



COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 1

Volume 27

Commissioner: Honourable Justice Richard LeBlanc

Monday

29 October 2018

CLERK (Mulrooney): This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc
presiding as Commissioner.

Please be seated.

THE COMMISSIONER: Good morning.

Mr. Learmonth?

MR. LEARMONTH: Thank you. I'd first like to enter some exhibits.

I would first like to enter some exhibits into the record. They are seven – P-00729 through P-00788, P-00791 and P-00812 through P-00833.

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

MR. LEARMONTH: Thank you.

The three witnesses today who will present their evidence as a panel are – from my left to right – Mack Kast, Paul Wilson and Allen Snyder. Could all of these witnesses be sworn?

THE COMMISSIONER: All right.

So I'll ask Mr. Kast to stand first please? Just take the – put your right hand on the Bible, Sir.

CLERK: Do you swear the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth –

MR. KAST: I do.

CLERK: – so help you God?

MR. KAST: I do.

CLERK: Please state your name for the record.

MR. KAST: Mack Kast.

CLERK: Thank you.

THE COMMISSIONER: And Mr. Wilson, if you could stand please?

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

MR. WILSON: I do.

CLERK: Please state your name for the record.

MR. WILSON: It's Paul Wilson.

THE COMMISSIONER: Mr. Snyder?

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

MR. SNYDER: I do.

CLERK: Please state your name for the record.

MR. SNYDER: Allen Snyder.

CLERK: Thank you.

THE COMMISSIONER: All right.

Mr. Learmonth?

MR. LEARMONTH: Okay.

Well, most of the questions will be directed to Mr. Wilson. He was the project coordinator or project manager; although, Mr. Kast and Mr. Snyder also have some important evidence, and if I'm asking a question to Mr. Wilson and either of the two – either of you wish to add something, you're certainly welcome to do so.

The first thing I want to do is ask you – starting with Mr. Kast and then proceeding along – to state your education and work history – your education starting after post-secondary or high school. Not a detailed account but a general summary of your life experience after high school.

MR. KAST: Yes, Sir.

Well, my name is Mack Kast as indicated, and I attended the University of Toronto, graduated in 1971 with a bachelor of commerce. I proceeded after that to obtain my professional designation

as a chartered accountant, 1973. And then for the next – hard to believe, but probably about 45 years I worked in the utility sector either for regulated companies or for regulators of those companies.

I worked for the Ontario Energy Board and – on various applications including Consumers' Gas and so on – some of the big companies, reviewing the material. And then after the Ontario Energy Board, I migrated to Alberta, to sunny Alberta, and I worked for the Alberta Public Utilities Board and, again, was involved in significant applications from the major utilities in Alberta and some in British Columbia as well.

Then I migrated back to Toronto and worked for the Ontario Energy Board, and that was basically a marginal-cost pricing initiative, and from there, I migrated to Ontario Hydro and worked with them. And then ultimately, I guess, I had a calling for where I was originally born and raised, and that was back in northwestern Ontario, Winnipeg. So I had another new job with the Inter-City Gas Corporation organization and worked on various utilities under the umbrella of Inter-City Gas – or I should say ICG Utilities.

And so they were tariff applications, and many of those applications had many different analysis in them in terms of reviewing best cost options and so on. And then there were – through a matter of takeovers and one thing or another – ultimately migrated to work for the whole conglomerate in Manitoba in terms of the utilities, the Century gas group.

And then in 19 – or I should say in 2012 I retired, and I joined basically the workforce as an independent consultant, and I worked basically under the umbrella of Manitoba Hydro International. And I did extensive work in different utilities in Africa, working for Kenya Light and Power. I was a – excuse me – the deputy general manager of finance and et cetera in that company, reviewed major applications and appeared before the regulator in that jurisdiction.

I worked in other lesser engagements, and then, ultimately, the most recent one was I was the managing director of Nigeria – Transmission

Company of Nigeria – and that was a two-and-a-half-year assignment and of course that was a fairly major initiative and a lot of responsibility and a lot of work.

So a lot of water has crossed under the bridge on my path, but the whole time I worked in the utility sector, and I've – regulators, as they say, for regulated – I've enjoyed my career and it's been a pleasure. Thank you.

MR. LEARMONTH: Okay.

Now, what type of work did you do in the utility sector? Was it financial or engineering – just give us some (inaudible).

MR. KAST: Financial – yes, Sir. Financial.

With Century Gas Manitoba, for example, I was vice-president of finance for 13 years and had many financial applications that came across my desk as the vice president of finance for Century Gas Manitoba. I should add, if I may, Sir, the one thing that also supplements it is in the sense – in terms of respecting the community.

I was a member of the Financial Executive Institute for a few years, and then ultimately became the most senior person of Financial Executives Institute of Canada for – it's a one-year term. And I also was a member of Canadian Gas Association.

MR. LEARMONTH: So your work was in the financial side, not in the engineering or technical side? Is that correct?

MR. KAST: That is correct.

MR. LEARMONTH: All right. Thank you.

And are you retired now?

MR. KAST: I am but actively working as a consultant when and as opportunity may arise.

MR. LEARMONTH: When contracts are available and –

MR. KAST: That's right.

MR. LEARMONTH: – you're –

MR. KAST: Yeah.

MR. LEARMONTH: All right. Thank you.

Next, Mr. Wilson, can you go through the same type of information, please?

MR. WILSON: I certainly can. Thank you, Mr. Barry Learmonth.

My name is Paul Wilson; I went to the University of Manitoba, graduating with a Bachelor of Engineering and computer science degree from – in 1987. From there, I went to work at Manitoba Hydro for a number of years. I worked in the distribution and generation and transmission divisions of the company up until about 1999 working on various projects.

At that point I became the managing director of a subsidiary company of Manitoba Hydro called the HVDC Research Centre and I led that company for 10 years. It's in the international market. In 2010 I became the managing director of Manitoba Hydro International and I led that company for three years, under which this contract was executed. And in about 2014 I left Manitoba Hydro to the West Coast to pursue a career out there in engineering consulting.

Then through my career at Manitoba Hydro, you know, which expand 25 years, I worked on various different projects, including the Northern Manitoba lake cables initiative task force, the Y2K Task Force and a number of other projects for that company.

MR. LEARMONTH: Okay.

So you left Manitoba Hydro International in 2013, is that correct?

MR. WILSON: That's correct, yes.

MR. LEARMONTH: And what have you done since then?

MR. WILSON: I left, I went to the West Coast and I worked for MCW Consulting Engineers. It's an engineering company in the utility business.

MR. LEARMONTH: And you're still employed by that (inaudible)?

MR. WILSON: Yeah, I'm principal engineer –

MR. LEARMONTH: Principal engineer.

MR. WILSON: – for Western operations for MCW in (inaudible) consulting.

MR. LEARMONTH: So Mr. Kast has told us that his expertise is in the financial side of things. Where would your expertise lie?

MR. WILSON: My expertise lies more on the engineering side of the business and operating subsidiary companies.

MR. LEARMONTH: And you were the project manager or team lead for both the engagement with the Public Utilities Board in 2011 and 2012 and for the engagement with the Government of Newfoundland and Labrador in 2012. Is that correct?

MR. WILSON: That is correct. And I assembled this team with my colleagues here, you know, to – one to do the technical work and other to look at the financial side of those projects.

MR. LEARMONTH: Okay. Thank you, Mr. Wilson.

Allen Snyder, could you go through the same type of information, please?

MR. SNYDER: Yes, thank you for the opportunity.

I was a graduate civil engineer in 1964 and completed an MBA in finance in 1976, so had a little bit of both sides of the equation. My career was with Manitoba Hydro and basically beginning as a construction engineer and rose to the status of vice-president of operations, and then had 20 years as a vice-president: first, as operations; secondly, as a vice-president of generation, so major development; and thirdly, the vice-president of transmission and distribution.

I founded Manitoba Hydro International as a wholly owned subsidiary in 1992 because of opportunities that we were finding, particularly with China, at that particular point in time in the

HVDC research area. And MHI has risen to a \$60 million company in 2017 as a subsidiary.

I also have had many overseas assignments and laterally with Manitoba Hydro International and then, laterally six years with the Alberta Utilities Commission on their \$14 billion build-out of transmission within the Province of Alberta. So I acted as an advisor to them.

I was also a board member of Manitoba Hydro from 2016 to 2018 and so my career, basically, has spanned 45 years as well, but within – and all within the utilities sector.

MR. LEARMONTH: Right. And are you retired?

MR. SNYDER: I am retired, although I do, do occasional independent consulting.

MR. LEARMONTH: Like Mr. Kast.

MR. SNYDER: Yes.

MR. LEARMONTH: Yes, all right.

And your expertise would be in what area? Are you able to ...?

MR. SNYDER: Primarily in engineering.

MR. LEARMONTH: Primarily in engineering. Okay.

Now, I'm going to ask each of you whether you can confirm that you've provided to your legal counsel all the documents in your possession, power and control in any way related to MHI's engagement in 2011 and 2012 for the Public Utilities Board, and for the following 2012 engagement with the Government of Newfoundland and Labrador for the Muskrat Falls Project. Have you provided your legal counsel with all those documents?

Can each of you confirm that or provide an explanation if you haven't?

MR. KAST: Yes, Sir.

To the best of my knowledge every document that I have has been turned over, yes, Sir.

MR. LEARMONTH: Mr. Wilson?

MR. WILSON: I also affirm that all documents in my possession have been disclosed.

MR. LEARMONTH: Yeah, or to which you have access, also, right?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah.

Mr. Snyder?

MR. SNYDER: Yes, all documents to which I have access have been turned over.

MR. LEARMONTH: Yeah.

Now, Mr. Wilson – and as I said, if either of you other two gentlemen want to add something or if I've asked the question to the wrong person, there's no formal structure here, just jump in because we want to get it correct if we can.

Mr. Wilson, can you tell me whether there are documents from your engagements, the two engagements I just mentioned, that have gone missing or are no longer available?

MR. WILSON: I'm not exactly sure. I know they've looked for all documents and we've disclosed everything that was in our possession.

MR. LEARMONTH: Yeah.

MR. WILSON: But to my knowledge, I think everything that has been identified and found has been disclosed.

MR. LEARMONTH: Yeah, but that's not my question. Are you aware that the – what the documents that have been found, that there are gaps in certain information that's missing. Are you able to confirm that or not?

MR. WILSON: There may be –

MR. LEARMONTH: There may be.

MR. WILSON: I cannot confirm that. From the documents there appears to be missing revisions.

MR. LEARMONTH: Yeah.

MR. WILSON: But that's the only oversight that I've been able to see.

MR. LEARMONTH: There's missing revisions of documents, is that right? Yeah. And possibly missing emails?

MR. WILSON: I do not know that, Sir.

MR. LEARMONTH: You don't know.

MR. WILSON: No.

MR. LEARMONTH: But in any event, you can't say that we have everything that was – all the documents that were created in relation to these two engagements. Is that fair to say?

MR. WILSON: I suspect that everything that was issued by email is in your possession.

MR. LEARMONTH: Yeah.

MR. WILSON: So there may be documents that were stored internally on external servers that we have no access to that may be missing.

MR. LEARMONTH: Yeah.

But what about the – I take it that in doing these two assignments you hired a number of consultants to do work in specific areas?

MR. WILSON: That's correct, yes.

MR. LEARMONTH: Are you saying that we have all or most of the records that those consultants maintained?

MR. WILSON: Based on the nature of the operations for MHI, working in the international arena, most of these consultants that we've hired or are actively engaged – some on this project – operate in jurisdictions far and wide around the world with limited or almost non-existent Internet access.

They're back – you know, the servers of MHI and our respective IT departments, you know, there was no system that we could put in place reliably in that day that would allow all of our consultants to connect and provide all these documents back. They would have to consciously send those documents via email to

MHI. Those likely have been captured and disclosed to you, but if there was documents that they worked on, their private notes, then they did not retain those, we would have no record of those.

MR. LEARMONTH: Yeah. Because I don't see in the records that I received any of your personal notes. Is that correct?

MR. WILSON: I was not in the habit at retaining my personal notes.

MR. LEARMONTH: Yeah. No, but notes that you made in relation to this, but I don't see any of your notes in these documents. Am I correct or have I miss something?

MR. WILSON: I don't keep notes that way.

MR. LEARMONTH: You don't keep notes?

MR. WILSON: No.

MR. LEARMONTH: Okay.

And I don't see any of the notes of the consultants – personal notes of the consultants in relations to these two engagements in the documents. Have I missed something?

MR. WILSON: I am not aware that they've saved those documents to our servers, or I certainly don't have them in my possession or – to my knowledge MHI has them.

MR. LEARMONTH: All right.

And as a result of these missing documents – I'll call them missing documents for – you know, you've confirmed that we don't have everything that was created.

MR. WILSON: You may not have everything.

MR. LEARMONTH: Yeah.

MR. WILSON: I don't know what would be missing.

MR. LEARMONTH: You don't know, but you know there are things that are missing.

MR. WILSON: I suspect there are, yeah.

MR. LEARMONTH: Yeah. Well, like, for example, the drafts. We know that there are some drafts that we don't have. Isn't that correct?

MR. WILSON: Yeah.

MR. LEARMONTH: Of the document?

MR. WILSON: Yeah.

MR. LEARMONTH: Yeah. Okay.

And at the interview that we had in Winnipeg in August 27, you had said that you would provide answers after you had conducted a further search for documents.

MR. WILSON: That I did, yes.

MR. LEARMONTH: Yeah. And you did provide them.

MR. WILSON: I did provide those.

MR. LEARMONTH: And just for the record, they're contained in the list of documents at tab 91, they would be Exhibit P-00827.

Now, after – you don't have to refer to them, I just wanted to advise the other parties –

MR. WILSON: Okay.

MR. LEARMONTH: – of that.

Now, after the interview on August 27 when, at various times, you asked for time to see if you could find any more information on which you could rely on to provide answers. Did you find any additional documents after August 27, 2018?

MR. WILSON: No, I did not. I searched but I could not find anything more and (inaudible).

MR. LEARMONTH: And the answers that you gave where often you're saying – and the record will show this – that you don't know who told you to do something, there's no record for it, so you didn't really find much. Is that correct?

MR. WILSON: That's correct, yeah.

MR. LEARMONTH: Yeah. Okay.

Well, those answers speak for themselves. I'm not going to go in to them in details, I just wanted to make sure the other parties are aware that you prepared them.

Okay, I want to refer to Exhibit 00816, which is your tab 79.

UNIDENTIFIED MALE SPEAKER: 00079 (inaudible).

THE COMMISSIONER: Book 2.

MR. WILSON: I got it.

MR. LEARMONTH: Now, this is a – I wanted you to have a look at this, particularly on page 2 and 3.

Can you bring up page 2 first?

This is an email at the beginning of your engagement. Well, it's June 2015, shortly after you're engaged, from – it looks like it's from Paul Harrington to Brian Crawley. And he says on page 2, "Based on our discussions earlier this week – here is my suggestion for how we should conduct the meeting for Muskrat Falls." And this is a meeting that you were attending, I understand.

And then he goes on to say down below: Scope description – review of the MF, et cetera, and then it says: "Cost estimate changes we can manage by updating the base estimate ...", et cetera. "Construction schedule – keep this at a high level not necessarily Primavera – a simple bar chart should be adequate with critical path to First/Full Power."

And then, if we go to page 3, we see at the second paragraph: "MF master cost estimate - Use Jason's updated cost table from the Tech Note issued at DG2. MF high level schedule - use the critical path bar chart updated with the latest dates."

And then Outcome: "A report on the reasonableness of the MF cap cost estimate and schedule as inputs to the CPW- keep this in mind we do not have to go down to a detailed level to pass this test of reasonableness, so avoid going

into the weeds on our work.” This is in anticipation of meeting with you – your representatives.

Then Mr. Harrington says: “We should be respectful, helpful but we should not offer anything outside of the Terms of Reference and Scope of work without internal agreement, if they ask for something then Gilbert, Brian or I will step in if needed. We can let them look at most things at the high level and if they want to burrow down deeper then we shall have to caucus on that. We can play it be ear in the meeting and take the lead as shown above. So only bring along high level documents as indicated above.”

When did you first see that email?

UNIDENTIFIED MALE SPEAKER: What’s the date down there?

MR. WILSON: This email, I don’t believe I’ve seen it.

MR. LEARMONTH: Okay. Well –

MR. WILSON: It’s not addressed to me.

MR. LEARMONTH: Yeah. But were you aware that Nalcor, apparently, had developed this strategy for dealing with your request for information or, you know, to keep things at a high level, for example?

MR. WILSON: Well, this is very consistent with the scope of work that has been developed in consultation with our client – the Government of Newfoundland. So, there’s nothing really that surprising in this email in terms of how they engage with us.

MR. LEARMONTH: What do you mean except – that’s how they engage with you?

MR. WILSON: Well, in how they conduct the meeting. How we would interview with them.

In our scope of work, it clearly indicates that we will review these documents with them in meetings at a high level, largely with summary documents that they would provide us. They were not going to develop anything new at our

request – any documents that we would request (inaudible) new.

And our scope of work had been reduced from our original submission of scope of work to elements that the Government of Newfoundland would agree with, like between their decision or discussion they’ve had with Nalcor or their internal needs.

MR. LEARMONTH: So the scope was, in your judgment, limited?

MR. WILSON: The scope was revised to meet the needs of the client –

MR. LEARMONTH: Okay.

MR. WILSON: – (inaudible) discussion with the client. We had originally offered a scope of work, which was broader than what they ultimately engaged us for.

MR. LEARMONTH: Okay. And so this – the word high level. What is high level mean in your business?

MR. WILSON: I think in the context of this review, the high level would be summary documents, (inaudible) charts, tables with values.

Now, these documents, my technical team leads and the experts would review in meetings with this and they would need to make those judgments of whether it’s reasonable or not. And I will defer to Al Snyder on that ’cause he led that part of the team in determining whether those cost estimates and schedules were sufficient for us to gauge the reasonableness.

MR. LEARMONTH: So I take it, then, you didn’t see the core documents. You were just provided with summaries, is that right, Mr. Snyder?

MR. SNYDER: Each of the separate organizations or separate experts went into details with the people that – from Nalcor – that were involved with the various aspects of the project and were able to gather sufficient information to make an assessment as to whether or not they were reasonable.

There was certainly some – some work had actually been bid – there were bids in – and Nalcor made note of the fact that the bids were in and that they had a very good idea of the projected costs, and our people were not given the opportunity to review those bids because those were deemed to be confidential to the utility itself.

MR. LEARMONTH: So you were refused access to those documents?

MR. SNYDER: We were given a summary of the results of those documents.

MR. LEARMONTH: But not access to the actual documents?

MR. SNYDER: That's correct.

MR. LEARMONTH: And you asked for access to the full documents?

MR. SNYDER: We asked for a number that they had – why they had come up with specific numbers and specific areas of responsibility such as synchronous condensers – you know, how much did those cost – and they had three bids in, and they had taken the average of the two highest to put into their estimate, and we took them at their word, because those numbers were reasonable compared to the Canadian market at the time.

MR. LEARMONTH: So you took Nalcor at their word, is that – rather than confirming it by accessing the detailed documents, is that correct?

MR. SNYDER: Yes, because of confidentiality of those bids at that particular point in time. They had not been awarded; they had been received.

MR. LEARMONTH: But you were under a confidentiality agreement with Nalcor, so why would the issue of confidentiality be set-up as a reason to deny you access to these documents?

MR. SNYDER: Because at that particular stage they had not been awarded, and we had reason to believe that the numbers that they had provided us with were compatible with what the industry-accepted standards were at that time.

MR. LEARMONTH: Yeah. But the point is – I want to make – is that you first sought the actual detailed documents and you were turned down, is that right?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay.

So initially, you thought it was important to get the P documents, or you wouldn't have asked for them, is that right?

MR. SNYDER: We asked if they had any information on the costs of those particular contracts, and we were firm that they had –

MR. LEARMONTH: Yeah, but do you see my point? If you're – if you ask for a documentation that someone has, it means that you want to see that documentation, or you wouldn't ask for it. So in this situation, I'm hearing you as saying that you ask for this documentation, you were denied access to it and, instead, you were given summaries, correct?

MR. SNYDER: Correct.

MR. LEARMONTH: So you didn't get the information that you first asked for, is that correct?

MR. SNYDER: We got what we thought was a reasonable answer to the question we asked.

MR. LEARMONTH: Yeah. But not the documents you sought in the beginning?

MR. SNYDER: But not the documents we sought in the beginning.

MR. LEARMONTH: You agree with that?

MR. SNYDER: Yes.

MR. LEARMONTH: You didn't get them?

MR. SNYDER: No.

MR. LEARMONTH: Okay.

And you had signed confidentiality agreements with Nalcor?

MR. SNYDER: Yes.

MR. LEARMONTH: So how could – what’s your understanding as to how Nalcor could deny you access to these documents on the basis of them being confidential?

MR. SNYDER: When –

MR. LEARMONTH: Doesn’t a confidentiality agreement cover that situation?

MR. SNYDER: Well, it does, but it – you know, it’s an interesting time when people have submitted bids, no award has been made, and you know, trying to come up with a logical number to use, they came up with what we thought was a reasonable solution.

MR. LEARMONTH: Yeah.

Well, anyway, that’s your answer – I’ll leave it at that.

Now, I’d like each of you to look at Exhibit 00821, which is at your tab 84.

Now, this is a – page 1 is an email from Jack Evans, I believe, at Westney. Yes, Westney Consulting Group.

You knew that they were the consultants for Nalcor on certain issues, is that correct? Can you confirm that?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay.

So this is dated September 20, 2012, and will you confirm that your final report was submitted to government on October – on or after October 27, 2012?

MR. WILSON: That sounds about right, yes.

MR. LEARMONTH: Yeah.

So this is well – more than a month in front of this.

So this is from Jack Evans to Jason Kean. It says: “Jason,

“Attached is the final document for the Analysis of Potential Management Reserve and Lender’s Owner Contingency for the Lower Churchill Project. Please call if you would like to discuss.”

Now, I can tell you – I don’t want to go into details, but there were 8 or 9, we were told, drafts of this going back as far as April – excuse me, May of 2012. This is the final version, which was received on September 20.

I’d like you to look carefully at this document and tell me whether – during your engagement on the DG3 question by government – whether you ever saw or heard of this document. And I want each of you to answer that question.

MR. WILSON: I’ll start on that. Let me just have a quick look through the whole document.

So this document –

MR. LEARMONTH: I just wanted to point out that, if it would assist you, on page 6 of this document there’s an amount of 497 indicated as strategic risk exposure if that assists you in deciding whether you’ve seen it before.

MR. WILSON: Yeah. I noted that. This particular document, I have not seen.

MR. LEARMONTH: You never saw it?

MR. WILSON: Never saw it at the time.

MR. LEARMONTH: So you’re –

MR. WILSON: Until now.

MR. LEARMONTH: Until – well –

MR. WILSON: Until the Inquiry, yeah.

MR. LEARMONTH: Until the Inquiry. Okay.

So you did a review of the cost estimates for – of Nalcor in your report to government, and you’re telling me that you never saw this document until well after – years after you submitted the report?

MR. WILSON: This particular document deals with the management reserve and strategic risk, and we were never provided any documentation

by Nalcor at the time on that particular topic. And in addition, the area of strategic risk or risk analysis was essentially removed from our scope of work.

MR. LEARMONTH: Yeah.

But you do agree that when you're doing a – reviewing a cost estimate, that strategic risk has to go in there if the information is available. Is that true?

MR. WILSON: No, I don't agree.

MR. LEARMONTH: You don't?

