the status of the required information.”

MR. LEARMONTH: Just read the next paragraph also please.

MS. GREENE: “As we discussed, the information should be file electronically first and must be filed by noon on June 30 ... followed by paper copies. We will require an original and six copies to be filed.”

MR. LEARMONTH: So once again, on June 27, you were writing because you had not received anything back from Mr. Young in response to your letters of June 17 and June 21, is that correct?

MS. GREENE: Yes, that’s correct.

MR. LEARMONTH: Now, I don’t know how many times you wrote about this deadline. It seems that that was a big – the provision of documents seemed to be an overriding concern by the board up until June 30. Is that correct?

MS. GREENE: It certainly was a concern, giving – given the timeframe for the report back to government by the board and the fact that the board had no information on the record with respect to the project.

MR. LEARMONTH: Okay.

Now, you referred to a comment that you attributed to Gilbert Bennett earlier in June that you’d receive a truckload of documents by June 30. Did you receive a truckload of documents from Nalcor on June 30?

MS. GREENE: No. The documentation that came was disappointing in terms of the volume and the significance of it.

MR. LEARMONTH: Am I correct in stating that the – much of the documentation which you received on June 30 had absolutely nothing to do with the Muskrat Falls Project but rather was related to the – an earlier Gull Island proposal? Am I correct in saying that?

MS. GREENE: That is my recollection at this point in time. I did not go back and review every single exhibit and document that was filed for this – the purpose of –

MR. LEARMONTH: Well, do you –

MS. GREENE: But that is my recollection, yes.

MR. LEARMONTH: Do you have any idea why Nalcor would send you documents on a totally unrelated project for your review? Do you have any idea as to what the thought process was? Did anyone at Nalcor ever tell you the reason that you’re receiving documents on an unrelated project?

MS. GREENE: They were – when you say unrelated project, it wasn’t the project the board was asked to look at. It would have been previous iterations for the development of the Lower Churchill. No, I did not – that – Nalcor at no time advised as to specifically why.

MR. LEARMONTH: Well, what was your reaction to the receipt of this documentation –

MS. GREENE: It’s –

MR. LEARMONTH: – on June 30, 2011?

MS. GREENE: It would have been disappointment that we were not getting off to a good start.

MR. LEARMONTH: All right.

Now, at tab 14, please, it’s Exhibit P-00543. It’s a email from Sam Banfield to you and Fred Martin. Just tell us who Sam Banfield is?

MS. GREENE: Mr. Banfield is an electrical engineer with many decades of experience in the utility environment. He was an internal engineering advisor for the board.

MR. LEARMONTH: Well, he was assisting you on this assignment?

MS. GREENE: Yes, along with Mr. Martin. Primarily, Mr. Martin; Mr. Banfield to a lesser extent.

MR. LEARMONTH: Okay.

Now, Mr. Banfield in this email says, first paragraph: “Good to hear from you. I’m replying as Fred is busy dealing with Nalcor. We have received a limited number of documents and I’d estimate somewhere” – between – “10% or less of what we had requested. I” – can – “say that because as an example the load forecast sheets are meaningless without the detailed assumptions that go into producing the numbers and other information such as the feasibility studies are dated with no updated information.”

Would that have been a true, accurate reflection of the concern that you shared on this topic on June – July 4, 2011?

MS. GREENE: That would have been my understanding based on my – the advice I was receiving from Mr. Banfield and Mr. Martin, so I would have shared that concern.

MR. LEARMONTH: Right.

And then, turning to tab 15, which is Exhibit P-00544. Can you identify this document? Once again, it’s an email from Sam Banfield to you and Fred Martin.

MS. GREENE: Yes.

MR. LEARMONTH: Can you read that out please?

MS. GREENE: “Yesterday afternoon Fred and I met with Board and reviewed the progress to date. Understandably the Board was not pleased with Nalcor’s response and after the meeting Andy, Darlene and Jim phoned Minister Skinner to discuss the situation. You can get the details of the telephone conversation from the Board when you get back. Shortly thereafter Fred received a call from Geoff, Paul Humphries and Paul Harrington. It was apparent ... they had received feedback from the Government and told Fred they had been given 24 hours to get a ‘report’ to the Board which would ‘bring things together’. We’ll await the receipt of this information and evaluate when we receive.

We have also” – awarded – “the Services contract to MHI.”

MR. LEARMONTH: Well, based on this letter – the interpretation I would place on it, and I

wanna ask whether you agree that the – there was a phone call from Andy – presumably Andy Wells – and Darlene Whalen to Minister Skinner, and then, based on this information, one can infer that Minister Skinner or someone in his department phoned Nalcor and gave them instructions or made requests for them to provide a report to the board.

Is that your interpretation of it, Ms. Greene, generally?

MS. GREENE: Generally, I would say the email speaks for itself.

MR. LEARMONTH: Okay.

That’s probably the best way to leave it.

Tab 16, P-00545 is another letter from July – dated July 12, 2011, to Mr. Young. And this one is signed by you, not Ms. Blundon. What was your purpose for sending this letter to Mr. Young on July 12, 2011?

MS. GREENE: Again, it was to record the concern with respect to where we were in the process, and it documents that there was a meeting held on July 8 with representatives of Nalcor to discuss the same concern. By this time, we had already retained MHI. MHI actually came to St. John’s, and I met with them for the first time on July 16, and we were very anxious to ensure that all of the information would be ready and available for the engineering experts who were coming to St. John’s.

MR. LEARMONTH: Okay.

And on page 2 of Exhibit P-00545, you indicate that “Nalcor did file certain documents by June 30,” but you say that – unquote – “Unfortunately, the June 30th filing was very limited and represented a very small percentage of the information that had been requested.”

Once again, is that a correct reflection of your views on that date?

MS. GREENE: Yes.

MR. LEARMONTH: Are you writing Mr. Young to alert him to the concerns that you’ve identified? Is that right?

MS. GREENE: That's correct.

MR. LEARMONTH: Okay.

And Mr. Young replies to the letter we just discussed on July 15, 2011, and that's Exhibit P-00546. Can you have a look at that document, Ms. Greene?

MS. GREENE: Yes.

MR. LEARMONTH: Yeah.

You remember receiving that letter?

MS. GREENE: Yes.

MR. LEARMONTH: Okay.

And did you agree with the accuracy of the statements contained in that letter?

MS. GREENE: Yes, I would have. I did not respond to the letter for any corrections or inaccuracies.

MR. LEARMONTH: Yeah.

Well, actually there is a response to Mr. – and that's at tab 19, if we just go there. P-00548.

MS. GREENE: Oh.

MR. LEARMONTH: Is that your response to Mr. Young's letter?

MS. GREENE: That is my response to his letter, yes. There are so many letters, as we go through them.

MR. LEARMONTH: Yeah.

And did you attempt to correct some of the things that Mr. Young had advised?

MS. GREENE: Yes, and that was my practice. If we received something that I thought was inaccurate, or didn't – that was inaccurate or that we needed to respond to, I would have responded, and – as I did here in this letter.

MR. LEARMONTH: All right.

Once again, on page 2 of Exhibit P-00548, you're talking about the deadlines. Second to last paragraph says: "The Government has directed that the Board report on its review by December 30 ... We reiterate that it is critical that all information requested by the Board and its consultants be provided as soon as possible. The Board is concerned that delays in the provision of information may jeopardize this deadline."

So now we're into the, you know, third week of July. Is this concern about meeting the deadline – about your capacity and ability to meet the deadline – becoming more acute?

MS. GREENE: Yes.

I wouldn't call it acute in July, but yes, there was a concern. In hindsight, looking back, the concern over the schedule, and the ability to do it, and the ability to get information was a legitimate concern, which was expressed from the very beginning back in May.

MR. LEARMONTH: Okay.

Now just turning back, at tab 18, Exhibit P-00547. This is the agreement, I take it, with Manitoba Hydro International. Is that correct?

MS. GREENE: Yes, that is –

MR. LEARMONTH: Yeah.

MS. GREENE: – correct.

MR. LEARMONTH: So you retained Manitoba Hydro International to provide advice and prepare a report for the consideration of the members of the panel. Is that correct?

MS. GREENE: That is correct.

MR. LEARMONTH: Yeah.

Just as a – do you know how much you had eventually paid Manitoba Hydro for their work at the PUB?

MS. GREENE: Approximately \$765,000.

MR. LEARMONTH: \$765,000.

MS. GREENE: That's –

MR. LEARMONTH: Yeah.

MS. GREENE: – correct.

MR. LEARMONTH: Yeah.

All right. Now, I just wanna take you to tab 20, and the – we've – at our request, you filed a copy of your invoices that you sent to the Public Utilities Board. What was the purpose of filing these invoices?

MS. GREENE: It was to provide evidence with respect to – evidence that was completed at the time, with respect to recording of dates for either phone calls, meetings, et cetera. So it was a record made at the time of the events occurring, and I had reviewed them as not – I had reviewed these invoices in conjunction with my file before my interview with the Commission in February –

MR. LEARMONTH: Yeah.

MS. GREENE: – of this year.

MR. LEARMONTH: Because in the invoices you record the dates and times of meetings and all work you did on the file, and that's how you calculate your fee, is that right?

MS. GREENE: Oh that's correct.

MR. LEARMONTH: (Inaudible.) Yeah, yeah. So it – would this set of documents at tab 20 be something that you would rely on as to – in your recollection of the events surrounding this reference?

MS. GREENE: Yes, because they were made at the time with respect to the event occurring. When you go back some six, seven years later after having completed a matter, sometimes it's difficult to remember the exact dates. So this was an aid to me with recollection of what had occurred over the timeframe of the reference. And of course, as I said, it was a document that was made at the time so should be accurate with respect to the recording of the event.

MR. LEARMONTH: Would we refer to these as contemporaneous notes? Would you classify –

MS. GREENE: Yes.

MR. LEARMONTH: – those entries as contemporaneous notes?

MS. GREENE: Yes. I got into the practice of doing it daily. I discovered if I didn't record my time daily, I went – go back and try to reconstitute it, there would be gaps.

MR. LEARMONTH: Tab 21 please? Can you – that's Exhibit P-00550. Can you identify that document, Ms. Greene?

MS. GREENE: It's an information note for the Commissioners. Again, the board's internal process required an information note or a briefing note – not just for the reference but as part of the normal process. And this is one of those briefing notes dated around the July 27, 2011. Again, it would have been prepared at the time for the Commissioners.

MR. LEARMONTH: Yeah, I just want to refer to the second, the last – the second-to-last and the last paragraph.

What is recorded is this, "On July 25th Nalcor advised it would not be filing its report until mid-August and that the remaining documents that were requested to be filed by June 30th will be filed by July 29th, a month later than originally scheduled. In addition some 63 RFIs have been asked by MHI and the Board staff and only 10 responses have been received so far."

What are RFIs?

MS. GREENE: Requests for information.

MR. LEARMONTH: Okay, so –

MS. GREENE: That's the standard –

MR. LEARMONTH: Yeah.

MS. GREENE: – process followed down by the board in terms – instead of demands for particulars, et cetera.

MR. LEARMONTH: So once – and then once again, you refer to the December 30 deadline. So here we are almost at the end of July, and the documentation that you understood you'd receive by June 30 had not yet been provided, is that correct?

MS. GREENE: That is correct.

MR. LEARMONTH: Okay.

MS. GREENE: And attached to the briefing note was the original schedule that had been developed in contemplation of receiving the information and being able – the board to be able to undertake the necessary evaluation and analysis and report back by December 30.

MR. LEARMONTH: On page 2 and 3 it seems that you developed a draft schedule –

MS. GREENE: Yes.

MR. LEARMONTH: – of the item required – items that were required and the date in which they were required, is that correct?

MS. GREENE: Yes, and that would be something I – it would be part of the normal process. You look at an application and you come up with the key milestones or dates to be able to achieve the outcome –

MR. LEARMONTH: All right.

MS. GREENE: – and a date for the outcome.

MR. LEARMONTH: Tab 22, Exhibit P-00551, is a memo to you and Sam Banfield, from Fred Martin, copied to Cheryl Blundon, dated July 29, 2011. And this is a summary, or the comment is: "Following is a synopsis of my meeting with Messrs Gilbert Bennett and Paul Harrington on Friday, July 29"

Mr. Martin says, "I explained that The Board was very frustrated with the flow of information ..." – and et cetera. You weren't at that meeting were you?

MS. GREENE: No, there were a number of meetings between the experts that Mr. Martin would have attended that I did not attend. That was for the sharing of information and an

exchange of information between MHI and Nalcor with respect to the information that was provided.

MR. LEARMONTH: Yeah. And then Mr. Martin does say at the end on page 2 of Exhibit P-00551, quote, "In summary, I felt the meeting was very positive. This can only be confirmed on the subsequent actions of Nalcor. I did ask when additional information would be filed. The response was that some would probably be filed today."

Now I just want to pause for a moment. To your knowledge, was Nalcor aware that the reference was coming? That the government had decided to refer the matter to the Public Utilities Board?

MS. GREENE: Yes, I was advised of that by Mr. Bown. And I believe I already mentioned, that in anticipation of receiving the reference I actually called Wayne Chamberlain, who at that time was general counsel for Nalcor, and this would've been in, I believe, May but certainly before June 17.

MR. LEARMONTH: So now we're into almost August and you still don't have the documents. Were you able to form even any tentative conclusion at this time as to whether it was gonna be possible to meet the December 30, 2011, deadline?

MS. GREENE: You can tell by the letters, and as we go through some of them, I guess, the concern was increasing. By the end of July, I was concerned but thought it still might be doable – is probably the best way to –

MR. LEARMONTH: Yeah.

MS. GREENE: – answer that question.

MR. LEARMONTH: Now, up until this point – we'll say the end of July – did Nalcor provide to you an explanation for the fact that it was unable to meet the June 30 commitment for the delivery of documents? I mean, was there any reason given to you that you recall?

MS. GREENE: Not that I recall. I believe in one of the documents we already looked at – probably the letter from Mr. Young in July – he mentioned a piecemeal approach; that they were

giving us documents individually. But that was only how there might be some misunderstanding, but it wasn't with respect to why we were not receiving the actual information. No, I was not given a full response as to why that occurred.

MR. LEARMONTH: So you didn't really know, is that right?

MS. GREENE: That's correct.

MR. LEARMONTH: Yeah.

Next document I want you to look at is at tab 23, Exhibit P-00552, and once again this is a memo to you and Sam Banfield from Fred Martin, and this appears to be a summary – a synopsis of a further meeting that Mr. Martin held with Mr. Gilbert Bennett, Paul Harrington, B. Barnes, and J. Kean on Monday, August 1.

So do you know why – he just met with them a few days before that, do you know why he's meeting with them again on that date?

MS. GREENE: Again, it would've been –

MR. LEARMONTH: He met on July 29 and this is August 1 – do you know why?

MS. GREENE: Again, it would've been with respect to getting the information ready. You'll notice that MHI was coming that week and Mr. Martin would've been trying to ensure the information was readily available for MHI. And Mr. Martin was the person that had contact with the appropriate engineering people at Nalcor with respect to the information and attended the meetings between Nalcor and MHI.

MR. LEARMONTH: So from your point of view, or observation, was Mr. Gilbert Bennett the person that was in charge of responding to the requests of the board and MHI for documentation?

MS. GREENE: He was a key personnel. We had asked Nalcor to designate somebody who would be the primary contact person, and at a point in time they did designate Mr. David Harris. But Mr. Bennett would have been a prime source of the information and attended,

certainly, a number of the meetings on the actual technical information.

MR. LEARMONTH: All right.

Tab 24, Exhibit P-00553, can you identify that document? I can tell you it's an email from Cheryl Blundon to the Newfoundland and Labrador Public Utilities Board. And there came –

MS. GREENE: Yes.

MR. LEARMONTH: – the original message from you. Can you give us a synopsis of that email, together with the attachments on page 2 to – 2 through page 5? Just look at that document and tell us what the – your understanding of it is.

MS. GREENE: I forwarded an email that I had received from David Harris. As I just mentioned, David Harris was the person designated by Nalcor as the main contact with respect to the information exchange. Mr. Harris was also an engineer, and at that time he was manager of rates – I'm not sure of his exact or correct title – but manager of rates and regulatory policy for Hydro.

MR. LEARMONTH: Hmm.

MS. GREENE: And he sent me an email with respect to the information, and what is attached is a summary of the various requests for information and the status of receiving them.

MR. LEARMONTH: All right.

MS. GREENE: And that would've been prepared by either Mr. Harris or someone at his request.

MR. LEARMONTH: Okay.

And then at Tab 25, Exhibit P-00555, this is an email from you to Fred Martin. Can you identify that document, Ms. Greene?

MS. GREENE: I think –

THE COMMISSIONER: What tab again, Mr. –?

MR. LEARMONTH: That's tab 25, Exhibit P-00555.

MS. GREENE: I believe this is just where I forwarded what I had received from Mr. Harris to Mr. Martin.

MR. LEARMONTH: Okay. And once again, that's a – if we go to page – go down through page 2, 3, 4 and 5, it appears to be an itemized list of the –

MS. GREENE: Mmm.

MR. LEARMONTH: – documents that have been requested and the dates that you've been given by Nalcor as to when each document will be filed. Is that correct?

MS. GREENE: That's correct.

MR. LEARMONTH: Okay.

Please turn to tab 26, Exhibit P-00556. What is this, Ms. Greene?

MS. GREENE: This, again, would be ensuring that the board record had a copy of an email I had received from Mr. Harris with respect to a status update.

And I had replied to his email saying: "Can you give me a call? I just tried to reach you

"We are reviewing the schedule ... to determine the criticality of the information that you have indicated will not be available this week. We are very concerned that certain information will not be available until late August, including possibly, your submission. The late receipt of this information will have a significant impact on the schedule. We need to discuss this with you, Gilbert and probably Geoff or another lawyer in his absence."

MR. LEARMONTH: Okay.

Now, this is actually out of order a little bit because I'm going to turn back. But I'll just ask you this: At the time, this is October 21, right?

MS. GREENE: Yes – that I sent it to the board, the –

MR. LEARMONTH: Yeah, but it's August 3 that the – August 3 –

MS. GREENE: Yes.

MR. LEARMONTH: – that the – your original message went out. So you're in August 3 and you still haven't got the documents, is that right?

MS. GREENE: Not all of the documents.

MR. LEARMONTH: Yeah.

MS. GREENE: That's correct.

MR. LEARMONTH: And then you forwarded this on to the board on October 21. Any significance to that date or was it just when you got around to it?

MS. GREENE: I had kept – and I believe it's in one of the Exhibits – the chronology of documentation, which I tend to do as I move forward through a matter, and I may have realized that some of the emails I was receiving, I may not have sent to the records management system.

MR. LEARMONTH: Okay. Thank you very much.

Tab 27, can you identify this document? It's from Al Snyder, who I think, it's clear, was one of the persons representing Manitoba Hydro in this review.

MS. GREENE: That is correct.

MR. LEARMONTH: And can you just briefly identify this document – I know it wasn't sent to you, but can you identify it? If not, we'll just move on.

MS. GREENE: Mr. Cadou would've been somebody who was doing work for MHI with respect to one of the subject matters that were – he was studying for the reference. And Mr. Martin was the person that would've had contact with the various people from MHI. I did as well, of course. But in the day-to-day exchange of the information between MHI and Nalcor, that was Mr. Martin, and there were numerous people – several people – from MHI who were involved

in reviewing various aspects for analysis for their report.

MR. LEARMONTH: So the main contact would be – with MHI – would be Fred Martin?

MS. GREENE: On a day-to-day level, for the working level – with – me with respect to directions, with respect to the nature of the work that they were undertaking.

MR. LEARMONTH: And presumably Sam Banfield would be involved in those –

MS. GREENE: Sam was involved.

MR. LEARMONTH: – communications.

MS. GREENE: Well, he would attend some but not all of the meetings with MHI and Nalcor. Fred would be the primary person, with assistance from Sam when he needed it.

MR. LEARMONTH: All right.

And then – the document at tab 28 would be generally described as – in the same way as the earlier – your earlier description of the document in the preceding tab, is that correct?

MS. GREENE: Yes.

Now, I actually received the biweekly reports from MHI. That was one of the things that would've come over – I had – that was part of their contract with them, and while they were addressed to Fred, it was part of the arrangement where I wanted to ensure that we were – I was remaining up to date with respect to the status of their work.

MR. LEARMONTH: Okay.

So you were – in your judgment, were you on top of things, we'll say?

MS. GREENE: A difficult question to answer, Mr. Learmonth, but yes, my own personal perspective, I believe that I was – in this particular case, I was responsible with respect to the experts in the sense that – in terms of the work they were doing to making sure that they were receiving the information that they

required and that they were going to be able to provide a report to the board.

MR. LEARMONTH: Yeah.

MS. GREENE: And I was asking for biweekly reports to ensure that was being done.

MR. LEARMONTH: Yeah.

The – at tab 29, Exhibit, P-00559. This is an email from Paul Wilson. He was the lead person at Manitoba Hydro International, is that correct, for the work assignment?

MS. GREENE: Yes, I would agree with him as a project manager. He was the primary person that we dealt with in all administrative matters and even with respect to the RFP when they responded, that type of thing.

MR. LEARMONTH: So this is in – this is dated August 26, 2011, so we're moving on here, and if you look at page – pages 2 to 9, this is a list of the documentation that, from Manitoba Hydro International's perspective, is outstanding and the status of that, is that correct?

MS. GREENE: Yes, and that was something that they developed and that we had asked for probably in terms of being able to track the information, where they were in terms of – their original requirement for the board was that they were supposed to provide a report by September 15, and we were constantly discussing with them their ability and the dates for being able to – complete their analysis.

MR. LEARMONTH: Well, like, we're talking about the end of August here, so –

MS. GREENE: Mmm.

MR. LEARMONTH: – I – am I correct in assuming that at the end of August it was rather obvious that the September 15 deadline could not be met, or is that unreasonable for me to say that?

MS. GREENE: No, by then we knew they would not be able to meet that date.

MR. LEARMONTH: Okay.

Then tab 30, which is Exhibit P-00560, is another biweekly report from Manitoba Hydro. And you would have received this report?

MS. GREENE: Yes, I would have.

MR. LEARMONTH: Yeah.

Okay.

Tab 32 is a email from the Consumer Advocate. Can you give us a brief description of the role of the Consumer Advocate in this reference, as far as you recall it?

MS. GREENE: The Consumer Advocate was appointed by the Lieutenant-Governor in Council to represent the interest of the public with respect to the reference.

I would have worked with Mr. Johnson, who was the Consumer Advocate at that time. For example, we had a council meeting on, I believe, July 20 that would have been attended by myself, Mr. Johnson, probably Mr. Young for Hydro, which, again, would be part of our – part of my normal process with respect to hearing matters.

We would have regular council meetings to discuss schedule, process, concerns, issues. It's sort of a regular process.

So Mr. Johnson was involved from the beginning, and he would have attended that meeting in July. And Exhibit 00562 is a response by Mr. Johnson to a request that I had made to him with respect to the schedule.

MR. LEARMONTH: All right.

Please turn to tab 34, which is Exhibit 00564, Ms. Greene. Can you identify that document?

MS. GREENE: These are minutes of a meeting – well, first – the first page is the agenda –

MR. LEARMONTH: Yeah.

MS. GREENE: – for a meeting that was scheduled with Nalcor on September 12 –

MR. LEARMONTH: Yeah.

MS. GREENE: – to discuss the reference.

MR. LEARMONTH: And just before we get into that, maybe, if we turn back to tab 33, which is Exhibit 00563. Can you confirm that these would have been the background notes taken at the meeting by Cheryl Blundon, which form the basis of Exhibit 00564?

MS. GREENE: That is correct.

MR. LEARMONTH: Okay.

Do you remember this meeting at Nalcor – with Nalcor representatives in the PUB boardroom, which started at 2 p.m. on September 12, 2011. Persons attending from Nalcor were Geoff Young, that's legal counsel, Dave Harris and Gilbert Bennett. And from the PUB there was you and Cheryl Blundon. Do you recall that meeting?

MS. GREENE: I did after I read the minutes. It's –

MR. LEARMONTH: Does it – did it bring back memories of what happened at that meeting?

MS. GREENE: Yes, it was – and again these minutes would have been done at the time of the meeting to ensure –

MR. LEARMONTH: Yeah.

MS. GREENE: But we had a record going forward of what had occurred, and again, this would be a normal practice.

MR. LEARMONTH: Yeah.

So who was the – was there a main spokesperson for Nalcor at the meeting? In other words, was one person leading the discussion or was it a sort of a free-for-all?

MS. GREENE: I'm smiling because I'm not sure what you mean by free-for-all.

MR. LEARMONTH: Well, no – okay, that's a bad word. What I meant is was it – in some meetings, there's – with three representatives, there's one person who does the talking and the others just fill in information. In other types of

meetings, everyone talks when he or she thinks it's appropriate.

MS. GREENE: It would've been the latter. At this point in time, Mr. Bennett probably would've been speaking to a number, and for me, I would've been the main spokesperson for the board.

MR. LEARMONTH: All right.

And what was the atmosphere at this meeting?

MS. GREENE: Our meetings with Nalcor were always cordial.

MR. LEARMONTH: All right.

Now, at page 3 of Exhibit P-00564, there's something underlined in the third paragraph that I'd like you to read into the record.

MS. GREENE: "Both the Board and Nalcor concluded that there is a disconnect in their interpretation of the context of the review, especially with respect to timing. It was agreed that both parties would have to further discuss the issue with their officials."

MR. LEARMONTH: But hadn't there been – well, from your perspective anyway – an understanding that all the documentation would be provided by Nalcor by June 30?

MS. GREENE: All of that information that we had on that list and any other information that they had wanted to provide to us, yes.

MR. LEARMONTH: So can you expand on your understanding of what Mr. – whoever said that meant about a disconnect in their interpretation of the context.

MS. GREENE: If you go back to the previous paragraphs prior to the one that you lead me to, it's at this stage where we are asking for additional information through the request for information process. And I do recall this issue, apart from the minutes. I may not have been able to tell you the date of the meeting, but I do recall the discussion around these issues.

At that time, Nalcor was raising a concern with respect to questions the board was asking. It

concerned asking for updated cost information and the completion of sensitivities around some of the inputs of the CPW analysis.

MR. LEARMONTH: Was there any discussion on the documentation that required – for example DG2 or DG3. Was there any discussion about that at this meeting?

MS. GREENE: Mr. Bennett referred to it in the minutes and, at that – at this time when we were looking at the information we had received, we were aware that from our discussions with Nalcor that they were doing significant additional engineering, financial, economic analysis.

I had wanted the most up-to-date information that we had on the principle inputs. Again, in my view, this is a normal part of the process that we would do. And, Mr. Bennett, you can see from the top of page 3, raised the issue of Decision Gate 3 estimates which wouldn't be available until later.

MR. LEARMONTH: Was there any discussion about whether there's any mention of Decision Gate 2 or Decision Gate 3 in the reference?

MS. GREENE: No, there is not. And you can see from these minutes and the paragraph above that in the terms of reference, no – if you look at the previous paragraph: I provided my legal opinion that nowhere in the terms of reference does it state that the board was required to limit its review to the time of the decision of DG2.

MR. LEARMONTH: And, as far as you know, today, that still a correct statement?

MS. GREENE: That is – when the terms of reference do not contain reference to any specific date.

MR. LEARMONTH: But did – was it your understanding at this meeting that Mr. Bennett believed that the only obligation on Nalcor was to provide DG2 numbers?

MS. GREENE: Yes, if you look at the paragraph above it, it says: Nalcor did not – the last sentence – "Nalcor did not expect that it would have to provide updated information such

as cost of capital estimates before DG3 which is expected in 2012.”

MR. LEARMONTH: So there was a difference of opinion, we’ll say, as to what was required under the terms of reference?

MS. GREENE: Yes. And, again, based on my experience, that it’s not unusual when we’re dealing with these complex matters for parties to have a different interpretation of either terms of reference or a statement of fact.

MR. LEARMONTH: Yeah. But, in the ordinary course, wouldn’t these differences be identified early in the process rather than later in the process?

MS. GREENE: Ideally, yes, and I assume it does depend on the party’s awareness of the issues, but, ideally, yes, as early as possible would be ideal.

MR. LEARMONTH: Right. Please turn to page six of Exhibit P-00564.

Can you read that into the record, please? And this is the concluding paragraph of the minutes of this September 12, 2011, meeting.

MS. GREENE: “General discussion of whether Nalcor has the personnel resources necessary to be able to respond in the time it sets if the schedule is revised. Nalcor responded by advising that they did not anticipate the level of detail that was going to be required in the review and currently have every available resource working to meet the target dates.”

MR. LEARMONTH: Okay. So is that a satisfactory position from your point of view?

May I take it that meeting ended on that note?

MS. GREENE: Yes, again, and we’re going back to the schedule that we needed – if the Board were to be able to respond in the time frame requested by government – that was the question, did they – did Nalcor have the available resources to be able to provide the information in the time frame that we – was required.

MR. LEARMONTH: Well, did Nalcor say that it did not have the available resources?

MS. GREENE: No, they did not say that.

MR. LEARMONTH: Okay.

Next document I’d ask you to look at is in tab 35, it’s Exhibit P-00565. The – this is a briefing note. The date on it, on page 3, I think must be wrong. It’s 2011-06-14.

MS. GREENE: Mmm.

MR. LEARMONTH: Yet there’s references to later dates, so can I assume that this date is wrong?

MS. GREENE: Yes, and there would’ve been a signed copy of this. This may have come from my file. What I – my shortcut in doing these progress reports would’ve taken the previous one and with my limited Word skills, I would’ve – so I may not have changed the date on this particular one.

MR. LEARMONTH: That’s the explanation for the wrong date?

MS. GREENE: Yeah.

MR. LEARMONTH: Yep. Okay.

The – okay, in any event – the – this is a briefing note, and I take that this is – a protocol that you follow at Hydro that on a periodic basis you provide updates to the file in the form of briefing notes, is that correct?

MS. GREENE: It would be an administrative process for the Public Utilities Board, and, yes, they do receive briefing notes from their staff with respect to all matters, and this happened to be the one for the reference.

MR. LEARMONTH: Okay.

So once again on page 2, if we just turn to page 2. The fifth paragraph from the bottom, beginning with: At the September 12th meeting. Do you see that, Ms. Greene?

MS. GREENE: Yes.

MR. LEARMONTH: Will you read that paragraph into the record please?

MS. GREENE: “At the September 12th meeting Nalcor representatives were unable to say when its submission would be filed or when the outstanding RFIs would be answered. They did indicate that, in their opinion, certain of the recent RFIs were outside the Terms of Reference. Nalcor were asked to get back to the Board after they had completed its review to state which RFIs were in this category so there could be a further discussion. To date we have not heard from Nalcor on this issue.”

MR. LEARMONTH: Okay. So at this point, what are the chances that number one, MHI is going to be able to meet its deadline, and number two, whether the board is going to be able to meet the deadline, that being December 30, 2011?

MS. GREENE: Well, it was obvious that they would not be completed. By September it was obvious that the December 30 date would not be achievable.

MR. LEARMONTH: Yeah. And, you know, I just want to state – confirm this is – the reason was that Nalcor had not provided the necessary information. Is that correct?

MS. GREENE: In my view that is the reason, yes.

MR. LEARMONTH: Okay.

Tab 36, Exhibit P-00566. This is a letter dated September 14, 2011. Can you give me a reason that you sent this letter to Geoffrey Young and in your – just summarize the letter for us please, Ms. Greene.

MS. GREENE: It ties back in to the concern about the schedule and the ability of the board to respond to the government as the terms of reference required by December 30. It was clear that that was not going to be possible, and the board wished additional information from Nalcor so that then they could approach the government to make an appropriate request to government for whatever the appropriate extension was.

So you can see the letter begins: “This letter is to formally advise that the Board is concerned about the schedule for the Review given the level of information that has been filed to date.” And then it gives some explanation about that lack of the information and the timing around the request, et cetera.

MR. LEARMONTH: All right.

MS. GREENE: And then in the next paragraph it said: “Given the uncertainty surrounding the dates for receipt of the information from Nalcor required for the Review, the Board requested a meeting on September 12 ... to fully discuss the implications of the status of the documentation ... Fixing the dates for the filing of Nalcor’s Submission ... responses to requests for information is critical for the Board to be able to reassess the schedule for the Review and whether it will be possible for the Board to conduct public consultations and to file a report ...”

Well – and I won’t bother to read the rest, but it goes on to ask Hydro to respond by – in two days’ time, by September 16, with respect to when its submission would be filed and when other responses to the outstanding requests would be filed.

MR. LEARMONTH: Did you get a response within two days or at any time?

MS. GREENE: We received a response some five weeks later on October 20.

MR. LEARMONTH: Five weeks later?

MS. GREENE: That’s correct.

MR. LEARMONTH: Okay.

But you had asked for – just let me look back, you’d asked for the response within how many days?

MS. GREENE: Two days, because, again, the concern –

MR. LEARMONTH: Yeah.

MS. GREENE: You can see from page 2 of the letter – this first full paragraph – Nalcor had

agreed to advise the dates the board could expect to receive the submission and the responses, including those issued on September 9. They were unable, at that time, to confirm when they would respond.

And we had asked that it be by September 16. And that was in order to be able to reassess the schedule and to, if necessary, request an extension of time for filing the reference –

MR. LEARMONTH: So you never –

MS. GREENE: – response.

MR. LEARMONTH: – got anything for five weeks?

MS. GREENE: That is correct.

MR. LEARMONTH: From Nalcor?

MS. GREENE: That is – officially from Nalcor, you'll see there would have been other communication from Mr. Harris, for example. But in terms of a response from Nalcor on those things, there is a letter in tab 41, or Exhibit 00571, which was the response to that letter.

MR. LEARMONTH: That was dated October 20, 2011. We'll get to that later. Yeah.

All right, so the next document I want to look at is Exhibit P-00567. This is a letter to the hon. Shawn Skinner from Andy Wells, the chairperson and chief executive officer.

I know you didn't write this letter, but were you aware that this letter had gone out?

MS. GREENE: Yes.

MR. LEARMONTH: And what's the purpose of this letter?

MS. GREENE: By this time, it was clear – as you can see from the second sentence, it's clear the board cannot meet the December 30, 2011, date for the completion of the report.

And in the second paragraph it says: We cannot formally request an extension "because we cannot provide a realistic alternate date until we have a better idea as to when Nalcor will answer

the outstanding information requests and file the Submission" – which, by the way, what – and the – it says: contemplated in the terms of reference because the terms of reference did actually require submission to be filed by Nalcor.

MR. LEARMONTH: Right.

So is the gist of this letter that we know we're not going to meet the December 30, 2011, deadline, but we don't know how much additional time we're going to need because we still haven't got the documentation from Nalcor?

MS. GREENE: That's a fair assessment. Yes.

MR. LEARMONTH: All right.

Now, tab 38, Exhibit P-00568. Now, this is an email October 12, 2011, to you, copied to Gilbert Bennett and Geoffrey Young from Mr. Harris. And what is contained in this email and enclosures or attachments?

MS. GREENE: It's another biweekly report from MHI. It's dated October 13.

MR. LEARMONTH: This is from Mr. Harris, is it not?

MS. GREENE: I'm sorry, what tab?

THE COMMISSIONER: Tab 38.

MR. LEARMONTH: Tab 38.

MS. GREENE: Oh, I'm sorry; I was at the wrong tab.

MR. LEARMONTH: Yeah, 00568, Exhibit 00568.

MS. GREENE: This – yes, it's an email to me from Mr. Harris dated October 12. And it's an update on the status of RFI responses and the submissions.

MR. LEARMONTH: Correct. So –

MS. GREENE: So, as I said, we were receiving information from Nalcor –

MR. LEARMONTH: Okay.

MS. GREENE: – from September – our letter – the board’s letter September 14. And this would be an example, but we didn’t receive a formal reply until October 20.

MR. LEARMONTH: But this October 12, it says: “With respect to the Nalcor submission, I understand that it will be complete in November.” So there’s no date in November, so I presume that could be from November 1 to November 30. Is that your understanding?

MS. GREENE: That again – I’ll let the email speak for itself. That’s what it says. It just says November.

MR. LEARMONTH: November.

All right, tab 39, Exhibit P-00569 is an email from Paul Wilson of MHI to you, dated October 15, 2011. And this is another biweekly report?

MS. GREENE: That is correct.

MR. LEARMONTH: And we can see at – beginning of page 6 through page 17, this is an update in the form that MHI used to bring you up to date on the status of various outstanding items.

MS. GREENE: That is –

MR. LEARMONTH: Is that correct?

MS. GREENE: That’s correct.

MR. LEARMONTH: Yeah.

Tab 40, Exhibit P-00570; this is another information briefing note dated October 18, 2011. And would this have been prepared by you?

MS. GREENE: Yes, it would have.

MR. LEARMONTH: They all – all of these briefing notes – information briefing notes would have been prepared by you, is that right?

MS. GREENE: That’s correct.

MR. LEARMONTH: Yeah.

So now we’re – well, anyways, it’s just an update of the status of matters. And this was filed in accordance with the protocol at the PUB that you provide these briefing notes on a regular basis?

MS. GREENE: That’s correct.

MR. LEARMONTH: Okay.

Next, tab 41, which is Exhibit P-00571, is a letter from Nalcor to Cheryl Blundon. Can you take us through this letter at Exhibit P-00571, Ms. Greene, and highlight the parts of the letter that you feel are important?

MS. GREENE: Well, this was the response to the board’s letter of September 14 which had asked for a reply by September 16. In the second paragraph they point out that they have expended considerable effort in responding to the request for information in a timely way. And then it – the third paragraph said that Nalcor hadn’t committed to the date for filing their submissions. And then they point out all that they have done, all of the information requests.

And on the second page – I guess it’s just a summary of all that they had done. And then the second full paragraph, “Nalcor also understands from our meeting of September 12 that the Board wishes to have Nalcor’s formal submission filed prior to the finalization of MHI’s report.”

MR. LEARMONTH: Yeah.

Okay and I take it, as we’ll be seeing by the next document, that you believe that this October 20, 2011, letter, Exhibit P-00571, was – contained many inaccuracies. Is that correct?

MS. GREENE: Yes.

MR. LEARMONTH: Okay.

And then turn to page 40 – tab 42, Exhibit P-00572, please? This is your reply to Mr. Young’s letter that we just referred to.

I’d like you to read into the record your comment beginning in paragraph 3 where you say: “Your letter contains a number of

inaccuracies which must be corrected for the record as follows”

So why are you writing this letter? Why do you want to correct these, what you consider to be inaccuracies, for the record?

MS. GREENE: Well, at this time, the appropriate schedule to complete the review was – initially, the board was going to have to address. Part of the reason for requesting the extension was the delay in receiving information. And I believed, as this letter will indicate, that a – certain of the statements in that –

MR. LEARMONTH: Yeah.

MS. GREENE: – October 20 letter were incorrect with respect to certain statements that we had the basis of –

MR. LEARMONTH: Can you read those seven record – items into the record, please?

MS. GREENE: Number 1: “At a meeting on June 17th Nalcor stated its Submission would be filed by the end of July. This was confirmed in our letter of July 12th and at a meeting attended by a Nalcor representative on July 20th. We are therefore surprised to read in your letter that Nalcor ‘*had not committed to that date.*’”

The number 2 point: “The Board was not involved in any ‘*collective decision*’ that the Submission would be delayed until the completion by Nalcor of requests for information from Manitoba Hydro International Ltd. (‘MHI’).”

Number 3: “As confirmed at the meetings on July 20th and September 12th it was always contemplated that the MHI report would be finalized and filed after Nalcor’s Submission.”

Number 4: “Nalcor had not provided a list of confidential exhibits to the Consumer Advocate as stated on October 20th, the date of your letter. We understand that this list was provided late on October 21st, after it had been brought to your attention that such list had not been provided as stated.”

Number 5: “The Review was initiated in mid-June, which is more than four months ago, not three as stated.”

“While the numbers are continually changing as new information is filed, Nalcor had, as of October 20th, (the date of your letter) filed answers to 166 requests for information and not 187 as stated.”

And “There were responses to six requests for information (not five) outstanding for MHI as of October 20th.”

MR. LEARMONTH: Okay, and I’m not going to ask you to read everything in there, but the – your letter continues to deal with your view of what – of the inaccuracies that were stated by Mr. Young; is that correct?

MS. GREENE: Yes, and one of the key points was about the submission. We had understood that Nalcor’s submission would be the comprehensive package outlining both options under review and their analysis and their conclusion as to why the Interconnected Option was the least-cost option over the Isolated Island Option. So that was one of the key concerns as to the delay in receiving that particular piece of information.

MR. LEARMONTH: All right. And just read the concluding paragraph of this letter, P-00572, on page 3, please?

MS. GREENE: “Once the Board receives all the information requested in our letter of September 14th, in particular a firm date that the responses to all MHI and the Board’s information requests will be available and the time and process for screening confidential information, it will be in a position to re-assess the schedule for the Review and to request an extension from Government to complete the review and its report.”

MR. LEARMONTH: Okay. So once again, here we are October 25th. The deadline is December 30 and you don’t even know at this point – you know there’s going to have to be an extension, but you don’t know how long it’s going to be because you haven’t got the documents. Is that right?

MS. GREENE: That is correct.

MR. LEARMONTH: Tab 44 please? That's Exhibit P-00574.

What is this media release? Why would you send out a media release on October 26, 2011?

MS. GREENE: The board had also issued one when this reference was first received, to advise the public that it had received the reference and that further information was going to be provided on the process and the schedule. I believe the board at that time were receiving inquiries with respect to what the process and schedule was, and this release was issued to provide an update to the public as to where the process was.

MR. LEARMONTH: Yeah.

But, just point out – October 26, you still haven't got this documentation, but wasn't – didn't an earlier document indicate that the initial schedule was that you planned to have a technical briefing session sometime in October?

MS. GREENE: Yes, I believe that's correct. And there is –

MR. LEARMONTH: Yeah, yeah.

MS. GREENE: – that would have been on the preliminary schedule that –

MR. LEARMONTH: But –

MS. GREENE: – we already looked at.

MR. LEARMONTH: But you have to have all the RFIs answered –

MS. GREENE: Yes.

MR. LEARMONTH: – and so on before that. So this is, like, out of the question. Is that correct?

MS. GREENE: That would be a fair assessment, yes.

MR. LEARMONTH: Yeah. Okay. Tab 45, Exhibit P-00575, are handwritten minutes.

I don't believe there's a typewritten record of it. But October 28. It's a meeting with Nalcor. Gilbert Bennett and Paul Humphries and you, Fred – presumably Martin – and Cheryl Blundon. Do you remember this meeting?

MS. GREENE: Not specifically, no. I remember a number of meetings with Nalcor. There was – and sometimes looking back I've had so many meetings over the last seven or eight years. It's hard to remember a specific meeting. That's why the minutes are helpful.

MR. LEARMONTH: Yep.

Just before I forget, after – this was discussed in your interview – after the September 12 meeting that you had with Nalcor – do you know the one I'm referring to?

MS. GREENE: Yes.

MR. LEARMONTH: Is it correct that within a day or two of that you received a phone call from Charles Bown?

MS. GREENE: It wasn't within a day or so – that's the correction that I made.

MR. LEARMONTH: Okay.

MS. GREENE: It was actually – going back on the weekend to look at each of those daily invoices to try to refresh my –

MR. LEARMONTH: Yep.

MS. GREENE: – memory.

MR. LEARMONTH: Is it October 21?

MS. GREENE: 31.

MR. LEARMONTH: 31.

MS. GREENE: I received a call from Mr. Bown in late October to discuss certain issues.

MR. LEARMONTH: I mean – government had sent this reference to the Board, correct?

MS. GREENE: Yes.

MR. LEARMONTH: And the proponent was Nalcor, correct?

MS. GREENE: Nalcor was the proponent of the project – I’m not sure if they were a proponent of the reference.

MR. LEARMONTH: Yep. But, so – did – was it, in your opinion – or feeling – usual or unusual that Mr. Bown would call you on a matter that wasn’t related to scheduling when he did in October? What was your reaction to that?

MS. GREENE: It is unusual from the normal process.

MR. LEARMONTH: It is unusual?

MS. GREENE: To discuss process – substantive matters with – certainly with me as board hearing counsel – or with board legal counsel. It would be unusual for government to discuss substantive processes while the matter was before the Board.

MR. LEARMONTH: That’s what he did in that conversation, isn’t it?

MS. GREENE: My recollection and my invoices confirm that I received a request to attend a meeting to discuss whether certain RFIs were within the terms of reference.

MR. LEARMONTH: Mr. Bown asked you to attend a meeting?

MS. GREENE: Yes.

MR. LEARMONTH: Where?

MS. GREENE: A meeting occurred at the Board offices.

MR. LEARMONTH: But Mr. Bown followed up this telephone conversation – it was followed up by a meeting with you?

MS. GREENE: That’s correct.

MR. LEARMONTH: And when was that meeting?

MS. GREENE: October 31.

MR. LEARMONTH: And who was present?

MS. GREENE: I believe it was just myself and Mr. Bown – I can’t recall if there was anyone else with Mr. Bown – it was only myself.

MR. LEARMONTH: So what business did Mr. Bown have to discuss with you at that meeting?

MS. GREENE: My understanding from my early discussions with Mr. Bown back in May and at various times throughout the process when we would’ve had discussion around the schedule or the process was that he was the – designated by government as the – I’m using my words, I’m not totally sure – but I understood that he was the coordinator – the contact person on behalf of government with respect to this reference.

So that I had had discussions with Mr. Bown, and meetings with Mr. Bown, over May to this time period of October.

MR. LEARMONTH: Would they be on scheduling matters?

MS. GREENE: Yes, essentially. At one point, Mr. Bown did contact me to – about the difficulty with – the board was experiencing in obtaining information from Nalcor and some of the letters that had been written to Nalcor, prior to this meeting, in October to say that he was surprised that I had not contacted him before sending the letters to Nalcor.

MR. LEARMONTH: Well, if it was unusual – if you felt it was unusual for Mr. Bown to contact you, can I conclude or not – can I conclude that it would have been unusual for you to contact Mr. Bown?

MS. GREENE: At that time, when the concern was expressed about the board writing the letter and there had been no prior contact, I think – I’m pretty – I actually recollect this. My response was: I would never have thought of calling you in advance. This is a board process. If we have difficulty with receiving information with Nalcor, the board and Nalcor will work that out.

But I did agree at that time to either provide him – and I think I may have sent him either blind

copies or given him a heads-up when other additional letters may have been written or we were discussing scheduling process. This would have been before October 31.

MR. LEARMONTH: Yeah.

Okay well, scheduling process, I want to put that aside if I may.

At this meeting on – was this meeting with Mr. Bown at your offices on October 31, 2011, about scheduling?

MS. GREENE: No.

MR. LEARMONTH: What was it about?

MS. GREENE: He advised in the previous phone call that he wanted to discuss our – certain requests for information and whether they were within the terms of reference.

MR. LEARMONTH: He wanted to discuss that, did he?

MS. GREENE: That is my very strong recollection of that event.

MR. LEARMONTH: Did you believe that this subject matter with government – after the government had sent the reference to the PUB, did you believe that that was usual, unusual, appropriate, inappropriate? How did you classify that?

MS. GREENE: I would have viewed it as unusual in the sense that at our – the meeting back in September, Nalcor expressed for the first time a concern that certain RFIs were not within the terms of reference. They verbally advised me of that in at the meeting in September, and the minutes reflect that. They were to consider it further. At no point in time did Nalcor come back to write a letter to the board or advise that certain letters were beyond the terms of reference or that the board were acting outside of the terms of reference.

I had – no information had been provided back to me from Nalcor. And to put that in perspective, in these matters, as I said all ready this morning, I believe it is not unusual for lawyers to have difference of opinion. In fact, I

guess that's why we all exist is because there are often difference opinions.

So the fact that Nalcor may have viewed things differently did not surprise me. Normal course would be you have an opinion – you have a difference; you want – you think about it. If you want to put it on the record, put it on the record, and the board will make the decision. So I had not heard back from Nalcor so – nor had I advised Mr. Bown that that was an issue.

MR. LEARMONTH: Okay.

MS. GREENE: Not that I recollect.

MR. LEARMONTH: So he came down and discussed this directly with you?

MS. GREENE: Yes, he did. And at – I again explained my position that the terms of reference did not contain a date that – with respect to the reference and what the analysis the board was to do. And I also explained on the sensitivities that given the nature of the inputs into the CPW analysis, material change in one of the inputs could materially impact the CPW and those types of questions were very normal questions that would be asked in this type of process.

Mr. Bown did not express any opinion to me, nor did he ever ask me to withdraw the questions. To me, it was an information – I – again I shouldn't speculate. I assumed it was for Mr. Bown to get just information to be able to report back.

MR. LEARMONTH: Okay, thank you.

MS. GREENE: But it was unusual in the sense of being asked to explain what was – could've been a disagreement among lawyers or among parties in a proceeding.

MR. LEARMONTH: Tab 46, please. That's Exhibit P-00576. Can you identify this document, Ms. Greene?

MS. GREENE: This is a letter that was written to the board signed by Mr. Gilbert Bennett.

MR. LEARMONTH: Now, I just want you to read the – read into the record the first

paragraph. Well, never mind that – the last sentence in the first paragraph.

MS. GREENE: “To date, Nalcor has been unable to meet the Board’s expectations in this regard and we accept responsibility for any delays, misunderstandings and incorrect information provided to the Board in the letter of October 20.”

MR. LEARMONTH: Okay, so this is – well, it speaks for itself.

MS. GREENE: Yes.

MR. LEARMONTH: On page 2 of Exhibit P-00576, at the top paragraph – can you read that into the record please?

MS. GREENE: I’m sorry, which paragraph?

MR. LEARMONTH: First paragraph on page 2.

MS. GREENE: “Further to our meeting of October 28, 2011, and the correspondence received from the Consumer Advocate on October 28, 2011, we have begun to screen our confidential exhibits and to abridge or redact them to permit public release. We are prioritizing our screening based on the priority list included in the Consumer Advocate’s letter. We agree that completion of this process is important to facilitate public participation in the review process. The status of our progress in screening the confidential exhibits for release will be included in our progress update to the Board.”

MR. LEARMONTH: Okay, so that’s November 7. So it’s obvious that your schedule is gone. Is that right?

MS. GREENE: That’s correct.

MR. LEARMONTH: Then tab 47 arrives – that’s Exhibit P-00077. Can you identify that document, please?

MS. GREENE: That was when Nalcor filed the submission to the board, the submission that was contemplated in the terms of reference that were released on June 17.

MR. LEARMONTH: Well, what – when – did you – when was this document – this submission at tab 48 – 47 – that’s P-00077 – when did the schedule suggest that this document should have been provided by Nalcor?

MS. GREENE: Back in July.

MR. LEARMONTH: In July?

MS. GREENE: Yes.

MR. LEARMONTH: (Inaudible) you pass me that –

MR. O’FLAHERTY: Mr. Commissioner?

MR. LEARMONTH: Oh, mine’s there.

UNIDENTIFIED FEMALE SPEAKER: (Inaudible.)

MR. LEARMONTH: Oh, okay.

MR. O’FLAHERTY: Oh, sorry.

Mr. Commissioner, sorry to interrupt. I’m just wondering – I’m not familiar with the process so much – wonder when my client might get a health break? We’re over two hours now on the stand.

THE COMMISSIONER: Well, we normally take our break at 12:30, so we’re getting very close to that. So –

MR. O’FLAHERTY: Thank you.

THE COMMISSIONER: I’ll let you know.

MR. LEARMONTH: Do you want me to stop now?

THE COMMISSIONER: Are you feeling okay to keep going?

MS. GREENE: I’m fine. I’m –

THE COMMISSIONER: Okay.

MR. LEARMONTH: Okay.

Is Mr. Budden okay for another little while, or –

THE COMMISSIONER: It was Mr. O’Flaherty, I think, who was –

MR. LEARMONTH: Okay.

But –

MS. GREENE: It’s only another five minutes, isn’t it?

MR. LEARMONTH: Yeah, but you never know. Yeah.

MS. GREENE: It’s only another –

MR. LEARMONTH: Okay.

Okay, Ms. Greene. Next document I want you to look at is at tab 48. That’s exhibit P-00577. Can you identify this document, please?

MS. GREENE: It’s an email to Mr. Martin from Paul Wilson of MHI with an interim report dated November 15.

MR. LEARMONTH: Okay. So, this is the – presumably by that date they’ve received some information? Some of the information that they needed to complete their report?

MS. GREENE: Yes, there would have been information, a significant amount of information filed by that time, but not all information.

MR. LEARMONTH: Okay. Am I correct in believing that the review of these reports, insofar as it related to technical information, in any event – technical information would have been something that handled by Mr. Martin and Mr. Banfield rather than you?

MS. GREENE: That would be correct. I wouldn’t have the expertise to comment on technical sections of the report.

MR. LEARMONTH: Right.

MS. GREENE: In a meaningful way.

MR. LEARMONTH: All right.

Next, tab 49. Well, this is from Mr. Martin to Mr. Wilson with copies to you. This is just

communications on the – commentaries on the report. Is that correct?

MS. GREENE: Exhibit –?

MR. LEARMONTH: If you look at – it’s P-00578, pages 1 to 3. Page 2 and 3, or 2 to 6 seem to be comments that Mr. Martin is providing on the draft report. Is that – does that appear to be correct to you?

MS. GREENE: That’s what – the email, yes, speaks for itself, yes.

MR. LEARMONTH: All right.

Now, at tab 50 is a letter dated December 2, 2011 from Nalcor to you. Can you give us a summary of what the importance of this letter is from your perspective?

MS. GREENE: One of the issues that we were concerned with was how to treat confidential information that Nalcor had to provide in order for the analysis to be complete. Nalcor was concerned that that information would be treated confidentially and not released beyond what was necessary for the experts to review.

MR. LEARMONTH: And that’s a legitimate position, do you agree?

MS. GREENE: Oh, yes. And it happens –

MR. LEARMONTH: Yeah.

MS. GREENE: – frequently in –

MR. LEARMONTH: Yes.

MS. GREENE: – some of these processes, yes.

MR. LEARMONTH: Yeah. So that letter dealt with the issue of confidential information or commercially sensitive and so on. Is that correct?

MS. GREENE: Yes. And what they were going to redact in order that the board would be able to publicly release certain exhibits.

MR. LEARMONTH: Yeah. On that issue of confidential information, was there any conflict at all that you recall between Nalcor and the

board or was that something that was resolved in a co-operative manner?

MS. GREENE: It was resolved in a co-operative manner. It is a legitimate issue. The issue was more about the process to ensure that confidential information was adequately protected.

MR. LEARMONTH: Okay.

Now, tab 51 is another one of these briefing notes and that's just the standard procedure that you were following that you referred to earlier, correct? Dated December 5, 2011.

MS. GREENE: Yes. This one was written in December and it concerned the revised schedule and a request to government for an appropriate extension of time.

MR. LEARMONTH: Yes.

We'll go to tab 52. Can you identify this document, Ms. Greene? It's a letter from Jerome Kennedy, minister of Natural Resources to Andy Wells. Did you see this letter?

UNIDENTIFIED FEMALE SPEAKER:
Sorry, what's the exhibit number?

MR. LEARMONTH: P-00045, page 1.

MS. GREENE: Yes, I did see the letter and you can – that's acknowledged at the top of the letter where it is indicated I received a copy.

MR. LEARMONTH: Okay. Yeah. So you got this and what was the gist of this letter?

MS. GREENE: This was in response to an earlier letter back in September that the board had written to Minister Skinner, at that time, and this was a response from Minister Kennedy that the government were granting extension from December 31 to March 31 for the board to file its report.

MR. LEARMONTH: Now, at that point, was it your understanding that an extension to the end of March 2012 would enable – would give the board sufficient time to complete its work and prepare its final report?

MS. GREENE: No, you will notice from the previous Exhibit 00580, my recommendation to the Commissioners had been a schedule which would have required an extension to the end of June 2012.

MR. LEARMONTH: But that was refused by government. Is that right?

MS. GREENE: After this letter of –

MR. LEARMONTH: Yeah.

MS. GREENE: – December 12, yes.

MR. LEARMONTH: Ultimately, it was refused.

MS. GREENE: Right. Yes.

MR. LEARMONTH: The next document is at tab 55, and this is a reply to the earlier letter that Mr. Kennedy – Minister Kennedy sent to the board. It's a letter signed by Andy Wells, the chairperson and chief executive officer, it's Exhibit P-00046.

Can you have a look at that, Ms. Greene?

THE COMMISSIONER: What tab is that at?

MR. LEARMONTH: Excuse me, that's tab 55.

THE COMMISSIONER: Thank you.

MR. LEARMONTH: Exhibit P-00046.

Did you see this letter before it went out or did you write it?

MS. GREENE: I certainly would have seen it before it went out. I would've been one of the authors, if not the main author for the report, I cannot recall now.

MR. LEARMONTH: Yep.

MS. GREENE: I mean the letter. The last letter.

MR. LEARMONTH: So this a formal request for an extension to June 30, is that right?

MS. GREENE: That –

MR. LEARMONTH: 2012?

MS. GREENE: That is correct.

MR. LEARMONTH: Yeah.

And then we have on December 20 – at Tab 557, Exhibit P-00584, is the reply from Minister Kennedy. And what is the substance of that letter of reply?

MS. GREENE: That the extension to June was not granted and the date for the board's report was November 30 – the date that government would like the board's report was March 30.

MR. LEARMONTH: Yep.

So was it ever explained to – there's some – we'll call it an explanation in this letter – an explanation in this letter – aside from what's stated in this letter, did you ever receive any information from government as to why it couldn't wait until March 31, 2012 to receive your report?

MS. GREENE: Other than it tied in to debates in the House of Assembly.

MR. LEARMONTH: That was the reason given. That's – that's what –

MS. GREENE: That's my recollection. I don't recall receiving any other explanation or any other – not that I would've, I suppose, received one, but –

MR. LEARMONTH: Okay.

Now, this document I want you to look at is at tab 59, which is a minute, and I will go on record as saying this, if I'm wrong, I'll stand to be corrected, but this is a minute in the distinctive – distinct handwriting of Jerome Kennedy. It's P-00586. It's at tab 59. This is a minute of what appears to be a meeting with Andy Wells on January 4, 2012.

Did you know that on January 4, 2012 – and this will be confirmed – that Andy Wells, the chair of the board, met with Jerome Kennedy, the minister of Natural Resources? Did you know that?

MS. GREENE: I knew that he had met with him because – and I'm not sure when I knew that he did meet with him. I was asked, as a result of this meeting, by the commissioners to attend a meeting on January 5 with Minister Kennedy.

MR. LEARMONTH: Okay, and that's – if you go to tab 61, is a – Exhibit P-00588. It's a – once again, a handwritten note of Mr. Kennedy – January 5, 2012, meeting of Andy Wells and Maureen Greene.

Do you have a recollection of attending this meeting, apart from –?

MS. GREENE: Yes, I do.

MR. LEARMONTH: Okay, can you explain these circumstances surrounding the meeting and what was said during the meeting?

MS. GREENE: I had been advised that Mr. – there was a request from Mr. Wells to meet with the minister. There was a meeting of the full board, the commissioners, where that was discussed. It was agreed that I would attend. It was appropriate for legal counsel to attend with Mr. Wells. My understanding of the purpose of the meeting was to discuss the issue of the extension of time the board had requested and the changes in the process that would be necessary to meet a March 30 completion date.

MR. LEARMONTH: Yeah, but – isn't it correct that by then Mr. Kennedy had written the board saying that there would be no extension beyond March 31, 2012.

MS. GREENE: Yes, that is correct.

MR. LEARMONTH: But why would you meet with Mr. Kennedy and discuss the extension if it had all ready been denied?

MS. GREENE: My recollection is it would be to under – for them – information as to the changes in the process that would have to occur to accomplish that, versus what would have occurred if an extension had been granted.

MR. LEARMONTH: Okay.

MS. GREENE: It was to do with scheduling –

MR. LEARMONTH: Yeah.

MS. GREENE: – and changes in process.

MR. LEARMONTH: But on January 5, did you believe that it was still possible that a further extension would be granted to June 30, 2012? Or was that issue closed?

My point is this: That by January 5, 2012, you had received a written communication from Mr. Kennedy saying that he would give an extension to March 31, correct?

MS. GREENE: Yes.

MR. LEARMONTH: Okay.

Now, if you were discussing another extension on June 5, 2012, can I assume it was still open as a possibility that it would be a further extension? Or were you referring – in January 5, 2012, were you just referring to the extension that had already been granted?

MS. GREENE: No, it was – my recollection is that it was around the changes in the process that would have to occur; the minister wanted to understand what the process – how it would have to change in order for the board to meet the March 31 date.

MR. LEARMONTH: Okay.

MS. GREENE: That's my recollection.

MR. LEARMONTH: All right, all right.

And so what changes would have to be carried out in order to – you know, given that the extension was to March 31, 2012, how did this affect the scheduling?

MS. GREENE: Originally, when the reference process started and the Consumer Advocate had been engaged – if we go back to what we had looked at, the preliminary schedule and also the letter Mr. Johnson had written to me back in September, that email that came from his administrative assistant's email address.

There had been contemplation that the Consumer Advocate would also retain engineering experts to do their own independent

– my understanding – to do their own analysis and provide their own reports. Which again is a standard – would be standard for the board's processes. They would've filed a report after the MHI report and they would've had the ability – or there would've been the ability to ask request for information on that expert report. There would also have been, then, contemplated a technical conference where Nalcor and the engineering expert for the board and the engineering expert for the Consumer Advocate would have – what we call – a technical conference.

MR. LEARMONTH: What is a technical conference?

MS. GREENE: It is a step in the process that is implemented for some processes where there are technical, complex matters. It is to have an exchange of information among the technical experts, with the lawyers there where there's questions for clarification, additional information, et cetera.

MR. LEARMONTH: Is there any benefit to this technical conference you described?

MS. GREENE: They're not common. I had participated in one up – with respect to the upgrading costs for Holyrood. And the benefit is to ensure that the parties – because the lawyers are there – understand the technical financial information that is there and it allows an exchange of information among the experts –

MR. LEARMONTH: Okay.

MS. GREENE: – that have been contemplated for this process. And we had not progressed to the point where it would've been made a decision as to whether this technical conference would've been public or not. Normally they are not public. Normally the commissioners are not there and normally they are not necessarily transcribed.

MR. LEARMONTH: Okay, but –

MS. GREENE: So that had been all part of the process.

There would've been another engineering expert who would've provided some analysis, some

conclusions, some recommendations, opinions, et cetera. And that would have fed into the process, followed by a technical conference, which is almost like discovery. The parties get to know the information of the other parties to better inform them before the next step in the process. And there – then there would've been public hearings after the technical conference, and after the – all the expert reports, final reports were completed.

MR. LEARMONTH: That was the plan?

MS. GREENE: That was the plan, yes.

MR. LEARMONTH: And were you able to implement those two items, the public hearing and the technical conference?

MS. GREENE: No. I believe it – and I don't recall the Exhibit number, but the letter that Mr. Johnson received from the government. Mr. Johnson did not file an expert report. He did have an expert assist, but did not file an expert report. We were not able to do a technical conference, and the public hearing process was somewhat of a shorter process.

MR. LEARMONTH: It was shortened? So no technical conference and the public hearings were shortened?

MS. GREENE: There was no technical conference and the – because of – when I say the public hearings, they were scheduled for February for a period of time. There had been contemplation of hearings – there could've – but no decision was made 'cause we hadn't progressed that far as to whether there would be hearings elsewhere, and of course, the hearings would be shorter because we had less experts to deal with, et cetera.

THE COMMISSIONER: So is this a good place now, Mr. Learmonth, where we might break?

MR. LEARMONTH: We can.

THE COMMISSIONER: Okay.

So we will break here now for lunch and come back at 2 o'clock.

CLERK: All rise.

Recess

CLERK: This Commission of Inquiry is in session.

Please be seated.

THE COMMISSIONER: All right.

All right, Mr. Learmonth, when you're ready.

MR. LEARMONTH: Thank you.

We'll just carry on with Ms. Greene. Not too long to go.

Okay, tab 62 which is P-00589. Did you see that Ms. Greene?

MS. GREENE: Yes, Mr. Learmonth.