MR. WILSON: We were engaged to review base cost estimates and contingencies in inputs into the CPW analysis, and management and strategic reserves were an additional (inaudible) to that, not in our scope of work or study, and that was in the agreement with the Government of Newfoundland in our scope.

MR. LEARMONTH: Well, you didn't get this document, and you didn't think it was relevant to your review? And when you did see it, you're saying it wasn't relevant to your review?

MR. WILSON: If we had seen this document –

MR. LEARMONTH: Yes.

MR. WILSON: – we would've probably taken a note of it and addressed it in our report at some level.

MR. LEARMONTH: Yes.

MR. WILSON: So the government would've been informed. And we – maybe that would've been taken out in the final draft because it is a risk analysis area that wasn't in our scope, but we would've mentioned it.

MR. LEARMONTH: But if it came into your – so if it came into your possession, and you're saying it didn't before you filed your report on October 27, 2012, if you did see it, you – even though you're saying that you didn't think it fell within your scope, you would've reported it to government?

MR. WILSON: I'm gonna refer that question to Al Snyder to –

MR. LEARMONTH: Okay.

MR. WILSON: – (inaudible).

MR. LEARMONTH: Well, Mr. Snyder – I want to hear from Mr. Kast as well. So Mr. Snyder, I'll turn it over to you.

What is your answer to the question as to whether – when is the first time you saw this document?

MR. SNYDER: Same as Mr. Wilson's. I did not see this document until this Inquiry.

MR. LEARMONTH: Okay.

UNIDENTIFIED MALE SPEAKER:
Microphone (inaudible).

MR. SNYDER: Oh, oops, sorry.

MR. LEARMONTH: Okay, just repeat that question, please?

MR. SNYDER: Sorry. I did not see this document until this Inquiry.

MR. LEARMONTH: Yeah. Did you feel – having now seen it, did you feel it was something that should've been provided to you by Nalcor?

MR. SNYDER: It's probably something that should've been provided to us by Nalcor, but I didn't know what the relationship at that stage was between Nalcor and the government, and whether or not that was shared with the government.

MR. LEARMONTH: You didn't –

MR. SNYDER: Didn't know that that – you know, because we were not involved in the risk analysis on this particular project.

MR. LEARMONTH: But you knew that the government was relying on your work, to some extent, to decide whether to sanction the project. Is that correct?

MR. SNYDER: That's correct.

MR. LEARMONTH: So if there was an amount of \$497,000 that you were aware of, I'm – can you say with certainty that you would've advised government of this figure –

MR. SNYDER: We definitely –

MR. LEARMONTH: – in your final report?

MR. SNYDER: – would've discussed it with the government at that time.

MR. LEARMONTH: You what?

MR. SNYDER: We would've discussed it with –

MR. LEARMONTH: You would've.

MR. SNYDER: – government –

MR. LEARMONTH: Okay.

MR. SNYDER: Yes.

MR. LEARMONTH: Yeah, yeah. So how do you feel about the fact that it wasn't provided to you?

MR. SNYDER: Well, you know, it's something that we didn't know that was going on and, you know, it's a little disappointing but it's, you know – we also knew that the government, you know, was going to assume the responsibility for the risk – strategic risk factor.

MR. LEARMONTH: Yeah. So what do you mean when you say "it's a little disappointing"?

MR. SNYDER: Well –

MR. LEARMONTH: Why is it a little disappointing?

MR. SNYDER: Well, you'd like to have all of the information all of the time, before you make any significant decisions. I would agree with that.

MR. LEARMONTH: Yeah.

Anyway, you – and you would've – if you had received this report, you're saying you would've advised government about it?

MR. SNYDER: Yes.

MR. LEARMONTH: Yeah. Why?

MR. SNYDER: Because it's substantial. It would not have made any difference in the overall – because you have to have the strategic risk exposure in both of the options – the Isolated Island as well as the Integrated.

MR. LEARMONTH: Mmm. But it would've made a difference too. I mean, you confirmed – subject to what you said in your report – the \$6.2-billion estimate, right? The cost estimate – it would've made a difference to that, wouldn't it?

MR. SNYDER: Yes.

MR. LEARMONTH: Yes, okay.

Mr. Kast.

MR. KAST: Yes, Sir.

MR. LEARMONTH: Can you answer the same question? Did you ever see – when's the first time you saw the document P-00821, which is at tab 84 of your binder?

MR. KAST: It may have been in the papers – (inaudible) many documents – but I do not recognize this document as one that I'm familiar with at all.

MR. LEARMONTH: When's the first time you saw it?

MR. KAST: Well, in terms of what we're talking about now, I would say now. But it may have been in a myriad of documents. There were many documents – there's a lot of material that comes in; it's our job to sort and sift what's necessary for the CPW.

What was important to me is: Did we have the right information that was required to give a balanced CPW on both options? And so I looked to my learned engineers, if you like, on my left

to make sure that that documentation was appropriate.

MR. LEARMONTH: Yeah, but in order to do that, you had to analyze, to a certain degree, the cost estimates.

MR. KAST: Well –

MR. LEARMONTH: Because that was an important input into the CPW analysis.

MR. KAST: Well, that's correct. Of course the cost estimates are important.

MR. LEARMONTH: Yeah.

MR. KAST: Yeah.

MR. LEARMONTH: So wouldn't this document, if you had seen it, been something that you would've had to have addressed in the preparation of the cost estimate?

MR. KAST: Well, it wasn't – I think we need to – we worked as a team and when we talked about what the cost of the project is, it was the gentlemen on my left here that really delved into what numbers were the right numbers for this. And the reference that you're bringing to the table here, strategic risk, and what we heard again is that the strategic risk was not a component of the CPW.

MR. LEARMONTH: But it was –

MR. KAST: It wasn't for me, then, to follow on to say: Yes, you did the right thing, colleague, in terms of leaving it out.

MR. LEARMONTH: So you would defer to Mr. Snyder on that?

MR. KAST: Well, to Mr. Wilson as well.

MR. LEARMONTH: Mr. Wilson as well?

MR. KAST: Yes, Sir.

MR. LEARMONTH: Okay.

Now, if you had been aware of this document – you say you can't say that you ever saw it –

MR. KAST: Yeah.

MR. LEARMONTH: – would you have felt that it would've been necessary to at least make reference to it in your report to government?

MR. KAST: In the purview of what I was doing, I wouldn't say it was necessary, no.

MR. LEARMONTH: Okay, but in terms of MHI's engagement, generally –

MR. KAST: No, I still wouldn't concur with that. I wouldn't. Because there were so many things that were coming to the table, it – the individuals that the documents were being submitted to would also have to have a good understanding of what their expectations were. And so if they expected that they should have asked for it, and if it wasn't there, they should have said something about it.

I have total confidence in what was put forward, and what we used in the CPW.

MR. LEARMONTH: Okay, but what about this report? So you don't think this report is relevant –

MR. KAST: Well –

MR. LEARMONTH: – to your engagement?

MR. KAST: – it's not for me to decide, right?

MR. LEARMONTH: Okay.

MR. KAST: Yeah.

MR. LEARMONTH: Who is it to decide?

MR. KAST: Well, I think we've heard discussion on it. It's an interesting document to see, but it's not relevant in terms of coming to grips with the CPW. Ultimately, our task was to determine what the CPW was on – for this option and for this option. What is the right input for that is what was critical to us.

MR. LEARMONTH: Yeah.

MR. KAST: If you want to go on a tangent outside here, fine, but let's come back to what the –

MR. LEARMONTH: Well, I –

MR. KAST: – central focus of the –

MR. LEARMONTH: – think you're the one going on the tangent, Sir, with respect.

I'm saying that in order to look at the CPW analysis, you have to have, as an input, a correct, accurate cost estimate. You –

MR. KAST: I agree.

MR. LEARMONTH: – agree?

MR. KAST: Totally.

MR. LEARMONTH: And I'm suggesting to you that this information on strategic risk is something that would have to be accounted for in the cost estimate before it was used as an input. Do you agree with that?

MR. KAST: No.

MR. LEARMONTH: So you don't. So this report, you would just ignore it.

MR. KAST: Well, I'm not saying I'm – I would ignore it. I'm saying that we do have a – we have a collective table of talent and these gentlemen to my left made that decision. And they came up with the correct decision.

When – and I've already said it, and I'll say it again – that when we were looking at, during the CPW, the responsibility – one of the major responsibilities I had was to make sure that we brought a balanced perspective to both options. If we're going to bring the strategic risk in on the Interconnected side, we also have to do it on the Isolated side.

MR. LEARMONTH: Yeah.

MR. KAST: That would've been my perspective on it.

MR. LEARMONTH: Okay.

MR. KAST: If we're gonna go down that path, then let's be fair to both options.

MR. LEARMONTH: Yeah. But you know – you knew that the government was – wanted to have a hard look at the cost estimates. Forget about the CPW analysis. We can talk about that later. But now I'm talking about the cost estimate.

I mean, you knew that the Government of Newfoundland – I expect you knew that the Government of Newfoundland was looking at MHI to provide them with an assessment and comment on the accuracy or validity of the \$6.2-million cost estimate. You knew that, didn't you?

MR. KAST: Well, they might well have been interested in the number –

MR. LEARMONTH: 6.2 billion. Sorry, I said million. Yeah.

MR. KAST: Yes, it might well have been interested in a number, but the deliverable is still the CPW number. That's what we were – that was our prime objective in this exercise.

MR. LEARMONTH: Yeah.

Well, we'll look at the documents and I guess the Commissioner will have to make a decision on that. Because just before we leave it, I suggest to you that in order to – even if you're right, that it's absolutely essential that you get a correct number on the cost estimate before you use it as an input.

And to say that – I'm suggesting to you that to say that you wouldn't have had to take this into account, based on the terms of your engagement, is very difficult for some, I would suggest, to understand. But that's your position, that's fair enough.

MR. KAST: Thank you.

MR. LEARMONTH: The next document – well, were you aware of a risk assessment for tactical risk? I'll ask, Mr. Wilson.

MR. WILSON: Okay.

MR. LEARMONTH: And that's tab 40. That document is tab 40, P-00763.

MR. KAST: That's not here. It's got to be in that book.

MR. WILSON: Yeah.

MR. LEARMONTH: Now, I take it, based on your evidence, that you received this document. Is that right? By – you were given it by Nalcor because it was in the documents that Ms. Van Iderstine provided to us. Can you just confirm that?

MR. WILSON: Just let me have a quick look at it.

MR. LEARMONTH: Yeah, I wish you all would take the time to look through it, please.

MR. WILSON: Yes, I – yeah, we have received this document.

MR. LEARMONTH: You did.

MR. WILSON: Yeah.

MR. LEARMONTH: Well, during the course of your engagement –

MR. WILSON: (Inaudible.)

MR. LEARMONTH: – by the government, is that right?

MR. WILSON: The date of this email August 14 –

MR. LEARMONTH: Yeah.

MR. WILSON: (Inaudible.)

MR. LEARMONTH: And so that's 367, 368 million or 7 per cent of the estimate for tactical risk, right?

MR. WILSON: That's correct.

MR. LEARMONTH: Contingency for tactical risk. And was that a relevant document for you to have received from – received?

MR. WILSON: Yes, it was. It was actually – these values are added in to the base cost estimates –

MR. LEARMONTH: Yeah.

MR. WILSON: – as input into the CPW.

MR. LEARMONTH: So if this document was a relevant document, why wasn't the strategic reserve and the management reserve document, the one I just – we just left, why wasn't that relevant?

MR. WILSON: These are – I guess it's all how we're – where it ends up in the analysis. And Mack has so eloquently established that in the CPW analysis or base cost estimates – or the base cost estimates that Nalcor provided us in summaries and plus these amounts, plus escalation and contingency – escalation as well – is added into that base cost estimate. That has direct inputs into the CPW.

We weren't provided or never saw the strategic risk amounts. And, yeah, Al Snyder and I indicated already that if that had been provided, we would have noted it at some level and –

MR. LEARMONTH: In your report you would have noted it?

MR. WILSON: In our report, yeah.

MR. LEARMONTH: Yeah.

MR. WILSON: And worked with our colleague on the financial side to determine how to treat with that on the CPW, or if it was even required in the CPW. And, at this point, without having that balance on the Isolated Island option –

MR. LEARMONTH: Yeah.

MR. WILSON: – it likely would not have been included.

MR. LEARMONTH: Yeah, well, I'm talking about –

MR. WILSON: It's noted –

MR. LEARMONTH: I'm not talking about the CPW; I'm talking about the cost estimate.

MR. WILSON: Yeah.

MR. LEARMONTH: Every time I ask about the cost estimate, somehow you swing that into the CPW analysis. I'm talking about the actual cost estimate without reference to the CPW analysis, which we can deal with later. Do you see what I'm saying?

MR. WILSON: You're, yeah, focusing on that component, yes.

MR. LEARMONTH: I am now and I will deal with the CPW in due course but, right now, I'm asking about the cost estimate. So when I ask you about the cost estimate, it would expedite matters here if you dealt just with the cost estimate, not with the cost estimate in terms of the CPW analysis. Do you understand what I'm saying?

MR. WILSON: I understand what you're saying, Sir.

MR. LEARMONTH: Yeah.

MR. WILSON: We still have the end view of what we need to deliver at the end of it.

MR. LEARMONTH: Yeah, but you're saying that the strategic reserve should not be added into the capital cost estimate?

MR. WILSON: I'm saying if you are going to add – okay, we're – if you're focusing just on the base cost estimates –

MR. LEARMONTH: Yes, I am.

MR. WILSON: (Inaudible) what you run and – I –

MR. KAST: It's a good number to know where it should be included.

THE COMMISSIONER: Just one of you speak at a time.

MR. LEARMONTH: Yeah, one of you speak at a time.

MR. WILSON: Yeah, oh –

MR. LEARMONTH: You shouldn't talk like – whisper to each other. Like, you got something to say –

MR. KAST: Okay.

MR. WILSON: Oh – yeah.

MR. LEARMONTH: – say it.

MR. WILSON: Yeah.

MR. KAST: All right.

MR. WILSON: I kind of – I got to ask Al Snyder to help me on this one.

MR. SNYDER: We did not see the 497. We were not – we were unaware of it and, as a result, did not include it. Would have obviously have included it if – or at least we would have discussed it with the client had we been made aware of it, but we had no information on that until this Inquiry.

MR. LEARMONTH: Okay.

So you definitely – are you saying that you would have included it or dealt with it in the – your assessment of the project cost estimates?

MR. SNYDER: We would have dealt with it in the assessment.

MR. LEARMONTH: You would have?

MR. SNYDER: We would have talked to the client about it.

MR. LEARMONTH: Yeah.

And you didn't talk to the client about it because you didn't know about it.

MR. SNYDER: We didn't know anything about it

MR. LEARMONTH: Yeah, you didn't know anything about it.

MR. SNYDER: Right.

MR. LEARMONTH: That's what I'm getting at. Yeah, okay.

All right, do you have anything to add to that, Mr. Kast?

MR. KAST: Thank you.

Well, just to the extent that the tactical risk is expected to be included because that's the definition of tactical risk. It's within the organization, as opposed to the strategic risk which, I believe, is exogenous and should not be included.

MR. LEARMONTH: It should not be included?

MR. KAST: In the CPW.

MR. LEARMONTH: I'm not talking about the CPW.

MR. KAST: Well, what – okay, fine. That's fine.

MR. LEARMONTH: I mean I – like, we can have this discussion every time you answer a question, but I believe that I've made myself clear that when I'm talking about the cost estimates I'm talking about the cost estimates standing alone. And every time I do – and I'm repeating myself with this – you bring up the CPW analysis and I don't know why.

MR. KAST: Because I understand the deliverable to be to make the decision between the two choices with respect to the CPW. The cost estimate that went into the base numbers to determine the CPW; those numbers are what are critical.

If you want to talk about the capital cost of the project in total, beyond that, then I think I should defer to my left or ... it just – it's not in the purview of the endgame in terms of what our responsibility was. That's my strong point that I'm trying to make, Sir.

MR. LEARMONTH: Okay.

MR. KAST: I don't have any objection talking about the cost estimate. I understand and it'd be interesting to know and so on and what's in it, and if you want to keep going, and all the possibilities, but in the end, what I was expecting from the gentleman on my left was: What number is the correct number that we're going to use in the CPW for both options.

MR. LEARMONTH: Okay, well, you know –

MR. KAST: Thank you.

MR. LEARMONTH: – you're – once again, I'll just say it for the record, I asked you not to refer to the CPW, and you're doing it, but we'll deal with that later.

MR. KAST: Okay.

MR. LEARMONTH: I get your point.

MR. KAST: Okay.

MR. LEARMONTH: Thank you. Now, could you bring up exhibit –

THE COMMISSIONER: Excuse me just for one second. Can you just take your mic off so I can hear from Mr. Simmons? All right, Mr. Simmons.

MR. SIMMONS: Mr. Commissioner, I appreciate it's Mr. Learmonth's direct examination and that he's asked a number of questions to which he may not be getting exactly the answer that he might have been looking for. But I think the witnesses have been very clear so far, from what I've heard, that their deliverable has been the CPW.

So I just wonder about the appropriateness of Mr. Learmonth insisting that they be directed to consider their answers in the context of what a cost estimate would have been apart from the CPW, and it seems to be that's the only context in which they considered it.

THE COMMISSIONER: Mr. Learmonth.

MR. LEARMONTH: Well, I'll go by what I said before, which is this: if I want to ask questions about the cost estimate without referring to the CPW, that's a very easy point to understand, and every time I ask the question, there's a digression into the CPW. And I think the point is very clear that you can look at the capital cost estimates without referring to the CPW analysis. But these witnesses, particularly Mr. Kast, doesn't seem to want to answer the question that I've put to him.

THE COMMISSIONER: Okay.

So you know, I'm just sitting here listening, and I don't have any ability to express true expert opinion with regards to any of this, but what I'm hearing from this is as follows: there seems to be – what these three individuals are saying, particularly Mr. Kast, is that the task that they were hired to do is narrower than just a review of the total cost of the project. And so I think there's a distinction to be made here with regards to that.

And I understand, you know, I'll hear evidence with regard to that distinction; however, it does seem to me that when you look at an additional \$500 million, it's not a small amount, and if you're – and my main interest here is to try to figure out who knew what with regards to the cost of this particular project.

Now, I have not seen the terms of reference or the RFP or whatever it was that basically was utilized for the purposes of at least having these people tasked to do this job by the Government of Newfoundland and Labrador, and that may well explain some of this. But in the meantime, you know, this is an inquiry, and I'm gonna let Mr. Learmonth continue on until I think that he's exhausted what he needs to take on.

So go ahead, Mr. Learmonth.

MR. LEARMONTH: Okay. Thank you.

Now, I want to turn to the Grant Thornton report, which is at tab 92.

THE COMMISSIONER: Okay, so that would be in the general binder?

MR. LEARMONTH: No, it's in –

THE COMMISSIONER: No? It's in their binder as well?

MR. LEARMONTH: It is.

THE COMMISSIONER: Okay.

MR. LEARMONTH: Tab 92, and it's Exhibit P-00014.

Let me know when you find it there?

MR. WILSON: It's here, yes.

MR. LEARMONTH: You got that?

Okay, thank you.

Could you turn to page 65 – well, 64 first, then 65. Just look at the chart at the bottom of 64, and then we'll bring up 65. Yeah.

You've seen this information before, have you, gentlemen? On page 64 and 65 – the schedule risk?

MR. WILSON: The schedule –

MR. KAST: Oh, that's right here.

MR. WILSON: This – I (inaudible) seen this in this report. This report –

MR. LEARMONTH: Yeah.

MR. WILSON: – was provided to us as part of the documents from the Inquiry.

MR. LEARMONTH: Okay.

Now, just showing the – there's a graph or a chart at the bottom of page 64. I just want to read into the record what is said at the top paragraphs of page 65.

“The above image notes that July 15, 2007 [sp 2017] schedule was a P1. This meant there was a 99% chance that the schedule for first power would not be met. The LCP” – that's Lower Churchill Project – “project team noted” – and I'm quoting – “there was a low probability that a mid-2017 First Power date would be met. As such, the PMT recommended to Nalcor Executive that a provisional schedule reserve allowance should be made to account for the difference between the target date and the probable date. Given the desire to achieve the best possible date, Nalcor Executive wanted to maintain the Target Milestone Schedule, and thus no schedule reserve allowance was made to accommodate the residual risk exposure ... in the QRA.”

Next paragraph: “The schedule risk was essentially a known risk at this time and would likely further be impacted by the performance risks and competition for resources risks discussed previously. While it was quantified

and included in the management reserve, this reserve was not part of the capital cost estimate and” – it – “was excluded from the CPW calculation.”

Now, in your report, and we’ll get into it later, you – it indicates that you had discussions – before you filed your report in October 2012, that you had discussions with Nalcor and they convinced you or satisfied you that the July 15, 2007, start date was feasible. Is that correct?

MR. WILSON: I’m going to defer to Mr. Al Snyder on the schedule issues.

MR. LEARMONTH: Well, I’ll ask you first.

MR. WILSON: Okay.

MR. LEARMONTH: Is that correct?

MR. WILSON: Well, that’s the fact that as I understand it.

MR. LEARMONTH: Yeah.

MR. WILSON: Whether it’s reasonable, I’ll need Al Snyder to –

MR. LEARMONTH: Okay.

Mr. Snyder, if you wanna answer that.

MR. SNYDER: Each of the component parts of that particular project were reviewed by specific individuals and they felt that it was possible to achieve the July 15 date – 2017.

MR. LEARMONTH: Who thought it was possible?

MR. SNYDER: The people that were doing the review. The MHI experts in each of the areas of responsibility.

MR. LEARMONTH: Who?

MR. SNYDER: Well –

MR. LEARMONTH: Who are these people?

MR. SNYDER: These people were hired by Manitoba Hydro International to do a review of each of the component parts of the project.

MR. LEARMONTH: But who are you referring to? Names?

MR. SNYDER: Well, I’ll have to pull up the names. I have – we have the names.

MR. WILSON: So for the Muskrat Falls review, that would’ve been Mr. Tom Moffat. For the transmission line review, it was Mr. Gerry Proteau. For the HVDC converter stations, it was Mr. Les Recksiedler, who is staff – along with Mr. Proteau – of MHI. For load forecasting, it was Mr. Craig Kellas. Who else – ?

MR. LEARMONTH: Okay, so –

MR. WILSON: Yeah.

MR. LEARMONTH: Just back to Mr. Snyder, are you saying that all these gentleman following discussions with Nalcor – because that’s referred to in your final report – were satisfied that the July 15, 2017, schedule was achievable?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay.

At any time, before this decision was made, did Nalcor representatives advise you that they had a report saying that the July 15, 2017, schedule was a P1? In other words, there was a 99 per cent chance that it would not be met. Did you receive that information from Nalcor at any time during your engagement?

MR. SNYDER: No.

MR. LEARMONTH: No? So Nalcor – I want to make sure I have this right – your recollection is that Nalcor representatives were providing you with information in order to satisfy you that that date was correct, right?

MR. SNYDER: Yes.

MR. LEARMONTH: And at the same time, they had documents in their possession saying that it was a 99 per cent chance that it would not be met.

MR. SNYDER: We were unaware of those documents.

MR. LEARMONTH: They never told you that? Nalcor never told you?

MR. SNYDER: No.

MR. LEARMONTH: Are you certain of that?

MR. SNYDER: Yes.

MR. LEARMONTH: When did you first find out that it was a P; that the schedule date was a P1?

MR. SNYDER: During this Inquiry.

MR. LEARMONTH: So how do you feel about that, now that you know what the reality is?

MR. SNYDER: Well, I would suspect at that particular point in time that people were genuinely hopeful that they could achieve that in-service date and that they would work hard together to make that happen.

MR. LEARMONTH: Yeah. But don't you think Nalcor should have told you about this report?

MR. SNYDER: Probably.

MR. LEARMONTH: Probably. Why?

MR. SNYDER: Well, because we would have, then, had a, you know, a further look at, you know, at the cost estimate and to see, you know, how much that might add – have added to the cost.

MR. LEARMONTH: Yeah.

So, are you disappointed that you didn't receive this information before you completed your work?

MR. SNYDER: No, because the information that we received, you know, was done so with good intentions. And, you know, I think that the people that were involved in discussions with us, you know, would have done their 'darndest' to try to achieve that date.

MR. LEARMONTH: But if – well, okay, that's fine, but that's not my question.

If the Nalcor representatives who were involved in discussions with you on the date – if they had this information in their possession, do you not think that there was an obligation on them to provide you with this information to assist you in your determination?

MR. SNYDER: Yeah, it would have been good.

MR. LEARMONTH: Yeah. It would have been good, yeah.

And there was no reference to this report, about the P1, the time schedule at all, you're sure of that, are you?

MR. SNYDER: Yes.

MR. LEARMONTH: You were never told.

MR. SNYDER: No.

MR. LEARMONTH: No.

Mr. Wilson, did at any time during your engagement with the Government of Newfoundland – did you become aware of – did you see the report or did you become aware of the existence of the report that I just referred to?

MR. WILSON: I have not seen it, or was not aware of it.

MR. LEARMONTH: You weren't.

MR. WILSON: I – weren't aware of it.

MR. LEARMONTH: Do you think you should have been made aware of it?

MR. WILSON: Yeah, like Mr. Al Snyder, it would have been good –

MR. LEARMONTH: No, I want –

MR. WILSON: – to see.

MR. LEARMONTH: – your answer.

MR. WILSON: Yeah, it would have been good to see. We would have noted this in our report, and –

MR. LEARMONTH: You would have.

MR. WILSON: – to the Government of Newfoundland.

MR. LEARMONTH: Yeah. And you may have made a comment as to how much extra money should be included in the capital cost estimate?

MR. WILSON: Well, I believe that amount would have been in the – well, yeah it would have been in the strategic reserve amount.

MR. LEARMONTH: Yeah.

MR. WILSON: So, yeah, if that was an amount that had been made – we would have been made aware of, we would have noted that in the report.

MR. LEARMONTH: You would have noted it in the report –

MR. WILSON: Yeah.

MR. LEARMONTH: – in some fashion.

MR. WILSON: Yes.

MR. LEARMONTH: Yeah.

Mr. Kast, same question to you.

MR. KAST: I concur with Mr. Wilson's comments.

MR. LEARMONTH: Yeah.

Does it disappoint you to now learn that this information was not provided to you during the course of your engagement?

MR. KAST: I think disappoint would be a strong word. I think we need to look back at the circumstances of the day and understand what else was going on in the full context.

Yes, it would've been nice to receive it, but we didn't. And I can't say that it absolutely should have been provided because I don't have the full

perspective that Nalcor had at the time with respect to all of the documents they had.

When we look at this one in isolation today, yes, it appears reasonable that one should have all this type of information, but we didn't.

MR. LEARMONTH: Okay. Well, I know you didn't, but can you confirm, once again, like the other two gentlemen at the table have, that if you had had that information, you would've at least made some kind of reference to it in the final report to government?

MR. KAST: Well, from a CPW perspective, perhaps it wouldn't be contained within that specific section but rather with the material leading up to it. So I would defer to my colleagues on that – with respect to that.

MR. LEARMONTH: So are you able to say that it should've been reported to government?

MR. KAST: No, I cannot say that.

MR. LEARMONTH: You cannot?

MR. KAST: No, because I think I just indicated that there was – you have to look at things in perspective. At the time there was a lot of material – a massive amount of material – and decisions had to be taken: what gets reported, what didn't get reported. That's the first thing.

The second thing is that I don't want to put myself necessarily in the shoes of Nalcor, but they would have to understand the expectations of government as well.

So, it's not for me to sit here after the fact and say, well, it should've, would've, whatever. I don't think that's fair on my part to do that.

MR. LEARMONTH: Okay. So, just to leave that, you're not sure whether it should have been reported to government or not?

MR. KAST: I'm not sure because I wasn't in the circumstance of the day, that's correct.

MR. LEARMONTH: Yeah, but I'm asking you now –

MR. KAST: Yes.

MR. LEARMONTH: – now that you’ve become – now that you’re aware of the situation. Now that you’re aware of this P1 for schedule; looking back.

MR. KAST: Well, in terms of writing a complete report, it probably would’ve been good information to include, yes.

MR. LEARMONTH: Yes. Okay, thank you.

Now, who was your contact person with the Government of Newfoundland and Labrador?

MR. WILSON: My point of contact for the Government of Newfoundland and Labrador is Mr. Charles Bown.

MR. LEARMONTH: Was that the only person with whom you had contact during the course of your engagement for the DG3 report to government?

MR. WILSON: I believe so, yeah.

MR. LEARMONTH: You believe so.

MR. WILSON: The primary contact.

MR. LEARMONTH: Do you recall having contact with any other persons in addition to Charles Bown?

MR. WILSON: There’s – there was a couple of his staff that worked for him, Walter Parsons, I believe, and I think there was another fellow. I think they were just part of his team. But most of my communications were directed through Charles Bown.

MR. LEARMONTH: Thank you.

And were you the only person at MHI that contacted Charles Bown or were there other – the consultants that you hired who were getting information back and forth from Mr. Bown?

MR. WILSON: I believe I was the primary contact for the bulk of that engagement, except maybe when I went on vacation.

MR. LEARMONTH: Well, who else –

MR. WILSON: Might have been Al Snyder.

MR. LEARMONTH: Mr. Snyder, did you have any contact with Charles Bown?

MR. SNYDER: I met with Charles Bown in Winnipeg when they were out there in August of 2012.

MR. LEARMONTH: That’s August 13, I think.

MR. SNYDER: Yes.

MR. LEARMONTH: And that’s the only time you met with him?

MR. SNYDER: Yes.

MR. LEARMONTH: Yeah. We’ll deal with that later.

Now, at any time during your work on the DG3 – I’ll refer to the DG3 as your engagement with the Province of Newfoundland and Labrador and the DG2 as the engagement with the Public Utilities Board, just so I don’t have to keep on repeating it.

In any course during your engagement to DG3 did you – was there any time when you experienced difficulty getting documents from Nalcor?

MR. WILSON: I believe right at the start we made a request for a number of documents. Mack Kast had made a request for a number of documents and I don’t believe any of that was necessarily provided, or if it was provided, it would have been at meetings over the table.

MR. LEARMONTH: So, there was a problem, was there?

MR. WILSON: I would suggest that we went in eyes wide open on that and in full consultation with Charles Bown ’cause he was made aware of the situation and we still needed to do our job to determine reasonableness and we had those discussions with him.

MR. LEARMONTH: Though was there – can you answer that – was there any point in time when you experienced problems getting documents from Nalcor? And if the answer is yes, when?

MR. WILSON: It would have been through the course of that DG3 engagement, that short time period from when we were mobilizing to be on site to meet with Nalcor. So my – you know, my request for meetings went with the praecipe of a number of documents we wanted to see, and whether they provided those or not. My technical people on the ground, you know, they would have, you know –

MR. LEARMONTH: So there –

MR. WILSON: They didn't –

MR. LEARMONTH: – was a problem early in the engagement.

MR. WILSON: But they didn't report back to me that they were having significant problems.

MR. LEARMONTH: Oh, I don't think that's correct. I mean Mr. – we'll get into this later, but Mr. Proteau, in his initial report of July 2012 specifically said that Nalcor wouldn't give you the documents. We'll get into that later but do you remember that?

MR. WILSON: Yeah, I believe so.

MR. LEARMONTH: Yeah.

MR. WILSON: But I believe he also –

MR. LEARMONTH: And in one –

MR. WILSON: But he also got documents at some point to finish his work, so ...

MR. LEARMONTH: And in fact, further, in one of your draft reports you made reference to that. It was subsequently deleted, but you did mention that in one of the draft reports you prepared. That your – Nalcor wouldn't provide you with documents at all times or something to that effect. Do you remember that?

MR. WILSON: I'll take you at your word, Sir. I was –

MR. LEARMONTH: Well, I'll show it to you.

MR. WILSON: Yeah.

MR. LEARMONTH: But you don't remember it, do you?

MR. WILSON: I would have to look at the context and which sections because I was probably one of the experts and it's hard to – I wouldn't paint Nalcor with the whole brush on all documents, but certain topics perhaps.

MR. LEARMONTH: Yeah, okay, fine.

Now, we're just going to turn to – I'd like to bring up Exhibit P-00079, which is tab 14.

MR. KAST: (Inaudible) 14 in here.

MR. WILSON: Which book, Sir?

MR. LEARMONTH: Tab 14, so it's the first book.

MR. KAST: Oh.

MR. LEARMONTH: And it's Exhibit P-00079, please.

MR. WILSON: Oh, there it is. Oh, this isn't it.

MR. KAST: Is it?

MR. LEARMONTH: No, did I say – tab 14. That's right.

MR. KAST: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: It's P-00739.

MR. WILSON: Oh, it is this one.

MR. KAST: Okay.

MR. WILSON: But that's not what's on the screen. Okay.

MR. LEARMONTH: Well, 00739 – did I give you the wrong – okay, oh, I'm sorry. I'm sorry, 00739. Yeah.

Okay, now this is an email dated April 1, 2012, 4:43 p.m. Now just to provide a little information, the information we have is that the Public Utilities Board report was delivered to the

Province of Newfoundland – the Government of Newfoundland and Labrador on March 30, a Friday night, at 10 p.m.

March 30 – so this is just a couple of days later. So that was Friday night, so on – this email is dated April 1. It's to – an email – just read this out, it's an email from Gilbert Bennett at Nalcor to you, Mr. Wilson. Just read it out, please.

MR. WILSON: It says: "Hello Paul,

"Charles Bown, the Associate Deputy Minister for Energy with the Government of Newfoundland and Labrador, asked me to pass a message along to you.

"He would like to have a conversation with you sometime today. He can be reached at" and his phone number, his email address is as follows.

UNIDENTIFIED MALE SPEAKER: Commissioner, if I could – (inaudible) counsellor here. Our screens have gone – not blank but the document is no longer on it.

THE COMMISSIONER: Okay, can we figure out what's going on there, Marcella?

CLERK: Kate O'Brien asked me to take it down. She just stepped outside.

UNIDENTIFIED MALE SPEAKER: (Inaudible) redacted, I think the email (inaudible).

THE COMMISSIONER: Yeah, I think the reference – there's – probably because there's a telephone number there that's not redacted. Is that the reason why we've taken it off the screen?

CLERK: Yes (inaudible).

THE COMMISSIONER: Okay, so if you could – I think counsel should have copies of the documents?

MS. O'BRIEN: It can go up on the counsel screen, but I've just asked them to take it off the live feed.

THE COMMISSIONER: Okay, so if you want to bring it up on the counsel screen then?

So counsel should have it now in front of them. Yeah, okay.

MR. LEARMONTH: All right.

THE COMMISSIONER: And the only reason that it's not on the public screen is because there is a reference to a telephone number there, which – and an email address, which obviously we do not – we usually do redact. For some reason, this one wasn't redacted.

All right, go ahead, Mr. Learmonth.

MR. LEARMONTH: All right. Thank you.

So did you get this email out of the blue or had – you had had discussions with Mr. Bennett sometime between March 30 at 10 p.m. and the time you sent this email?

MR. WILSON: I – this is the first I've –

MR. LEARMONTH: You received this email I should say.

MR. WILSON: I received this email; this is out of the blue. I had no foreknowledge that this was coming.

MR. LEARMONTH: Okay so, I – did you interpret this as Mr. Bennett recommending you to do the DG3 work?

MR. WILSON: No, I had no idea what the topic was at the time of – what was going on in the (inaudible).

MR. LEARMONTH: But you were referred by Mr. Bennett.

MR. WILSON: Yes.

MR. LEARMONTH: You were referred.

MR. WILSON: Mr. Bennett connected us. I don't know if he endorsed the referral or not.

MR. LEARMONTH: Well, anyway, it speaks for itself. Next is Exhibit P-00740, which is at tab 15.

Now, I want to – this is a letter. It's dated April 2 – or an email dated April 2 from Paul Wilson

to Charles Bown, copied to Allen Snyder and Mack Kast. Now, what it is, it's a letter – maybe we could bring it up, page 2 of the document?

It's a draft letter or a letter that – prepared for you dated February 22, 2012, to Maureen Greene of the Public Utilities Board. And you're referring to: Items to be completed for DG3 decision. I just wonder why would you have prepared this draft letter to Maureen Greene on February 22, 2012.

MR. WILSON: Because the – Maureen Greene and her staff had asked for this document to be prepared, what elements in our consideration would be required to go forward with DG3.

MR. LEARMONTH: But the Public Utilities Board had never been asked to do DG3 numbers, is that right?

MR. WILSON: Not to my knowledge, no.

MR. LEARMONTH: Okay so you don't know why Ms. Greene would have asked you to do this?

MR. WILSON: No.

MR. LEARMONTH: Now, on page 3 of that document – and the heading once again on page 1 is: Items to be completed for DG3 decision. Correct?

MR. WILSON: Yes, that's correct.

MR. LEARMONTH: Okay.

And in the last dot on page 3, it says, among the things that you were proposing to do: "Update of the Project Risk Assessment and an appropriate strategic reserve amount to be applied to the project." Correct?

MR. WILSON: That's correct.

MR. LEARMONTH: Yeah.

So why did you think that in – including that as an item to be completed for the DG3 decision?

MR. WILSON: These – all of these items, I think, were largely identified by Mack Kast to me in this – for inclusion to this letter. And an

updated project risk assessment in DG3 decisions – Mack, can I defer to you –

MR. KAST: Sure. Yeah.

MR. WILSON: – to say why you would include that?

MR. KAST: Well, at the time I considered it to be appropriate to include. I didn't say that it was going to be included in the ultimate calculation, but for purposes of what we were doing and where we were at the time, it was a good piece of information to have.

MR. LEARMONTH: So you believe that that was information to have to be applied to the project?

MR. KAST: Well, at that time, in the context of what we were doing, yes, Sir.

MR. LEARMONTH: So well, that's a little different from what you said early in the context of your engagement by government. I don't think you said it was necessary to include that.

MR. KAST: Well, I think – if I recollect, the earlier discussion is to the extent that it should be included in the report and even in – to the extent that it should be included in the CPW, and we discussed that already. And I said it should be excluded and my colleagues have also concurred that the strategic reserve should not be included as part of the base amount for determination of CPW.

MR. LEARMONTH: Yeah, but why when you're writing Ms. Greene – or you're providing information, why do you say that one of the items to be completed for the DG3 decision is: "Update of the Project Risk Assessment and appropriate strategic reserve amount to be applied to the project."

MR. KAST: Well, it's a bit difficult for me to say at this point, this many years after the fact, but when one is looking for information to compile to get to the end result, you don't necessarily draw a line definitively at that point. What we're doing is you have to scan the horizon and say: What is the information that we have in front of us? What is out there, sort of thing. Because it's important not only to get the

information you need, but you need to have the comfort level with respect to the data that you're getting.

So I don't see anything out of the ordinary in terms of asking for this, in this context, at this time. It was before the project – with respect to DG3 – was well underway. So if we're gonna ask for information, let's just have a basket and see, well, what are we working with here?

MR. LEARMONTH: Sorry, I'm not suggesting that there was anything extraordinary –

MR. KAST: No.

MR. LEARMONTH: – about this. I'm suggesting to you that that was an appropriate item to be considered.

MR. KAST: And I'm saying yes, in the context. Yes, Sir.

MR. LEARMONTH: Yeah. And also you say “strategic reserve amount” – that means dollars, right?

MR. KAST: Sure.

MR. LEARMONTH: Yeah.

MR. KAST: Yes, Sir.

MR. LEARMONTH: Yeah. And that's all you want to say about that?

MR. KAST: I think, yes. Without repeating myself, that's sufficient.

MR. LEARMONTH: Okay.

MR. KAST: Thank you.

MR. LEARMONTH: Okay.

MR. WILSON: And just to be clear, this was completed looking at more larger context of it – the business case for Decision Gate 3, not just CPW analysis, which is our focus in DG3. But in the, you know – in PUB what things are you gotta look at in the broader context. So ...

MR. LEARMONTH: Are you saying there'd be a –

MR. WILSON: The management reserve is one of them –

MR. LEARMONTH: Excuse me?

MR. WILSON: – project financing is another, so –

MR. LEARMONTH: So are you saying, Mr. Wilson, that your engagement by the Government of Newfoundland did not require you to assess the business case for the Muskrat Falls Project? Is that what you're saying?

MR. WILSON: That's a fairly broad question, Sir. The business case –

MR. LEARMONTH: Well, I asked you whether – is that what you're saying?

MR. WILSON: – means everything. Everything: rates, financing, loans, management reserves, all the cost estimates, the whole pie, I guess, in context of all options. And so the Decision Gate 3 – you know, the Gatekeeper needs to consider many more things than just what MHI was engaged for.

MR. LEARMONTH: Yeah.

MR. WILSON: But –

MR. LEARMONTH: You made a recommendation in your report, which we'll deal with later, that the project was ready for sanction, correct?

MR. WILSON: In the context of what we studied, yes.

MR. LEARMONTH: Yeah. But – so are you saying that you would make a recommendation that the project is ready for sanction without fully exploring the business case, the merits of the business case? Is that what you're saying?

No, no, I want you to answer.

MR. WILSON: I understand. I'm just trying to formulate an answer for you.

I think we need to be very clear what we were engaged to do. We weren't engaged to study the entire business case of Muskrat Falls.

MR. LEARMONTH: No.

MR. WILSON: No. So, you know, in the narrow context of what we were engaged to do – in my view, you know, what we reviewed, yes, that part was ready for sanction.

MR. LEARMONTH: Yeah, but you didn't qualify in your recommendations to government. You didn't say – you didn't make any comment in your report that you had not considered the business case. You didn't say that, for example, the project is ready for sanction assuming that the business case is established.

MR. WILSON: But the –

MR. LEARMONTH: You didn't qualify –

MR. WILSON: – terms of reference –

MR. LEARMONTH: – your recommendation.

MR. WILSON: – you know, the introduction of the terms of reference was in the report, which outlined our engagement.

MR. LEARMONTH: But these qualifiers you're making, why didn't you put something in your report to reflect the qualifications that you're now trying to say were a part of your scope of work? Why didn't you make mention of that?

I'm thinking of something along this, if it might help you, that we have reviewed, based on our scope of work, it's ready for sanction; we have not considered the business case.

MR. WILSON: Coming from this letter?

MR. LEARMONTH: No, I'm talking about – maybe we can deal with this later –

MR. WILSON: Well, you're opening it up to a very broad question which requires a fair bit of thought to answer.

MR. LEARMONTH: Well, I want you to take the time to think about it.

MR. WILSON: Well, I can't redo all of the work we did, Sir.

MR. LEARMONTH: Yeah.

But do you see my point? If – and we'll get to the wording of your recommendation, your strong recommendation that this project proceed to sanction. Do you think it's reasonable for someone to decide that this is – this project is ready to be sanctioned or proceed to sanction, if there hasn't been an analysis done of the business case?

MR. WILSON: I would have to agree with you. Yeah.

MR. LEARMONTH: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: All right. Thank you.

And do you agree with Mr. – do you agree with me, Mr. Snyder?

MR. SNYDER: It would be my opinion that the Government of the Province of Newfoundland and Labrador would take our report and whatever other information they had available to make a business decision on whether they proceeded with that project.

MR. LEARMONTH: So you think the government of – it would've been incumbent on the Government of Newfoundland – or it was your expectation that the Government of Newfoundland would independently decide the merits of the Muskrat Falls Project from a business point of view?

MR. SNYDER: They would've had input from other sources, as well as Manitoba Hydro International's.

MR. LEARMONTH: How do you know that?

MR. SNYDER: Well, I would think that anybody that's making a decision on a project that large, you know, would be in discussion – whether it be within Cabinet, be with Nalcor – to make sure that the Is are dotted and the Ts are crossed.

MR. LEARMONTH: Yeah. But that's just an assumption on your part, isn't it?

MR. SNYDER: Yes. That's because that wasn't our role and responsibility. Our responsibility was to complete an analysis between the two options and which one was preferable.

MR. LEARMONTH: Well, how can you make a recommendation to sanction if there's a very important gap in the information you're providing. That is the business case – the dollars. How can you make a recommendation on sanction without qualifying the recommendation because we didn't do the business case analysis?

MR. SNYDER: We're recommending it based upon the overall – I hate to use the word –but, you know, costs associated with the project itself.

MR. LEARMONTH: Well, maybe we're going to have a more detailed look at what your recommendation was earlier.

Mr. Kast, what is your comment on what we're talking about here?

MR. KAST: It's – excuse me – it's – there's a bit of judgment involved in this exercise and I do believe that one has to look at the bigger picture and put it into perspective in terms of what the government's expectations were at the time.

Probably more information is better than less information. The question is: Did they have an expectation to get this? If they didn't get it, then would they have then, subsequently, asked for it?

So I'm not – I can't take a position absolutely of whether that specific number should have been provided to the government at that point because that wasn't my focus at that point in time.

MR. LEARMONTH: Yeah.

MR. KAST: I can give you my opinion as probably anybody in front of me –

MR. LEARMONTH: No, but anybody –

MR. KAST: – can do the same.

MR. LEARMONTH: – in front of you didn't do the work on this project. That's why I'm –

MR. KAST: No.

MR. LEARMONTH: – asking you.

MR. KAST: No, I'm saying from the perspective that I was looking at the thing. And the perspective was we need to get a balanced input with respect to both objectives, or both scenarios, and one was the Isolated and one was the Interconnected. That was my main focus all the time.

Now, what the government's expectations were and what information that they would need, over and above that, would be another matter. So, I think that I should take a pass on the question, actually, because it's not for me to decide.

MR. LEARMONTH: Mmm.

But don't you think that if you were doing your work on the understanding that you weren't required to assess the business case, if that was your understanding, that you should have specifically stated that in the final report that you filed with the government on October 27, 2012?

MR. KAST: I –

MR. WILSON: I think we should review the actual wording –

MR. KAST: Go ahead.

MR. WILSON: – (inaudible) recommendation, just to be clear.

MR. LEARMONTH: Okay. Well, that's a fair –

MR. WILSON: Yeah.

MR. LEARMONTH: – we will. We'll have lots of time to do that. So I'll just hold that question until you've had a chance to look at it. But you've got the report right in front of you, do you?

MR. WILSON: Yeah, I do actually, yeah.

MR. LEARMONTH: Why don't you look at the final comment? Maybe we can deal with it on that basis.

I think it's a –

MR. WILSON: Exhibit 00058?

MR. LEARMONTH: Yeah, P-00058.

Let's go to the end. The last page.

Okay, well, it's not – I'm going to – I'll refer to that later on. That's not the paragraph I was referring to, but I will find it later on in the question. So we'll just move –

MR. WILSON: Okay, that is –

MR. KAST: (Inaudible.)

MS. VAN IDERSTINE: Mr. Commissioner.

THE COMMISSIONER: It was tab 60 – it's tab 64.

If you could turn off your mic, Mr. Learmonth, I'll hear from Ms. Iderstine.

MS. VAN IDERSTINE: I just think that it's appropriate to allow the witnesses to finish. They were drawing – being asked a question about what they thought their scope was in the recommendation. And I haven't been saying anything at the moment because I really don't want to intervene, but I don't see anywhere in any of the scope were the documents that Mr. Learmonth has referred my clients to anything about business case or that they have offered to sanction – they were giving a recommendation to sanction the project.