MR. LEARMONTH: So, that's a – I guess, it speaks for itself – that's a report that Mr. Wells sent to Mr. Kennedy outlining the schedule of key activities, and if we could just look at page 2 and then go down to page 3. That was an original – the original schedule I take it, was it?

MS. GREENE: Yes, that's correct. If you look back to the one we had looked at earlier today, it would be the same schedule we had developed for discussion back in June.

MR. LEARMONTH: And this schedule was – make an understatement – was not met. Is that right?

MS. GREENE: The schedule was not met as reflected here on page 2 of Exhibit 00589.

MR. LEARMONTH: Not even close, right? Is that right? I mean the dates were (inaudible). The reality is completely different from what this schedule suggested.

MS. GREENE: The dates, if you went through each one, and I don't think it's necessary –

MR. LEARMONTH: No, no.

MS. GREENE: – it would be – they would not be – have been met. No, that's correct. For

example: Receive Report from Consultant, which is the fourth last one up there on page 2, it was September 15. Then, we know, that occurred in January.

MR. LEARMONTH: All right.

Now, the next document P-00590 at tab 63 in your book. This is another letter from Mr. Wells to Minister Kennedy. Second paragraph says, I'll read it: "The March 31, 2012 completion date will not permit the review to proceed as originally planned. To meet the March 31, 2012 deadline the Board has had to revise its planned activities to abridge the process. Specifically time may not allow for" the "information ... in relation to the MHI report, the filing of technical evidence by other parties, or for the contemplated technical conference. I should also note that the March 31 ... date allows limited time for public hearings, so compromises will have to be made in this regard to ensure that interested parties are accommodated"

So, is this a letter that you prepared?

MS. GREENE: Again, at this point, I don't recall if I was the only author of this letter. But I certainly would have reviewed it before it was finalized and sent out.

MR. LEARMONTH: Yes. And what – the paragraph that I just read into the record, would that be a reasonable or an accurate summary of the consequences of having to comply with a March 31, 2012 deadline? That is the technical conference would not proceed and also the public hearings would have to be shortened up? Are those the two main consequences of not being able to have an extension beyond March 31, 2012?

MS. GREENE: And the additional one that is referred to was the filing of technical evidence by other parties as well. I view that as a – that would've been an essential or a key step in the process. And, at that time, we had contemplated the Consumer Advocate would be filing an expert report.

MR. LEARMONTH: Now, can you give me some assessment of the effect or the implications of not being able to do those – take those steps that we just described. What are the

consequences, in your opinion as a veteran of the Public Utilities Board proceedings? Like, what's the problem with not having enough time to do those things?

MS. GREENE: My concern or my personal opinion – and it is my personal opinion – is that whether all of the full information would be available to make an informed decision. Obviously, the more information you have, it is more likely that there can be better analysis and more information on which the commissioners can make a decision.

Part of my role, or my main – and, actually, my sole role probably, as board hearing counsel, is to identify the issues, to make sure that there is evidence on the record for the commissioners so that when they go to make a decision there aren't gaps.

So, it's probably similar to Commission counsel role here, we don't have a position on an issue one way or the other. Our role is to make sure there is sufficient evidence on the record for the commissioners to make the decision on an issue, whatever that issue may be.

So, if we don't have all of the information, my concern would – that would have been helpful in that process such as other expert reports or the technical conference, whether there was sufficient and adequate information available.

MR. LEARMONTH: Great, thank you.

MS. GREENE: And that is my personal opinion.

MR. LEARMONTH: Yes. Yep.

MS. GREENE: Not an expert opinion.

MR. LEARMONTH: No. We've had a lot of opinions here that aren't expert, so we won't exclude you from allowing to present your opinion. But we understand it's just a personal opinion – or observation, we'll say.

Next I'd just like to go back a little bit in to tab 54, Exhibit P-00582, which is a letter from the Consumer Advocate to the Public Utilities Board. Did you see this letter?

MS. GREENE: Yes.

MR. LEARMONTH: Yeah.

Now, you were – so the Consumer Advocate was involved in these proceedings to some degree, is that correct?

MS. GREENE: Yes, that's correct.

MR. LEARMONTH: Yeah.

To your knowledge did the Consumer Advocate – was the Consumer Advocate permitted to file an expert report? Do you ever have any recollection of that?

MS. GREENE: Not – I'm not sure, permitted, is the right word. He did not file an expert report. That is a factual statement.

MR. LEARMONTH: Yes.

And if we then turn to tab 56, which is P-00583 – and this is Minister Kennedy's reply to the letter that I just referred to from the Consumer Advocate dated December 15, 2001. And I just want to refer to the third – fourth paragraph on page 1 where Minister Kennedy says: "In your December 15 letter to the Board" – that's the one we just referred to – "you indicated that you would be 'having several public sessions around the Province in order to receive customer input directly on the matters engaged in the review.'" And that's a quote.

"While public participation through the Consumer Advocate will play a critical part in the Review, it was not Government's intention for the Consumer Advocate to conduct any public hearing process separate and apart from hearings being conducted by the Board. It is Government's position that the Consumer Advocate's role in the Review process is to coordinate public comment and participation, through submissions to the Consumer Advocate, and to then represent the Province's electricity ratepayers in the public process being completed by the Board."

So it appears that, well, if you look at the two letters, Mr. Johnson wanted to conduct public hearings throughout the province. And he was –

that request appears to have been denied. Do you have any recollection of that?

MS. GREENE: Other than I was advised of that and I was aware that that had occurred.

MR. LEARMONTH: Yeah.

MS. GREENE: And the board had specifically asked for Mr. Johnson's – as the other counsel involved his input with respect to the schedule, which is why the letter of December 15 had been written by him.

MR. LEARMONTH: Yeah. Yeah.

Once again, I'm asking your personal opinion. Would the involvement of the public in the type of public hearings that Mr. Johnson proposed in his letter of December 15, and which were denied in Minister Kennedy's letter – would those public hearings, in your view, have enhanced the review process, improved the review process?

MS. GREENE: Under the legislation, under the Electric Power Control Act under which this reference came, a public hearing is required. The nature and extent of those public hearings can be determined depending on the process. I would not have been privy to Mr. Johnson's plan with respect to his own consultations. We had not – the board had not developed, at the time of the schedule, whether the board itself would have had hearings at different locations in the province. They did in the past, but the process had not proceeded to the point where the board itself had made a decision about that.

So, obviously, part of the point of the board is where its process is to be open publicly, publicly transparent, which the board does – did ensure through this process with the posting of everything. So the input, public input, is important as part of the board's regular process.

MR. LEARMONTH: Yeah. You acknowledge that, do you?

MS. GREENE: Oh yeah, public input is an essential part of the role the Public Utility Board provides –

MR. LEARMONTH: Yeah.

MS. GREENE: – not only in the reference but through matters.

MR. LEARMONTH: Yeah.

And then on – referring to page 2 of Exhibit P-00583, tab 56 – at the end of the first paragraph on page 2 of that document, I’m quoting from Minister Kennedy, “It was not contemplated that the Consumer Advocate would complete its own independent analysis of the project.” So that’s in response to Mr. Johnson’s request, obviously, that he be allowed, as Consumer Advocate, to complete an independent analysis of the project.

In your view, would the Consumer Advocate – if the Consumer Advocate had obtained an independent analysis, would that have contributed to the integrity of the process? Or is it something that you don’t think was necessary?

MS. GREENE: It had been contemplated that the Consumer Advocate would file an expert report. If you go back to earlier correspondence, that certainly had been the intention. It is part of the normal process that we – the board would do. It was part of earlier matters before the board, and it’s certainly part of the current process that the filing of expert reports by the Consumer Advocate does add tremendous value to the process. It brings a different perspective. It brings – can bring different analysis and different expert opinions.

So in the normal process, that type of expert evidence by the Consumer Advocate can add tremendous value to the process, as do, in a normal matter, there could be other intervenors, such as industrial customers.

MR. LEARMONTH: Yes.

MS. GREENE: And they also often provide expert reports.

And, again, my personal experience in doing these matters is that the contribution of different views and perspectives has been a very valuable part of the process.

MR. LEARMONTH: Okay. Thank you.

And that’s the experience that you’ve obtained as a result of your involvement, in varying

degrees, with the Public Utilities Board since 1980?

MS. GREENE: Well, I started doing some work with the Public Utilities Board mid-80s.

MR. LEARMONTH: Mid-80s.

MS. GREENE: That type of regulatory work was the mid-80s, not when I first started in ’79.

But, yes, there have been – even before, when there were references, there would have been contributions from various parties with additional expert evidence provided to the board. Because, of course, the board, like a judge, does not have to accept the evidence of its own – of an expert that – for example, Commission counsel may call here for the Inquiry. They have to weigh all of the evidence and the – may accept or reject any individual expert opinion.

MR. LEARMONTH: Yes.

And as Professor Guy Holburn said yesterday in his – in answering his questions on the Nova Scotia public utilities or UARB review of the Maritime Link, that the UARB retained a number of experts, and also experts were provided by the parties. And Professor Holburn commented on the benefit of that, that the board could have different reports, accept some in whole or in part, reject others, have a selection of reports on which to base its decision.

So is that the same thing you’re saying, that the more information you have, the more likely it is that a good decision will be arrived at?

MS. GREENE: I didn’t hear Dr. Holburn, but your summary of – that is a fair assessment of my own personal opinion.

MR. LEARMONTH: Okay. Thank you.

Now, we’ll turn to tab 64, which is Exhibit P-00591. Now, this is an article from *The Telegram*, January 10, 2012. And it speaks for itself but there’s some – Mr. Wells, the chair, is quoted as making some critical comments, I suppose you could – well, it depends how you read them, but some comments about the process, and in the second-to-last column on the – from – if you go to the right side, the second

one in, Mr. Wells says, “One of the problems we had from Nalcor aside from their being” – ultimately [sp untimely] – “was the incomplete nature of their replies,” Wells said.” Without [sp We’re not] ““doing this for the sake of being perverse or tormenting Nalcor. These are questions that the experts are advising us are necessary to be added.””

So Mr. Wells obviously was commenting on the review process while the matter was still before the board. Did you – were you aware that Mr. Wells was gonna make these comments before he did, or did you find out after the fact?

MS. GREENE: I found out after the fact.

MR. LEARMONTH: Okay.

And did that cause any issues with Nalcor or anyone else to your knowledge?

I just want you to turn to page – tab 65, which is the – Exhibit P-00592. If you look at the last paragraph on page 3, it says – this is from Ed Martin – “We would be remiss, however, if we did not express our concern about your comments in the media yesterday.” This letter is to Mr. Wells. “They do not provide a balanced view on the extraordinary efforts we have made to supply information to the Board. Nalcor wants to ensure that the process and final Board report is both balanced and a fair representation of the information presented. We trust that the foregoing will provide a better understanding of Nalcor’s firm commitment to the review process” – of – “the Board.”

So earlier in the letter, there’s a statement of the position that Nalcor has taken. Anyway, I don’t want to dwell on this for very long, but did this issue about the public comment – did that have any legs to it or was it just made and then you had this comment and that was the end of it?

MS. GREENE: I’m not sure I –

MR. LEARMONTH: What –

MS. GREENE: – understand your –

MR. LEARMONTH: No. But these –

MS. GREENE: – question.

MR. LEARMONTH: – comments were made – like, Mr. Martin is being critical about the comments –

MS. GREENE: Yes.

MR. LEARMONTH: – that Mr. – and so Mr. Wells makes a comment, and Mr. Martin writes Mr. Wells saying that he, you know, he wanted to express his concern about the comments. Did that become an issue, or did the issue die with Mr. Martin’s letter at – as Exhibit P-00592?

MS. GREENE: When you say did it die –

MR. LEARMONTH: Did the issue die?

MS. GREENE: The issue of Mr. Wells’s comments to the media about –

MR. LEARMONTH: Yes.

MS. GREENE: – and his comments in this article –

MR. LEARMONTH: Yes.

MS. GREENE: – about process and the timeliness –

MR. LEARMONTH: Yeah.

MS. GREENE: – of – by this time we’re into January, so we were proceeding into a hearing in February. We had received the information. I was contacted by counsel for Nalcor and by Mr. Bown with – and by the vice-chair – with respect to these comments. But that’s – and I’m – again, I’m not – I’m not sure of the nature of your question, but I was contacted after the comments were made. I actually happened to be in Ottawa at the time, and I contacted Mr. Wells.

MR. LEARMONTH: Okay.

MS. GREENE: So that resolved the issue to my mind.

MR. LEARMONTH: Okay, that was the end of it then?

MS. GREENE: From my perspective, yes.

MR. LEARMONTH: Yeah. Well, I didn't put the question very well, and that's what I'm saying: was that the end of that issue?

MS. GREENE: From the – yes, from my –

MR. LEARMONTH: But the comment –

MS. GREENE: – perspective after the discussions that occurred around the article.

MR. LEARMONTH: Okay, okay, fine.

Next is tab 67. It's Exhibit P-00048. And this is the Volume 1: Summary of Reviews of the January 12 report of MHI. I don't want you to go through it because it's technical matters, and just – can you just identify this as the report you received from – the Public Utilities Board received from MHI in January 2012?

MS. GREENE: Yes, it is the report that the board received from Manitoba Hydro International.

MR. LEARMONTH: Yeah. And at page – at Exhibit P-00594, which is at tab 68, this would have been the cover letter for that – the transmittal of that report, is that correct?

MS. GREENE: Yes, that's correct.

MR. LEARMONTH: Okay.

And then we have, at tab 69, Exhibit P-00049, the Volume 2 of their January – MHI's January 2012 report. That's Volume 2: Studies. I'd just ask you to identify that. Is that Volume 2 of the report that the PUB received from MHI?

MS. GREENE: Yes. In my binder, I only have the cover page, but that is the cover page for the –

MR. LEARMONTH: Yeah, it's a big one. In my – in the exhibit –

MS. GREENE: It's quite large.

MR. LEARMONTH: And the exhibit is 219 pages.

MS. GREENE: Yes, yes.

MR. LEARMONTH: Yeah, that's it, right? So they finally got enough information to get their report done I guess, and that's what they submitted?

MS. GREENE: That's correct.

MR. LEARMONTH: All right.

Just flip through a few more tabs very quickly. Tab 70. This is one on – never mind that; that's for Mr. Martin.

Yeah, just for the – I don't want to spend much time on this, but if we go to Exhibit 00597, tab 72. That's – there was some dispute or fuss about the – whether the JRP report should be filed. And I think if you look at page 597 and also 598, which is at tab 73, this deals with that JRP issue which was eventually settled by the report being filed in evidence?

MS. GREENE: That's correct.

MR. LEARMONTH: Yeah.

Number – tab 74 is another follow-up to that. That's written by Ronald Penney and David Vardy, but we'll leave that.

Okay, so, finally the – there was no technical conference. There was limited evidence presented – limited much more so than what had been originally contemplated. There are no public hearings by the Consumer Advocate or conducted by the Consumer Advocate. There was no report filed by the Consumer Advocate but, at some point, the board got around to writing its decision. Is that correct?

MS. GREENE: Yes. We did have hearings in St. John's there in mid-February –

MR. LEARMONTH: Yeah.

MS. GREENE: – prior to that of course

MR. LEARMONTH: Yeah.

Now, was there – the hearings were held in – I'm not sure of the exact date but in February, and then the report was filed and it's at tab 75. It's a 115-page report. Exhibit P-00600. Could you bring that up Clerk?

Yeah. So this is the decision, and I take it, after the hearings, the evidence would be assessed by the commissioners. Presumably you would provided some legal advice protected by solicitor-client privilege, so I'm not going to get into that. The report was written, signed unanimously and filed. Is that correct?

MS. GREENE: That's correct.

MR. LEARMONTH: Was there – in terms of time – like, everyone knows that to write a decision of this calibre and at this length would – you know, it covered a lot of subject matter. It would take a lot of time. Was there a lot of pressure that you sensed on the commissioners when they were in the process of writing this report? Or was it done in a relaxed way?

MS. GREENE: I was going to ask you what you meant by pressure. No. Certainly there was a time limit. It had to be done. Working night and day.

MR. LEARMONTH: Literally night and day? You're not exaggerating?

MS. GREENE: Literally night and day for the commissioners.

MR. LEARMONTH: Yeah.

MS. GREENE: I would've been there for parts of it, not all of it, when they were trying to do drafts of their report, and it was a very intense effort over that period of time.

MR. LEARMONTH: Now, you say very tense. Can you expand on that a little bit?

MS. GREENE: Other than the fact that it was literally night and day for that month of March, and I – and they were doing everything within their power to be able to produce the report by the deadline that was given to them by government.

MR. LEARMONTH: Okay.

MS. GREENE: For example, because of their time limit, I would have given a first draft of a background section or an introduction section and passed it on to them, so they could then take it, edit it, put it in their own words, et cetera. I

was not involved in the decision of the comment section of the board 'til after they had made it and they would have asked me to review it. And, again, this was to meet that time constraint of the March 30 deadline.

MR. LEARMONTH: Okay, well, the report speaks for itself, so I'm not going to –

MS. GREENE: The report speaks for itself.

MR. LEARMONTH: We're not going to – obviously, we can't get –

MS. GREENE: Right.

MR. LEARMONTH: – into the background, so that's fair enough. And it was unanimous, signed by all four commissioners.

MS. GREENE: All four commissioners signed the report.

MR. LEARMONTH: As a matter of interest, four is an odd number of people for a panel because there can be a tie; usually it's an odd number. Do you have any idea why there'd be four people?

MS. GREENE: Other than it's in the legislation and I was not at the board at the time that the legislation was passed.

MR. LEARMONTH: Okay.

MS. GREENE: It is their practice where possible to sit as the full four.

MR. LEARMONTH: All right, thank you.

Exhibit P-00601, I want you to turn to page 8. This is an excerpt of *Hansard* for the House of Assembly proceedings April 2, 2012, which is a couple of days after the report was filed.

I want you to turn to page 8; I'm going to quote from the first statement attributed to then-Premier Kathy Dunderdale. Ms. Dunderdale says: "Thank you, Mr. Speaker.

"Mr. Speaker, when you are looking for a full, independent analysis which is what we were trying to do with the PUB review wherein we spent nine months and over \$2 million and did

not get any recommendation from the PUB, the value we got from it was the report from MHI. Otherwise, the PUB walked away from its responsibility, the terms of its mandate, to give us a recommendation. A recommendation that had already been endorsed by Navigant, by Manitoba Hydro, by the Consumer Advocate Mr. Johnson and his expert Knight Piésold, and Dr. Wade Locke. They all concur that it is the least-cost and we need the power. The PUB was not able to arrive there.”

Do you have any comment on that statement?

MS. GREENE: Other than I was personally disappointed with some of the comments that were made at the time of the board’s release.

MR. LEARMONTH: What comments caused you to be personally disappointed?

MS. GREENE: The fact that having – that the board, in endeavouring to do its job to the best of its ability and to provide a report that, I believe, speaks for itself, that there was quite a negative feedback from members of government and other members of the public.

MR. LEARMONTH: Okay.

MS. GREENE: It’s not the result you hope and expect when you’re involved in this type –

MR. LEARMONTH: Yeah.

MS. GREENE: – of process.

MR. LEARMONTH: At any time during the course of this review and the ultimate decision did you personally observe any lack of effort by the commissioners?

MS. GREENE: No, I did not. I found that the commissioners were very engaged in the process at the time of the report writing. I know that they went through all of the information in terms of trying to provide the report by the time frame. And I personally know that some of the commissioners worked literally night and day to get this report done by the end of March to the very best of their ability.

MR. LEARMONTH: Yeah.

And then I want you to turn to – there’s more in that tab but I’ll just leave that for now; it speaks for itself and it’s filed as part of the official record. Then I want you to go to tab 84 which is Exhibit P-00728. Excuse me, tab 84, yeah.

This is a report from *On Point*, CBC, posted April 7, 2012: Kennedy defends shift in Muskrat tone. And then he says – Minister Kennedy is attributed to have said this: At the same time – the second paragraph: “At the same time, Kennedy – this week’s guest on On Point with David Cochrane – blamed the Public Utilities Board ... for failing to do its work properly, on the heels of the PUB reporting this week it was not given sufficient material from Crown-owned Nalcor to make an adequate decision on the merits of the multi-billion Muskrat falls project.

“Asked if the PUB report came back to bite the government, Kennedy replied, ‘I think it came back to bite them.’”

Do – can you – do you have any understanding as to what that means or we just like to leave it at something that was said?

MS. GREENE: No, I would say you’d have to ask Mr. Kennedy. I cannot speak to what –

MR. LEARMONTH: Yeah.

MS. GREENE: – Mr. Kennedy intended by those comments.

MR. LEARMONTH: And then later on in the sixth paragraph, Mr. Kennedy is quoted as saying: “It just showed a lack of respect for the process on their part, a failure to comply with their statutory mandate.”

Do you have any comment on that? Was there a failure, in your view, of the PUB to comply with its statutory mandate?

MS. GREENE: Absolutely not. They struggled to the very best of their ability based on the information that they had to conduct a fair and impartial, transparent process and to provide a report that would adequately address the question.

MR. LEARMONTH: Thank you.

Were you personally affected by the tone and nature of the comments that were made by government officials following the filing of the March 31 report, or did you just take it in stride?

MS. GREENE: As a lawyer you tend to take some criticism in stride. We've all been in hearings where the other parties may not necessarily agree with our approach so I am used to criticism; I certainly have had that over my long career.

At this point in time, I was personally very disappointed that some of the comments that were made by various people with respect to the board's work and their report, and I did take it personally in some regards as I had been part of the process.

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

THE COMMISSIONER: All right, Province of Newfoundland and Labrador?

MR. RALPH: Good afternoon, Ms. Greene. My name is Peter Ralph; I represent the Government of Newfoundland and Labrador. It's nice to see you again.

MS. GREENE: Yes, likewise Peter.

MR. RALPH: I listened to your testimony. You're taken aback by the efforts of trying to get documents. And I kept asking myself, you know, why couldn't the PUB enforce, kind of, orders to get documents in this circumstance?

MS. GREENE: There are two reasons. Nalcor was exempt from the jurisdiction of the board. We did contemplate issuing a subpoena. A subpoena relates to existing documents. As you can tell from some of the correspondence notes of meetings and the correspondence we went to, we were advised that the information was coming in July and in August and there were these pieces of information coming.

So by this time we were into September – so that was a concern as to whether we would actually issue the subpoena. And I thought there was some practical considerations around that and that it may not – would not have been fruitful.

MR. RALPH: So I guess my question now is in the present day. So the same situation exists, in terms of like –

MS. GREENE: Oh.

MR. RALPH: – a reference before the PUB.

MS. GREENE: No, well, since then the board has had two references: one is the insurance review, which I have not been involved, and the other one is the reference on the rate mitigation opportunities with respect to the Muskrat Falls rates, which is very early on. So there has not been a lot of additional (inaudible) since then.

In a normal matter, when an applicant files for relief, you get a lot of information up front. So in the normal process, this is not an issue at all.

MR. RALPH: Yes.

MS. GREENE: It was not a – I cannot speak to the insurance reference. I personally was not involved, but I do not understand it was an issue, and we are just starting the other reference, and it has not been an issue to date.

MR. RALPH: So – presently, as the same situation has existed in 2011 and 2012, the PUB wouldn't have the authority to –

MS. GREENE: We are receiving the – and I'm – this is another matter –

MR. RALPH: I appreciate that.

MS. GREENE: – that I'm not supposed – I'm not here as a witness –

MR. RALPH: I understand and –

MS. GREENE: – to speak to –

MR. RALPH: – I'll just ask in terms of –

MS. GREENE: – another reference.

MR. RALPH: The legal authority of the PUB –

MS. GREENE: Oh.

MR. RALPH: – is what I'm asking about. Thank you very much.

THE COMMISSIONER: Nalcor Energy?

MR. SIMMONS: Good afternoon, Ms. Greene. Dan Simmons from Nalcor Energy.

I want to pick up kind of on something you just said then about what the normal situation would be for matters that are dealt with by the Public Utilities Board. And we've heard over the last couple of days, I guess, that the kinds of applications that would normally be entertained from utilities like Newfoundland and Labrador Hydro, and even Newfoundland Power, would include capital budget approvals, which I think are done annually.

MS. GREENE: That's correct.

MR. SIMMONS: Yes. Rate applications, sometimes called general rate applications or GRAs, for approval of rates.

MS. GREENE: That's correct.

MR. SIMMONS: Yeah. Are there other types of applications that come before the board that have the kind of level of complexity of capital – annual capital budget approvals and rate applications? 'Cause I know there are things that deal with specific issues, more narrow issues, but are there other large sorts of matters that come to the board for review, or are those the two main examples?

MS. GREENE: Those would be the two main examples. The other one that I am thinking about at this point in time is that in 2014, after the outages, the board determined that it would initiate an inquiry into the causes of the outages on the Island interconnected system, the impact on reliability of the Island interconnected system, and the potential impact on that system for the Muskrat Falls reliability – from Muskrat Falls for reliability on the system.

That investigation I also characterize as very complex. It required the retention of experts to review the operations of both utilities from an operational, a technical, a reliability perspective. So that is another – I would call a big piece of work that was done which didn't fall within your –

MR. SIMMONS: Mm-hmm.

MS. GREENE: That would be not – the normal would be rate cases –

MR. SIMMONS: Yes.

MS. GREENE: – and capital budget applications.

MR. SIMMONS: Yes.

So for the reliability review then – you say that was initiated by the Public Utilities Board. That wasn't the result of a reference from government, was it?

MS. GREENE: No, it was it not. The board has a – has the power, and there's actually a section there where there's a complaint by a number of individuals, they can determine an investigation or inquiry is necessary.

MR. SIMMONS: So for that inquiry, were there any time constraints imposed from the outside, on the board, on the time it had to conduct that inquiry?

MS. GREENE: No, there was not.

MR. SIMMONS: All right, so the board could determine itself what procedure it wanted, what time was necessary to conduct it to ensure that it had a full opportunity to conduct that inquiry?

MS. GREENE: That is correct.

MR. SIMMONS: Yeah. Okay.

So for the annual capital budget approvals, they are done every year. My understanding is there's kind of a standing schedule in place that everyone works to. There's a time of year when the annual application has to be filed, and then it's kind of – the schedule that goes from the filing of the application to a decision is pretty much standard from year to year?

MS. GREENE: There are capital budget guidelines that do determine the schedule and the type of information that must be filed to support it, that is correct. And there is a schedule for when there will be a decision from the board, which sometimes projects can be exempt from that, for further review. That has occurred.

MR. SIMMONS: Yeah.

MS. GREENE: But yes, you are correct.

MR. SIMMONS: So for the capital budget process then, the type of information that has to be produced to the board is known to all the parties well in advance?

MS. GREENE: Yes, that is correct.

MR. SIMMONS: Right.

MS. GREENE: And it also comes in a context, because there is one every year –

MR. SIMMONS: Yes.

MS. GREENE: – it comes, it builds and is a five-year plan filed every year. So there is a body of information that exists even when the annual budget comes in.

MR. SIMMONS: Right, so both the board, which would include I guess the board's administrative staff, and the applicant, which would be, I think, Hydro or Newfoundland Power, would be in a position to organize their affairs on an ongoing basis so that they've got the information available on an annual basis that they need to apply for that process?

MS. GREENE: Yes, you're correct.

MR. SIMMONS: Okay.

Now, for rate applications, rate applications aren't done, I don't think, on any fixed schedule?

MS. GREENE: There's no fixed schedule, but the rule of thumb of the board, and you will see it in some of the orders of the board, is approximately every three years.

MR. SIMMONS: Yes. So the actual initiation of a rate application is up to the applicant, which would be Hydro or Newfoundland Power, generally – subject to the board if it wishes to – directing that an application be filed. Have I got that right?

MS. GREENE: That's generally right.

MR. SIMMONS: Mm-hmm.

MS. GREENE: And if you look at the last – I think I mentioned earlier today this is the third general rate application that I have been board hearing counsel for Newfoundland Power. If you look at those previous orders, there would've been a date by which the board directed them to return to the board with a new application.

MR. SIMMONS: I see, so on the approval of one application, there's a –

MS. GREENE: Generally a date.

MR. SIMMONS: – target set so that, in the case of Newfoundland Power you're talking about, Newfoundland Power would know we have to be back in a year or two or three and we have to be ready and have all our information ready to present to the board at that time.

MS. GREENE: And it would be similar for Hydro. This is the second general rate application since I've been board hearing counsel. They're very lengthy, complicated hearings, where again, the time frame when the – Hydro finished its last rate case, it was known when they would be returning for this one.

MR. SIMMONS: And when those applications are initiated, if I understand correctly from what you've said, that they're initiated by the filing of an application by the proponent and that filing will have all the information – evidence that they are going to file, pretty much, in support of the rate request that's being made?

MS. GREENE: Yes, generally.

MR. SIMMONS: Yes, right. So it gets filed when they have the information altogether and when they're ready to file it?

MS. GREENE: Yes, that would – and when they are responding to a board order or date as to when they must file by, so they know when the expectation is that they will file a new application.

MR. SIMMONS: And similar to the annual capital budget applications, both the board and the utilities are in a position to organize their affairs so that their – in anticipation of what the

information is that has to be filed and has to be considered. It's not a surprise what it is they have to file with the board?

MS. GREENE: No, and in addition to the filing of the annual budget, either utility may throughout the year, determine the need for an additional capital expenditure, so there could be supplementary capital expenditures coming throughout the year that the board or the utility may – would not have known at the time of filing the original budget.

MR. SIMMONS: Yeah.

So in the case of a rate application, are there any fixed timelines imposed on the board to make a decision after they've received an application – is there something statute or regulation – is there anything imposed on them, constricting the time the board has to deal with a rate application?

MS. GREENE: Not from a statutory or legislative perspective. The applicant will propose a date by which new rates will become effective.

MR. SIMMONS: Mm-hmm.

MS. GREENE: At the beginning of the process, there would be a schedule drawn which would set out dates for a request for information, for filing of expert reports, et cetera, and that schedule would contemplate a date, and the board does endeavour throughout the process –

MR. SIMMONS: Mm-hmm.

MS. GREENE: – to keep to that schedule, which is – all the parties are advised of, so there is a schedule set with the consent of the parties that would drive the deliverables, I'll call them.

MR. SIMMONS: Yes. In your experience with rate applications, how long do they normally take from the point where an application is filed until there's a decision of the board? Or is there a range?

MS. GREENE: There would be a range. It would depend on the nature of the applications. Some are very complex, and sometimes the applicant, during the process, will significantly change the application to the extent it's not the

same as the original application. It is difficult to give a date. If you look at Hydro's last application, without knowing the context for it, it would appear to be long.

If you look at the ones for Newfoundland Power from the date they filed to the date they get their order, it is shorter, but that by itself doesn't tell what had happened in between and the number of amendments that were made by the applicant.

MR. SIMMONS: Right.

And when the schedules are set for the rate applications, am I correct that they're set in the context of there not being a defined time in which the process has to be completed? So there's an opportunity to adjust the schedule to accommodate the needs of all the parties?

MS. GREENE: That's generally correct, depending on the application and when the utility requires the increase based on its financial position and expert evidence.

MR. SIMMONS: Right.

And, in your experience, with the schedules for rate applications set in that manner, how successful has – have the parties and the board been in adhering to those schedules, in your experience?

MS. GREENE: From a practical – the actual experience?

MR. SIMMONS: Mm-hmm.

MS. GREENE: If you look at the Newfoundland Power schedule, it has been excellent.

MR. SIMMONS: Yep.

MS. GREENE: We have complied, we have met the schedule. If you look at the one now going to a hearing in November 14, all of the dates have been met. If you look at their last two, you would see the same thing.

When you look at Hydro's schedule, again, without knowing the nature of the fact that the application was changed, there were several applications in between that schedule – the

original schedule – was not met, but you need to know the context of the background –

MR. SIMMONS: Sure.

MS. GREENE: – of the applications.

MR. SIMMONS: Okay. Good.

So, there are some obvious differences, then, between the processes the board normally engages in for capital budget approvals and rate applications and the reference that came to the board for – the Muskrat Falls reference in 2011, then, I'd suggest. And one is that there was a time constraint being imposed, externally, by government when the reference included a fixed time to complete the process.

MS. GREENE: Mmm. It did have a definite date when it came, yes.

MR. SIMMONS: Yes. Okay.