So, I do think it's appropriate and important that they look at and review this recommendation now rather than leaving this to some later date.

THE COMMISSIONER: Fair enough.

MR. LEARMONTH: Well, I was just going to get into the scopes of work and deal with the report –

THE COMMISSIONER: Put on your microphone.

MR. LEARMONTH: I was just going to get into the scopes of work now and I was going to deal with the report later, but if you want me to do it in different order, I don't mind.

THE COMMISSIONER: Well, we're at midway in the morning, so we're going to take our break. That'll give the witnesses an opportunity to look at the report. If they want to speak to when we return, they can.

And so we'll take our break now and then we'll get to that when we – on our return.

We'll just adjourn for 10 minutes.

UNIDENTIFIED MALE SPEAKER: Thank you.

UNIDENTIFIED MALE SPEAKER: Thank you.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: All right.

So just to deal with the last point that we had – I'm not sure if the gentlemen had enough time to review the report, and I'm not sure if you have anything else you want to put to them, Mr. Learmonth. I'm not sure how you want to handle this.

MR. LEARMONTH: Yeah. Well, Ms. Van Iderstine asked if we could – I could refer them to the information that – in the report that I was talking about where there was a recommendation to proceed to sanction, so that's what I'm gonna do.

THE COMMISSIONER: Okay, go ahead.

MR. LEARMONTH: Okay. I'd like to turn to Exhibit P-00058.

THE COMMISSIONER: Tab 64.

MR. LEARMONTH: P-00058. And I want you to turn to page 59.

UNIDENTIFIED MALE SPEAKER: I'm sorry.

MR. WILSON: This is at binder – tab 5 now.

THE COMMISSIONER: Okay. That's the common binder (inaudible) one.

MR. LEARMONTH: It's in your report. You have the final report before you, do you, Mr. Wilson?

MR. WILSON: I have my copy here, yes.

MR. LEARMONTH: Okay.

THE COMMISSIONER: That's on the screen as well.

MR. LEARMONTH: It's on page 56 of your report; it's 59 of the exhibit. Do you have it there?

MR. WILSON: Section 2.6.6 Summary. Can you scroll down the screen, please? Okay.

MR. LEARMONTH: Okay.

Can you read the last paragraph in the bold: "From a review." Just read that into the record, please.

MR. WILSON: "From a review of ... information provided, Nalcor has performed the design, scheduling and cost-estimating work for the Muskrat Falls Generating Station and the Labrador Transmission Assets with the degree of skill and diligence required by customarily accepted practices and procedures utilized in the performance of similar work. The current Lower Churchill Project design, schedules and cost estimates are considered consistent with good utility practice. The design, construction" – pardon me – "the design, construction planning, cost estimate and schedule are comprehensive and sufficiently detailed to support a Decision Gate 3 project sanction and appropriate for

input into a cumulative present worth analysis."

MR. LEARMONTH: Okay.

So that's what's in your report. And do you agree it suggests that the – that you've done a detailed review of the cost estimates?

MR. WILSON: To put this in context, this is in section 2.6 of the report for Muskrat Falls generating station, and these comments are to be considered relevant to that section only for Muskrat Falls.

MR. LEARMONTH: Well, it says in the second-last sentence: "The current Lower Churchill Project design, schedules and cost estimates."

MR. WILSON: Still – yeah – I got – it would've been best to qualify that directly to this section.

MR. LEARMONTH: So how would you qualify it?

MR. WILSON: No – I – at best, it should've been qualified to that section.

MR. LEARMONTH: (Inaudible.)

MR. WILSON: To my knowledge –

MR. LEARMONTH: (Inaudible.)

MR. WILSON: – and my understanding – that this summary relates to this section of the report only.

MR. LEARMONTH: So you're saying that it relates to the cost estimates for the Muskrat Falls generating station and the Labrador Transmission Assets only. Is that what you're saying?

MR. WILSON: This is the – yes. Yeah. Yes.

MR. LEARMONTH: Yeah. But then why didn't you – why did you say – refer to the current Lower Churchill Project design and so on? Like, you use a different term there.

MR. WILSON: I don't recall why we wrote it this way, actually. My – this summary would've been drafted by the – by Tom Moffat and reviewed by Al Snyder and included into the report through me.

MR. LEARMONTH: Yeah, but you approved the report?

MR. WILSON: I approved the report, yes.

MR. LEARMONTH: So what – okay, now – I mean, we'll have to look at exactly what it says – but what are you saying now – that the use of the term the Lower Churchill Project design should have been – should be deleted and replaced with the Muskrat Falls generating station and the Labrador Transmission Assets?

MR. WILSON: I think we would need to qualify that to the Muskrat Falls generating station development. But I believe these documents that Tom Moffat reviewed were, you know, more comprehensive than that. I think that's why the wording is worded this way, but his focus was Muskrat Falls only.

MR. LEARMONTH: Are you distancing yourself from the wording in the – you signed this.

MR. WILSON: I signed this, Sir, yes, I understand. And I need to stand by what we said in here.

MR. LEARMONTH: Right.

MR. WILSON: Yeah.

MR. LEARMONTH: Yeah.

And you're saying – well, I don't know what you're saying, and I don't think you've clearly communicated what you're saying. Well, okay – what words would you – to clarify the misunderstanding that you think exists in this paragraph, what wording would you change?

MR. WILSON: I don't think I'll change anything, actually.

MR. LEARMONTH: You'll leave –

MR. WILSON: I'm just going to leave it as is, yes.

MR. LEARMONTH: Yeah.

Okay, so then we'll say: "The current Lower Churchill Project design, schedules and cost estimates are considered consistent with good utility practice. The design, construction planning, cost estimate and schedule are comprehensive and sufficiently detailed to support a Decision Gate" – 2 – "3 project sanction and appropriate for input into a cumulative present worth analysis." Right?

MR. WILSON: Yes.

MR. LEARMONTH: So you're saying that the project – you're saying two things, that it's – that the design, construction planning, cost estimate and schedules are comprehensive and sufficiently detailed to support: one, a Decision Gate project sanction; and two, appropriate for input into a cumulative present worth analysis. That's what you're saying, right?

MR. WILSON: That's correct.

MR. LEARMONTH: Yeah. Well, if you didn't assess the business case, how could you have made that conclusion?

MR. WILSON: This is the – again, I come back to this is the conclusion for the Muskrat Falls section and then there is, you know, an executive summary that summarizes the conclusions of the entire report as well.

MR. LEARMONTH: You can't answer the question?

MR. WILSON: And the question is the business case? We weren't engaged –

MR. LEARMONTH: Well –

MR. WILSON: – to analyze the business case.

MR. LEARMONTH: – that's what you're saying.

MR. WILSON: Yes.

MR. LEARMONTH: But if you didn't assess the business case, how could you make a recommendation that the Lower Churchill Project is ready for sanction? Sufficiently detailed – "The design, construction planning, cost estimate and schedule are comprehensive and sufficiently detailed to support a Decision Gate 3 project sanction" How could you make that statement if you intended to – if you believed that your mandate did not include a review of the business case?

MR. WILSON: Well, in the context of the information provided to us and the information that we reviewed in this report, this is our –

MR. LEARMONTH: Well –

MR. WILSON: Based on that, that's what our recommendation would be.

MR. LEARMONTH: If that's your qualifier –

MR. WILSON: Yeah.

MR. LEARMONTH: – why didn't you put it in the report?

MR. WILSON: This report was written and reviewed – a number of revisions, as you're aware of, some we don't have – you know, with the Government of Newfoundland. And they had taken no exceptions to this wording themselves.

MR. LEARMONTH: No, that may be the case because a person reading this would, I submit to you, conclude that there were no qualifications to your recommendation that the Lower Churchill Project proceed to Decision Gate 3 sanction. So why – that's what you're saying, so why would anyone take exception to that?

MR. WILSON: You're taking one paragraph out of an entire report –

MR. LEARMONTH: Yeah.

MR. WILSON: – and making that the basis of the entire conclusion.

MR. LEARMONTH: Oh.

MR. WILSON: You know.

MR. LEARMONTH: You're talking about the –

MR. WILSON: Which is –

MR. LEARMONTH: You're talking about –

MR. WILSON: – I don't think, quite correct.

MR. LEARMONTH: Oh, sorry, go ahead.

MR. WILSON: I don't think that's quite correct, just to dive in and take that one and say this is the basis of the entire sanction decision to go forward.

MR. LEARMONTH: Well –

MR. WILSON: Yeah.

MR. LEARMONTH: But this is what that paragraph or those sentences says, isn't it?

MR. WILSON: These are the words here, yes.

MR. LEARMONTH: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: So does it surprise you that you wrote that in retrospect?

Did you hear the question?

MR. WILSON: No, I did, I'm just – I still – I think we still need to stand by the decision in the context of how this report was developed and drafted, yes.

MR. LEARMONTH: Well, why do we have to? The context – I think you have to look at this sentence in the context exactly what it says.

MR. WILSON: No, I don't agree.

MR. LEARMONTH: You don't?

MR. WILSON: I don't, no. We have specific terms of reference we were engaged to study and this is the report we developed.

MR. LEARMONTH: Yeah.

So why didn't you – if you weren't – if your terms of your engagement didn't include any review of the business case, why wouldn't you have qualified – used qualifying words when you made this strong statement that it was – the Lower Churchill Project was ready to proceed to a Decision Gate 3 project sanction? Why wouldn't you use those qualifiers to remove any doubt that may exist in anyone's mind?

MR. WILSON: I don't know why this came out the way it did six years ago. I am trying to remember exactly what led to all the discussions on this and how this came about, but I'm going to stick with this.

MR. LEARMONTH: You're going to stick with it.

MR. WILSON: Well, this is the written record, so, yeah.

MR. LEARMONTH: And you wouldn't make any changes to it, if you had the chance? You don't have the chance, but if you had the chance.

MR. WILSON: I don't have a chance, so ...

MR. LEARMONTH: Huh?

MR. WILSON: I don't have a chance, no, on that.

MR. LEARMONTH: Okay.

Now, this position that you're putting forward that you weren't required to assess the business case, did you have any discussions with Charles Bown about that?

Now, I know that there were – he took some things out of the scopes of work, the draft scopes of work which could be – provide some support for your position, but did you ever have a discussion with Charles Bown about this that, look, Charles, I just want to make sure we're on the same wavelength. We're not assessing the business case. That's not part of our scope. Did you ever have discussions along those lines?

MR. WILSON: Not to my recollection, no.

MR. LEARMONTH: No.

MR. WILSON: No.

MR. LEARMONTH: So you didn't have any oral discussions with Charles Bown on that and you –

MR. WILSON: But we had a number of discussions, I can't remember if this topic ever came up. You know, I did provide that letter for Maureen Greene, which outlined those steps.

MR. LEARMONTH: Yeah.

MR. WILSON: And that formulated the original scope of work that I –

MR. LEARMONTH: Yeah.

MR. WILSON: – put together to Charles –

MR. LEARMONTH: Yeah.

MR. WILSON: – which was revised that came back to me, I guess –

MR. LEARMONTH: Yeah.

MR. WILSON: – from his work.

MR. LEARMONTH: And as we'll see –

MR. WILSON: And, you know –

MR. LEARMONTH: – some of the things on risk assessment –

MR. WILSON: – without seeing –

MR. LEARMONTH: – we're speaking of.

MR. WILSON: – the entire –

UNIDENTIFIED MALE SPEAKER: Just a second.

MS. VAN IDERSTINE: Would Mr. Learmonth (inaudible).

MR. WILSON: Oh.

MS. VAN IDERSTINE: Mr. Learmonth (inaudible).

THE COMMISSIONER: Could you –

I'm sorry, can you –?

MS. VAN IDERSTINE: I'm just concerned that Mr. Learmonth is jumping in before the answers are completed. And if he could just allow them to complete their answers, that would be appreciated.

THE COMMISSIONER: Okay, Mr. Learmonth.

MR. LEARMONTH: I will.

THE COMMISSIONER: Thank you.

MR. LEARMONTH: Did you want to say something?

MR. WILSON: I forgot the train of thought so you'll have to re-ask that question.

THE COMMISSIONER: I think you were speaking about –

MR. LEARMONTH: I'm asking you –

THE COMMISSIONER: I think what you were speaking about was the letter to Ms. Greene – was part of what you had –

MR. WILSON: Right.

THE COMMISSIONER: – provided to Mr. Bown and you were going on from there.

MR. WILSON: That's correct, Commissioner.

The revisions have come back. Now, I don't know all of the work that the Government of Newfoundland was doing in conjunction with the – with this decision, what other studies they had in place –

MR. LEARMONTH: Well –

MR. WILSON: – what other – you know, I know they had a Ziff Davis [sp Ziff Energy] report on gas that I did see eventually. So they were doing other things in this – to assess this decision and they would be in the best position to tell us what they required from us. And that's what they did through those – by revising our scope of work back to us.

MR. LEARMONTH: Yeah.

MR. WILSON: And they, you know, took out strategic risk and, you know, assessment of – I think the loan guarantee was in there originally and maybe some on the Emera link which formulates the entire business case around how Muskrat Falls would develop.

MR. LEARMONTH: Yeah.

MR. WILSON: We were not engaged to look at any of that.

MR. LEARMONTH: But you were engaged to look at the cost estimates.

MR. WILSON: Looked at base cost estimates and the CPW analysis.

MR. LEARMONTH: Yeah, base cost estimates, is that in your document – in the records?

MR. WILSON: I think they – I think it's called –

MR. LEARMONTH: (Inaudible.)

MR. WILSON: – capital cost estimates.

MR. LEARMONTH: Okay.

MR. WILSON: We'd have to go to that document –

MR. LEARMONTH: Yeah.

MR. WILSON: – to (inaudible) for sure.

MR. LEARMONTH: And I think – just before I forget – the – Mr. Kast, I think you were saying that you couldn't – it wasn't necessary to make an allowance in your – in the cost schedule for the Muskrat Falls Project because there were no contingencies accounted for in the Isolated Island Option. Did I get that right?

MR. KAST: Excuse me.

I would rather put it the other way around. I think we need to present a balanced perspective on both options.

If we're going to – and I believe the context of the question related to strategic risk – and I am just suggesting that if we're going to put strategic risk on the one side of the ledger, we need it on the credit side of the ledger as well, if you like.

MR. LEARMONTH: Yeah.

MR. KAST: Mm-hmm.

MR. LEARMONTH: But do you know whether there was an amount for risk included in the Isolated Island figures?

MR. KAST: No, that was not – I left that to – we operate as a team. I left that for my team – experts to my left.

MR. LEARMONTH: Who?

MR. KAST: Paul Wilson, Al Snyder.

MR. LEARMONTH: Okay.

MR. KAST: And their – people working with them and for them.

MR. LEARMONTH: Okay.

So is it your evidence, Mr. Snyder, that there was nothing in the Isolated Island cost estimates for contingencies?

MR. SNYDER: I never saw any – well, I saw – I never saw anything as it related to strategic risk –

MR. LEARMONTH: But –

MR. SNYDER: – in the Isolated Island.

MR. LEARMONTH: But what about other risks – tactical risk, for example?

MR. SNYDER: I can't recall.

MR. WILSON: Can I answer that?

MR. SNYDER: Yes.

MR. WILSON: I never – we were – never received a tactical risk document much like what Westney had prepared for tactical risks on the

Muskrat Falls option. So we – there was never one, so – that I had seen, prepared for the Isolated Island Option.

There were contingent amounts embedded into each of the, I guess, capital cost estimates for each of the elements of the Isolated Island Option. Hence, I believe – if I recall, there was – some of those costs were updated to bring them more in line with the DG3 analysis.

MR. LEARMONTH: But what percentage of cost? I mean, we know that there was an amount of 7 per cent for tactical risks in the cost estimates that you received for the Interconnected, correct? Seven –

MR. WILSON: Yes, yeah.

MR. LEARMONTH: – per cent?

MR. WILSON: Yeah, 368 million.

MR. LEARMONTH: Yeah.

So what was the percentage of contingencies for tactical or strategic risks in the Isolated Island case?

MR. WILSON: If memory serves me correctly, I believe they added a blanket amount of – in the order of 15 per cent on each – on most of those – is that – Mack, Al?

MR. SNYDER: They never gave us a total.

MR. LEARMONTH: They never did? So how did you – like – so – if that's correct, then the amount for risk, be it tactical or strategic, in the Isolated Island would've been double what it was for the Interconnected, correct? Talking about 15 per cent as opposed to 7?

MR. SNYDER: Well, it's 15 per cent of the capital cost, and the capital costs aren't double.

MR. LEARMONTH: Yeah.

But are you saying that there was – are you saying that the amount allowed for tactical and/or strategic risk for the Isolated Island proposal was 15 per cent? Is that what you're saying?

MR. SNYDER: On the capital expended –

MR. LEARMONTH: Yeah. So that was higher than it was for the Muskrat Falls project?

MR. SNYDER: But a much lower number than the 368 million.

MR. LEARMONTH: Yeah. What was the number?

MR. SNYDER: I don't know what the number was, because you'd have to take each one of the capital costs –

MR. LEARMONTH: Okay, so you're saying it was a lower number; you don't know the details of it –

MR. SNYDER: No.

MR. LEARMONTH: – but you're saying that the percentage of allowance for that was double what it was for the Interconnected?

MR. SNYDER: Since it was never given to us, I can't say that it was double.

MR. LEARMONTH: You don't know what it was?

MR. SNYDER: I don't know exactly what it was.

MR. LEARMONTH: 'Cause we have some evidence from Grant Thornton – Mr. Shaffer – that he can – he said that he looked at approximately 80 per cent of the costs for the Isolated Option and, on average, Nalcor had calculated a 16 per cent contingency in the CPW for the Isolated Island. That's what the auditors found.

So what – based on that evidence – the question arises: Why would it be 16 per cent for the Isolated Island but only 7 per cent for the interconnect – in the Interconnected in a project that, no doubt, was much larger and had more risk?

MR. SNYDER: At the time that the 7 per cent came up, a lot of the contracts had been – maybe not awarded, but had – numbers had been received and therefore there was a greater degree

of confidence in the actual number that they could use and reduce the overall risk associated – with –

MR. LEARMONTH: Did you review that?

MR. SNYDER: We did review all of the component parts of the Isolated Island Option.

MR. LEARMONTH: Well, anyway –

MR. WILSON: Just to clarify one point on that. Our engagement was to review DG3 for the things that changed between DG2 and DG3, and very little in the Isolated Island Option actually changed. So the CPW analysis at DG2 was largely – is still in force.

MR. LEARMONTH: But the contingency allowance for the Isolated Island was approximately double in percentages what it was for the Interconnected. Is that right?

MR. WILSON: As a percentage-wise?

MR. LEARMONTH: Yes.

MR. WILSON: Apparently, yes – you're saying 16 per cent; 15 is my recollection.

MR. LEARMONTH: Okay.

MR. WILSON: The amount of project definition drives that, and that's what Al Snyder was really getting to is, you know, contracts had been led, pricing has been received, design work is done, so there's a higher degree of confidence in those results.

MR. LEARMONTH: Okay.

MR. WILSON: Based –

MR. KAST: Sir?

MR. WILSON: – on the Westney report. Oh, you want to add something –

MR. SNYDER: Mack.

MR. WILSON: – Mack?

MR. KAST: If I may. I just want to make sure, given my role in the project, that when we talk

about the Isolated Island, the reference that we've heard over the last couple of minutes relates to the capex with respect to the Isolated Island. And it has been said, and it's true, that the capex portion of the Isolated Island is significantly less than the Interconnected.

What's not said and should be said is that the fuel component of the Isolated Island is significant. You can call it strategic risk. You can call it what you like, but the thing is the most significant variable that's subject to variation in the Isolated Island Option is the fuel cost. And I can support that, Sir, because in 2015 the price of oil was \$112 a barrel, and it dropped overnight to \$62 a barrel – half.

That's the type of exposure that we observed since then. And that's what we need to make sure that we don't lose sight of when we talk about this side over here in terms of the Isolated Island Option. It's okay to talk about the capex over here on the Interconnected because that's the most significant component, but when we get over here, we have to shift slightly and not forget about the fuel component.

MR. LEARMONTH: Okay.

MR. KAST: Thank you.

MR. LEARMONTH: And what did you think – on that topic, what did you think about projecting fuel prices out more than 50 years as an input into the CPW for the Isolated Island?

MR. KAST: Well, the PIRA forecast is – was only valid until 2027 at the time. So we had about another 30 years, if you like, that it was extrapolated at 2 per cent per year.

MR. LEARMONTH: Yeah.

MR. KAST: And that's just a number that would be – a number to incorporate but not necessarily the right number. What we need to do is put a band around that and so that's where the sensitivity analysis came into play.

Let's talk about the impact of sensitivity with respect to the Isolated Island as it relates to the fuel component, and we did that and we have it in our report. And we can see that if the fuel costs rises, not – I don't have the numbers in

front of me – but not that much, that has a significant impact on the Isolated Island. And, in the end result, what our deliverable was, was to present the least-cost option. That's where we were going with this whole exercise.

MR. LEARMONTH: So, did you think it was reasonable to project fuel prices out, or oil prices out 50 years –

MR. KAST: But –

MR. LEARMONTH: – as an input in the CPW analysis?

MR. KAST: Absolutely. We had to. We had to.

I mean, you've got to go out there because – and that's where the 2 per cent comes in, but we didn't just leave it at 2 per cent. That's why we put a sensitivity analysis section in our report and it's in here, and it's on page – I have it now in front of me here – on page 75, and we can see here the expected price, low price, high price, for example, and you can see that there's a significant variance there.

MR. LEARMONTH: But do you think it's – you can put reliance on a projected fuel price going out that far?

MR. KAST: Well, we – well, that's where the sensitivity band comes into play.

I can't say where it's going to go and nobody here can say where it's going to go because we don't have control over that. That's exogenous variable. We don't have any control over those variables.

We do know the capex with respect to the Interconnected. We don't know what was going to be spent because it's future dollars but it was in front of us. We had guides, we had measures, you can put in tactical contingency and so on.

But, on the other side, on the fuel, what's the reference point? You can go anywhere and you won't find a better estimate, I believe, than what we put in our report. What we put in was totally justified but it's a placeholder.

Now, as I say, take a look at the sensitivity analysis and that's what we have to do when we

start comparing the two options; one against the other to determine the least-cost option.

MR. LEARMONTH: Okay. You finished your answer?

MR. KAST: Yes, Sir.

MR. LEARMONTH: Okay. Thank you.

Okay, now let's turn to some of these scopes of work that we've refereed to earlier. And the first is Exhibit P-00741 which is at – in your book that'll be at tab 16.

You see that, Mr. Wilson, or gentlemen?

MR. WILSON: Yes, I do.

MR. LEARMONTH: Okay, well, I'll have you go to page 5, please. Do you see that?

MR. WILSON: Your page 5, yes?

MR. LEARMONTH: Yeah, well, Roman numeral xi, xii and xiii. Do you see that?

MR. WILSON: Yes.

MR. LEARMONTH: Okay, so that's what you – that was your first take on a scope of services with respect to your engagement with the Province of Newfoundland and Labrador, correct?

MR. WILSON: This is the – yes, the first draft of it.

MR. LEARMONTH: Okay, well there are other changes, but anyway, this was your first one.

And then, I want you to turn to tab 19 – excuse me, tab 20. Now, tab 20 is Exhibit 00743, and it's an email dated April 30 from Charles Bown to you.

And Mr. Bown says in this April 30 email: "I have attached a revised Scope of Services that address the timing and availability of data necessary for you to complete your review. Acknowledging that timely access to data and obtaining a full understanding of the changes that have occurred since DG2 are critical, we

have incorporated a" –business meeting, a – "meeting with Nalcor staff to accompany the delivery of each major data set. I am available at your convenience to review and discuss."

Okay, now, if you turn to the document on page 5, instead of having the – instead of being a total of 13 paragraphs, it's only seven, correct?

MR. WILSON: That's correct.

MR. LEARMONTH: Yeah, and then if you go back to your – once again go back to P-00741, which is at tab 16, you can see that Roman numerals xi, xii and xii, among others, have been removed by Mr. Bown in his draft. Is that correct?

MR. WILSON: Yes, it appears so, yes.

MR. LEARMONTH: Yeah. So that's what you were referring to earlier, I said about the scope changing?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah. So that's what you're referring to.

MR. WILSON: I was just trying to determine if they got reordered or not.

MR. LEARMONTH: Well, take your time just to make sure that I have that right.

MR. WILSON: So, item 12, Cumulative Present Worth study, was actually incorporated into the main header of the services, I believe. It's not a bullet point anymore.

MR. LEARMONTH: Okay. But paragraph 11, let's look at that, Roman numeral xi. Does that appear in the revision that Mr. Bown –?

MR. WILSON: Are you referring to Risk Analysis review?

MR. LEARMONTH: Yes.

MR. WILSON: No, it does not.

MR. LEARMONTH: Okay.

Now, apparently, it's disappeared, it's gone. Now, apparently, according to paragraph – tab 19, which is Exhibit 00742, you met with Mr. Bown in St. John's for two days, probably on April 17 and 18. Correct? Or 18 and 19? Is that correct?

MR. WILSON: It would appear so, yes.

MR. LEARMONTH: Okay. Well, did you discuss the deletions and amendments to the scope of services during those meetings?

MR. WILSON: I don't recall.

MR. LEARMONTH: You don't recall.

MR. WILSON: No.

MR. LEARMONTH: So you would have met with Mr. Bown at that time for two days?

MR. WILSON: No, it's over two days. It probably was, you know, an hour at a time. Like once and maybe once with – who's the other fellow, Walter here.

MR. LEARMONTH: Walter Parsons, yeah. Who is Walter Parsons?

MR. WILSON: He was one of Charles Bown's staff.

MR. LEARMONTH: Okay.

MR. WILSON: I believe it's the same Walter Parsons that worked at Manitoba Hydro at one point.

MR. LEARMONTH: Do you agree that whether the risk analysis was a specific term or not, it would be necessary to include strategic and tactical risk allowances in the preparation of the DG3 cost estimates

Now, it's whether it was in there or not since you were reviewing the costs estimates that it would be implied that you would have to include strategic and tactical risk allowances in the preparation of the review of the DG3 cost estimates?

MR. WILSON: Not necessarily. We've taken that position – tactical risks were part of the base

cost estimates and strategic risks accrued to management reserve, which was treated outside this – outside of our review – and we were, you know, not given that information, either.

MR. LEARMONTH: Okay.

So you don't think there was any duty on you to review the capital cost estimates for strategic and tactical risk?

MR. WILSON: Well, as I stated before, we didn't have the whole picture and the government may have been engaging other consultants to do these – other pieces of this work – so that –

MR. LEARMONTH: Okay.

But I am suggesting to you that you would need this information on strategic and tactical risk in order to make a proper review of the capital cost estimates for the project. Do you agree with that?

MR. WILSON: I think it's – said it – we said it would've been good to have that information –

MR. LEARMONTH: Okay.

MR. WILSON: – but we weren't provided that.

MR. LEARMONTH: But do you agree that you would need to have this information in order to make a proper review of the capital cost estimates of the project. Do you agree with that?

MR. WILSON: No, I don't. I don't think we can categorically state that. I mean, we reviewed the base capital cost estimates that Nalcor provided us. They did not have the strategic risk in them as well.

MR. LEARMONTH: Yeah.

But I'm saying – do you understand my question? It's whether you would need to have this in order to make a proper review of the capital cost estimates. And you're saying no, it wouldn't be?

MR. WILSON: I am going to defer to –

MR. LEARMONTH: No, I want you to ask – I want you to answer.

MR. WILSON: And I don't – I would have to go off my expert and what he would provide me in that direction.

MR. LEARMONTH: Yeah.

The reason I'm asking this is I asked you this specific question in your interview.

MR. WILSON: Mm-hmm.

MR. LEARMONTH: And at tab 25, the question: Mr. Learmonth: Yeah. But I didn't ask you that question. I asked you whether you would need this in order to make a proper review of the capital cost estimates for the project. Mr. Wilson: And I would say yes.

MR. WILSON: Can I see the entire document, please?

MR. LEARMONTH: Mm-hmm.

It's page 25.

MR. WILSON: Can you put it up on the screen?

MR. LEARMONTH: It's not entered as an exhibit. I can show it to you.

Just to bring this into context and focus, I'm gonna read more of this into the record.

On page 24, I said – towards the bottom – and do you agree that in order to provide a proper assessment of the capital cost estimates, you'd be required to do a risk analysis review. Mr. Wilson: Inaudible. Mr. Learmonth: Are you still with me? Mr. Wilson: Yeah, I was just pondering that and thinking what – when I did have a discussion with Al Snyder on this one. Okay.

Now on page 25: I think this is something normally reviewed in many analyses going over that milestone. So Al, I guess my question is, would – this is something that would be important for you if you're to sanction the project? Mr. Learmonth: No, no. But I want your answer. Mr. Wilson: You want my answer? Mr.

Learmonth: First, I'll ask. Mr. Wilson: My answer is yes, you would need to have this.

MS. VAN IDERSTINE: You might wanna finish the rest of that? (Inaudible) the question was, yeah, in order to (inaudible) –

THE COMMISSIONER: Just one second now. If you could turn off your mic, Mr. Learmonth?

Go ahead, Ms. Iderstine?

MS. VAN IDERSTINE: The next two lines of that are – Mr. Learmonth then says yes, or yeah. And Mr. Wilson then completed his sentence by saying: in order to sanction the project. And then Mr. Learmonth goes on.

MR. LEARMONTH: And I said, yeah, but I didn't ask you that.

Look – I say, yeah, but I didn't ask you that.

THE COMMISSIONER: Just one second now. So if Ms. – okay, now go ahead.

Sorry, 'cause your microphone wasn't on there, Mr. Learmonth.

MR. LEARMONTH: Okay.

But I say then – he says: In order to sanction the project. And I say: Mr. Learmonth: Yeah, but I didn't ask you that question. I asked you whether you'd need this in order to make a proper review of the capital cost estimates for the project. Mr. Wilson: And I would say yes.

Black and white.

MR. WILSON: Okay. I've read over the whole page now. I'll give it back to you.

MR. LEARMONTH: Did you have time to read it?

MR. WILSON: Yeah. I read through it.

MR. LEARMONTH: So it was pretty clear, isn't it, what your answer was?

Do you agree?

MR. WILSON: That's what I said.

MR. LEARMONTH: Well, then why are you saying something different now?

Are you still –

MR. WILSON: Yeah.

MR. LEARMONTH: You're thinking, are you?

MR. WILSON: I'm sorry.

MR. LEARMONTH: Sorry.

MR. WILSON: (Inaudible.)

MR. LEARMONTH: Sorry.

MR. WILSON: Here – the – I guess the best way to answer that is to go back to my context and what the report is and how we were, you know, reviewing those cost estimates. You know, we stated here that it would be a – it would've been good to have those. We weren't provided those. And if we had been provided those, we would have made mention of it in our report.

MR. LEARMONTH: Yeah. But that's not what I asked you.

MR. WILSON: You asked me if it would've been in the base capital –

MR. LEARMONTH: No, I'm asking you that you answered a specific question –

MR. WILSON: Mmm.

MR. LEARMONTH: – very easy to understand. You said: I would say yes. And now you're qualifying that or –

MR. WILSON: Mm-hmm.

MR. LEARMONTH: – reneging on it. One of the two.

MR. WILSON: It's hard to qualify it in a face-to-face – or over a telephone interview like that, Sir.

MR. LEARMONTH: Oh. So you're blaming it on the telephone?

MR. WILSON: Not (inaudible).

MR. LEARMONTH: No, really?

MR. WILSON: Yeah. No. It was a difficult question to answer, and I was struggling with that answer, yes.

MR. LEARMONTH: Yeah.

But there were other questions that I put to you that you struggled –

MR. WILSON: Mm-hmm.

MR. LEARMONTH: – to answer and you didn't answer. You said you wanted more time to think about it. But you didn't express any – or display any hesitation on this occasion, Mr. Wilson.

MR. WILSON: Well, it's hard to tell from the transcript, but I was struggling with that one. Yes.

MR. LEARMONTH: Well –

MR. WILSON: Yeah.

MR. LEARMONTH: – does the transcript indicate that? When you look at the transcript does that indicate to you, you were struggling with it?

MR. WILSON: Yes. It does.

(Inaudible) I'm trying to remember – without the benefit of having my colleagues right in the same room –

MR. LEARMONTH: Yeah. But the question was –

MR. WILSON: – how we –

MR. LEARMONTH: – for you. It's not collaboration, it's for you.

MR. WILSON: No, this was a collaboration effort. I still relied on my experts here, Mack and Al, to advise me in this report.

MR. LEARMONTH: Yeah.

MR. WILSON: It's a very complicated question so ...

THE COMMISSIONER: Maybe we can start moving on and –

MR. LEARMONTH: Okay.

THE COMMISSIONER: Okay?

MR. LEARMONTH: Please turn to tab 20, which is Exhibit 00743.

Do you have that, Sir?

UNIDENTIFIED MALE SPEAKER: Tab 20?

MR. LEARMONTH: Sirs? Yes.

UNIDENTIFIED MALE SPEAKER: Yes.

UNIDENTIFIED MALE SPEAKER: Yes, we have it.

MR. LEARMONTH: Yeah.

Now Mr. – this is an April 30 scope of service revision. And on page 3, if that can be brought up please, second full paragraph, Mr. Wilson – or the other Gentlemen.

“A high level review will focus on the reasonableness of existing engineering or financial documents used in the development of the CPW analysis including design documents, design studies, material and equipment specifications, cost estimates and schedules. No new information data or reports are required for this review to proceed. MHI's final report will include a review of which documents were reviewed, identification of salient points necessary for the CPW analysis, and if the various studies were reasonable, and where applicable” et cetera.

So this is Mr. Bown, once again – and I know we're going to have to ask him about these revisions, you may not be able to answer. But I'm going to ask you whether you had any discussion with Mr. Bown between the time that he sent his earlier draft and the time you received this?

MR. WILSON: I don't recall if we had discussions or not.

MR. LEARMONTH: Yeah, but you don't have records of those phones calls or anything like that, anyway, do you?

MR. WILSON: No, I don't.

MR. LEARMONTH: No, okay. So you have no recollection of that?

MR. WILSON: Of any discussions with Charles Bown between –

MR. LEARMONTH: Yes.

MR. WILSON: – about the issue of this April 30 and the 19 –

MR. LEARMONTH: Yeah.

MR. WILSON: – previous – I don't recall.

MR. LEARMONTH: Do you know whether these drafts are comprehensive? In other words, can you tell me whether there were other drafts that aren't included in the documents that you retained?

MR. WILSON: I – not to my knowledge. The ones that I had in my email would be the ones that I had issued to Charles Bown and had received from him.

MR. LEARMONTH: Yeah.

MR. WILSON: So those would have been the record drafts. But I don't have any additional drafts that I have edited or other drafts that they had been provided to me. I have no – I do not have those documents.

MR. LEARMONTH: Okay. Thank you.

And then at tab 22 – so this is another – yet another draft. This is one that you prepared at tab 22, that's Exhibit P-00745. Correct?

MR. WILSON: As I have it here, yes.

MR. LEARMONTH: You prepared this, did you?

MR. WILSON: This looks like my entire project proposal, yes.

MR. LEARMONTH: Yeah.

So what is the – I mean are you just sending emails with PDF versions or Word versions of changes without communicating; in other words, often people have discussions and they say, okay, well put this in and send it. I mean, are these just – are the email exchanges that I've referred to the total communications that you had with Mr. Bown or do you believe that there were telephone conversations?

MR. WILSON: Quite likely there were telephone conversations to go with this as well, but I don't – can't recall what the substance would be.

MR. LEARMONTH: Okay. That's fine.

MR. WILSON: Yeah.

In this particular version it was Charles Bown responding to me with a redline version of my Word document.

MR. LEARMONTH: That's right.

Now, just have a look at another document that I want to ask you about. At this point who is the main person that you're dealing with at Nalcor?

MR. WILSON: At this point? I don't believe we were dealing with Nalcor.

MR. LEARMONTH: Not at all?

MR. WILSON: Well, we – I don't believe we had a contract yet in place so we wouldn't have been engaged at Nalcor.

MR. LEARMONTH: Yeah.

Because I want to have a look at a document, I'm sure you've seen it because it's in disclosure. That would be tab 76 Exhibit, P-00813.

If you could turn it up. This is from Mr. Brian Crawley of Nalcor, so April 26, 2011. So Mr. Crawley now is drafting a scope of services. Did you find it unusual that Mr. – someone from

Nalcor would be dealing with the wording – or at least providing drafts into the wording of the scope of services?

MR. WILSON: Well, considering that they're a large stakeholder in all of this, I guess it would behoove the government to be getting their input into the scope of services because that would be – you know, they would have to be supportive of that engagement if we were to achieve any type of objective.

MR. LEARMONTH: So that wouldn't be of any concern to you, is that right?

MR. WILSON: No, I'm not surprised.

MR. LEARMONTH: Then we had the comments of Mr. – just let me turn to that for a minute – Mr. Harrington at tab 77, Exhibit 00814, I think we mentioned this earlier.

But at this time, now that we've gone through the documents, did you have any inkling with – that – excuse me, have I got the right tab, tab 77. (Inaudible) I've covered that so – I covered that earlier so I'll forget about that question.

Then if we go to tab 47, this is the final contract that you entered into with government. Can you identify that as such?

THE COMMISSIONER: 00770?

MR. LEARMONTH: Yeah, 77. It's tab 77 and it's 00770 exhibit number.

THE COMMISSIONER: So tab 46.

MR. LEARMONTH: It's tab 47 in mine.

THE COMMISSIONER: Or 47 then, okay.

MR. LEARMONTH: Tab 47 in mine.

THE COMMISSIONER: Okay.

MR. LEARMONTH: See that, Sir?

MR. WILSON: I have it here. I'm just checking through it all. This was – this is the signed copy. Yes, okay.

MR. LEARMONTH: Okay, so there are a lot of references to, you know, like on the bottom of page 10: "A report on the reasonableness of ... SOBI cost estimate schedule as input to the DG3 CPW analysis." And there's a reference to that throughout and I think that's what Mr. Kast was referring to.

MR. WILSON: What's the question exactly?

MR. LEARMONTH: Well, Mr. Kast kept on talking about the CPW analysis and I think that these – the scope is the language that he was referring to when he kept on talking about that.

MR. WILSON: Yes. Yeah.

MR. LEARMONTH: Yeah, okay.

MR. WILSON: (Inaudible.)

MR. LEARMONTH: So did you have – before this document was signed, did you have discussions with Mr. Bown about the scope, in addition to, you know, receiving, exchanging these drafts and so on, did you have discussions with him to make sure you were on the same wave length as to what you were supposed to do?

MR. WILSON: I don't recall discussions as such, but the scope of work is written and –

MR. LEARMONTH: Yeah.

MR. WILSON: – it's fairly detailed.

MR. LEARMONTH: Right. But you don't know whether you had any discussions do you?

MR. WILSON: Any further discussions? No.

MR. LEARMONTH: Okay.

Now, just carrying on to tab 24, which is Exhibit 00747.

MR. KAST: Is that the one – 24?

MR. WILSON: Nope. (Inaudible.)

MR. KAST: (Inaudible.)

MR. WILSON: Yes, I have it in front of me here.

MR. LEARMONTH: Let's – did I say tab 24?

MR. WILSON: You said tab 24.

MR. LEARMONTH: Yeah, 00747.

MR. WILSON: 00747

MR. LEARMONTH: Okay.

So, have you – at this point you're communicating with Gilbert Bennett who was the vice-president, I think, of the Lower Churchill Project. This is Thursday, May 31. Had you met Gilbert Bennett before that date?

MR. WILSON: On DG3? No, I don't believe so at all.

MR. LEARMONTH: But you –

MR. WILSON: I had met him previously on our DG2 work.

MR. LEARMONTH: Yeah. Well, he referred you to –

MR. WILSON: Yeah.

MR. LEARMONTH: – the government, so you must have know him, I take it.

Now, tab 26 is a document, or a series of emails, and they're between the lower – the lowest one at the bottom of page 1 of Exhibit 00749 is an email June 7, 2012 from Gerry Proteau. Can you just identify who Gerry Proteau is?

MR. WILSON: Gerry Proteau. Gerry Proteau is our transmission line expert specialist reviewer on this project.

MR. LEARMONTH: Yeah.

And in this June 7, 2012 email, he says: "Paul, I had a pretty good meeting today, though I think they were at first reluctant to discuss much detail. I'm reviewing some documents tonite as they are reluctant to provide copies."

Did that give you any concern?

MR. WILSON: (Inaudible), yeah, I believe, I was – that I was concerned, yes.

MR. LEARMONTH: Well, why, what would be –

MR. WILSON: Well, we needed –

MR. LEARMONTH: – why would you be concerned?

MR. WILSON: – to get the documents to review. You know, even in the meeting over the table as they engaged us to – to us to do a reasonable review of this material. Yeah.

MR. LEARMONTH: So not providing copies would be of concern to you?

MR. WILSON: We – well, they didn't want us taking copies off-site for whatever confidentiality reasons they had, even with a confidentiality agreement in place, they wanted to keep control of those documents.

MR. LEARMONTH: And then, in the next email – well, from Paul Wilson, you, to Proteau, I guess, in response, which is about 10 minutes after.

You say: "Thanks Gerry, Paul Harrington and Brian Crawley called me to discuss the cost estimate issue." So you were looking into the cost estimates, were you?

MR. WILSON: Well, the cost estimate –

MR. LEARMONTH: Issue.

MR. WILSON: I'm not sure what issue he was referring to in this point.

MR. LEARMONTH: Well, that's what I was gonna ask you. Do you remember?

MR. WILSON: No, I don't remember.

MR. LEARMONTH: Oh. And then on the top of the page, the email from Gerry Proteau, dated June 8, to you.

He says: "I've reviewed their design criteria; it appears well documented and detailed typical of SNC Lavalin's documentation I've seen in other

work with them. I think Paul Harrington was rather incensed I want to look at it, but he warmed up a little bit in the afternoon before your conversation with them" today. And then he goes on to say ...

So, did you – was this an item of concern that Mr. – according to this email – that Mr. Harrington was incensed that Mr. Proteau wanted to look at documentation?

MR. WILSON: It appears the concern, whatever it was, was alleviated by the afternoon, since Gerry appears to have got co-operation. I don't know what incensed Paul Harrington in this case, or why he was incensed when we asked for this documentation to review.

MR. LEARMONTH: That's an unusual reaction for a project review, I suggest.

MR. WILSON: In our DG2 work, transmission line reliability was fairly central in our discussions and I guess Nalcor may have had a sensitivity with that.

MR. LEARMONTH: Yeah, but you have to get the documents to do a proper job, don't you? Based on your mandate?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah. And you weren't getting them, it appears, I suggest. Do you agree?

MR. WILSON: Well, in this email it didn't say he didn't get them. That he didn't get them early on but maybe the next day, right?

MR. LEARMONTH: Okay.

Mr. Proteau – and the next document is Exhibit 00750, page 1. This is emails from – actually from Paul Wilson, you, to Charles Bown, copied to Allen Snyder and Mack Kast. And he says – second or third paragraph: "For the most part these meetings went very well until Tuesday afternoon when Nalcor though we were getting offside with the Muskrat Falls scope of work. Perhaps we were offside ..."

So were there discussions ongoing about the scope of work and what documents you were entitled to?

MR. WILSON: Exactly what paragraph are you reading again?

MR. LEARMONTH: You see Exhibit 00750?

MR. WILSON: Yes.

MR. LEARMONTH: Page 1. He says: For the most part these meetings – the lines begins: arrived on Sunday.

MR. WILSON: Okay. Yeah, that's fine.

MR. LEARMONTH: You got that?

MR. WILSON: That's good. Yeah, we got it now.

MR. LEARMONTH: Okay.

MR. WILSON: Okay, so what is your question?

MR. LEARMONTH: So was this of concern to you? That there were disputes as to how much information that you could get based on interpretations of the scope of work?

MR. WILSON: I think just to put this in the right perspective, I believe that a couple of my team members were going after more than we had agreed to in our engagement with the government. And, I think, this is where Nalcor was pushing back on this saying we were offside in terms of our engagement in scope of work and asking for stuff that was – they didn't consider relevant.

But I – in the same paragraph it goes on to say that, you know, that: "I worked with my team to determine if they had sufficient information to continue and at this time. I believe we have sufficient information for an opinion with a high level review."

So I – you know, in those discussions with my team members they indicated with – to Al Snyder that they had sufficient information.

MR. LEARMONTH: Okay.

Well let's just look at tab 29. It's Exhibit 00752. That is a draft report dated July 2012; prepared by Mr. Proteau. Correct?

MR. WILSON: Yes, it is.

MR. LEARMONTH: All right.

Now, on paragraph – on page 5, under the heading: 1.3 Cost Estimate Evaluation. Do you see that?

MR. WILSON: Yes.

MR. LEARMONTH: Mr. Proteau says: "Nalcor did not provide MHI access to the detailed cost elements, nor costing reports defining the DG3 estimate and ... variance from the DG2 estimate However, totals are provided ... DG3 estimate increased significantly"

So even – like, in July 2012 – I'm not sure of the exact date of this, but Mr. Proteau is still – well, expressing his point of view on the document production. And you must have been aware of that.

MR. WILSON: This is what he reported to us, yes.

MR. LEARMONTH: Well, did you inquire about it? Isn't that a serious issue in a case where you are engaged by government to assess costs?

MR. WILSON: But in the same breath, in the previous Exhibit, which was the result of this meeting which derived this report, he indicated that he had sufficient information to proceed.

MR. LEARMONTH: Yeah, but this is –

MR. WILSON: But he still –

MR. LEARMONTH: – a later document.

MR. WILSON: Well, this is a document that he drafted internally at MHI.

MR. LEARMONTH: Yeah.

But it was after the date of – it was July 2012. Wasn't that after the date that he had that problem?

MR. WILSON: I don't recall the exact dates. What was the date of this email?

MR. LEARMONTH: Well, I think these were dated – the ones I referred to were dated, like – the one at tab 27 – see 00750 – was dated June –

MR. WILSON: June 25.

MR. LEARMONTH: – 25.

MR. WILSON: Yeah, okay.

MR. LEARMONTH: Yeah, so –

MR. WILSON: Yeah, this would be after –

MR. LEARMONTH: – after he wrote that, he still has this concern –

MR. WILSON: Mm-hmm.

MR. LEARMONTH: – do you agree?

MR. WILSON: Well, Nalcor, I guess, didn't provide the detailed cost estimates for Gerry, which he would've liked to have seen. More information is –

MR. LEARMONTH: Yeah.

MR. WILSON: – better. But they did provide, you know, the methodology and the summary documents, and he goes on to say: "... and MHI considers that it adequately reflects the costs forecasted" So ...

MR. LEARMONTH: Yeah. But he doesn't have the access to the documents – he still makes the point of raising it as an issue, right?

MR. WILSON: He's indicated it here, yeah.

MR. LEARMONTH: Yeah.