And the type of matter that was referred, would it be correct, also, that that was not a routine type of question that either the board or the proponent, in this case, deals with on a regular basis? This wasn't an annual type of review, such as in a capital budget, or a recurring type of review, such as in a rate application.

MS. GREENE: It was not a recurring application. The question of looking at projects to determine least cost, that arises in the capital budget application, so I'm just trying to make sure I understand –

MR. SIMMONS: Yes.

MS. GREENE: – the question.

MR. SIMMONS: What's the – how much money is involved, normally, in a typical capital budget application, say, from Newfoundland and Labrador Hydro?

MS. GREENE: The board approves multi-year projects. For example, the most – recently they approved the new transmission line from Bay d'Espoir, TL267, at an approximate cost of \$300 million.

MR. SIMMONS: Mm-hmm.

MS. GREENE: There would be – the overall capital budget would be significant, but in terms of one unique project, that one was a significant one.

The new combustion turbine for Holyrood was in excess of \$100 million.

MR. SIMMONS: Hmm.

MS. GREENE: So that would be one individual – two individual projects where –

MR. SIMMONS: Yes.

MS. GREENE: – that would be the orders of magnitude that would be individual projects in the capital budget.

MR. SIMMONS: Right.

MS. GREENE: They would have been in the years they were applied for larger projects.

MR. SIMMONS: Right. Aside from those projects, a typical capital budget application would cover things like: repair, replacement, –

MS. GREENE: Refurbishment.

MR. SIMMONS: – refurbishment.

MS. GREENE: Yes.

MR. SIMMONS: Yup. Smaller things. Okay.

Now, in –

MS. GREENE: Although the budgets are getting larger every year, for votes.

MR. SIMMONS: Oh, my, yes.

So, in the case of the Lower Churchill Project, you were brought earlier to the exemption order from, I think, 2000, which had exempted development projects on the Lower Churchill from Public Utilities Board oversight.

MS. GREENE: Yes.

MR. SIMMONS: Right. You recall that? So, had there been any expectation, prior to receiving the notification, I think on May 16,

2011, when you heard from Mr. Bown, I believe, prior to that, had the board been expecting to have to engage in any – in a review of the capital work for the Muskrat Falls Project?

MS. GREENE: No. The expectation was the board would not be involved because of the exemption order, and Nalcor itself is not regulated under its own legislation.

MR. SIMMONS: Okay.

And then, once the order was issued on, I think, it was the 17 of June, I've identified, you moved fairly quickly, convened the meeting with some representatives from Nalcor. We had a look at that this morning, and there was a schedule dealt with at that point.

So, my first question is: Was that a schedule that was proposed by the Nalcor representatives or was that a schedule that had been worked on, on the board side, as a proposed schedule for getting to December 31, 2011?

MS. GREENE: It was a schedule that was developed by board staff, and that one was driven by the end date of December 30, and what would be key milestones to get to that date and when would they have to be delivered in order to achieve the December 30 date.

MR. SIMMONS: So, fair to say, then, it was kind of a work backwards schedule. In order to get things done by the end of December, you work backwards and a lot of times this is the schedule that we have to adopt in order to make that work.

MS. GREENE: Yes. And that's how we actually do the schedules for the rate cases.

MR. SIMMONS: Okay.

MS. GREENE: The applicant asks for a date –

MR. SIMMONS: Yes.

MS. GREENE: – by which rates are to be effective. We then, based on experience, look at what has to be done and the time frames to get – you initially start by saying: What will we need

to have done in order to get a decision out to allow rates become effective by that date?

MR. SIMMONS: Okay. Thank you.

Can we go, please, to Exhibit P-00539?

THE COMMISSIONER: Do you have the tab there, Mr. – by chance?

MR. SIMMONS: I don't have the tab references –

THE COMMISSIONER: Okay.

MR. SIMMONS: – unfortunately. We don't have a cross-reference.

MR. LEARMONTH: P-00531, tab 10.

MR. SIMMONS: So, you've already identified this, Ms. Greene, as being the minutes prepared at the Public Utilities Board meeting on June 17, 2011. And you've been referred to a number of portions of that.

On the first page – if we just roll down – scroll down a little bit on first page, if we stop there, paragraph iv, that's the schedule information I was referring to that we discussed –

MS. GREENE: Hmm.

MR. SIMMONS: – a moment ago, I think. Okay?

MS. GREENE: And that would have been prepared by the – internally by the board.

MR. SIMMONS: And that was internally by the board and proposed to Nalcor –

MS. GREENE: Yes.

MR. SIMMONS: – at that point. Yes.

Go to page 2 please, and item 4. And this is a portion headed: Required Information Identified by the Board, and you were drawn – your attention was drawn, I think, to the last sentence of the first paragraph: "Nalcor advised they will have a comprehensive/meaningful package available by June 30, some parts might come sooner."

And I just want to read the portion of the paragraph that precedes that and it says: “Nalcor believes it has most of the information requested by the Board; however it may not be in the format required. They will have to review and assess the level of detail contained in the reports and also whether the timeframes when the information was completed is useful for comparability purposes.”

So, at that initial point – at that initial meeting – were there some qualifications being put forward by Nalcor here about the information that would be available, that there was still was some assessment to be done to determine if it was going to meet the requirements of what the board was asking for?

MS. GREENE: What you have just read, the minutes, would reflect what we had understood. And I think what you just read kind of speaks for itself.

MR. SIMMONS: Yes, okay.

Do you have any independent recollection of the meeting? Or is it just the minutes that are informing you of what happened?

MS. GREENE: I do have recollections of meetings with Nalcor over this period, and I do remember this meeting because it was the first one and –

MR. SIMMONS: Right.

MS. GREENE: – we were –

MR. SIMMONS: So can you add –

MS. GREENE: – eager to start.

MR. SIMMONS: So can you add anything to the comment that’s made there about, for example, about the information “may not be in the format required”?

MS. GREENE: Yes, Nalcor at various times suggested that we not exchange documentation; that we meet to have an exchange of dialogue. And I believe they may have used that process with others who are – independent reviews.

MR. SIMMONS: Is –

MS. GREENE: And I do recall that discussion, and you’ll see it’s referred to at other points throughout the various meetings. And while that is very helpful because it is a regulatory board and the process is open and transparent, we require documentation in a written format, especially with respect to engineering and financial data.

So yes, I recall how they did suggest: Why don’t we just get together and exchange information and we can give you a presentation. Or that type of thing. So I do remember comments like that, yes.

MR. SIMMONS: Okay.

We spoke a few moments ago about some of the differences between this process – or we spoke about how capital budgeting and rate applications worked. And one feature of that is that there’s a fairly well understood – common understanding of what the documentation and support material is that’s going to be needed to be filed in order to support those applications, and that they recur over a period of time, annually over a longer period.

Here, where this Lower Churchill Project had been exempted from PUB review from – since 2000, and the notice comes on – in May, 2011 –

MS. GREENE: Mmm.

MR. SIMMONS: – that there’s going to be a review. Would it surprise you that Nalcor would not have had documentation readily available in the form the board might have expected or wanted, in order to make it easiest for the board to do its work?

MS. GREENE: I would’ve expected Nalcor to have technical and financial and economic analysis in written format. It may not have complied with the capital budget guidelines in terms of the format; how you have to group it, whether it’s recurring capital or whether it is a significant replacement. Because they are categories of capital expenditures and you file it in categories.

MR. SIMMONS: Mm-hmm.

MS. GREENE: So I would not have expected them to have that in that format. But I would have expected at this point in time that Nalcor would've had written documentation, with respect to the project, that would've been available. That was, in fact, discussed with Mr. Bown – at the meetings I had with him – who advised that Nalcor had been advised the reference was coming. And that we had indicated – or I indicated in the meetings with him, knowing that Nalcor was not regulated by the board, knowing that there was no information at the board concerning the project because – as you just mentioned – when a capital budget application comes, it comes in a context and it's a five-year plan. So –

MR. SIMMONS: Right.

MS. GREENE: – it comes in a context.

MR. SIMMONS: Hmm.

MS. GREENE: The concern with respect to the documentation was one of the concerns that was expressed to government early in the process and it is recorded in the various briefing notes –

MR. SIMMONS: Sure.

MS. GREENE: – to the board.

MR. SIMMONS: Sure.

And so your source of information about Nalcor's readiness, it sounds like it came from Mr. Bown –

MS. GREENE: Initially.

MR. SIMMONS: – and you did say you called Mr. Chamberlain in May.

MS. GREENE: And Mr. Young as well, before –

MR. SIMMONS: Yes.

MS. GREENE: – June 17.

MR. SIMMONS: Right.

MS. GREENE: Yes.

MR. SIMMONS: Had you had any contact with Nalcor on the issue at all before May –

MS. GREENE: No.

MR. SIMMONS: – 2011? No. Okay.

Now, this – I'll just bring you to a couple of other comments on this point, and we'll leave it. Because, of course, we know that by November, Mr. Bennett wrote the letter to the board where he acknowledged that there'd been delay and took responsibility for it. So that's on the record.

But if we go, please, to Exhibit P-00543.

MR. LEARMONTH: Tab 14.

MR. SIMMONS: Thank you, Mr. Learmonth.

This was an email message you were brought to – it's from July 4, 2011, from Sam Banfield to you and to Mr. Fred Martin. And the first paragraph has also been read into the record, I think, where it refers to the limited number of documents that had been received by June 30, which was the date that had been set for the receipt of this initial information requests from Nalcor.

And I just want to read the second paragraph: "Fred has had a number of discussions with Geoff concerning when more information will be forthcoming and from what Geoff is saying it appears that the information we requested is not likely in a concise format." Then he goes on to give an example about load forecasts being in Excel spreadsheets on a computer and not collected in a single document.

So at this point in early July, were you beginning to hear, then, that documentation was going to have to be put into a form that was necessary to make it useful to be submitted to the board, instead of already existing in a form that was useful to be submitted?

MS. GREENE: Well, there may have been some information that needed to be provided in a format. To be quite frank, I really didn't care what the format was. I just wanted the information.

MR. SIMMONS: Mm-hmm.

MS. GREENE: That would have been communicated.

MR. SIMMONS: Okay.

MS. GREENE: We are doing a similar process now in a current reference where we are getting a steady flow of information, which may not be in the normal format that the board –

MR. SIMMONS: Hopefully we're a little farther along the learning curve by now than everyone was back in 2011.

Okay. Now, we know that some documentation was provided on the 30th of June – not nearly as much as the board wanted. So – and following that, was documentation provided gradually over time? Was there a flow of documentation, even if it wasn't what the board expected and what they needed? It wasn't a matter of there being nothing coming –

MS. GREENE: No.

MR. SIMMONS: – from Nalcor?

MS. GREENE: And I think with – Mr. Learmonth took me through a number of emails – whether it was from Mr. Harris where there would've been an update, and where we – when we wrote letters, we acknowledge – yes, we did receive information –

MR. SIMMONS: Yes.

MS. GREENE: – and Nalcor was very cordial and cooperative throughout that process of trying to get the information.

MR. SIMMONS: Yeah.

And we've heard mention of RFIs as well. So I just want to explore that for a moment. There's kind of two categories of things that I think had to be – I understand, were to be provided. One is documentation, but the other is responses to requests for information –

MS. GREENE: Mmm.

MR. SIMMONS: – which is part of the ordinary type of procedures that the Public

Utilities Board uses for obtaining the evidence to make its decisions, I think. Is that right?

MS. GREENE: Yes, that –

MR. SIMMONS: Yes.

MS. GREENE: – is correct.

MR. SIMMONS: Okay.

And while there was a request for documents at the beginning of this process – when do the requests for information, the RFIs, get issued? Is there a – was there a point where they were all issued to Nalcor, or were they delivered to Nalcor over a period of time through the process?

MS. GREENE: In this process of the reference they were delivered over a period of time. As the information came in, the – essentially, it would've been the technical advisors and the experts and myself determining whether what was filed required additional clarification or a follow-up. Because the information was coming in piecemeal, rather than at times; the RFIs were also over a period of time.

MR. SIMMONS: Yes.

And so there's some to and fro with these RFIs, I think, where the answer to a question may then spawn another question that has to be answered.

And are the – who – in this process, who submitted RFIs to Nalcor? Was it only the board? Was it only MHI? Or were there other parties, as well, who had a right to do that?

MS. GREENE: It was both, and the Consumer Advocate also submitted requests for information and through his consultant.

MR. SIMMONS: Yes, yeah.

And if we go to – we don't need to go to it, I told you, unless we need to refer to it, but P-00600 was the PUB report that you referred to a little while ago, and on page 3, there's a statement that there were 605 information requests in this process, does that sound right to you?

MS. GREENE: I recall reading that recently in that report.

MR. SIMMONS: Yes, okay.

MS. GREENE: That would not be an unusual number in a matter before the board.

MR. SIMMONS: Right.

And so each of those requests, those aren't document requests necessarily. Those are requests for information that will sometimes require analysis and preparation of an answer, in order to be able to submit it, is that –?

MS. GREENE: That would be some of the RFIs, and some of them would be as simple as please give me this document.

MR. SIMMONS: Mm-hmm.

MS. GREENE: So it was a combination of requests for information.

MR. SIMMONS: Right.

Can we go to Exhibit P-00569, please. And this is jumping ahead a little bit in the timeline, but to page 8. This was one of the Manitoba Hydro biweekly reports, and I just want to use it for an example to have a look at –

THE COMMISSIONER: Tab 39.

MR. SIMMONS: Sorry, yes.

So if you go to page 8 there's a table here, and engineers must all be younger than me and have better eyes, 'cause the print is always very hard to read, and this table runs all the way through to page 17.

So is this something that you would've seen at the time or reviewed or been familiar with?

MS. GREENE: Yes, we had asked – it was a process agreed upon to start tracking from our perspective, and we would've been tracking the process of the receipt of information, whether they were completed, outstanding, et cetera.

MR. SIMMONS: Right.

And I think this one here just tracks the RFIs that had been delivered from Manitoba Hydro –

MS. GREENE: Yes.

MR. SIMMONS: – International –

MS. GREENE: Yes.

MR. SIMMONS: – to Nalcor?

MS. GREENE: Mmm.

MR. SIMMONS: So if we look on page 8, for example, the column on the left, that's the RFI number, and then there's a description of what it is, what the RFI is?

MS. GREENE: Yes.

MR. SIMMONS: The very first one is: "What are the components that make up composite costs related to the CPW's related to each ... options? Please provide a step-matrix back to the source documents."

So would that be an example of one which wasn't just asking for a particular document, but was – had a fairly complex question that needed to be answered?

MS. GREENE: Again, I guess the question kind of speaks for itself, Mr. Simmons.

MR. SIMMONS: Okay.

And the only other point I want to ask you about this – I'm not going to get you to respond into the substance of any of these – is there's a column there for Date of Request, and it shows that that request was made on July 18, 2011. See that?

MS. GREENE: Yes.

MR. SIMMONS: And if you go right to the end – these seem to be in chronological order – if we go to page 17 and look on the bottom – the last request here was October 6, 2011.

MS. GREENE: And this was a biweekly report that was dated October 15.

MR. SIMMONS: Okay. Yes.

So it just – so this illustrates that the RFIs were in fact issued through that period –

MS. GREENE: Yes, they were.

MR. SIMMONS: – and would've required – yeah.

MS. GREENE: And in fact some came later than October. The Consumer Advocate's were later.

MR. SIMMONS: Okay.

So back on the 17th of June when the board – well, on behalf of the board there was a schedule presented that was intended to get the board in a position to be able to deliver its decision by December 31. Had from the outset, the board been allowed more time, had it not been December 31, had it been June 30 of 2012 that was the deadline would the schedule that was being proposed then have been different?

MS. GREENE: I don't like these hindsight questions, 'cause you go apply them with all of the information you have now at the time. So I assume if we had – if the report wasn't due until the end of June, perhaps we might even have gotten another expert. It's hard for me – I would say yes to your question with that caveat. It's very hard to answer a question, to isolate out all of the – what's in your mind as to what has entered your mind since the time you made the decision –

MR. SIMMONS: Right.

MS. GREENE: – on a schedule.

MR. SIMMONS: Would there have been the same pressure on the board when setting its schedule to have Nalcor produce documentation as quickly as that schedule called for?

MS. GREENE: No. If we had to know from the beginning it was a six month more than the three month –

MR. SIMMONS: Yes.

MS. GREENE: – but from – it would – from June to December. If it had been known from the beginning, yes, it would have affected the

schedule. There is no doubt that the schedule that was done was driven by the end date –

MR. SIMMONS: Right.

MS. GREENE: – and we were looking at the deliverables required and the milestones to get to that deliverable of June –

MR. SIMMONS: Right.

MS. GREENE: – December 30.

MR. SIMMONS: So it wasn't a case of going to the parties who expected to participate in saying – how much time do each of you need? The schedule had to be driven by the limited time the board had.

MS. GREENE: That is a fair assessment, yes.

MR. SIMMONS: Okay. Exhibit P-00564, please, page 3.

MR. LEARMONTH: That's tab 34.

MR. SIMMONS: So if we – actually, if we can just go to the – page 1 first, just to place what this is. This was a – the meeting of September 12, 2011, that was held in the PUB boardroom. I think you attended and Mr. Young, Mr. Harris and Mr. Bennett attended, and Ms. Blundon was there from the PUB as well. And you were brought earlier to page 3, and the top paragraph there on page 3 deals with this issue of providing information or update information beyond what was available and used at Decision Gate 2.

And just reading the first part of that: "GB" – which would've been Gilbert Bennett – "raised the issue of the overall context of the review particularly in terms of the RFI's asking Nalcor to update information beyond Decision Gate 2. It is Nalcor's belief that the review is intended to answer the question of least cost option at the time that the decision and announcement was made back in 2010. Nalcor did not expect that it would have to provide updated information such as cost of capital estimates before DG3 which is expected in 2012."

So my first question there about that is did this question regarding whether it was DG2 or DG3 information – did this just come up now because

it arose out of the questions that were being asked in the RFIs? Do you recall whether that was the trigger for this becoming an issue at this point?

MS. GREENE: My recollection is that it would have been prompted by RFIs. We were aware through the discussions or meetings with Nalcor that, from the information that was provided to the board, they were reviewing and updating estimates.

MR. SIMMONS: Yes, which you understood was not complete, is that correct?

MS. GREENE: Components of it were.

MR. SIMMONS: Yes.

MS. GREENE: My understanding were they may not have done all of the analysis for DG3 but that they were looking at individual components. When I looked at – when I was developing some of the questions, having known they were working on individual component estimates, was – we would, as a normal process, like the most recent, up-to-date information. I did not ask for DG3 numbers –

MR. SIMMONS: Mmm.

MS. GREENE: – and, in fact, up until this issue, if you go back to the terms of reference, there is no reference to reviewing it as of the time of DG2 or DG3. It was during the process we were made aware by Nalcor of their Decision Gate process and their requirements for project definition and capital cost estimates.

So, my position would be, if you have more up-to-date information, whether it's on the terminal stations or whether it's on the converter stations or whatever component, we need to have that 'cause it could effect the inputs into the CPW analysis and effect the outcome of the question.

MR. SIMMONS: So this was something that you put into the RFIs, that sounded like you had a role in drafting, that went to Nalcor in order to look for that –

MS. GREENE: Yes.

MR. SIMMONS: – additional information. And it was following that, when the RFIs went out, was it, that then the discussion then take place about what did the terms of reference really include and how far did they go?

MS. GREENE: My recollection is that this meeting was the first meeting that that issue was raised, that some of the information we were looking for were, from Nalcor's view, beyond the terms of the reference.

MR. SIMMONS: Right. And I think you said this morning that there can be legitimate differences in legal views as to what's inside and outside the terms of reference, yeah. Okay.

MS. GREENE: Or what's relevant to a proceeding.

MR. SIMMONS: Okay.

MS. GREENE: It's a frequent occurrence.

MR. SIMMONS: Yes.

Can we go please to Exhibit P-00578? And I'm going around in a bit of a random kind of sequence here.

MR. LEARMONTH: Forty-nine.

MR. SIMMONS: So, hopefully, that will make it quicker.

So, this is jumping up now to the end of November when MHI, as I understand it, had prepared a draft report and it appears that the draft report had been sent to board staff for review prior to finalization of it, is that correct?

MS. GREENE: That is correct.

MR. SIMMONS: And that various people at the board, you included, had an opportunity to review the draft and to make some comments –

MS. GREENE: That is correct.

MR. SIMMONS: – on it. And my question simply is: Is there anything unusual about that process, or anything of – concerning at all to anyone about being given the opportunity to

review a draft report and make some comments on it?

MS. GREENE: The practice at the board has been to provide draft reports to board staff, not to the commissioners.

Normally – the comments with respect to this report would have been more extensive. It was from an editing – a readability perspective as opposed – obviously, I am not an engineer or a –

MR. SIMMONS: Certainly.

MS. GREENE: – financial expert or a economist. It was to ensure that the report clearly stated their opinions and had the support for their conclusion.

MR. SIMMONS: Right.

MS. GREENE: So that was the purpose of my reading the report.

MR. SIMMONS: Right.

So providing a draft report for review by itself, there's nothing concerning about that. But if it was provided for the purpose of giving feedback on the conclusions that were included in it, then that might be something of more concern, yeah.

MS. GREENE: I don't feel that I would have been expert enough to disagree or to challenge MHI with respect to technical findings, with respect to the capital cost estimates for a generating site or a submarine cable.

MR. SIMMONS: Thank you very much. I don't have any other questions.

THE COMMISSIONER: Okay.

All right, Concerned Citizens Coalition?

MR. BUDDEN: Good day, Ms. Greene.

MS. GREENE: Mr. Budden.

MR. BUDDEN: As you know, my name is Geoff Budden, we met before, and I represent the Concerned Citizens Coalition, which is an organization made up of individuals who, for a

number of years, have been critics of the Muskrat Falls Project.

You probably know some of them. I think Mr. David Vardy, Mr. Ron Penney would be known to you?

MS. GREENE: Yes, I met them before this process and during the reference process.

MR. BUDDEN: Pardon?

MS. GREENE: I did know them before, when Mr. Penney was – what – deputy minister of Justice. I was on a task force with him on section 92A of the Constitution.

MR. BUDDEN: And you perhaps also met them at the PUB –

MS. GREENE: Yes.

MR. BUDDEN: – reference question back in 2011.

MS. GREENE: That's correct.

MR. BUDDEN: Okay.

What role did they play at that time?

MS. GREENE: The board issued a notice for people who wished to make submissions. Mr. Vardy and Mr. Penney would have identified themselves as interested in the process and went on to make a presentation.

MR. BUDDEN: And they were active participants in the process.

MS. GREENE: Yes, that is correct.

They didn't have standing in terms of being able to ask questions, but they would have – their opportunity was through – to make a presentation, and also, I guess, to work with the Consumer Advocate with respect to questions.

MR. BUDDEN: Gotcha.

We've heard from you quite a bit of evidence today about the difficulties which you and, by extension, the Public Utilities Board had in getting information, which it felt it needed, out

of Nalcor so as to be able to answer the reference question and – about Nalcor’s failure to produce the information that you – the board – thought necessary. I’m gonna ask you a couple of questions about that.

I guess I’ll start – my understanding is that in late 2011 into 2012 the Public Utilities Board sought an extension from government for the period of time they had to answer the reference question, and the purpose of that extension was to allow the Public Utilities Board to hold a technical conference and participate in other sort of related processes. And if I understand correctly – and correct me if I’m wrong – the purpose of that technical conference and those processes was perhaps to obtain some of the information that, to that point, had not been made available by Nalcor. Would that be accurate?

MS. GREENE: The purpose of the technical conference, as we had envisaged it at the beginning and as it’s intended to work, is not to get more information. It’s actually – you have the information from an expert, their report or their opinion, and the applicant or Nalcor would be there, and it is to get further clarification. And arising from that, there might be a request, look, you really need to file this or you need to explain this better.

But, ideally, when you start a technical conference – and there’s only been – they’re not a normal practice, they would be for a complicated matter like this – I certainly had envisaged it – as we had done with respect to the upgrades for Holyrood, the same idea.

MR. BUDDEN: Sure.

MS. GREENE: So, sorry, the idea is not to go to the conference to pull out more information. The idea is to go look at the information that’s been filed, let’s make sure we all understand what’s filed and we might identify through that process gaps, deficiencies or we might say, aha, now we understand what you meant, ’cause some of this can be very technical, very hard to understand from a – for a lay person or even for myself who’s been involved in reading, unfortunately, too many engineering reports.

MR. BUDDEN: Over the almost 40 years you’ve –

MS. GREENE: Mm-hmm.

MR. BUDDEN: – been involved in the regulatory aspect of –

MS. GREENE: You didn’t have to total the numbers.

MR. BUDDEN: I’m not that good at math. It may be less than that.

The – but, I guess, the larger purpose of the request for an extension was to allow the Public Utilities Board to inform itself with regard to some of the necessary numbers in a way that they simply weren’t informed at the time.

MS. GREENE: That’s –

MR. BUDDEN: Okay.

MS. GREENE: I could agree with that, yes.

MR. BUDDEN: Sure. And the Government of Newfoundland refused to grant the requested extension, as we’ve already established.

MS. GREENE: Yes.

MR. BUDDEN: Okay. So I guess what – the way I would pull all this together, if you’d agree or disagree with, is that –

THE COMMISSIONER: Can I just stop you there? Because actually I thought there was one extension provided to –

MS. GREENE: Oh, sorry. There was an –

MR. BUDDEN: Yes, there was an initial extension. It was a – the second extension that was refused, in fairness.

MS. GREENE: Yes, Mr. Commissioner, and I understood the question to be for the second extension, which was not granted.

MR. BUDDEN: Yes, and that was what I intended by it.

So where we're to, I would assume at the time the – here the Public Utilities Board is situated, one extension has been granted, the other has been refused, and you're still lacking – the Public Utilities Board is still lacking, I guess what I would characterize as, DG3 quality information. At that point, having no more time to gather information to elaborate on the information you had through a technical conference, I would suggest that the only possible decision of the board was the one that it made; that it lacked information to make the decision, to answer the reference question.

Would you agree with me?

MS. GREENE: I think the board report – having read it twice since it was issued, once was for the interview with Mr. Learmonth in February, and once was on the weekend, last week; I might've read it actually three times since.

I think the report speaks for itself in terms of that. I really – and again I'm struggling with hindsight as to what a different decision could have been. I don't really know that I can add any more then to say that the report speaks for itself and it explains the basis for the decision.

MR. BUDDEN: Sure, okay.

I have, of course, read the interview you had with Commission counsel last winter, a number of months ago now, and I presume you reviewed it in –

MS. GREENE: Yes.

MR. BUDDEN: – anticipation of today.

I was struck there – you had a comment, that's on page 48, that you seem to doubt that the Government of Newfoundland and Labrador was seriously looking for an answer for its – to its reference question. And I'm – obviously, that leapt out at me, so I'm going to ask you what you meant by, quote, seriously looking for an answer, unquote.

MS. GREENE: I wonder if you could take me – if I could see the context of the statement.

MR. BUDDEN: I have no problem showing it to you, and I have no problem reading it to you, whichever you prefer. But –

MS. GREENE: I just don't have the transcript here.

THE COMMISSIONER: (Inaudible.)

MR. BUDDEN: Sure, I understand.

MS. GREENE: I have read it recently.

MR. BUDDEN: (Inaudible.)

MS. GREENE: Maybe even as recently as last night, but –

MR. BUDDEN: Helpfully put – I helpfully put a big asterisk next to the quote itself, but the context is there, so take the time you need.

MS. GREENE: I guess it's in the context of why there was no extension granted to the second request. I personally didn't think the request for the extension was unreasonable and it's obviously – obviously, it's the policy decision of government to make a decision and it is their right to say: Provide a report by March 30 or December or June, whenever. And I think it was in that context: Well, gee, if you only needed a few more months to finish the work, why would somebody not give you an extension?

But that's only my own musing, my own personal opinion. I have no direct knowledge, Mr. Budden. I really don't.

MR. BUDDEN: We will hear from everybody involved in due course. But you're the one giving evidence today, of course, and you were left with the sense – or at least you presently have the sense – that a query as to whether they were seriously looking for an answer to the reference question. Is what you said.

MS. GREENE: And it – as to seriously looking as to which option was least cost. When you go back and look at the information – when we finally got the information and determined it was project definition, initially we were told it was 1 to 15 per cent, and that it was – during the hearing, Mr. Harrington testified it was 5 per

cent project definition and Mr. Kean said it could be 5 to 10.

When you have a project definition at that level – which is not what we knew when we started the process – and where even under the capital cost estimating methodology they were using, the capital cost estimate could vary up to a plus 50 per cent. It would have been very difficult to answer a question about least cost with that information.

And that's my personal opinion only, and it is based on my experience.

MR. BUDDEN: That's what I'm interested in.

You also, in your interview with Commission counsel, spoke of in – of course, the terms of reference date, I believe, from late June, and we've heard about how Mr. Bennett promised a truckload of information and so forth. And then in your testimony you said in September – September 12, I believe – for the first time you heard from Nalcor to the effect that they thought some of the information being sought was not information that they should have to give; that it was outside the bounds of what the PUB was properly seeking. Are you with me so far?

MS. GREENE: Yes.

MR. BUDDEN: Okay.

One of the areas, as I understand it, that information that you guys were seeking and that they were resisting had to do with some of the costs of the Isolated Island Option. And what you said to the Commissioner – rather to the Commission counsel was: Yes, this was on September 12 and we had started asking them June 17. They never ever put it in writing. And this is the key part. Their concern was on the Isolated Island Option, when we looked at some of what had been – the analysis that was done, they'd included some additional cost that we wanted them to do sensitivities around. They thought that that was beyond what had – they thought that that was beyond what had been the terms of reference. So you recall saying that?

MS. GREENE: Yes, I do.

MR. BUDDEN: Okay. And what I gathered from that, they're essentially saying: Look, some of what you're looking for around the Isolated Island Option is not something we're obliged to supply.

MS. GREENE: They took the position that the terms of reference limited what we could look at in terms of what were included as components of each of the options. What we were asking for was the inputs that built-up the capital cost estimate for the Isolated Island Option, and specifically with respect to additional work at the Holyrood Thermal plant. And we wanted a sensitivity as to the impact on the CPW if certain costs were eliminated that had been included for the refurbishment of the plant.

So that was one area where they thought that it might be beyond the terms of reference. And another one we asked them to do additional sensitivities about varying some of the major inputs into the CPW analysis and they were resistant to that at first.

MR. BUDDEN: Sure.

And later on in your interview you said and I quote – and again I'll show you this if you wish. They hadn't developed the cost for the least-cost option. And this is the key part – the part I underlined. If you look back at it, they were using really high-level estimates for the small hydro sites and then they were using exaggerated estimates for the Holyrood expansion.

You remember saying that to Commission counsel?

MS. GREENE: Yes. Go back and look at the analysis that we had to review and complete. Most of the work for the Isolated Island Option was not above – in the old days what would be called – a desk-level study. And they hadn't bought them up – now, that was dealt within the MHI report, who are the experts, and they said that if they had it updated then it was most likely the cost would've increased. I acknowledge that. But –

MR. BUDDEN: Sure.

MS. GREENE: – initially when you’re doing this and you’re trying to understand what are the major inputs into a CPW, and you’re trying – and some of them are major and some of them you have to use assumptions. In this case, they were using assumptions going up to 58 years, which is a very long period of time. You do want to see the impact because some of them can be critical in determining the CPW and the output.

MR. BUDDEN: Sure.

MS. GREENE: So part of the analysis we were trying to do was saying what are reasonable sensitivities to ask – to look at to see the impact of these on the question that was asked.

MR. BUDDEN: And, obviously, Holyrood is an integral component of the Isolated Island Option, no question –

MS. GREENE: That is correct.

MR. BUDDEN: What’s that?

MS. GREENE: That is correct, yes.

MR. BUDDEN: Yes, and it’s also correct that in February of 2018 your belief was that Nalcor had been using exaggerated estimates for the Holyrood expansion.

MS. GREENE: And that –

MR. BUDDEN: That’s what you said.

MS. GREENE: That is what I said. And to put it in context what they had included was a number – was a significant amount of dollars, which I cannot recall the amount. But it was to do with additional environmental upgrades to the plant which were not required by existing legislation or they’re now not required by existing legislation.