Then on page 6 of Exhibit 00752, third paragraph: "At this stage, the major risks to be addressed for the transmission line complex remain with contractor cost and labour availability. There are several other high-profile

transmission line and generation projects in the design stage in Canada set for construction in the same time" – frame – "as Nalcor's Lower These, along with other natural resource projects, will act to attract skilled labour away from this project and create an inevitable cost escalation for" contractual labour.

You – presumably you read that?

MR. WILSON: Mm-hmm, yes.

MR. LEARMONTH: But that wording doesn't appear in the final – in your final report.

MR. WILSON: These types of costs for labour escalation actually end up in the management reserve and schedule risk, right? So – and that, as you well know, have been taken out of our report as –

MR. LEARMONTH: Okay, so –

MR. WILSON: – not part of our scope.

MR. LEARMONTH: But you didn't think you had to put that in the report?

Do you know why – if it wasn't part of your scope, do you know why Mr. Proteau was addressing these problems?

UNIDENTIFIED FEMALE SPEAKER:
(Inaudible.)

MR. WILSON: Maybe Al, can I rely on you to answer that?

MR. SNYDER: Sure, because he had, you know, his eyes on the market across Canada and recognized what was potentially happening. I know what was going on in Alberta with transmission at that particular point in time, and there was a lot of work and a lot of contractors that, you know, were – had an awful lot of work to do at that particular point in time.

MR. LEARMONTH: Okay. But I'm saying that if this was outside the scope of your work, why was Mr. Proteau dealing with issues like that?

MR. SNYDER: It's because he was an expert in that particular field and, you know, in case I didn't know, he was bringing it to my attention.

MR. LEARMONTH: But what difference would it have made to you if it's outside your scope?

MR. SNYDER: Well, you know, it wasn't included in the final report because of that.

MR. LEARMONTH: Yeah, but why was Mr. Proteau – do you know why he was dealing with these issues?

MR. SNYDER: Because he was doing a good job.

MR. LEARMONTH: So he was doing more than he had to do?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay.

And, once again, on page 13, second to last paragraph it says: "The risk of cost escalation during the construction stage is high considering very competitive labor rates and compensation will be required to attract qualified contractors and personnel. This escalation risk may not be fully accounted in the DG3 estimate."

So did you do anything about that? I mean did you follow-up on that?

MR. WILSON: I don't recall but I think I would have to look at my first submission report to the government to see if that actually made it into that report.

MR. LEARMONTH: Well, maybe you can do that –

MR. WILSON: And I think –

MR. LEARMONTH: – over the lunch break?

MR. WILSON: Yes, we can do that over lunch.

MR. LEARMONTH: Yeah.

THE COMMISSIONER: So might this be a good place to break, Mr. Learmonth? Or did you

want to continue on for – we still have 5 more minutes.

MR. LEARMONTH: I just want to maybe – there's a little area I want to deal with and I think I can finish it –

THE COMMISSIONER: All right.

MR. LEARMONTH: – off before the lunch break, if that's acceptable.

Now after you were – after you had that initial contact with Mr. Bown that was set-up by the referral by Gilbert Bennett – do you know what I'm talking about?

MR. WILSON: Yes. The original email, yes.

MR. LEARMONTH: Yeah.

Okay the – I understand that an issue arose between MHI and the Public Utilities Board about the propriety or acceptability to them of you just –

MR. WILSON: I guess you're referring to the conflict of interest.

MR. LEARMONTH: Yes.

MR. WILSON: Yes.

MR. LEARMONTH: Yeah.

So what was that – your understanding of that conflict of interest issue?

MR. WILSON: We were still under contract with the PUB. We had just finished all the work for Decision Gate 2 and, as you're well aware, the board had to file their report March 30. And the government is now in discussions with us, MHI, for potentially doing more work for Decision Gate 3, which can be construed as a conflict of interest.

MR. LEARMONTH: Well, why didn't you clear the conflict of interest before you had any discussions with Mr. Bown?

MR. WILSON: This was over a period of hours essentially. This happened very quickly and, I guess, news travels fast in Newfoundland.

So we did address it very – as quickly as possible and, you know, I had to do some investigations as what we should be doing and that. And, as a result, a letter was drafted to the PUB, right, requesting that, you know, we have this conflict of interest and can we be released from the contract.

MR. LEARMONTH: So you acknowledged that at that time you had a conflict of interest?

MR. WILSON: I think in my letters that it may be construed as a conflict of interest, yeah.

MR. LEARMONTH: Yeah.

And you called the Newfoundland board of engineers or ...?

MR. WILSON: I did. I called them to get some direction on this and they recommended that I contact the client, which is the board in this case and, you know, make a request to them.

MR. LEARMONTH: And can you confirm that sometime between March 30, 2012, and April 4 that you had discussions with Darlene Whalen and perhaps Fred Martin about the problem that they saw with respect to this conflict of interest?

MR. WILSON: Yes, they've –

MR. LEARMONTH: You did.

MR. WILSON: We did have a –

MR. LEARMONTH: What did they say to you?

MR. WILSON: They were, basically, upset that this potential – this would be a conflict of interest.

MR. LEARMONTH: They were upset, were they?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah.

Okay, and then we know that there's this letter at tab 17. You wrote the board and asked for their permission. And the evidence is that the

chair of the board, Mr. Andy Wells, received a telephone conversation from the premier. Did you hear that?

MR. WILSON: No, I did not.

MR. LEARMONTH: Requesting him to deal with this, generally, among other things.

MR. WILSON: No.

MR. LEARMONTH: No.

MR. WILSON: I have no knowledge of that.

MR. LEARMONTH: Yeah.

And then we have the letter at tab 18, which is Exhibit P-00603, whereby Mr. Wells writes you and, you know, gives his approval to your being retained by the government. Correct?

MR. WILSON: That's correct, yes.

MR. LEARMONTH: Yeah, and that's the end of the issue, is it?

MR. WILSON: That's the end of the issue, yeah.

MR. LEARMONTH: Okay.

On that point, if it's good for everyone else, we can break.

THE COMMISSIONER: All right, so we'll break now until 2 o'clock this afternoon.

CLERK: All rise.

Recess

CLERK: All rise.

This Commission of Inquiry is now in session.

Please be seated.

THE COMMISSIONER: So you gentlemen remain under oath at this time.

Mr. Learmonth, when you're ready.

MR. LEARMONTH: Thank you.

Mr. Snyder, before we took our lunch break we were talking about Mr. Proteau and he had made comments on contingency, and I think you said that those were outside your scope. Correct?

MR. SNYDER: That's correct.

MR. LEARMONTH: Yeah.

Well, did you tell Mr. Proteau to stop working on things? I mean, he was a paid contractor, right?

MR. SNYDER: He was a member of –

MR. LEARMONTH: Yeah.

MR. SNYDER: – Manitoba Hydro International staff.

MR. LEARMONTH: Yeah.

MR. SNYDER: And –

MR. LEARMONTH: But if he was doing work – oh sorry, did I interrupt you?

MR. SNYDER: Oh, he – no, go ahead, please.

MR. LEARMONTH: No, if someone is doing work under a contract and they are getting paid, presumably, by the hour – I – is that correct?

MR. SNYDER: He was not but some people do.

MR. LEARMONTH: Yeah. But if people are getting paid to do something and they're doing something that you don't want them to, don't you, like, call them up and say, look, forget about that stuff.

MR. SNYDER: Yes.

MR. LEARMONTH: Did you do that with Mr. Proteau?

MR. SNYDER: I believe that was clarified with Mr. Proteau, that that wasn't in our area of responsibility.

MR. LEARMONTH: Who clarified it with him?

MR. SNYDER: Probably me.

MR. LEARMONTH: What do you mean probably? Do you remember or not?

MR. SNYDER: No, I don't remember.

MR. LEARMONTH: So you don't – so you're just speculating?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay. So you don't know.

MR. SNYDER: No.

MR. LEARMONTH: No. Okay.

So when you say probably me, that's an exaggeration, isn't it? I mean, if you don't remember, how can you say probably me?

MR. SNYDER: Well, if a person is working on stuff that we don't feel is appropriate to the report that we're doing, then we would talk.

MR. LEARMONTH: But you don't remember talking to him?

MR. SNYDER: I do not.

MR. LEARMONTH: Okay.

Now, Mr. Wilson, you, together with Mr. Kast and Mr. Snyder, were asked this morning about the strategic risk report and management reserve. Not the tactical, which you acknowledged having received, but the other one. Do you know the one I showed you and you'd never seen it?

MR. WILSON: That's correct. Yeah.

MR. LEARMONTH: The management?

MR. WILSON: Yeah.

MR. LEARMONTH: Now, I just want to clarify something because when you were giving your evidence at the interview in Winnipeg, August 27 of this year, I asked you – this is on page 12, I said: or any, never mind the one – any project cost and schedule risk analysis provided

by Nalcor in relation to your preparation of the report. And you answered, Mr. Wilson: Not on the individual pieces, no. The one that comes to mind would be the Westney report for strategic and management risks. And then I say: Did you personally review the Westney report? Mr. Wilson: I read it.

Now, that conflicts with the –

MR. WILSON: Yeah.

MR. LEARMONTH: – evidence that you gave this morning where you categorically denied ever seeing it or even having heard of it.

MR. WILSON: But the Westney report that we received – I saw and had received, dealt specifically with strategic risks. Pardon me, with tactical risks only.

MR. LEARMONTH: So was this a mistake?

MR. WILSON: I –

MR. LEARMONTH: Because you said the one that comes to mind would be the Westney report for strategic and management risks.

MR. WILSON: What exhibit is that again?

MR. LEARMONTH: That's in your transcript of your –

MR. WILSON: Not in the transcript but the exhibit, particularly.

MR. LEARMONTH: It's not in an exhibit; it's in your transcript. Do you wanna look at it?

MR. WILSON: Not my statement. I wanted to look at the –

MR. LEARMONTH: Okay, well I'm gonna –

MR. WILSON: – report that I was –

MR. LEARMONTH: – show it to you.

MR. WILSON: No, you misunderstand me, Sir. I acknowledge that that's in the transcript, but I believe I was mistaken and I referred to the one that we did receive was the tactical risks.

MR. LEARMONTH: Okay, so you think that's a mistake then?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah. And then on page 14, still on that topic because you know the strategic risk was 497 million, which is sometimes rounded to 500 million.

MR. WILSON: Now, I do, yeah.

MR. LEARMONTH: Yeah, okay.

So then page 14, they say – well, I say at the top of 14: Okay, well, if I didn't put that properly, I'll ask it again. Why didn't you disclose the existence of this 497 million strategic risk in the report? And then Ms. Van Iderstine says: And to be clear, Mr. Wilson, he's talking about the final report. Your answer, Mr. Wilson: Hmm, I don't know, I don't have an answer for that.

Do you wanna see that?

MR. WILSON: No, I understand.

MR. LEARMONTH: So, once again, we're talking about – we're not – in this line of questioning, we're not talking about the tactical risks, because the amount of that was 367 million. We're talking about the 497. So, once again, what is your explanation for that evidence?

MR. WILSON: Actually, can I see the whole document?

MR. LEARMONTH: You certainly can. Right at the top there, Sir.

MR. WILSON: Okay.

MR. LEARMONTH: Do you wanna read question 74 or after, just to make sure we're talking about the same thing?

Take the time to do so, please.

MR. WILSON: Okay, I –

MR. LEARMONTH: Read as much as you want now.

MR. WILSON: So you're asking – and back to the same line, okay, well, if I didn't put it properly, I'll ask again. Why didn't you disclose the existence of this 497 million strategic risk in the report?

And Ms. Van Iderstine says: And to be clear, Mr. Wilson, he's talking about the final report. And I said: Hmm, I don't know, I don't have an answer for that. And then you ask: Was it left out at the request of Nalcor? And I say: I think the 400 and – wasn't actually – never actually covered in the report in any fashion.

MR. LEARMONTH: Right.

MR. WILSON: And the reason for that is –

MR. LEARMONTH: No, no, but –

MR. WILSON: – you're talking this \$497 million, and I, you know – and when I went to review documents after this, we never received it. I never saw it.

MR. LEARMONTH: Well, why did you give that answer then?

MR. WILSON: I don't know.

MR. LEARMONTH: You don't know.

MR. WILSON: I could have been – I was mistaken.

MR. LEARMONTH: (Inaudible.)

MR. WILSON: Yeah.

MR. LEARMONTH: Just an error?

MR. WILSON: An error, yeah.

MR. LEARMONTH: So then – just so that there's absolutely no confusion, the evidence you gave at the beginning of your testimony today that – where you categorically denied ever seeing the strategic risk report and management reserve report with the 497 million, you stand by that earlier denial?

MR. WILSON: Yes, I do.

MR. LEARMONTH: Okay. Thank you.

Next, I'd like you to go to tab 23 which is Exhibit P-00746. That's, yeah, page 2.

Do you see that, Mr. Wilson?

MR. WILSON: Yes, I do.

MR. LEARMONTH: Yeah, so this is a – Mr. Charles Bown on May 16, 2012, sends you "a draft letter to define the understandings between Govt, Nalcor and MHI during the work covered under the contract. Please review and comment."

Now, there's one – the letter speaks for itself, of course, but there's one paragraph I'd like you to – I'm gonna ask a couple of questions on.

At the bottom of page 2 under the lowercase (g) – do you see that? Do you see what I'm referring to?

MR. WILSON: Item (g), yes.

MR. LEARMONTH: Okay. It says that Mr. Wilson – this is a letter from you, Paul Wilson – well, it says Paul Wilson and Mr. Wilson, I'm not sure – like, you're not writing a letter to yourself obviously, so I presume this is from –

MR. WILSON: Well, it's signed off here Charles W. Bown.

MR. LEARMONTH: Yeah, well anyway, that's just an error, that's not the problem.

So (g) says: "MHI acknowledges that Nalcor staff are simultaneously engaged in their own process of developing new data required for Decision Gate 3 and that such data is required to complete the Services under the contract. The preparation of data by Nalcor will have precedent over the Contract and timelines in the Contract may be adjusted to reflect the availability of data."

So I think it's fair to say Mr. Bown is suggesting in that paragraph that your work is not the priority, the other work at Nalcor is. Do you agree with that interpretation?

MR. WILSON: I –

MR. LEARMONTH: Or if not – if you don't agree with it, tell me how you took it.

MR. WILSON: Well, I don't know if I'd want to interpret it that way, but he was certainly writing to clarify, you know, our terms of engagement and how we work with Nalcor.

MR. LEARMONTH: Yeah, so that if Nalcor has other work to do, that work – on their developing new data for Decision Gate 3, that work will have precedence over your contract work. Correct?

MR. WILSON: Yeah, and I think he's allowing us, you know, to adjust delivery dates –

MR. LEARMONTH: Yeah.

MR. WILSON: – if we need to wait for them to prepare their responses.

MR. LEARMONTH: Okay.

Now, at tab 89, that's binder 2, and the reference – the exhibit number is Exhibit P-008. No, excuse me, P-00826. Do you have it?

MR. WILSON: Yes, I do.

MR. LEARMONTH: Okay, so this is a reference to someone – Sharon Klassen at MHI is sending a letter to Charles Bown copied to Al Snyder, you and Beverly Riel, I guess. It refers to a trip.

She says: "Mr. Bown,

"Al Snyder has advised us that you and five" – other will be travelling – "others will be travelling to Winnipeg on Monday, August 13 to meet with the Project Team members regarding the Decision Gate 3 review" et cetera, et cetera. Hotel reservations are made and so on.

So did you meet with this contingent which included Charles Bown, Gilbert Bennett, Brian Crawley, Paul Humphries, Paul Harrington? Did you – do you recall meeting with them in Winnipeg on or about August 13?

MR. WILSON: I recall the meeting, yeah. I recall –

MR. LEARMONTH: How –

MR. WILSON: I recall attending that meeting.

MR. LEARMONTH: How long was the meeting?

MR. WILSON: That I don't recall, actually. I – there was quite a number of people in there and I believe it was set-up for over two days. There was an introductory meeting in the beginning and then they all split off to different work groups, I believe. And there may have been a session that closed it back at the end of that.

MR. LEARMONTH: Well, what were the work groups that they were split up into?

MR. WILSON: The specific – the specifics would be details on the transmission line, the HVDC converter to Muskrat Falls. Those people were involved – Mack Kast was involved in the financial side and Al Snyder. They all had meetings with these people.

MR. LEARMONTH: What's your recollection of Mr. Charles Bown's role in this meeting or series of meetings?

MR. WILSON: He attended, but I don't recall what input, if any, he had into the discussions.

MR. LEARMONTH: Mostly Nalcor and MHI?

MR. WILSON: Reviewing, you know, our reports and then the technical input, yes.

MR. LEARMONTH: I'm probably wasting my time asking this but I will anyway: Do you have any notes or records of this – these – this meeting which apparently took two days?

MR. WILSON: No, I don't.

MR. LEARMONTH: No.

What was accomplished at that meeting, or those meetings?

MR. WILSON: I – primarily would be review of our reports and consultation with Charles as well at that meeting.

MR. LEARMONTH: Well, you'd already sent a report, hadn't you, by then?

MR. WILSON: Mmm.

MR. LEARMONTH: Didn't you send one on August 2? Maybe I'm wrong.

MR. WILSON: I –

MR. LEARMONTH: Hmm?

MR. WILSON: I don't – I believe so.

MR. LEARMONTH: Yeah and so –

MR. WILSON: We sent a couple of drafts, yeah.

MR. LEARMONTH: Well, did you send any – did you discuss any of the contents of any reports you would've prepared at those meetings?

MR. WILSON: Pardon me, what are you referring to?

MR. LEARMONTH: Well, there were – if there – did you discuss revisions to any draft documents that you had previously been prepared in relation to MHI's DG3 engagement?

MR. WILSON: The entire document was in draft and that was –

MR. LEARMONTH: Now –

MR. WILSON: – the subject of the review –

MR. LEARMONTH: – at that –

MR. WILSON: – of the meeting.

MR. LEARMONTH: Okay, you met in Winnipeg with over probably two days. Now, at any time during those meetings did you discuss the revision to any documents that had been prepared by MHI in relation to this engagement?

MR. WILSON: It'll be our DG3 report, in draft (inaudible).

MR. LEARMONTH: Well, draft reports –

MR. WILSON: And (inaudible).

MR. LEARMONTH: – or draft reports or any documents?

MR. WILSON: I will refer to the document, which is the DG3 report.

MR. LEARMONTH: Well, the DG3 report hadn't been prepared until October 27, so –

MR. WILSON: Hadn't been issued then, right.

MR. LEARMONTH: – we're not talking about that. Pardon?

MR. WILSON: It hadn't been issued but had been assembled into, you know, a draft document.

MR. LEARMONTH: Yeah. So did you discuss the contents of draft documents with Nalcor and Charles Bown at those meetings?

MR. WILSON: I believe that is the subject of that meeting, yes.

MR. LEARMONTH: Okay. To review the draft documents?

MR. WILSON: To review the draft component document – or the one document.

MR. LEARMONTH: So why would you review them with Nalcor if you were reporting to government?

MR. WILSON: Well, government was there.

MR. LEARMONTH: Yes.

MR. WILSON: Charles Bown was there at that meeting.

MR. LEARMONTH: Right.

MR. WILSON: And, yeah ...

MR. LEARMONTH: Yeah.

'Cause I'm suggesting to you that the first draft report you prepared and sent to Charles Bown was on August 2, and this meeting was on August 13. So I'm suggesting to you – or actually I should be asking a question. Was the first draft document that you sent the subject of any discussion at this August 13 and August 14 meeting in Winnipeg? Do you remember?

MR. WILSON: I believe it would be, yes.

MR. LEARMONTH: But why do you believe it would be?

MR. WILSON: Well, I submitted this – August 2 was the date that I issued it to Charles Bown, and then I went on vacation. I came back from vacation to attend this meeting. And you know, in that time frame, I would have had, you know, very little contact with Charles Bown.

MR. LEARMONTH: Okay.

MR. WILSON: During vacation, so ...

MR. LEARMONTH: So then are you saying –

MR. WILSON: I'm inferring that when we came to August 13, you know, they were coming prepared to offer their input into our report.

MR. LEARMONTH: Yeah.

So I take it from that that you're acknowledging that Nalcor would have received your draft reports?

MR. WILSON: Well, I didn't have evidence of that at the time.

MR. LEARMONTH: Well –

MR. WILSON: Or not.

MR. LEARMONTH: Did you – well –

MR. WILSON: I wouldn't have known that. I didn't know that. I suspect – no, I don't know that actually.

MR. LEARMONTH: Well, did you send your draft report?

MR. WILSON: No, I did not.

MR. LEARMONTH: Okay, so if –

MR. WILSON: (Inaudible.)

MR. LEARMONTH: – they had it, it must have come from the person you sent it to, is that right?

MR. WILSON: That's the inference, yes.

MR. LEARMONTH: And that would have been Charles Bown?

MR. WILSON: Charles Bown, yes.

MR. LEARMONTH: Okay.

Now, let's just go to this draft report. And that's at Exhibit 00754, tab 31. I'd like you to turn to page 41 of Exhibit 00754.

THE COMMISSIONER: What page again, Mr. Learmonth?

MR. LEARMONTH: Forty-one.

THE COMMISSIONER: Thank you.

MR. LEARMONTH: Now, did you prepare this draft report?

MR. WILSON: This draft report would've been prepared with my two colleagues here and their team.

MR. LEARMONTH: Yeah. But who – you would have reviewed –

MR. WILSON: I assembled the draft together.

MR. LEARMONTH: Hmm?

MR. WILSON: I assembled the draft.

MR. LEARMONTH: Yeah. So you – this is your work product, is it?

MR. WILSON: Yes.

MR. LEARMONTH: Okay. Now, page 41.

Do you remember earlier today we talked about the issue about whether Nalcor was providing sufficient documents for you to complete your review? And that you said that, and you know – and Proteau and his July 12, 2012, report made the comment that they weren't giving him to – do you remember?

MR. WILSON: Mm-hmm.

MR. LEARMONTH: And I think you told (inaudible) at some point, that shortly thereafter the issue was resolved. Is that right?

MR. WILSON: I believe so. And from his email – yeah – that was the inference.

MR. LEARMONTH: Yeah. But well, then why – on page 41 of this August 2 draft do you state: “Nalcor did not provide MHI with access to the detailed cost elements, nor costing reports defining the Decision Gate 3 estimate and variance from the Decision Gate 2 estimate for the transmission facilities.”

MR. WILSON: We hadn’t dealt with it at the time, I gather.

MR. LEARMONTH: So on August 2 –

MR. WILSON: (Inaudible). This is the collection of reports as the draft.

MR. LEARMONTH: Yeah. But your – this was still an issue obviously on August 2. It wasn’t resolved in July.

MR. WILSON: No. We’re just stating the fact here, right? That they didn’t provide all the detailed cost estimates –

MR. LEARMONTH: Yeah.

MR. WILSON: – you know?

MR. LEARMONTH: So that was a – you made mention of it, so it must’ve been an issue in your mind?

MR. WILSON: But then did we have sufficient information to complete the rest of the mission? Yes.

MR. LEARMONTH: Yeah.

Well, I’m suggesting to you –

MR. WILSON: Yeah.

MR. LEARMONTH: – that if you sent this report and this was in here, that you meant exactly what you said, and you stated it for our purpose.

MR. WILSON: Gerry Proteau meant this – yes.

MR. LEARMONTH: Well, you sent it.

MR. WILSON: Yes. Based on his recommendation we put it in.

MR. LEARMONTH: Okay.

MR. WILSON: And – pardon me – back up on that – he provided the draft for me, and it ended up in this draft.

MR. LEARMONTH: So are you trying to walk away from the responsibility for having that sentence in the document?