One of the principles for regulatory – I’m speaking quickly. One of the principles when a board looks at this is they must determine the lowest cost and whether it is required. So one of the things you would look at is: Is it required by legislation, is it required – why is it required to be a reasonable prudent cost to be passed on to ratepayers. And this idea if something is being

required for a social policy reason – and which government, again, have the total right to do – in a normal environment if it’s a reasonably incurred prudent cost, it may not be allowed by a regulator to be recovered from the ratepayer. So that is the context of the cost with respect to Holyrood and what would be required to be done with Holyrood.

MR. BUDDEN: So putting that together, the – while Nalcor may have been wishing to install high-level scrubbers or something like that – I presume it was something like that on Holyrood – it was beyond what was required by law; therefore, the regulator, the PUB, would not have regarded it as an appropriate expense within the context of comparing these options. Is that correct?

MS. GREENE: Yes, it would be an issue that the board would review based on normal regulatory principles. A utility must demonstrate that the costs are reasonable and prudent before they can be recovered from ratepayers. There was recently a major hearing with respect to a number of expenditures that were questioned for Hydro where that process was – went through, and a number of the expenditures were disallowed as not being reasonable and prudent.

And it was in that kind of context where I was looking at those estimates, and I’ll use the adjective “exaggerated.” And I guess that was – maybe wasn’t the right word; sometimes we all struggle for the right word. But, yes, I didn’t – I wanted to test the reasonableness of the numbers that were gone in for Holyrood review, yes.

MR. BUDDEN: Sure.

And the word you used in February was “exaggerate.”

MS. GREENE: Yes.

MR. BUDDEN: Okay.

Perhaps we could call up Exhibit P-00724, Madam Clerk. And what that is, is the report of Dr. Holburn who we heard from yesterday and again today. And perhaps you could bring us to page 75.

Firstly, I understand that you haven't had the opportunity to review Dr. Holburn's –

MS. GREENE: No, I have not reviewed nor did I hear his evidence.

MR. BUDDEN: Other than a little bit this morning perhaps.

MS. GREENE: I didn't even hear it this morning. I was outside.

MR. BUDDEN: Oh, right, okay. But in any event now, that doesn't matter.

What page 75 is is Dr. Holburn is, I guess, imagining an alternate universe where the PUB was given the opportunity to consider this Muskrat Falls as other Canadian boards have had the opportunity to consider capital cost projects in their jurisdictions. And perhaps – is that page 75?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. BUDDEN: Yeah. Yes, perhaps you can scroll down. I believe it's the last number. Okay.

What – perhaps the last two paragraphs you could just read into the record, Ms. Greene. I'll have a question or two about them once you've done so.

MS. GREENE: The ones that are bolded?

MR. BUDDEN: They're bolded, yes, boldfaced.

MS. GREENE: Oh. These –

MR. BUDDEN: Is that convenient? Okay.

MS. GREENE: “These factors could have reduced the probability of the PUB finding in favour of the Muskrat Falls project. If the PUB had explicitly concluded after a comprehensive review that Muskrat Falls was not needed at that time or was not the lowest-cost alternative, it would have been more difficult for ... government to justify a sanction decision.

“If the government had decided to proceed, allowing the PUB to review project costs and to assess prudence could have contributed to better

cost containment and on-time delivery during the construction stage.”

MR. BUDDEN: Okay.

What he is imagining – what Dr. Holburn is imagining essentially is a scenario where the Public Utilities Board has the – has had a hearing with multiple intervenors – including the proponent, obviously, with other interested parties – has had the opportunity to solicit expert reports and has a hearing perhaps that goes on over a number of days just until all parties have had the opportunity to challenge the evidence.

Firstly, has the Newfoundland Public Utilities Board ever had hearings, not necessarily with regard to capital costs programs, but has it ever exercised its – the jurisdiction it has to hold hearings of a nature similar to that?

MS. GREENE: Well, certainly, in rate cases and in capital budget applications and in the investigation into the outages and the impact on reliability of the system, there has been discussion in rate cases about – for example, that prudence hearing I mentioned, there would be questions as to whether lowest cost – the best project had been proceeded with at the time or whether the cost was justified and reasonable. And there was experts involved and there were several parties and there was questioning.

It's the type of process that is regular for the board, actually, when you have a – not in terms of a major hydroelectric project, no, but in terms of different issues it – that is the type of thing that – process, I should say, that happens.

MR. BUDDEN: Yeah and we are within – obviously, we were all aware that the governments over the years have taken certain issues away from the jurisdiction of the PUB, but in – I guess what I'm suggesting to you, there's certainly no reason why the PUB couldn't have – that it lacked resources or the procedural mechanisms to have a fuller hearing than the one that it had, which was restricted, of course, just to the two the options: the Isolated versus the Integrated options.

Would you agree with me?

MS. GREENE: Yes, that would be part of a normal process before a project would get approved. You would have to look at what the other options were to determine if what they were looking for approval for was the lowest cost.

And even with respect to Cat Arm and Granite Canal, those projects were exempt from review by the board. But at the end of the day, whether the rates that were passed on to ratepayers was a reasonable cost and was reasonable and prudent, that was reviewed by the board. I actually remember preparing slides to show the forecast for Holyrood fuel prices with respect to the least cost for Cat Arm.

MR. BUDDEN: Okay, so the board has that history, which you personally participated in.

MS. GREENE: That was in terms of – the approval for the project was not in advance, it was exempt from the board's review.

MR. BUDDEN: Of course.

MS. GREENE: Then, it was a reference to the government, but even after that the costs associated with those projects have to be reasonable and prudent before they can be recovered from ratepayers. And Hydro, during the '80s and the '90s, would've justified, including in the rates they were proposing, the costs associated with those projects that had been exempt.

MR. BUDDEN: Okay.

What role, if any, does the PUB play in long-term planning, or is the PUB presently empowered to be proactive in long-term planning, or is it merely a passive party?

MS. GREENE: The legislation was amended in 1996 to provide that the board had the overall responsibility to ensure that planning occurred, and there were a number of other sections added to the act. So it's an overall responsibility to ensure the planning occurs. It is not a statutory responsibility to actually do the planning, but they must ensure that there is appropriate planning being done.

MR. BUDDEN: Okay.

MS. GREENE: That is – actually, that is –

MR. BUDDEN: So there are no –

MS. GREENE: Sorry, Mr. Budden, I should qualify. That's my legal interpretation of sections of the act.

MR. BUDDEN: So your –

MS. GREENE: That's my take on the legislation.

MR. BUDDEN: Your understanding is there are no statutory barriers to the PUB playing a larger role than perhaps it does in long-term system planning or integrated resource planning mechanisms of that sort.

MS. GREENE: There's – those are provisions in the legislation. There are also provisions, of course, where the government may exclude from the Public Utilities Board review certain matters. So, at any time, the government can make a policy decision that a matter should not come – should be included – should not be included within the jurisdiction of the board.

MR. BUDDEN: Sure.

Perhaps we can turn to Exhibit P-00337. I'll have a couple of questions about it, but I want to set the scene a little bit first, I suppose. Also, in your interview, you were asked questions by Commission counsel about a meeting that you and Mr. Wells and Mr. Jerome Kennedy had, I believe on January 5 of 2012.

MS. GREENE: That's correct.

MR. BUDDEN: Okay.

And you don't need to look at the exhibit quite yet; we'll get to that now in just a second. And when you were speaking to Commission counsel and you were asked about that, you said – okay – you spoke about the discussion with Mr. Kennedy. And I'm going to read you what you said and it goes on for about half a page, but I would like to do that.

MS. O'BRIEN: What's the page number?

MR. BUDDEN: Sure, it's at page 46 beginning with: If the load changes.

THE COMMISSIONER: So you're referring to ...?

MR. BUDDEN: The transcript on this.

THE COMMISSIONER: Oh, okay, transcript. Sorry.

MR. BUDDEN: Yeah. Which I realize is not an exhibit, but I think it's necessary for this purpose.

THE COMMISSIONER: No, I thought you were – I thought you had said an exhibit number and I –

MR. BUDDEN: We'll get to the exhibit in a moment.

THE COMMISSIONER: Okay.

MR. BUDDEN: So you say here in your interview, Ms. Greene: If the load changes, it's going to significantly change. And you're talking about your interview with Mr. Kennedy. And I do recall saying, look, if we lose the mill – and the pulp and paper mill is at that time still, of course, the industry – if we lose Corner Brook that really affects the outcome of the question. So that's the type of thing we need to – and then Ms. O'Brien said: And do you recall what response you received? And you said: It was very limited, actually. I was rather surprised. The minister is very quiet, he was very cordial.

And then Mr. Learmonth says: Oh yeah? And you said – then you said: I really anticipated – and it goes on and say: It's almost like he was going through the motions, I don't know. Mr. Learmonth says: Okay. And you says: He never said anything. He didn't tell me I was foolish or I was making things up or nothing. It was very cordial.

And Ms. O'Brien said: Did he give any comment with respect to your supposition if the mill in Corner Brook were to close? And Ms. Greene said: Not at the meeting. I was only using that to illustrate a change in load.

You said not at the meeting. Was there any other conversation with you and Mr. Kennedy and Mr. Wells about the mill in Corner Brook?

MS. GREENE: No, that's actually the only time I've ever had any discussion with Mr. Kennedy in any capacity.

MR. BUDDEN: And no other – as far as you know, no other Public Utilities Board lawyer would have attended a meeting with Mr. Kennedy and Mr. Wells in this time frame?

MS. GREENE: No, I was the only lawyer who was acting for the board at that time.

MR. BUDDEN: Okay.

Perhaps now we can scroll to – what exhibit – this exhibit is – and perhaps you can scroll down a bit so we can read it. It's an email sent from Mr. Gary Kean – who is a reporter, I believe – to David Vardy. And it says – and I'll read it into the record, it's fairly brief:

“Hi David,

“Here is my transcription of the portion of Natural Resources Minister Jerome Kennedy's address to the Greater Corner Brook Board of Trade on Friday, Feb. 10, 2012.”

He was talking – and it was about a month after you and he and Mr. Wells had spoke: “He was talking about the Manitoba Hydro report's reference to the idea of Corner Brook Pulp and Paper closing down” where he said this:

“I questioned the chair of the Public Utilities Board and their lawyer at a meeting: how can you even consider Corner Brook Pulp and Paper closing down? There is no evidence of that.

“The first reference I can find to this theoretical, hypothetical situation of Corner Brook Pulp and Paper closing down is in an article written by David Vardy in August of last year, and Mr. Vardy is one of the most vocal critics of the Muskrat Falls project.”

And this is perhaps the part I'd like you to focus on: “I told the Public Utilities Board chair and their lawyer, unequivocally, that there is no evidence. Yet, how does this find its way into

the report? It's almost as if some of these critics want Corner Brook Pulp and Paper to close down so they can say, I told you" – that – "Muskrat Falls is not needed. Is that cynical on my part, because where else is this coming from?"

Does that refresh your memory in any respect, Ms. Greene, as to a conversation which Mr. Kennedy supposedly told you and Mr. Wells unequivocally that there is no evidence about the Corner Brook mill closing down?

MS. GREENE: As I recall that meeting, I would have made notes of the meeting at the time, my own handwriting on a sheet of paper as who attended, what time. When I left the board at the end of March, my full-time employment with the board was over at that point, I was actually moving offices. I didn't – I went through my files, I didn't keep any handwritten notes. If, at a meeting, a decision had been made or there was an important point that needed the – a decision from the board – the practice was to come back, write the briefing note or write a memo, and get a decision from the board. It would have been recorded on the official electronic document management system from the board.

So, as I said, I destroyed my handwritten notes because, frankly, when – for these various processes, if I kept notes of every meeting I attended with lawyers or with – for all of these matters – and when the matter is over, usually it's over, you don't expect that seven years later you will be before 20-odd lawyers explaining what you did and when you did it and what dates. So I did not keep my handwritten notes.

So my recollection of the meeting – I do recollect the meeting. It was the only time that I attended a meeting with a minister or an MHA with respect to this reference. I recall the meeting. I recall meeting the deputy minister and I recall the meeting. I also recall it was the first time and the only time I've ever met Mr. Kennedy.

And that's my recollection. It was – I had expected it to be a little bit more vocal or a little bit more confrontational than it was.

MR. BUDDEN: Okay, so –

MS. GREENE: But that is my recollection of the meeting. I'm sure if there had been a confrontation, I would recall it. I do recall it's the only time I met him.

MR. BUDDEN: And you have no recollection of being unequivocally spoken to in this manner that Mr. Kennedy describes?

MS. GREENE: No, he is right; there was no evidence on the record that the mill was closing. And I am the guilty party here in terms of originating, probably, this sensitivity. The other two mills had closed, the Abitibi mills had closed. I knew what impact it had on the demand for hydro, what impact it had on the rates and for the RSP. I also had a general knowledge from the media of the state of the pulp and paper industry.

MR. BUDDEN: But you're throwing up example, it could've –

MS. GREENE: Oh yes. It could've been –

MR. BUDDEN: It could've been any industry of the four or something – four industrial clients that –

MS. GREENE: I was using it –

MR. BUDDEN: – that were –

MS. GREENE: The load was a key component –

MR. BUDDEN: Yeah.

MS. GREENE: – of the analysis. And I was using that to illustrate if we had another mill close, as we had done before, what would that do to this – to the analysis, to the requirement for power. And for the answer to the CPW question, I thought it was a valid sensitivity to run.

MR. BUDDEN: And you have no recollection of Mr. Kennedy coming back at you, challenging you, with respect to the Corner Brook example you used?

MS. GREENE: No, I have no recollection whatsoever of that.

Now, he may have; he may have – the problem is, as a lawyer, you are used to going into meetings where people may not always agree with you, but I do think I would have recalled if it was a very heated exchange with a Cabinet minister.

MR. BUDDEN: Okay, I'm sure.

Near the end of your interview, you also spoke about Manitoba Hydro International, which of course was the consultant that you guys had hired – you guys being the PUB – for your report and your surprise at finding out that they were – had been retained by the Government of Newfoundland with respect to having its own report done – or possibly Nalcor, that's – but in any event retained by one of those parties.

Why were you surprised?

MS. GREENE: The board released its report late on a Friday night on March 30. That was March 30. The government announced on April 2 that they had retained MHI. We had had no communication with MHI after the release of our report, and they were still under contract to us with – in respect to anything arising from that report.

So I was surprised to hear in the media that the government had retained MHI to look at the more up-to-date cost information than was made available to the board.

MR. BUDDEN: And MHI never told you that they had been retained or even approached by the government? Before April 2 and you heard the announcement?

MS. GREENE: Not before the announcement, no.

MR. BUDDEN: Okay.

MS. GREENE: Now, at that time – I had officially left the board on March 30. However, obviously I did have communication with the commissioners and with Mr. Martin and Mr. Banfield around this issue, even though I was no longer in an official capacity.

MR. BUDDEN: Okay.

I just have a last couple of questions, which is really to do with issues around communications that Mr. Andy Wells, PUB chair at the time, might have had with other parties.

You alluded to, in your interview, recalling Mr. Wells – and I guess this is hearsay, but we will hear from all the parties, so I'm going to ask you the question, and the Commissioner can decide if it's an appropriate question or not – do you recall Mr. Wells telling you about a conversation that he had in or about early 2012 with Mr. Robert Thompson, who was clerk of the Executive Council at that time?

And can you tell us what you recall of what Mr. Wells told you about that conversation?

MS. GREENE: Mr. Wells did advise me after the event of a conversation that he had with Mr. Robert Thompson. I did not recall, when Commission counsel asked me that question at my interview, if I was aware if it was a meeting or a phone call, and I still don't have any specific recollection.

I do recall Mr. Wells advising me that he had communication with Robert Thompson. I would not be able to recall the specific date of that.

MR. BUDDEN: Do you recall the substance of that conversation?

MS. GREENE: In a very high general level, it was not a conversation where I was being asked for a legal opinion, it was not a conversation where I was – it was being recorded for the official records of the board. So whether I have a correct recollection – it was not like I was called into a meeting and said this is –

MR. BUDDEN: Okay.

MS. GREENE: – what is said; how do we respond? It wasn't one of those. It was something in terms of a conversation that – there were many conversations of the course of the reference between me and the Commissioners and between me and Mr. Martin, between me and Mr. O'Rielly for Nalcor.

MR. BUDDEN: Okay.

MS. GREENE: Or me and Geoff Young for Nalcor, right?

MR. BUDDEN: Sure.

Well, perhaps you can tell us what you recall of this conversation? While Mr. Wells told you of what he and Mr. Thompson had discussed.

MS. GREENE: There is definitely hearsay, but I can record that Mr. Wells told me, yes.

THE COMMISSIONER: Yes, I think if you have a recollection. If you don't have a recollection, I guess, my biggest question would be how sure are you about what you're saying, because it – and that's going to be up to you; you know how important that is. But obviously, you can report what somebody else may have said to you. It's not for the truth of it. It's for the fact that it was told to you, so if you –

MR. BUDDEN: (Inaudible.)

THE COMMISSIONER: – feel you have an adequate recollection, you should try to answer the question.

MS. GREENE: I believe my recollection at this point in time, some six or seven years later, was that it was to do with the nature of the questions we were asking Nalcor. And I'm struggling to put it in context. Sometimes Mr. Wells can be very blunt and pragmatic and say –

MR. BUDDEN: Really? Sorry – carry on.

MS. GREENE: So yes, he definitely told me it was questions or issues around the type of questions and how I was asking them or – it was to do with that, I believe.

MR. BUDDEN: That you, Maureen Greene, was asking them?

MS. GREENE: And it may have been partly that, and it may – it was also the substance of the questions.

MR. BUDDEN: Okay, can you tell us more what his – was he suggesting displeasure on the part of Mr. Thompson? Mild curiosity? Can you tell us more? If you remember more.

MS. GREENE: The sense that I had from Mr. Wells was that Mr. Thompson would have been unhappy, displeased, not questioning.

MR. BUDDEN: Okay. We'll wait 'til I hear from the other parties of that conversation, but that's helpful. And my final question is of a similar nature.

Do you recall Mr. Wells telling you of a conversation he had at about this same time with Premier Dunderdale, and if so, what did he – how did he report that conversation?

MS. GREENE: That one I actually have a better recollection of. I think – I had actually, again, left the board. I had left – you know, officially finished in the day the report was handed in. Yes, I continued to do work, but it was as external counsel, not as the leave replacement in-house lawyer. I understand that he received a call after the report was released and – from Premier Dunderdale.

To my knowledge, that's the only one that I recall, and I was – when Mr. Learmonth asked me similar questions during the interview, I was struggling to remember. I do – I definitely remember that I was advised of a phone call from Premier Dunderdale which – my understanding is it came shortly after the board's report was released, probably the following week.

MR. BUDDEN: And the nature of that conversation?

MS. GREENE: I gather it was very short and unpleasant.

MR. BUDDEN: Was it something like: I'm sick of you and your damn board?

MS. GREENE: That is my recollection what I was told was said, but I – yes. That is my recollection of what I was told.

MR. BUDDEN: By Premier Dunderdale to Mr. Wells?

MS. GREENE: Well, Mr. Wells told me what Ms. – the Premier had said.

MR. BUDDEN: Thank you very much, Ms. Greene.

THE COMMISSIONER: All right, I think we'll take our afternoon break here.

I just want to sort of give an alert to everybody here. I'd like to finish this witness today, because we have another one that was scheduled for today; we're obviously not going to get to him.

We do have a bit of time on Friday, but I want to spend a bit of time with counsel on Friday to talk about water management. It's very important that we nail that down, and I'd like to tell you about the plan that the board – that the Commission has with regards to water management, and I'd like to do that Friday sometime.

So, that's why I think it's better to proceed to try to finish this witness, if we can, today. And hopefully we can get through three tomorrow, but if not, at least we'll have some time left over for Friday. So we'll adjourn now for 10 minutes.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Probably not a good idea to start without Commission counsel, but ...

All right, Edmund Martin?

MR. SMITH: Good afternoon, Ms. Greene.

I probably should introduce myself, Harold Smith for Edmund Martin.

MS. GREENE: Good Afternoon, Mr. Smith.

MR. SMITH: I have a few questions about your, essentially, appointment, okay, to the PUB. Did you get employed as an employee or were you a fee-for-services counsel?

MS. GREENE: Fee-for-services counsel.

MR. SMITH: And were – was that your only client during this period?

MS. GREENE: Yes and still is.

MR. SMITH: It still is. Okay.

MS. GREENE: They keep me pretty busy.

MR. SMITH: And you take direction from ...?

MS. GREENE: At this point in time I would take direction from the board's legal counsel, Ms. Jacqueline Glynn.

MR. SMITH: So you were effectively an adjunct to the legal department that represents the PUB?

MS. GREENE: I'm not sure if I would call me an adjunct but the board has, on occasion, required external legal counsel to assist them with various matters; they had different counsel for the insurance review for example. In my case, they retained me on a file-by-file basis or an application or matter basis.

MR. SMITH: Do you maintain an office at the PUB offices?

MS. GREENE: Yeah, for ease. Because if you look at all of the documents, yes, you – rather them bring them outside the office, yes.

MR. SMITH: Because it appears that, you know, even though you're outside fee-for-services counsel, you have a tremendous amount of input into the workings of the PUB, particularly in terms of their reference from the government.

MS. GREENE: At the time of the reference, yes, I was – Ms. Glynn was on leave and I was fulfilling her role. And at – sometimes Ms. Glynn also does some hearing work and I would have done – I was essentially carrying out the role of Ms. Glynn at that time who was on – I was on a leave replacement basis.

MR. SMITH: Now, would you have had any involvement in the selection of MHI for the – as the PUB's expert for the reference case?

MS. GREENE: Yes, I did. There was a request for proposals done. Mr. Martin and Mr. Banfield would have identified potential consultants to send the solicited request to. At that time, given the breadth of the experts who would be performing work for Hydro and Nalcor and Newfoundland Power, and who would have expertise in this area, the pool wouldn't be as extensive as, for example, on a simple matter, a capital budget matter.

So they identified a list of potential expert consultants and a request for proposals was sent to three – the – when they submitted their proposals, I was part of the evaluation committee that evaluated the proposals they submitted and made a recommendation to the commissioners for their selection.

MR. SMITH: And who was on the evaluation committee with you?

MS. GREENE: Mr. Martin and Mr. Banfield.

MR. SMITH: Mr. Martin?

MS. GREENE: Martin, Fred Martin –

MR. SMITH: Yeah.

MS. GREENE: – and Sam Banfield.

MR. SMITH: Now, I looked at Mr. Fred Martin's interview at page 29. I noted that Commission counsel stated before I do, what's the process that you followed in terms of the preparation of the report? Like, I see there were a number of drafts and that you were making suggestions.

And it goes on to say that: Maureen Greene – this is Mr. Learmonth saying – Maureen Greene made 56 comments on the draft. What procedure were you following in terms of the preparation of the report and, like, would they prepare a draft and then send it to you and then you'd provide your comments and be back and forth on –

MS. GREENE: Mmm.

MR. SMITH: – on the various drafts. Is that – that's what he asked Mr. Martin and he – Mr. Martin replied that that was correct. Do you

agree with that assessment of the approach that is draft – you would do comments, perhaps Mr. Martin would do comments and others and then it would be sent back and then a new draft would come forward?

MS. GREENE: And there would have been dialogue as well around the draft. And, in fact, I believe Mr. Learmonth took me to those 56 comments which, when I reviewed them, as I mentioned earlier, they were for editing, clarity, that kind of thing.

With respect to the MHI report, there were several experts who were writing reports on very technical areas and one of the challenges were to try to have a – some of the sections were extremely technical, very hard to read and others might have only been a page or two pages. So when you look at those 56 comments, the – you can see what the comments were that I provided, yes.

And that was the process. They would have sent a draft, I would have looked at it for – am I making a word up, readability? – ensuring that it was clear and understandable to the Commissioner. I figured if I couldn't understand the report, what the message was, then it would be more difficult for someone else to.

MR. SMITH: Could we take it from that that in this area, in the area of expert reports and, particularly, not only just the PUB, but I assume in your former life you would have some dealings with expert reports dealing with the Newfoundland and Labrador Hydro?

MS. GREENE: I have read numerous expert reports over my career.

MR. SMITH: No, I meant drafts and make –

MS. GREENE: Oh, yes.

MR. SMITH: – suggestions.

MS. GREENE: I have – yes, I have reviewed drafts. Some are – require some more comments than others, just the nature of the subject matter and the expert.

MR. SMITH: Is it a common occurrence in this field, where experts would provide drafts to the

retaining party and the retaining party would offer commentary on those drafts?

MS. GREENE: It has been the practice that I have seen. I would say the comments on the MHI report were probably more extensive than I may have provided on other reports because of that. It was – that was the problem. It wasn't with respect to the substance of the report, it was with respect to the very evident writing, different writing styles among several authors who – it was like they all wrote a little section and it was just coming together and there was no overall view or no – that type of thing.

MR. SMITH: Now, bringing you back, if I could, again, to your interview, page 54. Ms. O'Brien is questioning you and she states: Okay, I'm just going to put this – just for the purpose of the record.

So, what you have here is an article from *The Telegram* dated January 10, 2012, which was – it starts: Muskrat Falls review on fast track. Not much time to get work done in this is the subtitle. So it appears you offer a newspaper article which ends with the phrase: Nalcor said it has been busy filling information – or filing information, I'm sorry – filing information as best as it can, but the requests keep coming in.

My question is: Is there any reason you did not also reference the written response from Ed Martin dated January 11, which has been referred to by my learner friend Mr. – of the Commission when he's doing cross-examination – Mr. Barry Learmonth?

The – P-00592, if you could call that up.

MS. GREENE: The reason – the letter from Mr. Martin that we have reviewed, yes –

MR. SMITH: Yeah, it was January 12 – 11 –

MS. GREENE: Yes.

MR. SMITH: – 2012.

MS. GREENE: Right after the article.

MR. SMITH: Yeah.

MS. GREENE: And why I didn't reference it. If you go back to page 52 of the transcript –

MR. SMITH: Yes.

MS. GREENE: – Mr. Learmonth had asked me had I seen any indication of bias on the part of any member of the panel. And my answer was, no, what not – not in terms of this – the commissioners.

So I had forgotten then at the time he asked me the question, the answer was no, I never saw any bias, but then I realized by the time we got over – how many minutes later – oh, maybe he means that article that Hydro did reply. So that's when I said – that's why I brought that out.

It was to respond to Mr. Learmonth's question about, did I ever see any evidence of bias on the commissioners. And I knew this probably would be an issue 'cause, as I had mentioned earlier, I received three phone calls about it. One from Mr. O'Reilly, one from Mr. Bown, one from Ms. Whalen, and then I spoke with the chair.

MR. SMITH: Could – Madam Clerk, could you put up 00592?

MR. LEARMONTH: Tab 65.

MR. SMITH: And scroll down just a little bit.

MR. LEARMONTH: Volume 2.

MR. SMITH: This is written to Mr. Wells. Would you have received a copy or seen a –

MS. GREENE: I would have seen the response, yes.

I'm sorry, the tab number again is –

MR. SMITH: Tab –

THE COMMISSIONER: Sixty-five.

MR. SMITH: – 65.

And herein it appears that Mr. Martin is, essentially, setting out Nalcor's position with respect to that January 10 article –

MS. GREENE: Yes.

MR. SMITH: – and, in his view, it appears, the unfairness –

MS. GREENE: Mmm.

MR. SMITH: – of the commentary.

MS. GREENE: Yes.

MR. SMITH: Is that fair?

MS. GREENE: That is fair, yes.

MR. SMITH: And I just wanna move down a little bit further. He says in the second paragraph: For background – oh, sorry – yeah, there it is: “For background, Nalcor’s approach in preparing ... the Board’s review was to identify the Review Team which was comprised of the appropriate subject matter experts required to identify and validate the information exhibits” to be filed. “This core team consisted of 8 individuals representing Newfoundland and Labrador Hydro’s ... System Planning Department; Nalcor’s Investment Evaluation Department; the Lower Churchill Project ...” the NHL – NLH’s – I’m sorry – “... Rates and Regulatory Department. This team was supplemented by additional personnel throughout the company as required.

“The volume of information requested by the Board was significant, and in some cases, spanned decades. ... some instances, the information was not always readily available in a format requested, which meant additional time and resources were required to prepare submissions.”

Now, I know you testified a answer to one of the questions of – this afternoon I think it was – that some of the questions were, you know, simple, I want this document, okay? But you would agree, at least from Mr. Martin’s point of view, he saw that a lot of the questions required a great deal of research and assembly of information.

Would you know the source of the request to the RFIs for those types of documentation? ’Cause it doesn’t sound like it would be MHI.

MS. GREENE: Well, it would depend. And without – I did not go back, for the purpose of my evidence for this Commission, to look at

each of the exhibits and each of the RFIs. There were RFIs posed by the board staff and myself. There were questions from MHI and there was questions from the Consumer Advocate and there were questions from Knight Piésold who was the expert for the Consumer Advocate.

So, I really don’t know. I will agree there was, yes, there were quite a number of RFI; 605 RFIs plus information requests, and I would also say that that is not unusual in this –

MR. SMITH: No, but –

MS. GREENE: – in a rate case.

MR. SMITH: But in fairness, Ms. Greene, the number of RFIs, okay, 600. There’s a big difference between 600 RFIs as to what’s the basis of this cost in your capital budget, what’s the, you know, what’s the document that supports that, as opposed to looking back over 10 years and developing a – some information that has a lifespan of 10 years.

One can’t just look at 600 and say it’s the same. You have to look at – individually, you’d have to look at all 600 in order to arise – arrive at a reasonable conclusion that they were the same.

MS. GREENE: Now, I’m wondering what your question is.

MR. SMITH: Well, the question is is that in terms of these RFIs, you said you didn’t have an opportunity to review them all or check them all.

MS. GREENE: I did not for the purpose –

MR. SMITH: And I’m not challenging you that in other applications before the PUB there may be 600, but it really depends on the nature of the RFI. This is a much more complicated project than a simple capital –

MS. GREENE: Well, the project is a complex project. Some of the RFIs would have required analysis.

MR. SMITH: Yeah.

MS. GREENE: I cannot say with any certainty at this point the number of RFIs that would have been simple requests, opposed to how many

would require analysis and I would not know if my assessment of the analysis required would have been the same as Mr. Martin's with respect to the degree of difficulty.

MR. SMITH: Okay. Could you scroll down a little further, Madam Clerk?

MS. GREENE: And I would not say there were too many (inaudible) going back for decades. We wanted the most current information on the current project.

MR. SMITH: Are you suggesting that Mr. Martin is overstating that –

MS. GREENE: What –

MR. SMITH: – in some cases that the requests were – RFI spanned the decades?

MS. GREENE: Well, I'm not saying that there weren't RFIs that spanned decades.

MR. SIMMONS: Okay.

MS. GREENE: But I would say they would not be the majority.

MR. SMITH: Not the – I'm not going to challenge you on that.

Now, he goes on to say: "We appreciate that Nalcor" not only – sorry – that "Nalcor was not always able to meet the Board's expectations with respect to deadlines, and regrettably, Nalcor at points did not clearly communicate to the Board that the deadlines being set, in some cases, were not achievable. However, the reasons we were ..." – excuse me – "... the reasons were due solely to the underestimation of the volume of requests and the time required to compile the answers, and should in no way be interpreted as a lack of commitment to the process."

Do you have any reason to dispute Mr. Martin's commitment to the process or that they were doing their best? Just fell short of what you expected?

MS. GREENE: No, I have no basis. I have no evidence to point to or any reason to disagree that that is Mr. Martin's position and that's his

perspective with respect to this process, as he stated in the letter. I say his letter speaks for itself –

MR. SMITH: Okay.

MS. GREENE: –as do the letters the board wrote.

MR. SMITH: Now, you indicated that after a very – or a somewhat lengthy career with Newfoundland and Labrador Hydro, I'm wondering with the creation of the Energy Corporation that occurred, I think, in 2006 or 7, you didn't stay on with Newfoundland and Labrador Hydro. Was there any particular reason why not?

MS. GREENE: Mr. Smith, as you are aware, my termination from Hydro was not voluntary, but I can assure the Commissioner that the circumstances of my termination from Hydro in no way influenced my conduct of the reference that there is no evidence on the record with respect to any issue of bias or disgruntlement. No objection was taken to – by Hydro at the time the board contacted them to say that I was being hired. Nor at any time during that reference was it ever brought to the board that there was an issue or at any of the subsequent applications by Hydro.

MR. SMITH: Just please be, you know, advised I'm merely exploring a rather significant shift in career after – at 2005 and as – I'm curious as to, you know, what occurred, okay?

MS. GREENE: And I said I believe you are aware seeing that you were counsel for Mr. Martin.

MR. SMITH: And, now, when the position of CEO arose, do you recall whether or not you were on the selection committee at that time? Because you were head of human resources, right?

MS. GREENE: No, the selection for the CEO was done by a committee of the board. No staff at Hydro was involved in that.

MR. SMITH: And am I being too bold as to ask whether or not you applied?

MS. GREENE: I'm not sure if that's relevant but, yes, I did apply. Shall I go on to say that I was asked to apply?

MR. SMITH: Okay. And who –

MS. GREENE: And –

MR. SMITH: – was the chair at that time?

MS. GREENE: Bill – oh, of the board of Directors? Dean MacDonald I believe.

MR. SMITH: Yeah.

MS. GREENE: And Mr. Wells was the president and CEO.

MR. SMITH: Now – and the whole reason for those questions is I'm wondering, you know, with your intimate involvement and replacement of a staff lawyer at the PUB, how did you resolve it? And I'm only suggesting it's an apparent conflict of interest, how did you resolve that for the –?

THE COMMISSIONER: What's the – let me understand. What is the apparent conflict of interest? Because we're talking four years later –

MR. SMITH: It's five almost.

THE COMMISSIONER: Five years later.

MS. GREENE: Actually, almost six.

THE COMMISSIONER: And you know what, I don't really care.

MR. SMITH: Okay.

THE COMMISSIONER: So let's skip this.

MR. SMITH: Fine.

THE COMMISSIONER: Okay?

MR. SMITH: That's all the questions I have.

THE COMMISSIONER: Thank you.

MS. GREENE: I would like to say I find that the inference –

THE COMMISSIONER: Well, let's leave it at that now. Seeing I said no to Mr. Smith, I think I'll say no to you as well.

All right, Kathy Dunderdale?

MS. E. BEST: So I'm assuming that we are going over time today, that's in the plan.

THE COMMISSIONER: Yeah, we are.

MS. E. BEST: Okay.

Good afternoon, Ms. Greene.

I'm Erin Best; I'm counsel for Kathy Dunderdale.

MS. GREENE: Good afternoon, Ms. Best.

MS. E. BEST: I want to ask you about why the PUB picked MHI to be its expert consultant. Was it thought that they had the proper expertise to review the project –

MS. GREENE: Yes.

MS. E. BEST: – the Muskrat Falls Project?

MS. GREENE: Yes, that would be – as I mentioned, there was three engineering consulting firms were asked to submit a proposal. They were submitted, evaluated and MHI actually scored higher on the evaluation criteria.

MS. E. BEST: Thank you.

And I think I read it in your interview something along the lines of there were – some of the other – many of the other experts that might have been available had already been consulted by Nalcor. Is that right?

MS. GREENE: That is – and my recollection – but Mr. Martin will probably speak more to it – that he may have contacted people who were conflicted out, but that's only a vague recollection. But, yes, there were people who would have been engaged in doing work for various aspects for Nalcor.

MS. E. BEST: Okay.

And so was part of your consideration the fact that MHI had independence from both government and Nalcor at the time?

MS. GREENE: That was a factor, yes.

MS. E. BEST: Thank you.

When you met with Nalcor in June of 2011 it was initially communicated to you that they were going to meet – be able to meet or they anticipated they were going to be able to meet the disclosure deadlines. Is that right?

MS. GREENE: That was my understanding from the meeting with Nalcor that occurred on June 17. And we've already looked at those minutes.

MS. E. BEST: Different question, different area. I understand that the PUB was – had reviewed capital expenditures in the past 20 years or so – or 10 years. Had it ever reviewed a CPW analysis before where two options were being compared?

MS. GREENE: And why I'm reflecting, I know there have been – looking at capital projects and which project and which option is better, there have been that type of analysis done, but there would not have been for a major hydroelectric project. And I'm – right now, I cannot recall if what I'm thinking of was before the reference or since the reference.

MS. E. BEST: Okay, no, I mean before the reference.

MS. GREENE: And that's what I'm struggling with.

MS. E. BEST: Yeah.

MS. GREENE: Right now I cannot recall. I know – I have memories of that being done, but right now I cannot recall if it was before 2011 or since. I would expect it was before 2011 because I certainly had seen them before.

MS. E. BEST: And that analysis involved the CPW analysis?

MS. GREENE: It was with respect to, for example, the next generation source when there

was a decision made to do Granite Canal or Hinds Lake or Paradise River. We would – there would be an analysis of the options that were considered.

MS. E. BEST: Yes, so it was a CPW analysis.

MS. GREENE: I cannot recall –

MS. E. BEST: Is that what you're saying?

MS. GREENE: – if it's the same as what was used for this, but it would be looking at various options to do – try to determine these costs. It may not have been in the same formal sense of this CPW; I'm relying on my memory now.

MS. E. BEST: And do you know if P-factors were involved in that analysis?

MS. GREENE: No, I do not. I do not recall and haven't been involved is the better way to express that.

MS. E. BEST: Okay.

MS. GREENE: I don't think so.

MS. E. BEST: Prior to the date that the reference question was posed to the PUB, which was, I think, we know June 17, 2011, did the PUB ever write the government to object to the reference question itself as posed?

MS. GREENE: No.

MS. E. BEST: Did it formally request any amendments to the question?

MS. GREENE: No, when I met with Mr. Bown, it was in a draft form but it was not in terms of the substance, it was – this is – it's a policy decision of government. Government had the right to make the decision to send the reference.

It was pointed out the concern on the availability of the information and the time frame but, no, that would have been verbally expressed initially to Mr. Bown. And then, of course, you saw it in some of the correspondence with Nalcor, not with government until the request for the extensions.

MS. E. BEST: Thank you.

And did you inquire as to the scope of the reference at that time?

MS. GREENE: We would have had a discussion around what the scope of the reference was and the question. I would have with Mr. Bown. We were not asked for input into the substance of the question. It is government's prerogative; it is government to make the decision as to the nature of the question they are going to refer.

MS. E. BEST: Okay.

MS. GREENE: But there would've been a discussion around the question itself, generally, at the first couple of – at the first initial meeting.

MS. E. BEST: I'd like to ask about the topic of the disclosure that was discussed at length this morning and Nalcor's disclosure to the PUB.

When you reported these issues to government, for example, I think you mentioned a call between yourself and Shawn Skinner, was there a prompt reaction to that complaint by government?

MS. GREENE: That was in an email from Mr. Banfield to myself in early July. I didn't – at that time that conference call was with – I wasn't present with Mr. Skinner, but I – the information that I had received, which is in the email, is that yes, there was a prompt response.

MS. E. BEST: I think it was the next day –

MS. GREENE: Yes.

MS. E. BEST: – wasn't it? They were –

MS. GREENE: Yes.

MS. E. BEST: – required to respond. Nalcor was –

MS. GREENE: That's correct.

MS. E. BEST: – required to respond by government?

MS. GREENE: Yes.

MS. E. BEST: Thank you.

And are you aware that Premier Dunderdale, as she then was, stepped in, in December of 2011, and directed Nalcor to make document disclosure a priority?

MS. GREENE: I was not aware of that. I don't think that the board was advised of that. I was not aware, I do not recall that. But ...

MS. E. BEST: I just want to ask you something that I noticed about the dates.

So the PUB received the two reports from MHI in January of 2012, right?

MS. GREENE: Yes.

MS. E. BEST: And so the PUB had two full months after that to complete its report?

MS. GREENE: Yes, and in that period there was also the need to have public hearings. So that occurred in February, and the board would take the information from the hearing. During the hearing there were some presentations by representatives of Nalcor; there was the opportunity for questioning those representatives and there was public comments and public submissions.

So that was part of the process that was done and would've made it before the board's report was finalized, yes. So –

MS. E. BEST: So –

MS. GREENE: – I'm just saying that in addition to – after their report there was another process that was ongoing during February.

MS. E. BEST: So the original timeline, which was mid-September to December 30 for MHI to do their reports was three months, and then the, I guess, revised timeline from January 31 to March 30 was two months. So really that process after which the reports were received was only abridged by one month.

MS. GREENE: I'm not sure I follow you.

MS. E. BEST: Okay. So initially, the – MHI had from mid-September to December 30. So

September to December, three months, to prepare their report, right?

MS. GREENE: They were getting information the whole period of time. They filed a draft –

MS. E. BEST: Sorry, sorry. I have to rephrase because what I said is incorrect, I'm sorry.

MS. GREENE: Mmm.

MS. E. BEST: So sorry. You would've received the reports in September, the – you were supposed to receive them initially – the MHI reports –

MS. GREENE: On the preliminary schedule?

MS. E. BEST: The first deadline.

MS. GREENE: I believe it was mid-September, that's correct.

MS. E. BEST: Okay, and then you would've had until December 30 to finish – or to provide your answer to the reference question.

MS. GREENE: That's correct, yes.

MS. E. BEST: So that was – that would've been three months.

MS. GREENE: Well, I guess if you add up from December 15 to September 30, yes.

MS. E. BEST: Right on. Okay. So –

MS. GREENE: October, November, December – not quite three months because it was the middle but, yeah – and you had a Christmas period in there, but yes.

MS. E. BEST: Right, that – I was thinking about that too.

So but what actually happened was that MHI delivered their reports on January 31 – or 30th. I can't remember if it was 30th or 31st – and then the PUB had until March 30 to complete –

MS. GREENE: Mmm.

MS. E. BEST: – or to provide their answer to the reference question, which is two months.

So really the –

MS. GREENE: If you're doing the math correctly, yes.

MS. E. BEST: Yes.

So really what I'm saying is that your process that the PUB engaged in after they received the MHI reports was really only abridged by one month.

MS. GREENE: It's not only the time period, it's the other processes that were eliminated that would've contributed to the process. So I – and maybe I'm being obtuse or maybe I'm tired at the end of the day, but I'm not quite sure what your question is to me or what your point is.

MS. E. BEST: Well, what my point is, is that it was actually your process that you went through after you received the MHI reports – was only actually shortened by one month.

MS. GREENE: A key month. We would've had received other expert reports, and you would've had a technical conference and you would've received additional information.

MS. E. BEST: Okay, but –

MS. GREENE: But you are right on the math.

MS. E. BEST: Thank you. That's what I'm asking.

You were asked this morning: Would an involvement of the public have enhanced the review process? And your answer, you said: Under the regs a public hearing is required. And – but in fact, we all know there was a public hearing, right?

MS. GREENE: There was a – yes, there was a – there was a period provided for public submissions and public comments, yes.

MS. E. BEST: Okay. And then we had a look at a letter from Minister Kennedy, and in that letter – sorry, let me backtrack. You said that at that time it was not decided whether the PUB was going to have public hearings or not.

MS. GREENE: No.

MS. E. BEST: And this was in the context of the Consumer Advocate also having public hearings.

MS. GREENE: What I meant was if you – if I didn't say it, I thought I had – is that the board has on occasion had hearings around the province to solicit input to make it easier for people to participate. That has happened in the past, that had – that was one of the potential outcomes of this process. No decision had been made, the – definitely there always had to be a hearing. It was more about the process or how that public participation part would occur.

So that is what I had – that's what I intended by what you just took me to from this morning.

MS. E. BEST: Okay.

So public hearings were required and public hearings did occur?

MS. GREENE: Oh, yes. They did occur in St. John's for a period of time in February.

MS. E. BEST: Okay.

And I just want to point out in Minister Kennedy's letter, he seemed to indicate that he was aware that public hearings would occur at the PUB level, and that therefore the Consumer Advocate public hearings were not contemplated.

MS. GREENE: I really cannot speak to the contemplation of the Consumer Advocate's hearings. They weren't the board's hearings. I'm not familiar with what Mr. – I don't understand –

MS. E. BEST: Okay.

MS. GREENE: – or wouldn't have direct knowledge of the full scope of what Mr. Johnson had –

MS. E. BEST: Okay.

MS. GREENE: – intended.

MS. E. BEST: I think I might've misunderstood what you said this morning. Because when you were asked the question – would the

involvement of the public have enhanced the review process – this is what you talked about was these public hearings. And I just wanted to clarify that those public hearings did, in fact, occur.

MS. GREENE: Oh, yes. They did occur in February of 2012, in St. John's.

MS. E. BEST: Thank you.

MS. GREENE: And those were the board hearings. I think Mr. Johnson was the – considering additional meetings that he would have held.

MS. E. BEST: Right.

MS. GREENE: When you talk about the Consumer Advocate.

MS. E. BEST: Yes, I gathered that as well.

So – and this ties in with my next point. You were asked, as well, about the Consumer Advocate filing an expert report and you answered about it being part of the – and I wrote it in quotes – normal process. But, I mean, are you talking about the normal process for, say, for a reference question?

MS. GREENE: It's hard to talk about a normal process for a reference, there hasn't been –

MS. E. BEST: Well –

MS. GREENE: – that many of them.

MS. E. BEST: That's what I'm getting at.

MS. GREENE: In this particular process, when we started and had the council meeting in July, and through discussions, my understanding was that Mr. Johnson intended to retain an expert and file an expert report. So that had been the understanding from early on in the process.

In my comments with respect to other processes – I can go back to the reference on (inaudible) rates that was held before this – and yes, there were expert reports filed by other parties.

MS. E. BEST: Mm-hmm.

MS. GREENE: So that would be one precedent for this. I can go to the insurance reference which was also held before this reference – and yes, there were expert reports filed by somebody representing the public. So –

MS. E. BEST: Well –

MS. GREENE: – and there haven't been many that has – been the practice.

MS. E. BEST: Okay. And I think the point of my question has to do with, I think, the fact that the process here is not, as you've said, it's not really normal. It's more of an ad hoc process for a reference question.

MS. GREENE: But it's done on the basis of normal administrative law with respect to how you would do a process for where there's interested parties. And the practice for the two references before, the one on (inaudible) rates and the one on insurance – if you can call that – I guess, they were at least precedents, but they're not something that happens every year, no.

MS. E. BEST: Okay, thank you.

MS. GREENE: Fortunately not.

MS. E. BEST: You – yeah. You described – I think you said something like 50 per cent and the 15 per cent engineering as your rationale for your opinion that the – as to why the PUB was unable to answer the question?

MS. GREENE: Again, I don't – that is not my understanding of my comments. You are taking it out of –

MS. E. BEST: Okay, let me clarify –

MS. GREENE: You are taking it out of context.

MS. E. BEST: Okay, I'd like you to clarify what you meant by that, please.

MS. GREENE: I said it was my personal opinion –

MS. E. BEST: Yes.

MS. GREENE: – in response to the question. I do not know how the board came to their report. Their report speaks for itself.

I said when I got into this and saw the information that was coming and was told by Nalcor that what we were looking at was a project definition, Mr. Harrington, who was the project manager, said it was 5 per cent. Jason Kean, who – I'm not sure of his correct title, but he came to do the presentation on the capital cost estimate and degree of accuracy – he said it could be as high as 10 per cent, and they were using their capital cost – their estimating methodology where the variance could be as high as 50 per cent.

In my own personal opinion, based on my experience, it would be difficult to answer a least-cost question based on that information. I would use that information for a decision to move to the next point along your process, and perhaps if the – no, I won't speculate. I was going to say if the question had been should they move the Decision Gate 3, that would be a different question.

But – when I understood the actual information, it was there in my opinion – personal opinion – it would have been difficult to answer a least-cost question without putting qualifications around it, as MHI did.

MS. E. BEST: And when was it that you received that information that you were talking about with the 5 per cent engineering and –

MS. GREENE: Actually, it was far along the process. I was trying to recall that. The – we understood about the 50 per cent on the capital cost but not the project definition 'til further in the process, and I wouldn't be able to give you a specific date. I actually went looking for that in terms of documentation that was filed.

MS. E. BEST: So – I mean, if you thought the question wasn't going to be answered at that time –

MS. GREENE: And I –

MS. E. BEST: – did you advise anyone of that? Did you advise government of that?

MS. GREENE: My understanding, because of the way the information was going, it was late in the process with respect to that, and I'm offering you my personal opinion and with respect to the information we were along on this process, and again, I am using hindsight at this point in time, and it is great to be an armchair quarterback seven years later.

But at the time, we were going through trying to get the information and trying to put all the pieces of the puzzle together, and that's the way it was. We were getting one piece here and one piece there. It wasn't obvious early on in that process. It probably didn't all come together to me until quite late, and at that point, we were into the process.

And MHI did provide the report and said – if you would – the summary paragraph of the MHI report is very informative to me when I read their report.

MS. E. BEST: Okay.

But you would've received the documents before they went to MHI, right?

MS. GREENE: Not necessarily, no.

MS. E. BEST: Okay.

MS. GREENE: No, no. The information flow from Nalcor – they were providing some directly to them. They were over meeting with them on a regular basis. So no, I wouldn't necessarily have received all that information before MHI did. That's not how the process worked.

MS. E. BEST: Okay.

So before – okay, so at no time before you went about drafting the final report, even, it never even occurred to you to notify government that you didn't think you were going to be able to answer the question?

MR. LEARMONTH: Excuse me. Ms. Greene didn't draft the final report.

MS. E. BEST: Sorry, excuse me.

MS. GREENE: Thank you, Mr. Barry – Mr. Learmonth.

MS. E. BEST: I appreciate that clarification, thank you.

THE COMMISSIONER: Just go ahead and repeat your question. I lost the question there.

MS. E. BEST: Yeah, that's okay. Thank you.

So I just wonder, at no point before even the PUB went about preparing its report, it didn't dawn on you to mention to someone in government – or did you mention to someone, to the chair or anyone, that you didn't think that this question was answerable?

MS. GREENE: You will see from the documentation that has been filed that there has been regular – there was regular updates with the commissioners. They were aware throughout the process of the difficulty in getting the information and the ability for MHI to complete its report.

It – I was not involved in the analysis to come to the decision, and again, I'm struggling with hindsight and whether I'm supposed to be speaking about at the time.

There was a number of options the commissioners could have come to when answering the question. One was the one – and this is me. This is Maureen Greene. It is not the commissioner, and I didn't do the decision.

They could've said, like MHI did, look, if you accept everything that Hydro said – Nalcor said, it is the least-cost project. That's based – and that's the last paragraph in their volume 1. This is my impression and my understanding of that report.

If you accept all of Nalcor's assumptions, it is lower cost than the Isolated Option. However, there are material inputs into this process, and if you change them, you change the outcome, and the long period of time for the risk of the project over 57 years magnifies it.

So that would have been one answer yeah, least cost if you accept all of that. Another answer would be, no, it's not least-cost, and in fact, if Hydro was the applicant, it probably wouldn't have been approved at that time as a capital

budget in my personal opinion. So that was another one.

And a third one was the decision the board came to. When the board were doing the analysis of how they were going to write the report, that was a board decision; it was not a legal counsel decision. So they could have – and I was answering the question as my personal opinion, which I should stop doing.

I'm trying to be helpful.

MS. E. BEST: And I mean, why should – why do you feel you shouldn't answer with your personal opinions?

MS. GREENE: Because I am not an expert, I guess. It's – I'm here to provide a factual basis, and that's what I was prepared to come here to do today. I didn't expect to be challenged about my legal opinions or my background.

MS. E. BEST: Okay. Thank you.

MS. GREENE: I can go on if you would like, if the Commissioner believes it's helpful.

MS. E. BEST: What did you mean earlier when you referred to hearsay? Why isn't hearsay evidence generally considered to be reliable?

MR. LEARMONTH: This is a legal opinion that is being sought here. I don't think it's a proper question.

THE COMMISSIONER: I –

MR. LEARMONTH: She's not qualified as an expert on hearsay.

MS. E. BEST: We've had a lot of unqualified opinion –

THE COMMISSIONER: I just want to say to the parties I think I've been judge long enough to understand what hearsay evidence is and what it means and how much weight goes to it or whatever. So you can be assured I understand hearsay. One thing I do – I've learned it by gosh over the last 30 years, and I've heard that word so many times now I dream about it sometimes. Okay?

So let's move on to something more relevant.

MS. E. BEST: Okay.

Thank you.

So I mean, I'm not – I won't ask about the topic of hearsay, but I will say that that you referred to that when you described what Ms. Dunderdale had allegedly said to Mr. Wells on the phone. And you were asked about this directly in your interview?

MS. GREENE: By Mr. Learmonth, that's correct.

MS. E. BEST: Yes.

But I don't think you described at that time what had been said to Mr. Wells on the phone.

MS. GREENE: If you look at my transcript, Mr. Learmonth did not ask me what was said on the phone. He only asked me if the – if I have been advised of the call. I answered the question, as I answered the question today.

MS. E. BEST: I think you provided quite a different answer at your interview.

MS. GREENE: Well, if you could take me through it.

MS. E. BEST: I will, and if you'll excuse me I just need to grab it. It's just on my laptop.

MS. GREENE: I do not recall Mr. Learmonth asking me in the same level of detail. I think it was – and, again, I don't have the transcript from the day here. I think Mr. Budden actually put the words to me as to what was said. Mr. Learmonth did not.

MS. E. BEST: I've got it here in front of me. So bear with me.

THE COMMISSIONER: Do you have your transcript?

MS. GREENE: I have my transcription from the interview, yes.

THE COMMISSIONER: Okay. She has the transcript.

MS. E. BEST: Okay. And bear with me. I will find it.

MR. LEARMONTH: Page 57.

MS. E. BEST: There are a few references, actually, so I'm going to go through them in order, if you can just bear with me one second.

So page 51 – 'cause you were asked about it a couple of times, actually. Mr. Learmonth asked you about it a couple of times and you never did say what was actually said to Mr. Wells.

So, do you see in the middle there, Mr. Learmonth says: Okay, and we – and were you – did Mr. Wells advise you of any discussion he had with then Premier Kathy Dunderdale –

MS. GREENE: Yes.

MS. E. BEST: – within a few days after filing of the decision? And your answer is: Well, after the report? And he says: Yeah. And then you say: Yes. And then he says: What was your recollection of Mr. Wells' version of that discussion? And then you say: I'm trying to recall. After the report was issued it was a very difficult time for the commissioners. There was a lot of criticism of them in the House. I actually thought the Canadian Bar should've said something as they do about judges. There were a quasi-judicial board making – excuse me – they were a quasi-judicial board making what they said was a decision. There was very negative criticism of them in the House and by other people such as the former premier. Yeah. Now, I'm trying to recall specifically, you say. Yes, I do recall that but it's in the context of this negative feedback and I can't – and then you trail off and then Mr. Learmonth says: Yeah. You can't remember what – and then you say: What exactly was said.

MS. GREENE: And, again, I don't know what was said. I can repeat what I was told by Mr. Wells.

Mr. Budden without what (inaudible) –

MR. LEARMONTH: Can I interrupt?

I think you should – if you're going to put the quote to Ms. Greene, I think you should put it in

full. And what she said – she said – I say on page 52: Yeah, you can't remember what. And then Ms. Greene says: What exactly was said. And then she says: I know it would've been definitely negative and, at one time, I believe, somebody even in the House said something as much as a lack of confidence in the commissioners.

MS. E. BEST: I'm sorry, I have no problem adding that on if that provides more clarity for you.

MS. GREENE: And Mr. Learmonth never asked me exactly what was said. I said – and I don't know what exactly was said, but Mr. Budden asked me was it –

MS. E. BEST: No, no, hold on a second. I took from that: What was your recollection of Mr. Wells' version of that discussion?

MS. GREENE: And I –

MS. E. BEST: But wouldn't you – if you had – wouldn't that be – wouldn't that open up an opportunity for you to say then what was said?

MS. GREENE: No, and if you notice I didn't say that about Mr. Thompson. My view in the interview was I was asked to confirm that had occurred. I was told it. I responded to the question. Commission counsel did not go further to ask me what was said in that meeting, and I respected that as I would not have answered today except Mr. Budden took me specifically to a quote. It did occur and that is why I acknowledge it today. Commission counsel did not go as far as Mr. Budden did.

And, as a lawyer, you don't usually volunteer things unless you're asked those questions. Remember advice to your own clients: Only answer the questions you are asked.

MS. E. BEST: So you don't think you were –

MS. GREENE: I thought I was being helpful and co-operative with the Commission and answered the questions that were put to me. As I thought I was today when Mr. Budden asked me the question. And I do recall, very specifically, what Mr. Wells told me about that telephone conversation.

MS. E. BEST: So, if I can take you to 57 – page 57 of the transcript, please.

MS. GREENE: Yes, I have it.

MS. E. BEST: Okay. So perhaps you can comment on this part. And I can confirm – sorry, towards the bottom, the very bottom there – and I can confirm Mr. Wells did tell me of a discussion with Premier Dunderdale, but I can't recall what it was about.

MS. GREENE: And I guess it has to be read in context (inaudible).

MS. E. BEST: Yeah, sorry, I can continue on there: and he did confirm that he had discussions. I don't know. It was a meeting. But he certainly had discussions with Robert Thompson.

MS. GREENE: And you go back to the previous one, you put in the context.

I really don't know what else to add, Ms. Best. I confirmed to Commission counsel that Mr. Wells told me of a conversation with Ms. Dunderdale.

MS. E. BEST: Well –

MS. GREENE: I confirmed today when Mr. Budden put the quote to me exactly – I think he used the phrase – I actually recall that phrase that Mr. Wells told me. I do not recall the exact time that Mr. Wells told me of that quote, but I am absolutely, 100 per cent sure I was told that.

MS. E. BEST: Okay. Because at the time of your interview, it appears here that you couldn't recall what it was about.

MS. GREENE: And, I guess, if you read it in context of the other one, I knew it was immediately after the report came out. I knew it was, at that time, there were – I – let's put it in context.

I think I already said today that when the report was filed that night I was officially over. I packed my office up, I got rid of everything 'cause I was actually using Ms. Glynn's office; she was back. I was – received phone calls from Mr. Martin and from Ms. Whalen with respect to

the MHI issue. I cannot recall when Mr. Wells told me about the phone call. I don't know if it was within that time frame or if it was later, 'cause I actually went on vacation then with my daughter, who was moving from one place to another for university.

So, I cannot recall when Mr. Wells told me the conversation, and at the – so I really don't know what else to say.

MS. E. BEST: Well, if you can turn to page 59.

MS. GREENE: And I guess, to put the interview in context, I went to the interview only having looked at my file, not having thought about this in seven years. Since that time, I have gone through not only my file, but all of the documents that the board has provided to the Commission. And, as I think I mentioned in my interview, as you go through this, it all starts coming back. It's amazing what you don't remember initially, and then as you work through – oh, yes, I had that conversation – and your memory –

MS. E. BEST: Okay, I take that. Thank you. And I just have one more comment on this. If you turn to page 59.

MS. GREENE: Of my transcript, okay.

MS. E. BEST: Yes, at the very top there.

Again – and this is the third time Mr. Learmonth has asked you about this. At the top there: I didn't – just – this is Mr. Learmonth speaking – I didn't – just to clarify, the information I had is he had a telephone conversation with Premier Dunderdale. And your response is: Oh, was it?

MS. GREENE: I didn't know (inaudible) –

MS. E. BEST: Question mark.

MS. GREENE: And the context for that was, I didn't know – the same like Mr. Thompson, I don't know when Mr. Wells told me, but his conversations was in a phone call, that was at the time of the interview – or whether it was at a meeting. I remember the comments being made. So I do recall the interaction with the premier – or the comment that Mr. Budden read out to me as having been told to me by Mr. Wells.

Unfortunately, I cannot remember exactly when he did advise me of that.

MS. E. BEST: And did you read Mr. Wells's transcript from his interview before you appeared today?

MS. GREENE: Yes, I did.

MS. E. BEST: Okay.

Have you known Mr. Wells to exaggerate from time to time?

MS. GREENE: Yes.

MS. E. BEST: Okay.

MS. GREENE: I think Mr. Wells would agree that he can be a colourful character on occasion.

MS. E. BEST: Thank you.

MS. GREENE: And which (inaudible) I do not know what exactly was said. I can only – my evidence is to what I was told.

MS. E. BEST: By Mr. Wells.

MS. GREENE: Yes, that is correct.

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

THE COMMISSIONER: Thank you.

Former Provincial Government Officials '03-'15.

MR. J. KING: Good afternoon, Ms. Greene. Justin King, I represent a group of former provincial government officials 2003 to 2015.

Just a few questions, a lot of mine have been hit off already.

If we could go to P-00544.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

THE COMMISSIONER: And tab would be ...?

MR. J. KING: Oh sorry, I don't have it (inaudible).

THE COMMISSIONER: Okay, no problem, I'll get it.

MR. LEARMONTH: Fifteen.

THE COMMISSIONER: Tab 15?

MR. J. KING: Okay, so we've discussed this already. This is an email from Sam Banfield. And when it was discussed with Mr. Learmonth you basically said the email speaks for itself. And then there was some more conversation with Ms. Best in relation to this email.

And I believe your response at that time was that in relation to Mr. Skinner's follow-up on the telephone call from Nalcor representatives, your response was that Mr. Skinner's response – reply to those issues was very prompt.

MS. GREENE: Yes, that is what the email would lead one to believe.

MR. J. KING: That's what you would take from that email?

MS. GREENE: Yes, yes.

MR. J. KING: Okay.

My next question is in relation to your meeting with Jerome Kennedy on January 5, 2012, I believe.

MS. GREENE: Yes.

MR. J. KING: And I think you said in your evidence to Mr. Learmonth that the primary reason for that meeting was to discuss process and scheduling issues.

MS. GREENE: That's my –

MR. J. KING: Is that accurate?

MS. GREENE: Mr. King, is it? Mr. King –

MR. J. KING: Correct.

MS. GREENE: – that is my recollection of the meeting, yes.

MR. J. KING: Okay.

And I think you also said that the minister basically wanted to understand how the process would be revised to meet the March deadline?

MS. GREENE: That's my recollection, yes.

MR. J. KING: Okay.

So he wasn't dictating in any way what the process would be, it was more of an information session to, you know, gather how the process would be handled moving forward?

MS. GREENE: Yes, that is my recollection of the meeting and my understanding, yes.

MR. J. KING: Okay.

Did Mr. Kennedy offer any additional resources to the board at that time?

MS. GREENE: I can't recall if he did in that meeting but he did in the correspondence. And I think he certainly did offer – and I'm trying to recollect now if it was in the meeting, and it was also in correspondence from him – that the board could have additional resources if that would be helpful to conclude the process, yes.

MR. J. KING: Okay.

Now, that's going to be my next question, actually, if we could turn to P-00584.

THE COMMISSIONER: Tab – 00584.

MR. J. KING: Again, sorry, I don't have the tab –

THE COMMISSIONER: No problem.

MS. GREENE: Tab number?

THE COMMISSIONER: I'll just get it for you in a second now: 57.

MR. J. KING: Okay, second paragraph.

And we just – I think this was the correspondence that you're probably referring to? Beginning at the sentence: In addition, if you could just read that paragraph?

MS. GREENE: The whole – from the beginning of the paragraph?

MR. J. KING: Just start from: In addition.

MS. GREENE: Oh, okay.

MR. J. KING: Yeah.

MS. GREENE: "In addition, as I advised in my letter of December 12 ... Government is committed to assisting the Board in meeting the March deadline and is willing to provide whatever additional resources are reasonably necessary to enable the Board to adjust its processes and hearing schedule on other matters if necessary."

MR. J. KING: And I think this is consistent with what you just mentioned in terms of your understanding of the correspondence.

MS. GREENE: Yes.

MR. J. KING: And then if we could just go to the last paragraph of this document and beginning with: Government feels confident, if you could just read that as well?

MS. GREENE: "Government feels confident that with additional resources being made available to the Board, the March 31 deadline can be met so that its report can be tabled in the House of Assembly as Government has publicly committed to do. I or any of my officials are available to discuss the supply of additional resources to the Board."

MR. J. KING: Okay.

So in terms of those additional resources, again, I'm – you do acknowledge that those were offered?

MS. GREENE: Yes, and I believe the board wrote a response to that with respect to – at this point in the process it wasn't additional resources that would be helpful. Right now, I can't – we did look at that letter today.

MR. J. KING: Yeah.

MS. GREENE: I think it was a –

MR. J. KING: And I agree that that letter did occur. Internally, I guess, with the board, was it ever discussed in terms of what those resources could have been or if it would have been useful to avail of any of those resources that were offered?