MR. WILSON: No, Sir. I’m not.

MR. LEARMONTH: Okay.

But why did you put it in then?

MR. WILSON: I don’t know. I just – I left it in. And I had (inaudible).

MR. LEARMONTH: You had a lot to do?

MR. WILSON: Either I didn’t have a chance to redact it out or there’s many other issues in this report that took precedent over that, and it was just the forgotten omission.

MR. LEARMONTH: Okay.

Now, once again, you sent this report out, and you’ve told us that risk analysis and risk assessment was not part of your mandate, correct?

MR. WILSON: That’s correct –

MR. LEARMONTH: Okay, so then why –

MR. WILSON: – (inaudible) of the scope of work, yeah.

MR. LEARMONTH: Then why at the bottom of page 41, do you write a number of paragraphs on risk assessment?

MR. WILSON: Well, Gerry Proteau wrote these risk assessments –

MR. LEARMONTH: Well –

MR. WILSON: – and for the same reasons he thought they were important.

MR. LEARMONTH: But –

MR. WILSON: And you know, this was from his scan of his one trip to Newfoundland to do his review. Much like the other paragraph, it was left into this report, and I believe, subsequently, it was taken out of final drafts because it was out of scope.

MR. LEARMONTH: Oh, we know it was taken out, but I’m – we know that. All the comments on contingency were taken out, weren’t they?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah, everything. But why, on August 2, did you see fit to leave the comments, which you’re now attributing to Gerry Proteau, under the 2.4.3 Risk Assessment on page 41 and 42. Why did you send out a draft with those comments in there?

MR. WILSON: Well, if the work was done, it’s important to identify, so we can have those discussions with our client.

MR. LEARMONTH: Yeah.

MR. WILSON: And –

MR. LEARMONTH: But if it was important to identify them –

MR. WILSON: That’s what we did here.

MR. LEARMONTH: Yeah, but why were they subsequently taken out? In subsequent reports?

MR. WILSON: Yeah, they’re subsequently –

MR. LEARMONTH: Because they were.

MR. WILSON: Yeah, they were.

MR. LEARMONTH: Yeah. Why?

MR. WILSON: And that was in consultation with our client.

MR. LEARMONTH: So Mr. Bown –

MR. WILSON: Yeah. And he –

MR. LEARMONTH: – agreed to remove these?

MR. WILSON: Or – the revised drafts that we got back had this removed, yes.

MR. LEARMONTH: Mr. Bown consented or agreed to these paragraphs being removed from subsequent reports?

MR. WILSON: I’m not going to speak for Charles Bown.

MR. LEARMONTH: Well, you just said – I think you did speak –

MR. WILSON: I got the revised drafts back from Charles Bown with this – with risk removed, right?

MR. LEARMONTH: Yeah.

And on page 42, the third full paragraph, you write: “At this stage, the major risks to be addressed for the transmission line complex remain with contractor cost and labour availability. There are several other high-profile transmission line and generation projects in the design stage in Canada set for construction in the same time frames as Nalcor's Lower Churchill project. These, along with other natural resource projects could attract skilled labour away from this project and create an escalation factor for contractor labour.”

That’s an increase in cost, right?

MR. WILSON: Yes, it would be.

MR. LEARMONTH: Escalation?

MR. WILSON: Yes.

MR. LEARMONTH: Then you say: “Nalcor has identified these issues as the major risks and has identified a strategy to attract skilled labour back into the province through a master labour agreement, training, and other ... While these programs and compensation levels were not identified in detail, MHI is aware of the issue of

contractor availability in a very competitive skilled ... market.”

Now, you know, you’ve all said, in various – varying degrees of conviction perhaps, but that – like, a risk assessment wasn’t part of your job, yet you’re taking the time to include a risk assessment in your draft report on August 2, and I want to know why.

MR. WILSON: Well, you know, Mr. Proteau is our expert on this and the good work that he did certainly felt this was important to report –

MR. LEARMONTH: Mm-hmm.

MR. WILSON: – and it ended up in this draft, which is communicated to the government –

MR. LEARMONTH: Yeah.

MR. WILSON: – and – yeah.

MR. LEARMONTH: Well, if it wasn’t part of your mandate why would you put anything in under risk assessment?

MR. WILSON: Well, it’s always good, you know, to have the good – the big picture too, right?

MR. LEARMONTH: No, I’m talking about –

MR. WILSON: (Inaudible) that’s all, so.

MR. LEARMONTH: – the little picture now. I’m talking about the little picture about the risk assessment. We’ll talk about the big picture later, okay?

So the risk assessment, let’s talk about the risk assessment. If it wasn’t part of your mandate, why did you allow this to go out? Such as one fleeting reference, it’s taking up almost a page or $\frac{3}{4}$ of a page –

MR. WILSON: Yeah – no, and I don’t know. It’s in the report and I, you know, I did not delete it at the time.

MR. LEARMONTH: Why not?

MR. WILSON: I don’t know.

MR. LEARMONTH: You don’t know, okay.

MR. WILSON: No.

MR. LEARMONTH: That’s your answer. You don’t know.

And then let’s go to tab 38, that’s Exhibit 00761. And this is another draft.

Now, let’s go to page 44 and 45. Are you there?

MR. WILSON: Yes, I am; 44 and 45, okay.

MR. LEARMONTH: And just to make it easier on you, I’m going to give you a copy of pages 44 – or 41 and 42 of Exhibit 00754. That was the earlier report. Just to make it easier for you.

Okay, now, once again, in this document, now we’re into almost the end of September, September 25. You’re still talking about risk assessment. So, you know, what’s – why? Although, you’ve amended the comments; you’ve tailored them down; you’ve toned them down. You’re still talking about risk assessment, which you’ve said isn’t part of your mandate.

Now, I just want us to be sure, this is the H-Vac report, right? HDV – HVdc thing. This is not the whole report, yeah.

MR. WILSON: This is (inaudible). Okay.

MR. LEARMONTH: So why are you still talking about risk assessment on September 25 if it wasn’t part of your mandate?

MR. WILSON: Maybe Al, you were involved in some of this.

MR. LEARMONTH: No, I want you to answer. You sent this report.

MR. WILSON: I sent this report.

MR. LEARMONTH: Yeah.

MR. WILSON: But it still is a team effort with my experts and –

MR. LEARMONTH: But you sent the report. We can ask for Mr. Snyder’s comments later –

MR. WILSON: Yeah, but –

MR. LEARMONTH: – but I want you to answer it.

MR. WILSON: – I’m gonna defer my answer to Mr. Snyder ’cause I don’t recall, at this point –

MR. LEARMONTH: Because you see –

MR. WILSON: – why this is in here.

MR. LEARMONTH: Just follow what I’m saying, please.

It’s one thing to say, oh, well, they just were in there because Proteau, you know, he put them in and, you know, I just let it go. But it’s quite another thing to, in a subsequent report, I suggest it’s a different thing to leave it in but change the language. That had to be a conscious decision to change the language. Do you agree?

MR. WILSON: Yeah, there’s input into that from –

MR. LEARMONTH: Yeah.

MR. WILSON: – various people, yeah.

MR. LEARMONTH: So, okay, the first one, let’s say, for the sake of argument, that the first – in the earlier report it was put in there just because you didn’t have time to take it out, it wasn’t part of your mandate and that. But then someone, after you sent the first report, would have had to make a conscious effort to tailor the language, to change the language. And at that point, if you’re doing that, wouldn’t you say, well, it’s not necessary in the first place. What am I – why am I taking the time to change the language for something that’s not part of our mandate?

Do you have an answer?

MR. WILSON: There was a question for there?

MR. LEARMONTH: Do you have an answer?

No, why? Why did you take the time to change the language under risk assessment if, as you

say, it wasn’t part of your mandate to begin with?

MR. WILSON: I don’t have an answer for you on that, and I’d have to go tracing through all the draft copies that we have to see who commented and who changed what.

MR. LEARMONTH: Hold on now. You have to go tracing through, you’ve got all the documents.

MR. WILSON: Yeah, but I – it takes time.

MR. LEARMONTH: Okay, well, maybe –

MR. WILSON: (Inaudible.)

MR. LEARMONTH: – you could do that tonight, because you’ll be coming back tomorrow.

Will you do that for me?

MR. WILSON: Maybe, yeah, I can do that.

MR. LEARMONTH: Okay, thank you.

And do you agree that the language between – on page 44 and 45 of Exhibit 00761, the language on cost estimates has been changed?

On cost estimates, for example, on Exhibit 00754, this is paragraph 2.4.2, under the heading: Cost Estimate Evaluation, in the earlier draft you say: “Nalcor did not provide MHI with access to the detailed cost elements, nor costing reports ...” et cetera. And then in this later report you’re saying: Nalcor provided MHI with a detailed report on the Decision Gate 3 transmission line cost elements.

Do you have any record that you actually received additional documents for the Decision Gate 3 transmission line cost elements between the time of your – the first report on August 2, and September 25, the date of this report?

MR. WILSON: We would not have received any additional documents.

MR. LEARMONTH: Well, then why is it changed?

MR. WILSON: This has been worded just to, I guess, reflect the document that was provided at the time.

MR. LEARMONTH: Yeah, but that's a – that's quite a different meaning that you're conveying here, isn't it?

On one, the earlier one, you're saying Nalcor did not provide MHI with access to the detailed cost elements, et cetera, and here you're saying Nalcor provided MHI with a detailed report. It's a complete flip-flop, I suggest to you.

MR. WILSON: Mm-hmm.

MR. LEARMONTH: Do you agree?

MR. WILSON: Well, it certainly has got, now, a positive spin on it, absolutely.

MR. LEARMONTH: Do you –

MR. WILSON: Yeah.

MR. LEARMONTH: – agree it's a complete flip?

MR. WILSON: No, no, it's not a complete flip.

MR. LEARMONTH: Okay.

MR. WILSON: It's just the same statement but now focusing on positive issues, 'cause it's the same document that was provided in our evaluation at the start, it's just the way it's reported.

MR. LEARMONTH: And you told us you didn't get any documents in the meantime between the two reports.

Well, anyway, you know, that would be for others to judge, but I just wanna make sure that I've asked my questions –

MR. WILSON: Unless –

MR. LEARMONTH: – in such a way that it's understood.

And I'm suggesting to you that in the earlier report where you say: "Nalcor did not provide MHI with access to the detailed cost elements,

nor costing" And then you're saying in the – in 00761, page 44: "Nalcor provided MHI with a detailed report"

You don't see any contradiction there?

MR. WILSON: We did not get the detailed cost elements, right? But we did get a summary review document, as well.

MR. LEARMONTH: But I thought you said you didn't get any additional documents –

MR. WILSON: Not additional documents, documents that were provided at the time of the review when Gerry Proteau was on site.

MR. LEARMONTH: So –

MR. WILSON: And any – whatever documents that Nalcor may have brought with them to Winnipeg.

MR. LEARMONTH: But you said you didn't get any additional documents.

MR. WILSON: I don't recall getting any additional documents.

MR. LEARMONTH: Well, then why are you saying documents that Nalcor brought to Winnipeg?

MR. WILSON: That's a – okay, that's a possibility. I don't recall though, particularly, if they had left documents with us.

MR. LEARMONTH: Yeah, and the risk assessment you've, I'd say – suggest – you can disagree with me, of course – but you've watered down the language.

MR. WILSON: It's certainly been revised, I believe.

MR. LEARMONTH: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: Do you read the tone as much milder?

I can take you through it again –

MR. WILSON: (Inaudible.)

MR. LEARMONTH: – if you want, if you don't understand what I mean.

MR. WILSON: Do you have a specific example?

MR. LEARMONTH: Well, okay. You're talking about – in 00754, page 42, you can see that under the heading Risk Assessment, to start off with, 2.4.3 in 00754, has one, two, three, four, five paragraphs, and in 00761 it's cut down to four paragraphs. One paragraph is taken out. Why was that paragraph taken out?

MR. WILSON: It looks like the very last paragraph was taken out from the previous Exhibit.

MR. LEARMONTH: Why did you take it out?

MR. WILSON: I don't recall why this was particularly taken out.

MR. LEARMONTH: You don't recall why you took it out?

MR. WILSON: I may not have taken it out, specifically, myself. My team may have removed it. It may have been removed with a revision that has come back from Charles Bown.

MR. LEARMONTH: You don't have any – you can't give me any more clarification than that?

MR. WILSON: Not at this time, no.

MR. LEARMONTH: But you do acknowledge you're still talking about risk assessment, aren't you?

MR. WILSON: Yes.

MR. LEARMONTH: Yeah. And your explanation as to why?

MR. WILSON: I don't have an explanation at this –

MR. LEARMONTH: You have no explanation?

MR. WILSON: No, no.

MR. LEARMONTH: No, okay, that's fine.

MR. WILSON: Not in the context of – it's out of scope. No.

MR. LEARMONTH: Okay.

Do you have a habit of dealing with things that are out of scope – spending time on things that are out of scope?

MR. WILSON: When we – and we saw the email from Mr. Proteau – he was there for his visit – requesting documents that were not being provided or were being difficult to get. And we may have been under the mistaken impression that risk assessment was part of his evaluation scope, which was not – and I think that's reflected in an email, as well, that some of my team may have not fully understand the scope of engagement. And we're diving in deeper than was warranted at the time.

MR. LEARMONTH: Well, then why not just take the whole paragraph out – the whole thing?

MR. WILSON: I don't have answer for you at –

MR. LEARMONTH: No?

MR. WILSON: No.

MR. LEARMONTH: Okay.

Now, the next document, at tab 42, this is an email from Mack Kast to Rick Horocholyn – if I got that right – copied to –

MR. KAST: Excuse me, Sir, it's Horocholyn.

MR. LEARMONTH: Horocholyn?

MR. KAST: Horocholyn.

MR. LEARMONTH: Okay, thank you.

It's Exhibit 00765, tab 42. You got this email, Mr. Wilson?

MR. WILSON: I see it up on the screen here now.

MR. LEARMONTH: Now, maybe Mr. Kast can ask this question – answer this question. The bottom – the second to last paragraph: “I included reference to Exhibit RE50 (on Sharepoint) as you expressed interest in looking at the Contingency Allowance. As a side note, our report is to focus on DG3 and ... only minimal reference to DG2 (ie. This is not about comparing DG3 to DG2).”

So, Mr. Kast, why are you referring to a contingency allowance?

MR. KAST: I’m referring to the contingency allowance because the memo is directed to Mr. Horocholyn.

MR. LEARMONTH: Yeah.

MR. KAST: And he did express an interest. That’s all. I don’t have anything further.

MR. LEARMONTH: Well, why didn’t you tell him we’re not dealing with contingency if you weren’t?

MR. KAST: Well I – well in the context of what we’re doing here, it was – this is between myself and Mr. Horocholyn, copied to Mr. Wilson and so on. He expressed an interest.

From a broader perspective, when we talk about contingency allowance and we talked about the components of contingency allowance, there are different aspects to it. If you have an interest in it, I think, it’s okay to know. Now the next question is: What are you going to do with the information you have?

MR. LEARMONTH: Yeah.

MR. KAST: Yeah.

MR. LEARMONTH: That’s your answer?

MR. KAST: Yes, Sir.

MR. LEARMONTH: Yeah. But it seems like there’s a fair amount of time being spent on – I take it what you would consider – idle speculation about contingency.

MR. KAST: No. No. I don’t want that to be the impression. The tactical allowance was to be

included and the distinction is not made here. When we talk about a contingency, I don’t know what the – what specific part that he had in mind – but “let’s have a look” is really what this is saying. But the focus would have to be on the tactical component of the contingency allowance.

MR. LEARMONTH: Yeah. But so it’s not only Mr. Proteau, it’s Mr. Horocholyn who’s expressing some level of interest in contingency, correct?

MR. KAST: That’s appropriate.

MR. LEARMONTH: Oh, it is?

MR. KAST: Yes, Sir. Because the tactical portion of the contingency allowance is important for us to know.

MR. LEARMONTH: Where does it say this – he’s dealing with tactical?

MR. KAST: Well, it’s a component of the cost.

MR. LEARMONTH: Yeah.

MR. KAST: (Inaudible) – that’s fair enough.

MR. LEARMONTH: And you don’t think strategic risk is a component of the cost.

MR. KAST: Well, I can give you my opinion but I think that I’m going to defer to our team leader, Mr. Wilson, on that. He’s spoken to it extensively.

MR. LEARMONTH: Okay. Do you think strategic risk is a component of a cost estimate?

MR. KAST: Well –

MR. LEARMONTH: I’ll refer you to your earlier answer you gave in Winnipeg if it will help you – remind you of what you said.

MR. WILSON: Well, certainly the tactical contingencies and escalations are included in the base case analysis –

MR. LEARMONTH: Mm-hmm.

MR. WILSON: – cost estimates, which are inputs into CPW and those are the pieces –

MR. LEARMONTH: Yeah.

MR. WILSON: – that were important to Mack. The strategic risk was taken outside of that analysis and kept as a separate amount, which we weren't privy to.

MR. LEARMONTH: You weren't privy to – I know that.

MR. WILSON: Yeah, then despite what –

MR. LEARMONTH: You said that.

MR. WILSON: – what he said in Winnipeg.

MR. LEARMONTH: Yeah.

MR. WILSON: So in this context, you know, I don't recall or know precisely what he was referring to here, whether it was tactical or strategic. In the context, I would assume tactical here, because that was in full – in scope and within his purview to review.

MR. LEARMONTH: The – okay, that's – anyone else want to answer that? No? Okay.

Now, if we look at tab 45, this is an email from Brian Crawley to you, Mr. Wilson. Copied is – well, no one else at MHI.

Response on contingency – well, this is Nalcor talking about contingency. Once again, same question: Why all this – why discussion about contingencies which wasn't part of your mandate?

MR. WILSON: These are tactical contingencies that are included in the base cost analysis.

MS. O'BRIEN: What exhibit?

MR. LEARMONTH: That's 00768.

So where does it say that tactical – in your mandate that tactical contingencies are to be considered, but not strategic contingencies?

MR. WILSON: Well, the strategies is calculated through the risk analysis, right?

Tactical contingencies are calculated in similar fashions, but are included in the base cost estimates.

MR. LEARMONTH: Okay.

MR. KAST: That's correct.

MR. LEARMONTH: Now let's go to tab 50, please, Exhibit P-00773.

MR. KAST: The Charles Bown one and that's it.

MR. LEARMONTH: Now, here you're saying to –

MR. WILSON: What's the date?

MR. LEARMONTH: This is Paul Wilson to Charles Bown, September 19, 2012, attachment: Consolidated DG3 report FD2 with all changes noted.

You say: "Hi Charles, here is the MS Word version with redline on" it. "I believe this captures all the changes." Right?

MR. WILSON: Yeah.

MR. LEARMONTH: So what – when you say all the changes, did you have some discussion with Mr. Bown as to what the changes should be?

MR. WILSON: So this document was assembled, you know – would have had input from Charles Bown, if he provided any, and any technical revisions sent to me through Brian Crawley on this report as well. And I believe those are what I'm capturing here, plus whatever revisions from my team –

MR. LEARMONTH: Yeah, okay, well –

MR. WILSON: – would be included in that.

MR. LEARMONTH: – let's just turn to page 14 of Exhibit 00773. And I emphasize this was thought by you, according to your email, to be the final report. Correct?

MR. WILSON: Well, I just view it as a final draft with all changes in, right?

MR. LEARMONTH: Yeah.

MR. WILSON: Doesn't mean it's the final report.

MR. LEARMONTH: No, but when you say the final draft with all changes, that's a pretty strong statement that as far as you're concerned – do you agree with me – that what you're meaning is that here it is, this is it. Do you agree?

MR. WILSON: Okay, yeah.

MR. LEARMONTH: Okay?

MR. WILSON: Can you rephrase the statement again? I was not really paying attention.

THE COMMISSIONER: Excuse me. Okay, just could you put your –

MR. LEARMONTH: Okay.

THE COMMISSIONER: – mic off for a minute? Yes, Ms. Van Iderstine?

MS. VAN IDERSTINE: I guess I would like him to point to where it says this is the final draft with all changes before he has him accept that as the outcome.

MR. LEARMONTH: Okay.

THE COMMISSIONER: Okay?

MR. LEARMONTH: It says: Hi Charles, here is ... M-5 Word version with redline on it. I believe this captures all the changes.

MS. VAN IDERSTINE: Page 4, is it?

MR. LEARMONTH: Page 1 and page 4.

What does page 4 say? What does page 4 say?

UNIDENTIFIED MALE SPEAKER: Draft.

MR. WILSON: Well, the document is labelled: Final Draft, September 18.

MR. LEARMONTH: Yeah, so it's your final draft, like I said. Correct?

MR. WILSON: It's a draft report, yes.

MR. LEARMONTH: It's a final draft report.

MR. WILSON: It's not an issued report. It's a draft report.

MR. LEARMONTH: Okay.

You put on it – like who wrote final draft on it?

MR. WILSON: Likely me, right?

MR. LEARMONTH: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: Okay. Well, what did you mean by final draft?

MR. WILSON: Well, this is the – my final draft issued for them to review.

MR. LEARMONTH: Okay, but from your point of view it was final.

MR. WILSON: Unless they came back with better changes that they wanted to see –

MR. LEARMONTH: Okay, fair enough.

MR. WILSON: – then we would address them in turn.

MR. LEARMONTH: Now let's have a –

MR. WILSON: If –

MR. LEARMONTH: Sorry, did I interrupt you?

MR. WILSON: If warranted, any revisions that they came back with.

MR. LEARMONTH: Yeah. Who came back with, Nalcor or government?

MR. WILSON: Charles Bown.

MR. LEARMONTH: Huh?

MR. WILSON: Our client is Charles Bown.

MR. LEARMONTH: Yeah.

MR. WILSON: So all the communication that would come from (inaudible).

MR. LEARMONTH: Well, was he sending these reports to Nalcor, to your knowledge? These drafts?

MR. WILSON: No. At the time, no. I don't know.

MR. LEARMONTH: You don't know.

MR. WILSON: At the time I didn't know what he was doing with them.

MR. LEARMONTH: Okay.

MR. WILSON: Whether he was reviewing them internally or how he was engaging.

MR. LEARMONTH: Okay.

Let's have a look at page 14.

MR. WILSON: Mm-hmm.

MR. LEARMONTH: Now, can you read that into the record, of their final draft?

MR. KAST: (Inaudible.)

MR. WILSON: This is (inaudible).

MR. LEARMONTH: Before it was crossed off.

MR. WILSON: Before it was crossed off? Before it was crossed off it says: "MHI also recommends that Nalcor be cautioned regarding the contingency levels in their estimated costs as there are opportunities for unexpected increases. Nalcor has current contingency levels in their estimate for the Labrador Island HVdc converter stations that are below industry norms and therefore should be re-evaluated. Any additional contingency allocated for ... HVdc converter stations at levels following industry norms would not alter the outcome of the Interconnected Island option in favour of the Isolated Island option."

MR. LEARMONTH: Right. So, once again, you're dealing with contingencies, aren't you?

MR. WILSON: These are tactical contingencies.

MR. LEARMONTH: Where does it say that?

MR. WILSON: It doesn't, but it's implicit.

MR. LEARMONTH: Why?

MR. WILSON: In it, the HVDC converter component.

MR. LEARMONTH: Yeah.

So, okay – well, anyway, I'm not going to press you on that. We've heard your answer on that before. So why was this deleted?

MR. WILSON: I don't know.

MR. LEARMONTH: At whose direction was it deleted?

MR. WILSON: I don't recall.

MR. LEARMONTH: You don't recall?

MR. WILSON: No.

MR. LEARMONTH: But we don't have the document that existed – I mean for this to be deleted, there should be a document with it undeleted; in other words, with it in it. Correct?