MS. GREENE: We did have discussion through the process as to whether additional resources would be helpful and how they could be of help. And I think at this stage, which was in December, it was determined that the resources we had were not the issue in terms of completing the work.

MR. J. KING: Okay.

I know there's been some discussions with Ms. Best and earlier in terms of the Consumer Advocate. And in relation to – I believe we mentioned that the Consumer Advocate didn't file a report. Is that what you mentioned in your evidence?

MS. GREENE: He didn't file an expert report. He did have expert people assist him in the preparing of information requests and at the public hearing.

MR. J. KING: So he did file a report. I'm not sure if we're using the right terminology. He filed his written submission?

MS. GREENE: Oh, he filed a written submission.

MR. J. KING: Okay.

MS. GREENE: He didn't file a report from a technical expert with their views on –

MR. J. KING: So would that be a stand-alone –

MS. GREENE: Yes, it would be –

MR. J. KING: – expert report?

MS. GREENE: – a stand-alone expert is what I was just – most – when we talked about this earlier, that is what I was referring to.

MR. J. KING: Okay.

MS. GREENE: Similar to the MHI report.

MR. J. KING: Okay, yeah.

And in terms of the Consumer Advocate's written submission, are you aware or have any recollection of that document in terms of his reliance on his expert? Was that referenced in his written submission?

MS. GREENE: I wouldn't be able to answer that question. I did not review that submission for the purposes of this evidence. It wasn't in the exhibits provided and I didn't go back to read all of the documentation.

MR. J. KING: Okay.

Does the name Knight Piésold – the firm Knight Piésold mean anything to you in terms of an expert that would have been retained by the Consumer Advocate? Does that ring any bells?

MS. GREENE: Yes, it was one of the three experts we had identified as potential experts to do the work. Mr. Johnson called me to discuss his potential experts that could be engaged by the Consumer Advocate and I provided him with the names of the others that we had considered.

MR. J. KING: Okay.

And do you know if the Consumer Advocate followed up on that recommendation in terms of Knight Piésold being retained?

MS. GREENE: Oh yes, he did.

MR. J. KING: He did.

MS. GREENE: And he retained them and they asked a number of questions.

MR. J. KING: Okay.

MS. GREENE: And they assisted him during the public hearing process.

MR. J. KING: And do you know if they also would have assisted him in terms of his written submission?

MS. GREENE: That I wouldn't know.

MR. J. KING: Okay.

And my last question for you: In Mr. Budden's evidence – or Mr. Budden's questioning, sorry, he – we discussed the issue of the refusal to grant the second extension. And I believe you mentioned or acknowledged that that was a public policy decision and –

MS. GREENE: Oh, yeah, it is the right of the government to make that decision. This was a reference – it was a question from the government for the board's report and their consideration of the question that they were asked. Yes.

MR. J. KING: Okay. Thank you. That's all my questions.

THE COMMISSIONER: Thank you.

James Mullaley – Julia Mullaley and Charles Bown?

MR. FITZGERALD: Ms. Greene, I'm Andrew Fitzgerald. I represent Charles Bown and Julia Mullaley.

MS. GREENE: Good afternoon, Mr. Fitzgerald.

MR. FITZGERALD: I'll only be a couple of hours. I'm joking.

MS. GREENE: I'm sure you're joking.

MR. FITZGERALD: I am. And actually –

MS. GREENE: I hope you are for everyone's sake.

MR. FITZGERALD: Thank you for coming today, actually. It's nice having a resource like you available to the Commission. And I just have some questions in terms of context on some of the questions that were put to you, in particular with reference to my client. In your evidence, you referenced two meetings with Charles Bown – May 16 and May 20.

MS. GREENE: There were other meetings, but those were before the reference was issued. Yes.

MR. FITZGERALD: Yes. And those were the only two before the reference were issued? Your recollection.

MS. GREENE: To my recollection. If there were any others, there might have only been one, but I don't recollect any. There were phone calls about the status of the reference.

MR. FITZGERALD: And to my understanding – and I looked at your transcript as well – that these meetings were limited to procedural matters and schedule?

MS. GREENE: That is correct.

MR. FITZGERALD: And there was no discussion on the merits of the reference question at any of these meetings.

MS. GREENE: No. In the early meeting, we would have discussed the question to ensure – not to change the question, 'cause that was government's policy. It is government to make the – what they want the board's opinion or report back on.

We would've discussed the two questions. We certainly would have discussed the fact the board had no information, the fact that Nalcor wasn't regulated, those kinds of things, but not on the merits of the answer to the question or whether the Interconnected Option was the preferred option.

MR. FITZGERALD: Thank you.

Also true that Mr. Bown indicated to you that you would have whatever resources you need?

MS. GREENE: That is correct, and it was on that basis we made a recommendation to the board to retain Mr. Martin and that we would retain an engineering firm – an external engineering firm as well.

MR. FITZGERALD: It's my understanding at that time, as well, it was communicated to you that Nalcor would be able to provide you with the documents?

MS. GREENE: That was my – that is definitely my recollection of my discussions with the – Mr. Bown who was representing government, and I believe Mr. Paul Scott was with him at both meetings.

MR. FITZGERALD: Thank you. Exhibit P-00537, please. I don't know the tab, I'm sorry.

THE COMMISSIONER: That's okay. Tab 8.

MR. FITZGERALD: If we could just scroll down a little bit. Yeah. Right here. Thank you.

"Dear Mr. Wells:

"As per OC" – this is a letter to Andy Wells and the date is – pardon me, if we could just scroll up a bit – June 13, 2011 – "As per OC2011-162, please find attached the Terms of Reference and Reference Question. Any questions that you may have can be addressed by Mr. Charles Bown, Associate Deputy Minister, at 729-2349.

"Yours sincerely,

"Shawn Skinner

"Minister"

You've seen this letter before?

MS. GREENE: Yes, I have.

MR. FITZGERALD: This was the transmittal of the reference question?

MS. GREENE: That is – the formal transmittal, yes.

MR. FITZGERALD: And in the formal transmittal of the reference question, would you also agree with me that the minister advised the PUB at that time that if there were questions, they were to contact Mr. Bown?

MS. GREENE: That is correct.

MR. FITZGERALD: I'd like to direct the witness to P-00544, please.

MR. LEARMONTH: That's tab 15.

MR. FITZGERALD: Actually, can we go to P-00543 first?

MR. LEARMONTH: Tab 14.

MR. FITZGERALD: Thank you, Mr. Learmonth.

MR. LEARMONTH: Announcer.

MR. FITZGERALD: This document: "Good to hear from you. I'm replying as Fred is busy dealing with Nalcor. We have received a limited number of documents and I'd estimate somewhere around 10% or less of what we had requested."

So obviously, at this time period in early July, we're having – the PUB is having an issue getting responses and documentation from Nalcor.

MS. GREENE: That's correct.

MR. FITZGERALD: Okay, if we can go to P-00544, please.

Now, you just looked at this email, Mr. King; I won't spend much time on it. But if we look at this, then the following day, July 5:

"Understandably the Board was not pleased with Nalcor's response and after the meeting" – this is Sam Banfield, he's with the board – PUB – emailing you, providing you with an update, correct?

MS. GREENE: That's correct.

MR. FITZGERALD: Yeah.

"Understandably the Board was not pleased with Nalcor's response and after the meeting Andy, Darlene and Jim phoned Minister Skinner to discuss the situation."

So on July 5, the board went directly to government to discuss the situation of not getting documentation.

MS. GREENE: That is again what the email –

MR. FITZGERALD: No, there's a reason for me taking you here, I understand that, but that's what –

MS. GREENE: The email speaks for itself, yes.

MR. FITZGERALD: Yeah, and that's what was reported to you by Sam Banfield?

MS. GREENE: That is correct.

MR. FITZGERALD: Okay. Thank you.

So the report indicated that there was a direct contact made to the government by the PUB?

MS. GREENE: That is what the email said, Mr. Fitzgerald.

MR. FITZGERALD: Yes, thank you.

And there's nothing in that email indicating that the board contacted or reached out to Ed Martin or Gilbert Bennett or Nalcor at this point in time, is there? It went right to government?

MS. GREENE: Not on July 4, but –

MR. FITZGERALD: No.

MS. GREENE: – if you see the 17th –

MR. FITZGERALD: Yeah.

MS. GREENE: – and I mean, I'm not going back through all of the –

MR. FITZGERALD: No, I don't expect you to. I'm saying what's not in that email is a conversation going to Nalcor or Gilbert Bennett or any of the representatives over there. What the PUB had decided is that they were going to go to government at that point in time. So that's the only point I'm making about that email.

MS. GREENE: Sure.

MR. FITZGERALD: Okay.

Thank you.

Now, there was correction in your evidence earlier today about an October 31 meeting with Mr. Bown.

MS. GREENE: Yes.

MR. FITZGERALD: I believe you said that was late October?

MS. GREENE: Yes.

MR. FITZGERALD: I'd like to direct the Commission to P-00571. I'm sorry, the witness and the Commission.

MR. LEARMONTH: Tab 41.

MR. FITZGERALD: If we could scroll down a little. This is an October 20, 2011, letter from – I believe it's Mr. Young at Nalcor to the PUB, Ms. Cheryl Blundon, correct?

MS. GREENE: Yes.

MR. FITZGERALD: Yeah. This is setting out Nalcor's position on the RFI process, what's going on?

MS. GREENE: Yes.

MR. FITZGERALD: At the very bottom of the letter, who is this cc'd to?

MS. GREENE: Mr. Charles Bown, Department of Natural Resources.

MR. FITZGERALD: Okay, thank you. I think this is an important fact I wanted to bring out.

So Mr. Bown gets this document on October 20 or thereabout – at least that'll be the evidence – and subsequently there's a meeting with you on October 31, at the end of October.

MS. GREENE: That's correct.

MR. FITZGERALD: I think, your evidence today, you got a call in late October and you met with Mr. Bown October 31. That's correct?

MS. GREENE: I received a call before he wanted to come meet me –

MR. FITZGERALD: Yeah.

MS. GREENE: – tell me the purpose of the meeting so I could prepare for it.

MR. FITZGERALD: Okay, thank you.

And you described his role in your evidence as a facilitator to gather information. In your response to Mr. Learmonth?

MS. GREENE: I'm not – well, if I did – I didn't see him as a facilitator to get information. I thought I had described him as he was the person appointed by government as the – and I'm not sure how he would describe it. My

understanding was his role was on behalf of government with respect to the reference. I did not look at –

MR. FITZGERALD: You did say that, I agree. You did say that.

MS. GREENE: I –

MR. FITZGERALD: Yeah.

MS. GREENE: I did not look to Mr. Bown to facilitate the information flow from Nalcor. I didn't understand that to be part of his role.

MR. FITZGERALD: Okay. Well, I'm just saying what – in your response to Mr. Learmonth, you said facilitator to gather information. You also indicated there was no change or interference in the process as a result of that meeting.

MS. GREENE: Oh, you're talking about at that meeting?

MR. FITZGERALD: Yes.

MS. GREENE: He saw his role as a facilitator. I didn't see –

MR. FITZGERALD: No, no, fair enough.

MS. GREENE: Oh, is that what you – I'm sorry, I misunderstood your question then. No, he – Mr. – it was – in that meeting, we would have discussed where we were with the RFIs, plus I had to dig out the RFIs that – with respect to why Nalcor was saying that it was beyond the terms of reference. I had to dig out the RFIs, and I did review those before I went to the meeting. And I did discuss them with Mr. Bown, but it was for information purposes.

MR. FITZGERALD: Yeah. And there was no comment by Mr. Bown on the merits at that meeting either?

MS. GREENE: Not that I recall.

MR. FITZGERALD: We will hear from Mr. Bown. However, would it surprise you to hear that it's his practice as deputy minister, or as an associate deputy minister, when he receives a letter such as he did on October 20, 2011 from

Nalcor that he would bring it to his minister's attention and then act upon instructions?

MS. GREENE: No, I did see his role as keeping the government informed of the progress of the reference, and whatever else was going on with the reference. That was his role.

MR. FITZGERALD: Thank you, I'm almost finished.

In relation to that meeting, Mr. Learmonth asked you if the October 31 meeting was inappropriate, that was the word he put to you. You did not adopt his word, but you said it was unusual.

MS. GREENE: Mmm.

MR. FITZGERALD: That was the response that you gave to Mr. Learmonth, in fairness to you.

MS. GREENE: And I was comparing it to another type of process?

MR. FITZGERALD: Yes, and you also advised that it was unusual, as if – because if the PUB wanted the information from Nalcor, it could go to Nalcor directly. That was your evidence.

MS. GREENE: Yes, and you will see, once we got the information request, the government had indicated that the information was going to be readily available. That would have been the purpose of the call in early July, but once the process starts and you get into a process, we would be expected to deal with Nalcor, unless there was questions with respect to the clarification of the terms of the reference, or budgetary issues, or scheduling issues. We would not have anticipated going back to government for direction about issues to ask questions on, for example, or –

MR. FITZGERALD: No, I accept that. But what I want to point out is that it was the PUB, who in July of 2011, who initiated the process of going to government to get assistance getting documents from Nalcor.

MS. GREENE: That was early on in the process when the government had indicated, up to then we had issued the concern to Mr. Bown –

MR. FITZGERALD: Mm-hmm.

MS. GREENE: – of the criticality of getting the information, and government had assured us it was available. They were made aware of that and then the government were receiving the letter the board were writing to Nalcor. So they were aware there was an information flow, but I would not have gone to government to say: Please ask Nalcor to give us RFI number 100 –

MR. FITZGERALD: No, and –

MS. GREENE: – or 101 or 102 or –

MR. FITZGERALD: And I'm not suggesting you did. I'm suggesting the board, in July –

MS. GREENE: Yes, based on the representation.

MR. FITZGERALD: That's right.

MS. GREENE: I've already acknowledged –

MR. FITZGERALD: Yes.

MS. GREENE: – that they called the minister.

MR. FITZGERALD: Yes, so what I would suggest is that there was nothing unusual about Mr. Bown, in October of 2011, becoming involved in the RFI processes, because the board had already engaged in that process of getting documentation from – directly – or assistance from the government to get the documentation directly from Nalcor.

MS. GREENE: I have no difficulty in him with respect to the information flow. What I believe I was commenting on was unusual was the fact that I was asked to explain why certain questions were being asked, not the numbers or whatever, but specific questions were being asked and whether they were within or outside the terms of reference. I had not received any concern from government, or from Nalcor, actually, taking exception to the questions or to the – our interpretation of the terms of reference.

So it's not unusual, no, for Mr. Bown to be inquiring about the status, the schedule, where we are, information flow. No, that was not unusual.

MR. FITZGERALD: Okay.

MS. GREENE: And that I understood to be his role, which is why I would keep him informed and send him copies of letters or give him a heads up we were issuing a media release. That would have, to me, would have been normal.

The unusual thing was the questioning with respect to the necessity to ask certain questions and why. But on the other hand, it was information only. I explained my position. It was thank you, Ms. Greene, move on.

MR. FITZGERALD: Yes. And after that meeting, I guess, there was no issue with respect to the PUB getting information afterwards from Nalcor or interference with your questions. The questions were all put to Nalcor and whatever came in, came in.

MS. GREENE: That is correct.

MR. FITZGERALD: There was no evidence of interference.

MS. GREENE: Oh, no, and that's – I thought I made clear, there was no suggestion to me to back off or stop asking questions. No, absolutely not.

MR. FITZGERALD: In your transcript – this might be my last issue – there is an issue of availability of experts. I believe Mr. King asked you the question and you had identified three: MHI, Knight Piésold and Klohn Crippen?

MS. GREENE: That's correct.

MR. FITZGERALD: And, you know, I appreciate, I don't have near the background you have in this. Would it be fair to say that it's difficult getting experts in this area – this megaproject area – to do these assessments?

MS. GREENE: Yes, it is. It is a very complex hydroelectric project with a significant transmission component. For the reference questions it was not only the engineering

analysis, it was also financial and economic analysis required.

So, yes, to – we had thought we might have to partner – have more than one expert – and we determined, based on the evaluation criteria, hydro – Manitoba Hydro made most of the criteria and we started on that process. And if we had to determine during the process that we needed additional experts, we would have made a decision if we could have brought them in.

MR. FITZGERALD: And do you recall Tom Johnson even had to call you to see if he could – if you knew anyone who could be an expert?

MS. GREENE: I don't know if he had to call me.

MR. FITZGERALD: No, but he – well, did call you.

MS. GREENE: He did call me.

MR. FITZGERALD: You're the first person I would call, too, Ms. Greene, if I was looking for an expert.

MS. GREENE: He did call me, and the relationship with the Consumer Advocate in these proceedings is collaborative, as it is with all the counsel. It's not as adversarial as court, as even this proceeding appears to be.

MR. FITZGERALD: I guess my final question is in terms of these experts that you're trying to obtain, I would imagine it's made it even more difficult, where we're in a small province and there may be a lot of conflicts and availability of people to come here and actually do the work. Would that be a fair comment?

MS. GREENE: Yes, and the additional consideration here was that Nalcor had engaged quite a number of experts for various aspects of this project and other ongoing work. So we had to ensure there was no conflict, that they had done work for hydro or for Newfoundland Power. We were trying to get someone who was totally independent.

MR. FITZGERALD: Thank you very much.

THE COMMISSIONER: Robert Thompson.

MR. COFFEY: Good evening, Ms. Greene. I'm Bernard Coffey, I represent Robert Thompson.

MS. GREENE: Will we say when we first met, Mr. Coffey? 19 –

MR. COFFEY: I'm gonna –

MS. GREENE: 1968.

MR. COFFEY: I wanna suggest May 15, 1969, but anyway.

MS. GREENE: Oh, '69 was it?

MR. COFFEY: (Inaudible) of a bus, but anyway.

MS. GREENE: On our way to St. Pierre. But it's getting late in the day.

MR. COFFEY: So, Ms. Greene, a couple of things.

In May of 2011 when you first met with Mr. Bown, okay, that's there in relation to this.

THE COMMISSIONER: (Inaudible) excuse me.

MR. COFFEY: Oh, you go ahead, Commissioner.

THE COMMISSIONER: Okay, go ahead.

MR. COFFEY: Thank you, Commissioner.

At that time, were you familiar with the idea of a DG2 and a DG3 Gate process?

MS. GREENE: No, I was not.

MR. COFFEY: And when did you first get introduced to that?

MS. GREENE: During this process.

MR. COFFEY: Would it have been – or might it have been at that September 12, 2011 meeting with –

MS. GREENE: I wouldn't be able to recall with –

MR. COFFEY: Exactly, okay.

MS. GREENE: – specificity the exact date.

MR. COFFEY: Although, might it be reflected in your – in the notes that were taken at these various meetings? It might be. And I'm not gonna take you through that.

MS. GREENE: I have read the notes, I didn't think it was, but

MR. COFFEY: And – but you did indicate, I believe, that September 12, 2011 meeting was the first time it became, I think, really apparent to you that – and this is my words – that there might be a disconnect between the US counsel for the PUB in relation to this reference question proceeding and Nalcor's interpretation of the reference question in terms of what came within or didn't come within the terms of reference.

MS. GREENE: The disconnect was only with respect to the updated information.

MR. COFFEY: Yes.

MS. GREENE: That was the only disconnect as to whether the information they were to provide on the capital cost estimate, a project definition, were limited to December of 2010, I believe –

MR. COFFEY: Yes.

MS. GREENE: – DG2 was.

MR. COFFEY: Yeah, and by then it was – DG2 was the way they framed it.

MS. GREENE: That is the way Nalcor talked about it, the Gatekeeper process and Mr. Martin was the Gatekeeper.

MR. COFFEY: Yes.

And, as you put it, that was the only – agree, the only disconnect, but it was certainly, as it turned out, a significant disconnect, wasn't it?

MS. GREENE: It did turn out to be that, yes.

MR. COFFEY: Because, in fact, that was the reason given, I take it, for the board – or by the board in its May – March 30, 2012, report as to

why it could not answer the question, because it didn't have the up-to-date information.

MS. GREENE: I think the board report speaks for –

MR. COFFEY: Yeah, it speaks for itself.

MS. GREENE: It speaks for itself. I – it was not my decision; it was the commissioner's decision.

MR. COFFEY: But it did become a point of – at least in the aftermath of September – that September 12, 2011, meeting, a point of discord or disconnect or disagreement.

MS. GREENE: We moved on. They did –

MR. COFFEY: But – and what I'm getting at is exactly my point, by what time did they – did you move on, had it been, kind of, resolved, that the board would only be getting the DG2 numbers?

MS. GREENE: Again, I'm not sure I can be specific on a date. It's not something that I have looked at, and I'm not sure if I – now, looking back and seven years later, I would be able to determine a specific date.

MR. COFFEY: Thank you.

MS. GREENE: It's not evident from the record.

MR. COFFEY: I'm going to suggest to you, though, that it wasn't within two or three days, it was longer than that before –

MS. GREENE: Well, after September?

MR. COFFEY: After that September 12 meeting.

MS. GREENE: Oh, yes, it was after that.

MR. COFFEY: It was some time after.

MS. GREENE: We were waiting for the letter. We had asked for a response in two days and it didn't come 'til October 20 on issues.

MR. COFFEY: Yeah.

MS. GREENE: And while there was some information exchange going on during then, it really wasn't that significant.

MR. COFFEY: Well, thank you.

In relation to that – because you said – there's been – there – you have been referred to being told by Mr. Wells about a meeting he had had with Mr. Thompson.

MS. GREENE: And, actually, I didn't know if it was a meeting or a phone call.

MR. COFFEY: A phone call, a –

MS. GREENE: It was a discussion –

MR. COFFEY: – communication –

MS. GREENE: – with Mr. Thompson, yes.

MR. COFFEY: (Inaudible) Mr. Thompson.

And if it was a meeting – assume for the moment it was. If it was a meeting, I take it from what you've told us that Mr. Wells had not consulted you beforehand about whether he should go to the meeting.

MS. GREENE: Not that I recall. My advice to all of the commissioners is while this process is ongoing you do not speak to the media or to the government with respect to the substance of the matter that is before you. And if it's schedule or process, as legal counsel, I would communicate through Department of Natural Resources.

MR. COFFEY: Sure.

MS. GREENE: I did not communicate with the media. And those were the general advice that I would have given to all of the commissioners.

MR. COFFEY: Thank you.

Now, you've already described the January 5, 2012, meeting that you attended with Mr. Wells and his counsel.

MS. GREENE: That is the only meeting that I –

MR. COFFEY: Yes.

MS. GREENE: – attended with Mr. Wells with a government representative.

MR. COFFEY: And –

MS. GREENE: Other than Mr. Bown, when he came to discuss the reference to commissioners.

MR. COFFEY: Did you understand on January 5 that Mr. Wells had, the day before, met with Mr. Kennedy?

MS. GREENE: I did not recall that at the time 'til, again, in preparing for this I did see that that had occurred. But I cannot recall that I knew in advance, no.

MR. COFFEY: Now, much the same point, that you don't recall him asking you before – if he attended a meeting on January 4, 2012, with Mr. Kennedy, you don't recall him canvassing the wisdom of his doing so beforehand with you?

MS. GREENE: No.

MR. COFFEY: Yes.

MS. GREENE: I do – as I said, my general advice –

MR. COFFEY: Yeah and I take your general advice. Yeah, I've heard you.

Just a topic that – and it's just while I've got you here, okay, because of your experience. There have been references in front of the Commissioner to these exemption orders under section 5.2 of the EPCA, 4.1 of the *Public Utilities Act*. It's exemption orders. You're familiar with some of them, some of these exemption orders over the years. You've referred to Granite Canal, the Lower Churchill Project.

MS. GREENE: And it depends on the point in time. As I said, at some points in time when they were done, Hydro was not regulated. It did not –

MR. COFFEY: Yes.

MS. GREENE: – require prior approval for capital expenditure such as Cat Arm. However, with respect to the recovery of the cost, that

would have been an issue that would've gone to the board –

MR. COFFEY: Yes.

MS. GREENE: – after it was built.

MR. COFFEY: And (inaudible) on it, during – in your time with doing those applications – those rate applications, for example – do you ever recall, in relation to a major generation project, the PUB denying Hydro the costs, for example, of Cat Arm?

MS. GREENE: Not prior to 2000 and – the reference not prior to 2007 they have – certainly have denied recovery of capital expenditures that I have been involved in those proceedings in – I can't remember the exact date, but it would have been after 2010.

MR. COFFEY: Okay, since the announcement of the Emera-Nalcor term sheet, any denial has occurred since then.

MS. GREENE: And I was not involved, I was –

MR. COFFEY: That's all right. I appreciate that.

MS. GREENE: I was with Cox Palmer so I don't know what happened from 2005 to –

MR. COFFEY: Yes.

MS. GREENE: – 2011.

MR. COFFEY: Yeah.

MS. GREENE: So I don't know.

MR. COFFEY: Do you recall – in relation to these exemptions, a number of them were given in late 2000. You were with Hydro at the time. Do you recall whether or not – or Hydro being consulted about whether the exemption should be given or should be issued? In particular, I'll refer you to the Churchill – Lower Churchill one.

MS. GREENE: Yes, I do recall discussion around that.

MR. COFFEY: Okay.

And do you recall, like, who was involved?

MS. GREENE: No.

MR. COFFEY: Oh, you just – there was some discussion.

MS. GREENE: There was discussion –

MR. COFFEY: Okay.

MS. GREENE: – with respect to that project, but we're talking –

MR. COFFEY: It's a long time ago.

MS. GREENE: – 18 years ago –

MR. COFFEY: Yes.

MS. GREENE: – and there's been a lot of matters since then.

MR. COFFEY: In Exhibit P – I believe it's 00580, and it's a briefing note you would have drafted December 5, 2011.

MR. LEARMONTH: Tab 51.

MR. COFFEY: Thank you, Mr. Learmonth.

It generally deals with and has been described as dealing with the need for the PUB to ask for an extension.

MS. GREENE: Yes.

MR. COFFEY: And Mr. Learmonth referred you to that. The next exhibit he referred you to was P-00045, which is the December 12, 2011, letter from Mr. Kennedy to the PUB, in which the – an extension was given to March 31, 2012, okay? That's, I believe, a –

MS. GREENE: That is what happened.

MR. COFFEY: Yes, that's what happened.

My question is, is this: Is that why didn't the PUB – or what's your understanding about why the PUB didn't on, for example, December 5, 6, 7, 8, 9, 10 or 11 ask for an extension?

MS. GREENE: Prior to then?

MR. COFFEY: Yeah.

MS. GREENE: I really can't recall as to why not.

MR. COFFEY: Okay.

MS. GREENE: I know that during that period I did seek input from the Consumer Advocate, and you have his letter, and that was part of it, was to consult with the Consumer Advocate for his –

MR. COFFEY: Okay.

MS. GREENE: – perspective. But I can't recall if that was the reason, I know I would've recommended getting input from the Consumer Advocate before finalizing a request for an extension.

MR. COFFEY: Okay, and finally – just a couple of – point – not certain I heard you correctly.

Did you tell – and I believe it would've been Mr. Learmonth that – and it may not have been him, but you – maybe Mr. Budden – that the PUB, of course, had dealt with rate cases and capital cost approval cases and you've been involved in a number of them and in those they would discuss resources and demand and so on. But you said: But not in terms of a major general hydroelectric project.

MS. GREENE: That's true. The – all of the major hydroelectric projects have been exempt from review by the board. And I'm including Cat Arm, Hinds Lake, Paradise River, Upper Salmon.

MR. COFFEY: Okay.

MS. GREENE: I wasn't around for Bay d'Espoir.

MR. COFFEY: Yes.

And in your position with Hydro, was it ever explained to you as to why those exemptions were occurring or – I've asked you this question before, but I'd just ask you to reflect upon it now, in terms of – all these exemptions occur on

all these major, and sometimes not so major, hydro generation projects.

MS. GREENE: Some of them were actually before the board was fully regulated, if you recall that –

MR. COFFEY: Yes, oh yes, yeah –

MS. GREENE: – that was –

MR. COFFEY: – Cat Arm and (inaudible), yeah.

MS. GREENE: – that was a significant change in government policy in 1996. That rather than government be the final approval with respect to rates and capital budget matters, the board would have an oversight and a final role, so some of those would've been done in that environment.

And the other aspect in my – in that previous role that there are major public policy objectives that would be involved with respect to these types of things, that the government would determine if it was appropriate to proceed or not; that may not be taken into account by a regulator, such as labour and employment benefits.

MR. COFFEY: Sure.

MS. GREENE: I'm trying to think of what else –

MR. COFFEY: And –

MS. GREENE: Socioeconomic impacts are normally not within the mandate of a regulator, but they are certainly within the purview of the government for the policy decision. And some of these were – would've been viewed as public policy decisions that would – a government would make. How –

MR. COFFEY: Mm-hmm.

MS. GREENE: – that may have – that was part of the reasoning, because I would've been involved in discussions around some of those exemptions. From Hydro's perspective I would've been the contact for discussions with the various government departments about these

exemptions and why they were necessary or appropriate.

MR. COFFEY: Yes.

And in fact, what you just – I’m going to suggest to you, Ms. Greene, in fact explains – when you were asked about what – before you met with Mr. Bown in May of 2011, up to that point, your expectation had been that the PUB would not be involved in reviewing the capital cost of the Muskrat Falls Project, or even whether it should go ahead.

MS. GREENE: Well, they had issued the exemption order –

MR. COFFEY: And that –

MS. GREENE: – with respect to the project and there was no – I probably had an open mind about the costing because in other matters, when they were exempt, and the recovery of the cost through rates did come back to the board.

MR. COFFEY: Yeah – ultimately.

MS. GREENE: Ultimately.

So when I was speaking there it would’ve been the approval to proceed and the oversight of the capital, but not the recovery through rates. And, of course as we know, the government passed orders-in-council here directing the board to pass on the costs associated with Muskrat Falls to ratepayers.

MR. COFFEY: Yes.

And just on that point, if, for example, it’s a private company such as Newfoundland Power looking to have something included in its rates, if it’s – any of it’s disallowed, presumably its shareholders bear the cost. But where Hydro was concerned – or for that matter Nalcor – if there had been capital costs incurred without PUB being involved or giving prior approval, and then they came to Hydro, in its time, or Nalcor – came to the board and looked for capital costs to be included in rates and the board denied it. Well, it being a Crown organization, the Crown – the taxpayer would bear the cost, presumably.

MS. GREENE: Well, it would reduce the dividend that would flow from Nalcor. There is – all regulators do a reasonable prudence test and they’re not allowed to recover in your rate base, unless it is reasonable and prudent. And I already explained that in 2015, I think it was, probably went over to 2016.

The board did reveal a number of capital expenditures by Hydro, significant amounts of dollars where they found, based on expert evidence after a lengthy contested hearing, expenditures were not reasonable and not prudent. Part of the policy regulation is to ensure that the best decisions are made in the least-cost way for the benefit of ratepayers. If they do not have that ability to disallow cost, there would – it would not affect regulatory efficiency in ensuring the best decisions are made on behalf of ratepayers.

MR. COFFEY: And when such costs for Hydro are disallowed, I’m gonna suggest to you, that ultimately the economic cost of that is borne by the taxpayer.

MS. GREENE: Yes, because it would be reduced dividends, but at the same time hopefully there is a message being received –

MR. COFFEY: Oh, yes, yeah.

MS. GREENE: – that they better do a better job at justifying expenditures.

MR. COFFEY: Point taken, but –

MS. GREENE: And they better do reasonably prudent projects, as opposed to unreasonable and imprudent projects, which also is a cost to ratepayers.

MR. COFFEY: Thank you.

THE COMMISSIONER: Todd Stanley, Terry Paddon.

MS. VAN DRIEL: No questions, Commissioner.

THE COMMISSIONER: Consumer Advocate.

MR. PEDDIGREW: Hello Ms. Greene.

I know it's been a long day. I hopefully won't be too long. As always happens when I – by the time I get up here, all of the questions I was going to ask have been asked. So I shouldn't be too long.

MS. GREENE: Well, I sympathize, that's my role at the board, I'm always last, so –

MR. PEDDIGREW: Well, it's good and bad, I guess, right?

So my name is Chris Peddigrew, I'm representing the Consumer Advocate and so the ratepayers of the province.

Just one question: Did Nalcor ever support the PUB's request for an extension to the, I guess, the second extension or the first extension?

MS. GREENE: Not that I'm aware of. There was no correspondence, nor did we asked them to, I guess – or the board did not. But there's certainly nothing on the record to indicate that they supported it or that they opposed it.

MR. PEDDIGREW: It was never raised by them with you as a possible solution to their, I guess, difficulties in providing the documents –

MS. GREENE: No –

MR. PEDDIGREW: – in a timely matter?

MS. GREENE: No, by this time they – no, they did not.

MR. PEDDIGREW: Manitoba Hydro – when Manitoba Hydro International, excuse me, MHI – when officials or people from Manitoba Hydro International came to St. John's for meetings or to, you know, gather information or documents, where was their physical work location? Was it at – did they have an office at the PUB?

MS. GREENE: They actually rented space in the Prince Charles Building. They knew that they would be spending extensive periods of time in Newfoundland, and rather than commute, they rented space. And the first meeting that I had with them face to face was on July 16 in the rental space – doesn't matter what floor.

But they rented space in the Prince Charles Building where they had their offices. And they would attend meetings at the Nalcor offices, and occasionally, there would be meetings at the Public Utilities Board space.

MR. PEDDIGREW: All right.

And the Nalcor offices – just – the Prince Charles Building, did Nalcor have any offices in that building do you know?

MS. GREENE: I don't think they did at the time. They have since for rate cases, as does Newfoundland Power. These cases go on for a period of time, so both utilities, from time to time, not on a permanent basis, may rent space in the building. I'm not – I can't recall if Nalcor did for the purpose of the reference. I know they do for the rate case, for example, but I can't recall if they did it for the reference.

MR. PEDDIGREW: Okay.

And what about Natural Resources? I might be mistaken, but does Natural Resources – do you know –

MS. GREENE: They're in the building across the way, Prince Philip building, where Hydro used to be when I started with them back in 1979.

MR. PEDDIGREW: Okay.

And I think – one of the questions I did have for you, but it has come out since is that MHI were making their own requests for information? They weren't all filtered through the PUB.

MS. GREENE: Oh no, if you looked on the – it's on the public website. They had – oh, I can't remember the number, but certainly numerous ones, yes.

MR. PEDDIGREW: And did they – I know they weren't getting the information in as timely a manner as they wanted, but was there any sort of discussion between yourselves and MHI about whether they were having a better experience, a worse experience, similar in terms of how promptly Nalcor were responding?

MS. GREENE: I won't take you through them, but in the progress reports that are in the record, you will note that MHI did comment on some of the difficulties they were experiencing in getting the information, and it was also in the transmittal letter when they sent the final report where they commented how they were not able to complete their work as originally planned because of the degree – because of the receipt of the information.

MR. PEDDIGREW: The hearing – or the hearings that did take place as part of the PUB review process, it was – am I correct, it was five days? Is that –?

MS. GREENE: It was a short period of time. Nalcor did a presentation. Manitoba Hydro did a presentation. There was questions from – when I say presentation, they gave evidence. There was questions of each of the panels, and then we had a public – it was a short process. I – right now, I can't recall how many days it was, Mr. Peddigrew, but it was a short process.

MR. PEDDIGREW: Okay, thank you. Were there any intervenors?

MS. GREENE: Not in the official sense. Not where you would have, for example, industrial customers intervene in Hydro's rate case, and they have three lawyers there, plus they have experts – not intervenors like that, but we had public participation. The Consumer Advocate represented the public interest, and there were separate parties there who wanted to make a submission.

But no, they did not question or they – those public participants didn't have any standing to ask questions or to present evidence or ...

MR. PEDDIGREW: And the public participants you're referring to, would that be Mr. Vardy, Mr. Penney ...?

MS. GREENE: Well, there was a number more than that. It's in the report, actually. In the board report, it will tell you who gave the presentations. It was more than Mr. Vardy and Mr. Penney.

I'm afraid, at this late hour, my memory is escaping me. There was a gentleman I hadn't

seen since university who actually came and gave – Memorial days – that came and gave a presentation. So there were other people who gave presentations.

MR. PEDDIGREW: Okay.

And you may have just answered this – sorry, it's late in the day, so I might have missed it – did you say Newfoundland Power were present at the hearings?

MS. GREENE: Yes, I think – yes, they were.

No, I can't remember. I mean, at this stage –

MR. PEDDIGREW: (Inaudible.)

MS. GREENE: – without checking for the report –

MR. PEDDIGREW: Again, it would be –

MS. GREENE: It is in the report. I'm after reading it all –

MR. PEDDIGREW: It would be in the report, I am assuming, if they were.

MS. GREENE: Oh, it definitely – it would be –

MR. PEDDIGREW: Okay.

MS. GREENE: In the background section of the board report, it is always quoted who is present as intervenors, who their lawyers are and who their witnesses are. So I'm sorry, right now, I just really can't recall.

MR. PEDDIGREW: That's okay.

MS. GREENE: I'm having a memory blackout.

MR. PEDDIGREW: It's something we can find out otherwise, so that's fine.

When you were contacted by Mr. Bown, was there any discussion over whether he was contacting you on behalf of Nalcor, or on behalf of government, or was that –

MS. GREENE: Oh, he was on –

MR. PEDDIGREW: – (inaudible)?

MS. GREENE: – behalf of government.

MR. PEDDIGREW: Behalf of government.

MS. GREENE: He was – I’m not sure if he was assistant deputy minister or associate deputy minister at that time, and he was contacting me in that capacity, as he would with legal counsel, to discuss the potential reference coming.

MR. PEDDIGREW: During your involvement in the lead up to the report of the PUB, was there any – ever any discussion about anticipated rates – like, what the rates to ratepayers might end up being as a result of the – I guess either option?

MS. GREENE: No.

There was no real consideration of rate impacts during the reference review, the – this – back in 2011.

MR. PEDDIGREW: And given that that is normally, I would suggest, a – I guess, an issue that the PUB might consider, is that – is it surprising to you that that wasn’t part of what you were asked to consider?

MS. GREENE: At that time the decision was which was going – the premise was that the province needed power – like, there was a demand for power. It had to be met. What was the lowest cost or least-cost alternative to meet the need? So presumably, in making the decision, then you come up with what is least cost; therefore, you’re having the lowest impact on rates.

So no, we were at the stage of determining what was the best way to proceed to meet the demands. There was not further analysis as to the impact through the revenue requirement that that would have on rates.

MR. PEDDIGREW: Right.

MS. GREENE: Not as part of this reference – that reference.

MR. PEDDIGREW: And when you say least cost you mean as between the two options –

MS. GREENE: As between – yes.

MR. PEDDIGREW: – that were put to you?

MS. GREENE: And the question was limited to considering two options, the Interconnected Option as defined and the Isolated Option as defined.

MR. PEDDIGREW: Did MHI ever raise the issue of potential impact on rates as a concern in your discussions or meetings with them?

MS. GREENE: Not that I recall.

MR. PEDDIGREW: Was the concept of price elasticity ever discussed? What a jump in rates might do to –?

MS. GREENE: Not that I recall at that time. I certainly have discussed it since then but not at that time, no.

MR. PEDDIGREW: The Consumer Advocate involvement in the PUB hearings back in 2012 – and I know there’s been some questions and discussion about the retention of the expert Knight Piésold – is that okay?

MS. GREENE: Knight Piésold. Yes.

MR. PEDDIGREW: And I saw in your interview transcript, and again today, you indicated that the – that expert report was not filed with the PUB. Is that – that’s correct, right?

MS. GREENE: There was no expert report filed by the Consumer Advocate. That is correct.

MR. PEDDIGREW: Okay.

Do you know – was the report completed, do you know?

MS. GREENE: I really don’t know. I never saw any draft or anything to do with a report from that consultant. I wouldn’t – I would not expect to see it. I never would have seen it until it was actually filed with the board. Anybody outside the board, Consumer Advocate or intervenors, I don’t see it ’til it gets filed.

MR. PEDDIGREW: Okay.

And do you know why Mr. Johnson didn’t file the report?

MS. GREENE: I believe the letter from the minister is there. I understood the letter from Minister Kennedy, who was minister at the time, was the clarification of Mr. Johnson's role and participation in the reference.

MR. PEDDIGREW: That's the –

MS. GREENE: We have looked at that letter.

MR. PEDDIGREW: I read it last night, but I think it was in January 2012. Is that the letter you might be referring to?

MS. GREENE: There was only one letter, I believe, in here from Mr. Kennedy to –

MR. PEDDIGREW: Mr. Johnson.

MS. GREENE: And it was around that time frame of the request for the extension and then the clarification of roles. I think it was early January, but don't hold me to that date. It was certainly in that time frame.

MR. PEDDIGREW: Okay.

Madam Clerk, I – it was an exhibit that was referred to earlier. I think it's P-00601. I hope it's 601. If it's not, I'm not sure. It's the Hansard – the House of Assembly transcript from – I believe it was April 2012. And probably on about page 7 or 8, I think

THE COMMISSIONER: Tab 76.

MR. PEDDIGREW: Maybe go – oh sorry – up one page. I do apologize, Commissioner, it was something that came up during one of the questions and I didn't get a chance to write down where I saw it.

THE COMMISSIONER: No problem.

MR. PEDDIGREW: Is it possible to do a search and find in this document for the word: knight, K-N-I-G-H-T?

UNIDENTIFIED MALE SPEAKER:
(Inaudible) page 8.

MR. PEDDIGREW: Page 8? Page 8, I believe. Okay, so, yes, this is the section. Thank you.

In reference there to Premier Dunderdale, she says: "Mr. Speaker, when you are looking for a full, independent analysis which is what we were trying to do with the PUB review wherein we spent nine months and over \$2 million and did not get any recommendation from the PUB, the value we got from it was the report from MHI. Otherwise, the PUB walked away from its responsibility, the terms of its mandate, to give us a recommendation. A recommendation that had already been endorsed by Navigant, by Manitoba Hydro, by the Consumer Advocate Mr. Johnson and his expert Knight Piésold"

Any idea why Premier Dunderdale, at the time, would look – first of all, do you know whether she received a copy of that report, if it wasn't filed?

MS. GREENE: I would have no idea.

MR. PEDDIGREW: Okay, and any insight into why she would be, sort of touting, the support of Knight Piésold as – or, I guess, as supporting governments decision, if their report wasn't filed.

MS. GREENE: I believe, in his submission, the Consumer Advocate may have supported the Interconnected Option as the least cost of the two. I don't know. I shouldn't speculate. I don't know.

MR. PEDDIGREW: You don't know, okay.

MS. GREENE: I'm sorry.

MR. PEDDIGREW: That's okay, I just – I wasn't – when that came up today, I just – I wondered.

You mentioned earlier today, and I can't remember who asked you the question, but you mentioned about new transmission lines and the one – I'm not sure – and, again, the context of the question I can't recall, but would you maybe had been referring to the new transmission line conducted from Bay d'Espoir or –

MS. GREENE: Yeah, TL 267 was just finished and put –

MR. PEDDIGREW: Okay

MS. GREENE: – in service last year.

MR. PEDDIGREW: All right. And the purpose of that transmission line, was that to bring power to the Avalon Peninsula, do you know?

MS. GREENE: It was to improve reliability for the Avalon Peninsula, to make the energy transfers from the Bay d’Espoir power plant more effective or better, yes.

MR. PEDDIGREW: Do you now if it had anything to do with bringing power that was available after the Stephenville and the Grand Falls mills closures?

MS. GREENE: No, I don’t recall that at this time, Mr. Peddigrew.

MR. PEDDIGREW: Okay. And do you know whether that additional power was factored in to the Isolated Island Option by Nalcor as part of their analysis?

MS. GREENE: The Exploits – the –

MR. PEDDIGREW: I guess, the prospect of – I know it was only completed last year, but I guess the prospect of getting –

MS. GREENE: Oh.

MR. PEDDIGREW: – that power at some point, was that factored into, I guess, the – what power would be available throughout the Isolated Island Option?

MS. GREENE: There was no new generation that TL 267 connected.

MR. PEDDIGREW: No new generation, why?

MS. GREENE: It was to improve reliability.

MR. PEDDIGREW: Okay.

MS. GREENE: Exploits and Star Lake and all of those were already in existence. So, I’m – I really don’t – I’m not sure about your question –

MR. PEDDIGREW: Okay.

MS. GREENE: – and how best to answer it.

MR. PEDDIGREW: Because my understanding was that it may have been to – as a way to capture the power that was once being used in Stephenville and Grand Falls at the mills and get it to the Avalon, but that’s not –

MS. GREENE: It was to get it to the Avalon, but the power available in the mills would have been available to the system prior to that. But there was an issue – and I don’t really – it’s an issue with respect to transmission line constraints with respect to the Avalon Peninsula. So it’s – it was a transmission constraint issue.

MR. PEDDIGREW: Right. As opposed to a generation issue. Okay.

MS. GREENE: As opposed to a generation capacity issue, is my recollection. But I haven’t looked at that capital budget now in a – that’s my recollection.

MR. PEDDIGREW: Okay.

MS. GREENE: It was to do – for enhanced reliability for the Avalon Peninsula.

MR. PEDDIGREW: I think that may be it, but if you just give me one more moment.

Sorry, yeah, this – so my last question then is during your time with Hydro, what was a typical forecasting period? How long out into the future did –

MS. GREENE: Twenty years.

MR. PEDDIGREW: Twenty years. And so you – during your career with Hydro, you never had occasion to make a 50-year forecast?

MS. GREENE: I was with Hydro for 26½ years. That’s a long period of time to try to recall. The normal – the long-term forecast is – was a 20-year period. I can’t recall now if there was ever one done at any time beyond it. I really would not be able to reliably answer your question. The normal – I can tell you, the long-term forecast is a 20-year period.

MR. PEDDIGREW: Okay. And those are all my questions. Thank you very much.

THE COMMISSIONER: Thank you.

Former Nalcor Board Members?

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

THE COMMISSIONER: Thank you.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

THE COMMISSIONER: Go ahead.

MR. KELLY: Good evening, Ms. Greene. Ian Kelly for Newfoundland Power.

MS. GREENE: Good evening, Ian.

MR. KELLY: How are you?

I have some questions about the board's practice and procedures, and I want to go in a little more depth than some of other counsel had in understanding the usual procedures, and then looking at what took place in this case, if I may.

Let's start this way: Newfoundland Power is a regulated utility that regularly appears before the Public Utilities Board. Correct?

MS. GREENE: That's correct, Mr. Kelly.

MR. KELLY: And it would appear in two different capacities. One would be as an applicant in its own proceedings, correct?

MS. GREENE: That is correct.

MR. KELLY: And the second would be as an intervenor. And, as an intervenor, it could appear in, perhaps, one of three different types of proceedings. First, it might appear as an intervenor in other utility applications, for example, by Newfoundland Hydro.

MS. GREENE: That's correct. As the major purchaser of Newfoundland Hydro's power, they have a – obviously, an interest in the proceedings and they always get standing.

MR. KELLY: Right.

And the second would be, for example, in inquiries or investigations initiated by the board. And you referred earlier today to the outages reliability inquiry.

MS. GREENE: That is correct.

Newfoundland Power was a participant in that proceeding with respect to the reliability of Hydro's system. And, in fact, the board also did an investigation into the Newfoundland Power system at that time.

MR. KELLY: Right.

And so – and the third possibility would be in references from the Lieutenant-Governor in Council. Those are the three areas in which you could have intervenor status.

MS. GREENE: Yes, and for regulatory – for utility matters – now, of course, we're only talking about utility matters, right, because –

MR. KELLY: Yes, absolutely.

MS. GREENE: Right.

MR. KELLY: Now, the board has a fairly well-defined process for how it deals with utility matters, and even for its own inquiries. I wanna take you through the steps in that and get your – see if you agree with this.

First of all, for example, in a utility matter, an application would be received with the evidence.

MS. GREENE: That is correct, and the application and the evidence could be as much as three of those binders together or more.

MR. KELLY: Absolutely.

And then, the next step is public notice is given.

MS. GREENE: That's correct.

MR. KELLY: It follows almost immediately.

MS. GREENE: Yes.

MR. KELLY: And then, immediately after that, the public notice – what is required is the – a person seeking standing would give what's called a notice of intention to participate.

MS. GREENE: That is correct.

MR. KELLY: Right.

So, for example, in a Hydro hearing, Newfoundland Power would file a notice of intention to participate if it wished to do so.

MS. GREENE: Yes, and they're required in their notice of intervention to describe the nature of their interest and how they plan to participate in the process.

MR. KELLY: Exactly. And that in turn, then, would lead to the board granting standing.

MS. GREENE: That is correct.

MR. KELLY: Right.

And the next thing that may happen in some circumstances is a scoping hearing. And a good example, for example, would be in the outages inquiry where the board conducted a hearing as to the scope of the hearings, especially with respect to the reliability phase.

MS. GREENE: When you say a scoping hearing, that really isn't a normal process. In a general rate application, the scope is pretty well defined by the nature of the application.

MR. KELLY: Right.

MS. GREENE: There is a pre-hearing conference where issues can be raised, but it's not so much a scoping –

MR. KELLY: But when you – once you get into, for example, a board investigation or an examination – especially, for example, in the reliability hearing – the board conducted such a hearing to determine the scope for which it would engage.

MS. GREENE: That is correct. Now, that's – and the reason for why that was done is the nature was different than a regular application.

MR. KELLY: Yeah. Correct.

MS. GREENE: There had been extensive outages in 2014, there had been a public outcry, there was complaints filed with the board and it was a question of what – the board initiated an investigation and there were issues as to what would we review. Would we –

MR. KELLY: Right.

MS. GREENE: – review only Hydro? Would we review Newfoundland Power? Was it going to be reliability and for what period of time?

MR. KELLY: Exactly. And that's sufficient for these purposes.

MS. GREENE: That was a scoping hearing, yes.

MR. KELLY: Right. And then, once the process starts, the first major thing would be requests for information.

MS. GREENE: That is correct.

MR. KELLY: And as you've described, they could be voluminous. We've seen ones with – there's more than a thousand.

MS. GREENE: Yes, in fact – and I think one of the Hydro – I thought the 2001 hearing there was a record for it, but I think that Hydro may have broken that record in 2016.

MR. KELLY: Right.

And then in some cases, but not in all cases, complex matters, there may be a technical conference.

MS. GREENE: Yes and that usually occurs at least after some of the experts filed their reports.

MR. KELLY: Exactly.

So then – so we have experts' reports, requests for information on those experts' reports, possibly a technical conference, all then leading up to a hearing before the board.

MS. GREENE: That is a good overview of the normal process, yes.

MR. KELLY: Right. And in that process, there would be multiple parties with standing.

MS. GREENE: Yes.

MR. KELLY: And the usual parties would be the two utilities, Newfoundland Hydro and Newfoundland Power.

MS. GREENE: Yes.

MR. KELLY: The industrial customers.

MS. GREENE: The industrial customers are only there in a Newfoundland Hydro hearing and they were there in the investigation. They do not participate in the Newfoundland Power hearings.

MR. KELLY: They have, at least in one that I recall, but –

MS. GREENE: Okay.

MR. KELLY: – not in every case.

MS. GREENE: And not in the ones I was involved in.

MR. KELLY: Right.

MS. GREENE: Yeah.

MR. KELLY: So those are the main participants. The industrial customers are sometimes there, represented by one counsel or they may be represented by more than one, depending on their interests.

MS. GREENE: Yes. And they are significant contributors to the process because they all have become experts in the area and have their own experts.

MR. KELLY: Absolutely. So what we've described is a fairly robust process which is – has multiple parties and which is evidentiary based. Would you agree with that?

MS. GREENE: I would agree with that and I would add another. It's fully transparent –

MR. KELLY: Okay.

MS. GREENE: – to the public. And the public can see everything that's going on, have access to everything and can participate.

MR. KELLY: Right.

Now, in this particular reference when it came into the Public Utilities Board, I noticed that one

of the things you started to do was to prepare an outline of how it would proceed.

Let me take you to Exhibit 00539 at page 5. And there are various iterations of the document. And it's not the precise dates that I want to talk about, so this one will do as well as any. It's at page 5.

MS. GREENE: No, I was just looking for the tab.

MR. LEARMONTH: Tab 10.

MS. GREENE: Tab number.

MR. LEARMONTH: Tab 10.

MS. GREENE: Thank you, Mr. Learmonth.

MR. KELLY: Now, if you could scroll up a little more. As we go down through this page I'm not going to take you through all of these entries, but I want to focus on a couple of the important ones. About two-thirds of the way down the page there is: Receive all necessary documentation from Nalcor. Do you see that entry?

MS. GREENE: What page are you on?

MR. KELLY: On page 5.

MS. GREENE: Oh, page 5. I was on page 1.

Yes, I see that.

MR. KELLY: Okay and then there's guidelines and a presentation. And then very shortly there's the public notice of the reference.

MS. GREENE: Yes.

MR. KELLY: And then two down from that, the bottom of the page is: Notices of intention to participate filed.

MS. GREENE: Yes.

MR. KELLY: Okay.

So as I look down through this, very quickly it appeared that the initial thinking was this was going to proceed using the same basic process

that the board had – that the board uses regularly.

MS. GREENE: It actually was prepared. If you look at the beginning part of the minutes, it was based on the process they had followed for an insurance review.

MR. KELLY: Right.

MS. GREENE: So it was – because that was a reference as well at that time, not the current one but the one that occurred prior to this one. So the template used was the actual process used for an insurance reference.

MR. KELLY: And the concept of notices of intention to participate seems to contemplate that the board would be thinking there would be other participants coming into this reference.

MS. GREENE: We did at the – yes, at the beginning. Yes.

MR. KELLY: At the beginning. And would it be fair to say that you would – might have contemplated Newfoundland Power and the industrial customers?

MS. GREENE: Well, they are normal participants

MR. KELLY: Right? And –

MS. GREENE: I can't say now what I might have anticipated back then, Mr. Kelly, but –

MR. KELLY: I'm going to put this question to you: Do you recall, in fact, a conversation with Mr. Alteen, who would have then been the vice-president of Regulatory Affairs, asking if Newfoundland Power would participate if the notice went out?

MS. GREENE: I cannot recall that discussion, but it would be part of my normal process.

MR. KELLY: Right.

MS. GREENE: For example, with respect to the current reference that's ongoing on rate mitigation, I call the industrial customers in, Newfoundland Power and, well, the Consumer Advocate was already appointed. And one of the

parties in Hydro's GRA, the Labrador Interconnected group, contacted me that they also wish to participate. So it would be –

MR. KELLY: Right.

MS. GREENE: – something I would have reached out –

MR. KELLY: Exactly.

MS. GREENE: – to the parties who had an interest, yes.

MR. KELLY: Right.

And Mr. Alteen saying to you, yes, Newfoundland Power would be prepared to participate, I'm going to put that to you. I know it's a long time ago. Let me take you through a few more steps.

MS. GREENE: I actually can't recall that now in the ...

MR. KELLY: Okay.

Now, then if you turn to page 6 here, you'll see that there's about four down we're going to written request for information to Nalcor.

MS. GREENE: Yes.

MR. KELLY: And then there's a request to make technical presentations with the scope of participation identified. So, again, it appears that you're contemplating participation by other parties.

MS. GREENE: At this stage, yes, we would – based on how the insurance review worked and based on the normal regulatory process, all of those participants may well have participated.

MR. KELLY: Exactly.

And then there would be a date for a technical conference, and filing of written requests for information on the technical submissions, and then ultimately the technical conference itself. Correct?

MS. GREENE: Yes.

MR. KELLY: And then ultimately there would be, presumably, a public hearing.

MS. GREENE: Yes, that's of the schedule contemplated and it was – it was an ambitious schedule, given what –

MR. KELLY: Right.

MS. GREENE: – the normal process we would follow.

MR. KELLY: But it appears, as I look at it, focused with multiple participants and potentially a fairly robust process.

MS. GREENE: We would have contemplated that at the time. And as I said, I again, would have – with input from others at the board; I would have been responsible for drafting that schedule of key activities.

MR. KELLY: Okay.

Now, can I take you to Exhibit 00562, and I believe it's the page 1 at the last paragraph.

THE COMMISSIONER: Tab 32.

MR. KELLY: This describes the process that was contemplated in that Mr. Johnson would be retaining an expert himself.

MS. GREENE: Right.

MR. KELLY: Correct?

MS. GREENE: Yes.

MR. KELLY: And as we saw with your testimony with Mr. Learmonth, eventually when we got to December 23, the Consumer Advocate would not be filing a report. I won't bother to take you through that anymore in detail (inaudible) take time.

Then, can I take you to Exhibit 00590, which January 6, the review process, and page, I believe, it's on page 2.

MR. LEARMONTH: Tab 63.

MR. KELLY: Right.

So, at this point in time, a revised review process is now going to be the following, and I'll just read you the first one: "Public presentations by Nalcor and Manitoba Hydro International ... in mid-February (with the Board, Nalcor and the Consumer Advocate permitted to ask questions)."

So, by January 6, 2012, because of the difficulties that were encountered in getting the material from Nalcor and failure to get a sufficient extension, the board was going to a much more truncated procedure.

MS. GREENE: That is correct.

MR. KELLY: Right.

Now, next can I take you to Exhibit 00609. I'm not quite sure what the tab number is, but there it is on the screen.

And this was the notice that was finally published. And we saw when we started, the notice was originally going to go out shortly after Nalcor's evidence came in. Correct?

MS. GREENE: Yes.

MR. KELLY: And this notice actually finally goes out on the 1st of February, 2012. You'll see the date on the second page.

UNIDENTIFIED FEMALE SPEAKER: It should be on tab 82, I believe.

MS. GREENE: Yes, thank you.

Yes, that's the date. The date of February 1, 2012.

MR. KELLY: Right. And if you go back to the first page, about a third of the way down under the heading: "February 13-16, 2012 ... Both NALCOR and MHI will make presentations to the Board. Following each presentation the Consumer Advocate will have an opportunity to ask questions. Interested persons wishing to place a relevant question on the record may do so through the Consumer Advocate."

MS. GREENE: Yes, that's not the –

MR. KELLY: Do you see that?

MS. GREENE: – media release, it says.

MR. KELLY: Right. This is the notice and the media release is back at 00608.

So, by that point in time there was no longer the concept of a multi-party hearing, all that anyone could do was ask a question through the Consumer Advocate. Do you agree with that?

MS. GREENE: Yes, but during this process I am in constant communication with these counsel. Right now, I cannot recall either the industrial customers and Newfoundland Power calling me up and say: Hey, Maureen, what's going on, we want to participate.

MR. KELLY: Well, in fact, (inaudible) –

MS. GREENE: I just can't recall.

MR. KELLY: Right.

MS. GREENE: There's certainly no written correspondence around that.

MR. KELLY: Right. I'm going to suggest to you, in fact, that at this point in time there was also a conversation with Mr. Alteen, vice-president of regulatory affairs, and the discussion essentially was you described the process and that they'd only be able to ask a question through the Consumer Advocate, the technical conference had been cancelled. And Mr. Alteen saying to you: that doesn't provide meaningful participation. Do you recall that?

MS. GREENE: I'm trying to recall. As I said, over the years I've had a number of conversations with Mr. Alteen. Right now, Mr. Kelly, I cannot remember that specific conversation, but during the RFI phase, I can't recall Newfoundland Power calling and saying, gee, look, we want to ask RFIs.

MR. KELLY: Because no notice had ever gone out to start that process, if you recall the regular process that the board ordinarily follows.

MS. GREENE: Yes, that is true, but on the other hand I had said our processes are not as formal as court.

MR. KELLY: Yes.

MS. GREENE: If Newfoundland Power had to call or the industrial customers called and say, look, Maureen, we really want to get in on this and ask questions. I think, there's no – I have no recollection of that, either. So that's my only caveat. Yes, they did not participate in the process –

MR. KELLY: But the trigger for – sorry – the trigger for that would be the public notice going out, and no public notice goes out in this case until the 1st of February, 2012.

MS. GREENE: That's the formal process. The informal process would have been, I would have been in discussions with them and if they had wished – if – we could've talked about that process and we can change our process.

The regulatory process and the lawyers who are involved in that process are a small circle, and they are not normally shy when they want to call and discuss something with me about whether something is going right or wrong.

So, right now, I can't recall a request from Newfoundland Power that they really wanted to get involved or to ask RFIs before that. And if Mr. Alteen called – I certainly have had lots of discussions with Mr. Alteen over the years. So I do recall the comment about it would – it not being appropriate – it's not the appropriate forum for what they would normally do. That, I do recall that, I'm not – in the context of this reference, yes, I –

MR. KELLY: And you would understand asking questions through a Consumer Advocate without being able to get at the background information through a technical conference would not be a really meaningful process.

MS. GREENE: I agree with that, and I do remember the comment about the process for them would not be meaningful.

MR. KELLY: Right.

MS. GREENE: But I don't recall any previous discussion about their desire to get involved at an –

MR. KELLY: Okay.

MS. GREENE: – earlier stage, which I don’t remember saying, no, b’y, you can’t do it, or yes –

MR. KELLY: Right.

MS. GREENE: – I’ll see what I can do. I just don’t recall that either.

MR. KELLY: Now, where I want to go with this is, as we’ve just talked about, the notice didn’t go out ’til late, there was no formal standing process as you would –

MS. GREENE: No.

MR. KELLY: – regularly have before the board. There was no scoping process.

MS. GREENE: Well, in this particular case the scope was defined by the reference question, in my view.

MR. KELLY: There was no technical conference.

MS. GREENE: No.

MR. KELLY: There were no RFIs to be asked on the MHI report, as we saw in the earlier correspondence. Correct?

MS. GREENE: Yes, in the normal process there is an extensive RFI process on expert reports, where other parties can ask additional questions. That didn’t occur, right.

MR. KELLY: And there was no expert evidence filed, except by board counsel, as you’ve already had the discussion.

MS. GREENE: Yes, that’s correct.

MR. KELLY: So I’m going to suggest to you that the ultimate process here, because of the reasons which you’ve described, was not the usual type of process that the board ordinarily engages in, follows or for that matter that the board intended to follow when it started this – when it first got the reference in, as we looked at in Exhibit 00539.

MS. GREENE: Oh yes, I agree with that, and in fact, at the meetings with government we

outlined the process that we intended to follow and that we were going to be following a similar template to the insurance review, and yes, I – that is quite accurate.

MR. KELLY: Thank you, Ms. Greene.

Those are my questions.

THE COMMISSIONER: Mr. O’Flaherty.

MR. O’FLAHERTY: No questions.

THE COMMISSIONER: Mr. Learmonth.

MR. LEARMONTH: I’ve just got a couple of brief questions.

Tab 34, Exhibit 00564. Do you see that document, that’s 00564, Ms. Greene?

MS. GREENE: Yes, Mr. Learmonth.

MR. LEARMONTH: Yeah. Can you tell me whose handwriting appears on that document?

MS. GREENE: I believe that’s Cheryl Blundon’s.

MR. LEARMONTH: Oh, that’s Cheryl Blundon’s, okay.

MS. GREENE: Mm-hmm.

MR. LEARMONTH: I just wanted to confirm with – just to make sure there’s no doubt about it. Did you – did the – during the course of the hearing, this reference, did Public Utilities Board receive anything beyond DG2 numbers?

MS. GREENE: No, we did not.

MR. LEARMONTH: Did not.

Okay, thank you.

Those are my questions.

THE COMMISSIONER: One question.

So board members would have tenure in the sense that they would be appointed for 10 years?

MS. GREENE: One of the commissioners was appointed before the change in the legislation and actually has an appointment age, I'll say (inaudible) – it's longer than 10 years – that would be Ms. Whalen, who's now the current chair.

THE COMMISSIONER: Right, okay.

And what about staff of the PUB, do they have any sort of security of tenure?

MS. GREENE: They would be – no, other than a normal employment arrangement, Mr. Commissioner. They are full-time employees of the board. I was not and am not a full-time employee of the board, but the other people are employees of the board.

THE COMMISSIONER: So for instance, Ms. Glynn, would she have security of tenure?

MS. GREENE: No more than another employee in their employment relationship who could be terminated.

THE COMMISSIONER: Okay. All right, that's all.

Thank you, I appreciate your – staying so long and I appreciate everybody else staying so long as well. But I think we're on our way now to getting this week done, anyway.

So we'll start tomorrow morning at 9:30.

Thank you very much.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.