And I haven't found any document like that yet. Can you help me with that?

MR. WILSON: I went looking for all of these draft reports, Sir, and I was unable to find any additional or other copies of it so –

MR. LEARMONTH: So –

MR. WILSON: – I don't think I can help you any further that way.

MR. LEARMONTH: So who did the red line? Was this something that – is this something that you knocked out, the red lines? This page 14, did you delete that or did Charles Bown delete it?

MR. WILSON: I don't know.

MR. LEARMONTH: You don't know. But if you had put it in an earlier draft you wouldn't have, on your own initiative, have deleted it, would you?

MR. WILSON: Presumably not. No.

MR. LEARMONTH: You don't write something and then –

MR. WILSON: Well, I expect revisions at some point.

MR. LEARMONTH: Yeah. So this revision was suggested by someone other than you?

MR. WILSON: I believe so. I don't think I would take this out on my own.

MR. LEARMONTH: Who would that be?

MR. WILSON: It could be, perhaps at the direction of Al Snyder here or from my client, Charles Bown –

MR. LEARMONTH: Yeah.

MR. WILSON: – in directions he's got. It could have been deleted, you know, when we were having these discussions in Winnipeg.

MR. LEARMONTH: But it having been deleted, I suggest that if it wasn't acceptable to Charles Bown, he would have commented to you. Did he?

MR. WILSON: As it's not in the final report, I don't believe he did.

MR. LEARMONTH: It's not in the final report, no.

MR. WILSON: It's not in the final report so there was no objections raised to its removal.

MR. LEARMONTH: But why was it not in the final report?

MR. WILSON: It was removed prior to the final report here.

MR. LEARMONTH: Pardon?

MR. WILSON: It was removed here.

MR. LEARMONTH: Why was it removed?

MR. WILSON: And I don't know that. I don't know who removed it and why.

MR. LEARMONTH: You don't know?

MR. WILSON: No.

MR. LEARMONTH: Okay.

And also on page 15 and 16, it was a condition of your – the terms of your engagement that you would contain a bibliography in your final report. If you want to go back to it, I can refer it to you.

You were required to put a bibliography in your final report. Do you acknowledge that?

MR. WILSON: That was in the scope of reference, yes.

MR. LEARMONTH: Yes, it was.

Now, it was deleted. It appeared in an earlier draft, but here, it's deleted. Do you know why it was deleted?

MR. WILSON: Well, two reasons of that: one is it identified some confidential documents of Nalcor's that had been provided to us, and secondly, I reviewed this issue with Charles Bown on whether we keep this document in or not, this bibliography, and he agreed that we just remove it altogether.

MR. LEARMONTH: He agreed or suggested?

MR. WILSON: I guess I suggested that we remove it, and he agreed.

MR. LEARMONTH: So you suggested it.

But why would – like, I can understand the issue of confidential documents and so on, but there was no suggestion that you were going to put these documents in. It was just a listing of them. How is that breach of some confidentiality? I mean, they're fairly standard documents for a transmission line and a generating station, aren't they? What's confidential about identifying them?

MR. WILSON: I didn't ultimately see any issue with leaving them in, right? And I guess the suggestion came –

MR. LEARMONTH: So that suggestion came from –

MR. WILSON: – made probably from Nalcor.

MR. LEARMONTH: Yeah.

MR. WILSON: I mean, you know, they would object to some this, or this document, this bibliography, would take a significant amount of revision in order to make it acceptable.

MR. LEARMONTH: But are you guessing now, or are you basing it on what your recollection – because I'm not sure sometimes.

MR. WILSON: Yeah. I – the last part, perhaps it's an educated guess. The first bit with Charles Bown, I recall.

MR. LEARMONTH: The bibliography, you do?

MR. WILSON: Yeah. The discussion with Charles Bown on the removal of the bibliography, I do. It was a fairly significant –

MR. LEARMONTH: So is there any reason why you'd remember Charles Bown asking the bibliography to be deleted, but you can't give me any information on who deleted the contingency reference on –

MR. WILSON: No, I can't –

MR. LEARMONTH: – page 4?

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

MR. LEARMONTH: No explanation for that?

MR. WILSON: No. There's lots and lots of revisions in this document throughout.

MR. LEARMONTH: Okay.

Well, I'm not going to go through every – we'll be here forever if – not ever but a long time, and I think – I'm not going to go through every

change. But there is another – a couple I want to go to. One is page 51.

MR. WILSON: Of the same document?

MR. LEARMONTH: Yes, Sir. That's P-00773.

See at the bottom? No, bottom paragraph – “There is a possibility of additional costs.”

UNIDENTIFIED MALE SPEAKER: Yes, that's right here.

MR. WILSON: Okay, yes, the last paragraph.

MR. LEARMONTH: On – so why was that deleted and on whose direction?

MR. WILSON: I don't know where the revisions came from; there's a couple of comments in here from myself though.

MR. LEARMONTH: Well, do you know who made the redactions or –?

MR. WILSON: No I don't, no. It may have been done by Les Recksiedler himself or through Al Snyder.

MR. LEARMONTH: Okay. I'm just looking for the reference – maybe Ms. – to the P-factor. Can you have a look for that?

You knew that Nalcor was using a P50 factor, is that right?

MR. WILSON: This was – yes. Yes, we did.

MR. LEARMONTH: Yeah.

MR. WILSON: Yeah.

MR. LEARMONTH: Do you remember putting it in any report and then taking it out?

MR. WILSON: I believe it was in an early draft of this report and then, yeah, subsequently taken out.

MR. LEARMONTH: Why was the reference to P50 taken out?

MR. WILSON: I think the – can we see the complete section again?

MR. LEARMONTH: The one on the P50?

MR. WILSON: Yeah.

MR. LEARMONTH: Well, I'll find it. I haven't got it now. But you remember taking it out, do you?

MR. WILSON: Yes, I believe so – yes.

MR. LEARMONTH: Okay.

Well, can you tell me before – even before I find it, can you tell me why it was put in and then taken out?

MR. WILSON: I – well, okay – well, let's find the section here first.

MR. LEARMONTH: Okay.

I think what we'll do – I can't – I thought it was in this document but I could be wrong. Anyway, we'll – I'm gonna have to – someone will be looking for this, and I'll come back to it rather than stop now.

MR. WILSON: Okay.

MR. LEARMONTH: Okay – no, here it is, page 93.

MR. WILSON: Of the same document?

MR. LEARMONTH: Same document – 00773. So then it goes on to page 94.

So you put in a reference to a P50, and it doesn't appear in the final document – your final report. Why?

MR. SIMMONS: Excuse me.

THE COMMISSIONER: Just turn off your mic, Barry. Mr. Learmonth.

MR. LEARMONTH: Oh.

THE COMMISSIONER: Go ahead, Mr. Simmons.

MR. SIMMONS: Sorry, in fairness to the witness I'm reading that "To reach a P50 value of probability" was deleted but, in the line

below, "for purposes of attaining a P50 probability rating" was retained. So I'm reading it as still there.

MR. LEARMONTH: But where – I'm saying was it contained in the final report? That's my question. I'm saying there was a reference to the P50 in this draft where I indicated, but there's no reference to a P50 or any P-value that I recall in the final report, and I want to know why.

MR. KAST: (Inaudible.)

MR. WILSON: (Inaudible.)

MR. KAST: (Inaudible.)

MR. LEARMONTH: Well, I think you should – Mr. Kast, you should let Mr. Wilson answer the question, you know.

MR. KAST: I'm sorry, Sir. I'm just trying to find the reference for him.

MR. LEARMONTH: Well, I think I'd like him to.

THE COMMISSIONER: Just to help. Where the tables are that were previous to it I think are on pages 76 and 77 of the final report.

MR. WILSON: Okay, we found it now. Okay.

So this whole – your question: Is this whole paragraph on scenario numbers five, six, seven reflect the variances?

MR. LEARMONTH: Mr. Wilson.

MR. WILSON: Yes.

MR. LEARMONTH: If I haven't made myself clear, I will.

MR. WILSON: Okay.

MR. LEARMONTH: I'm talking about the reference to a P50 –

MR. WILSON: Mm-hmm.

MR. LEARMONTH: – value, and it was – it appeared in – as indicated on page 93 and 94, it appeared in some version of your report and it

was removed. And I wanna know why it was removed? And I wanna know at whose direction was it removed?

Do you understand the question?

MR. WILSON: Yes.

MR. LEARMONTH: Okay.

MR. WILSON: I don't recall why it was removed, at this point, and on whose direction.

MR. LEARMONTH: So you got no answer for that?

MR. WILSON: No, I don't.

MR. LEARMONTH: But you're the one who's making all these changes, aren't you?

MR. WILSON: In this particular document? All these –

MR. LEARMONTH: Well, you're managing the changes, you're sending them –

MR. WILSON: Yeah.

MR. LEARMONTH: – they're coming back to you. So just one might find it surprising that you can't give us any information on who made these changes and why they were made.

MR. WILSON: I don't recall, particularly, in this instance, why this particular change was made or why it was important to make it.

MR. LEARMONTH: Mmm.

MR. WILSON: But, you know, there's – may have even been another revision that's come back with this, as a change. I don't –

MR. LEARMONTH: You're guessing again, are you?

MR. WILSON: I'm guessing again –

MR. LEARMONTH: Yeah.

MR. WILSON: – sorry, yeah.

MR. LEARMONTH: You're guessing.

MR. WILSON: Yeah.

MR. LEARMONTH: We don't want you to guess.

Now, don't you agree that the reference in a final report to government of a P50 value would be important information for government to know?

MR. WILSON: I think what was important for myself, at the time, was actually the total number and not whether it was P50 or whatever.

MR. LEARMONTH: I'm not talking –

MR. WILSON: And –

MR. LEARMONTH: But –

MR. WILSON: – it wasn't done in DG2 report and we didn't –

MR. LEARMONTH: Yeah.

MR. WILSON: – report that here.

MR. LEARMONTH: But don't you think that it would've been important for government to know that these cost estimates were done at a P50 factor, as opposed to something higher or lower? Don't you think that would be important information to be communicated to government?

MR. WILSON: I'm gonna – I'd like to defer that question to Mr. Snyder.

MR. LEARMONTH: No, I'd like to ask you to answer.

MR. WILSON: I'd like to defer –

MR. LEARMONTH: He can answer it after.

MR. WILSON: – this question to Mr. Snyder.

MR. LEARMONTH: Well, you can't defer. I'm asking you.

You prepared this report. And you were involved in putting things in and taking them out. So I'm asking you.

MR. WILSON: Mm-hmm. And I would've done this in consultation with Mr. Snyder or Mack Kast, or Rick Horocholyn at the time, if these gentlemen were not available.

MR. LEARMONTH: Okay, so it would've been your decision – not Mr. Bown's – to take out the reference to P50?

MR. WILSON: I don't recall where the change came from or why.

MR. LEARMONTH: Or why?

MR. WILSON: Or why, no.

MR. LEARMONTH: But don't –

MR. WILSON: Why it was –

MR. LEARMONTH: – you think –

MR. WILSON: – taken out in particular –

MR. LEARMONTH: – this was important information for government to know?

MR. WILSON: This was provided to government in this draft –

MR. LEARMONTH: Okay.

MR. WILSON: – this way.

MR. LEARMONTH: So you're saying Mr. Bown know about it –

MR. WILSON: Mr. Bown –

MR. LEARMONTH: – knew about it?

MR. WILSON: – knew about this, yes.

MR. LEARMONTH: Okay. Fair enough.

Now, page 69, Schedule, two point – “The schedule indicates” et cetera, and then it says: “First power date is July 2017.” Right?

MR. WILSON: We have this, yes.

MR. LEARMONTH: Yeah.

And then on the second paragraph of page 70, you say: “There are a few areas in the schedule that will be challenging, for example, early installation of the project infrastructure, RCC cofferdam construction, and the main structure's concrete. In discussion with the project team, however, it is apparent that they” – were – “they are well aware of these issues and are taking measures to manage the risks associated with the components of the schedule.”

Yeah, so who is the discussion – who of the project team did you have discussions with on this point?

MR. WILSON: I would like to defer that one to Al Snyder.

MR. LEARMONTH: You don't know?

MR. WILSON: I expect this is Mr. Tom Moffat – who was preparing this report for Al Snyder. And in terms of the project team, would be members of Nalcor.

MR. LEARMONTH: Yeah, who?

MR. WILSON: I don't have that on my –

MR. LEARMONTH: Did you engage –

MR. WILSON: – (inaudible).

MR. LEARMONTH: – in any of these discussions?

MR. WILSON: No, I did not –

MR. LEARMONTH: Okay –

MR. WILSON: – personally.

MR. LEARMONTH: – Mr. – okay, well, Mr. Snyder, can you shed any light on that?

MR. SNYDER: I would think it would've been Jason Kean at that time.

MR. LEARMONTH: Is that a guess?

MR. SNYDER: That is a qualified guess.

MR. LEARMONTH: A qualified guess.

MR. SNYDER: He was the person we were dealing with as it related to the schedule.

MR. LEARMONTH: But you have no recollection of it?

MR. SNYDER: No, I did not actually interface with him on this particular issue.

MR. LEARMONTH: Well, who did you talk to about this?

MR. SNYDER: Tom Moffat would've been involved with –

MR. LEARMONTH: Yeah.

MR. SNYDER: – (inaudible).

MR. LEARMONTH: So now you know that at the time you were having these discussions, with whoever you were, that there was a report saying there was a 1 per cent chance of meeting this schedule. We discussed this earlier today.

MR. SNYDER: Yes.

MR. LEARMONTH: Yeah.

So are you now comfortable with this statement? With what you know now?

MR. SNYDER: Probably not, but I was comfortable with it at the particular point in time based upon the information that I was given.

MR. LEARMONTH: Based on what you were told by Nalcor, correct?

MR. SNYDER: And by Mr. Moffat himself.

MR. LEARMONTH: Yeah, yeah.

And then you say – page 70: *“From MHI’s perspective, the project scheduling is comprehensive, detailed, and consistent with best industry practice for similar projects. The current project schedule is appropriate and reasonable to meet the requirements of Decision Gate 3.”*

So you felt comfortable with that at the time, and I take it you don’t feel comfortable with it based on what you know now, is that correct?

MR. SNYDER: Correct.

MR. LEARMONTH: Okay.

Well, once again, just on page 72, you say: *“From a review of the information provided, Nalcor has performed the design, scheduling and cost-estimating work for the Muskrat Falls Generating Station and the Labrador Transmission Assets with the degree of skill and diligence required by customarily accepted ... practices and procedures”* Et cetera. *“The current Lower Churchill Project design, schedules and cost estimates are considered consistent with good utility practice. The design, construction planning, cost estimate and schedule are comprehensive and sufficiently detailed to support a Decision Gate 3 project sanction and appropriate for input into a”* Well, I think we dealt with that, or a variation of that, earlier.

MR. SNYDER: Yes.

MR. LEARMONTH: I guess, if you had known what you know now, you wouldn’t have writ that? Is that correct? Written that.

MR. SNYDER: That’s probably true.

MR. LEARMONTH: Yeah.

And then 102 of the same document, 00773. And I guess this is just a repetition of what you – well, you put this in twice and then it’s taken out twice, right? Page 14 is the same thing?

MR. WILSON: Yeah, it’s just a repetition and this is the – I guess, the final conclusions and recommendations section of the report.

MR. LEARMONTH: Yeah. Was it important enough to put in twice?

MR. WILSON: Well, the conclusion summaries here are – it’s really important points captured from each of the work product sections.

MR. LEARMONTH: Yeah but you repeated it twice.

MR. WILSON: Well, not because it’s worth repeating twice, but because –

MR. LEARMONTH: Well, you emphasize –

MR. WILSON: – it was in the report.

MR. LEARMONTH: (Inaudible.)

MR. WILSON: Yeah.

MR. LEARMONTH: So you weren't trying to emphasize the importance of it?

MR. WILSON: No, but I was going to call it out.

MR. LEARMONTH: Pardon?

MR. WILSON: I was going to call it out into one section at the end of the entire report.

MR. LEARMONTH: Well, it ended up being cut out completely, right?

MR. WILSON: Yeah.

MR. LEARMONTH: Yeah.

Now, we have Exhibit – tab 51, Exhibit 00774. So this is from you to Brian Crawley, so you're sending the draft report to Mr. Crawley. Is that correct or am I wrong on that?

Nalcor base capital cost allowance escalation and contingency, yeah. Consolidated DG3 report – so now you're communicating directly with Nalcor, correct?

MR. WILSON: Yeah, this was to be clarifying some final details. Yes.

MR. LEARMONTH: So why are you communicating directly with Nalcor?

MR. WILSON: For technical issues –

MR. LEARMONTH: Okay.

MR. WILSON: – we were connected with Mr. Brian Crawley to get these final details.

MR. LEARMONTH: And what you're saying – once again we'll come back to contingency, it appears again here: "Contingency I have reviewed with my estimating engineering we

have to revisit this item as MHI does not agree with the wording."

Then you go down: Contingency of 9 per cent or 15 per cent with escalation allowances. You say: "MHI does not agree with Nalcor's position that escalation should be included in the contingency calculation." What all this about?

MR. WILSON: I'm going to defer to Mack Kast on the financial side of that.

MR. LEARMONTH: So you don't know the answer?

MR. WILSON: I think he'd be better qualified to answer that question.

MR. LEARMONTH: Okay. I'll agree with that.

Mr. Kast?

MR. KAST: Well, from my perspective, what was important to make sure that all of the appropriate costs were included in the input to the CPW. If you're asking me to give my opinion on whether escalation should be included in the contingency calculation, I would say to the extent that it's appropriate to include escalation into the cost of the project. And it would appear in this case that it was appropriate, therefore it should be included.

MR. LEARMONTH: Okay. So you're having ongoing discussions about contingency then, are you?

MR. KAST: Well, no. I'm – the question is about the escalation clause, should it be included. And now if it gets included under the umbrella or the heading of contingency, so be it. That's important.

MR. LEARMONTH: The – I want you to turn to page – at tab 51. It's page 65, 00774. It says: "The Muskrat Falls Generating Station project contingency in the Decision Gate 3 estimate is 9.0% (or 15% with escalation and allowances), which" is "in MHI's experience, is at the lower end of the range for this level of estimate. This has been discussed with the Nalcor project team, and the Nalcor project team believes that the current Decision Gate 3 estimates input detail

and conservative assumptions justify the chosen contingency amount. Nalcor has noted that there is fixed pricing in place for ... 25% of the project value, thus the 9% contingency is reasonable”

So where does this 9 per cent come from? We knew that total tactical risk was 7 per cent, but I guess the different components have different amounts attributed to them? Is that right?

MR. WILSON: Yeah, it's the – the total amount was \$368 million which was broken down into each – the Muskrat Falls generating station and then the transmission assets and HVDC transmission line. And they had a part of that contingent amount. So that's where 9 per cent comes from.

MR. LEARMONTH: Okay.

And tab 52, now, this is from Brian Crawley. So you seem to be dealing with him more than Mr. Bown at this stage. Is that a fair comment or not?

MR. WILSON: To – yeah, to get the final report finished, yes. Instead of funnelling it all through Mr. Bown – who was at the time rather unavailable for me because he was, you know, busy in Ottawa, you know – yeah, we began dealing with Brian Crawley here to deal with the technical side of it.

MR. LEARMONTH: Okay.

Now, tab 53, that's Exhibit 00776, your – there's an email, September 21 from Paul Wilson to Brian Crawley.

MR. WILSON: No, that's Paul Harrington.

MR. LEARMONTH: Okay, no, from Brian Crawley to – sorry, Gilbert Bennett, Paul Harrington, Paul Humphries and Carla Russell. And this is – I guess they're – does it look like to you that they're discussing the DG3 – the final draft DG3 report? Is that a reasonable conclusion?

MR. WILSON: Yes, yeah.

MR. LEARMONTH: Yeah.

Okay and so you're negotiating with them on the alternate wording, are you?

MR. WILSON: So this is on the escalation issue embedded in contingency allowances?

MR. LEARMONTH: Mm-hmm.

MR. WILSON: So I guess Paul Harrington is trying to get that clarification through to us – at some point, this is going to Brian Crawley – what they see is the issues in that particular section of the report.

MR. LEARMONTH: But you're – are you negotiating with Nalcor now on the final wording?

MR. WILSON: I don't see any negotiation here at all.

MR. LEARMONTH: But you're suggesting alternatives to try and meet their expectations.

MR. WILSON: That's –

MR. LEARMONTH: Is that right?

MR. WILSON: Where are you reading that, Sir?

MR. LEARMONTH: Well, I mean you're saying – you're suggesting alternate wording.

MR. WILSON: And we're on Exhibit 00776?

MR. LEARMONTH: Yeah, page 3.

MR. WILSON: Page 3, oh. Okay, excuse me, Sir.

So there's a number of issues that I identified in this email: one for Charles to deal with, one that deals with PP rates – PPA rates – that I'm requesting information to be returned to me back for confirmation or report.

MR. LEARMONTH: Sorry, did you say Charles? Sorry, I'm interrupting, I know. Did you –

MR. WILSON: Yeah. “The first line ... has been sent to Charles for him to deal with.” Okay. That was in this email, above, yeah?

MR. LEARMONTH: Yep.

MR. WILSON: Right. “The second line” – deals – “on page 77 deals with PPA rates” and then on “Contingency I have reviewed with my estimating engineer” – okay. And then Muskrat Falls generating station contingency allowance, we talk about this again, and since we do not agree with this, you know, I expect something coming back from them. In any regard, if we are in a disagreement, so I’m suggesting an alternate wording for them, for discussion.

MR. LEARMONTH: Yeah. And then we got –

MR. WILSON: That’s not a negotiation. That’s just an offer here.

MR. LEARMONTH: Just an offer.

MR. WILSON: Yeah.

MR. LEARMONTH: Yeah.

And on page 1 of 00776 – this is an email from Mr. Paul Harrington to Brian Crawley, Jason Kean, and Gilbert Bennett. And here he says – Mr. Harrington says – “Brian

“This issue may need a phone call with Paul Wilson, which I am glad to take however perhaps this could be cleared up” and then he says “Regarding your email recently with respect to escalation – the Project Team has control of the escalation and contingency allowances.”

There’s no reference there to tactical, is there?

MR. WILSON: Does say “project team have calculated what these allowances should be using the risk analysis process.”

MR. LEARMONTH: Risk –

MR. WILSON: And that calculates both tactical, and then they do another for the strategic risk, as I understand it.

MR. LEARMONTH: But “using the risk analysis process,” don’t you agree that that includes strategic risk?

MR. WILSON: It may not in their context. You know, for us, they were all dealing with strategic risk.

MR. LEARMONTH: Well, it isn’t said there, but anyway.

MR. WILSON: Pardon me, I said strategic. I meant tactical risks.

MR. LEARMONTH: Pardon?

MR. WILSON: I said strategic again, but I meant to say tactical risks.

MR. LEARMONTH: On page – tab 59, Exhibit P-00782. This has to deal with the, you know, the 50, 100 year, 150 rime ice levels. Are you familiar with that issue?

MR. WILSON: This deals with transmission line loading, which was –

MR. LEARMONTH: Yeah.

MR. WILSON: – Gerry Proteau’s area.

MR. LEARMONTH: Yes. But do you have any knowledge of that or ...?

MR. WILSON: Very limited.

MR. LEARMONTH: Well, what is the limited knowledge you have about it? Just describe it if you could.

MR. WILSON: Well, Canadian Standards Association details, you know, reliability return rates for transmission lines. You know, the higher the return rate, you know, the one in 50, the one in 150 or the one in 500, is basically a survivability measure of that transmission line.

And what’s – the engineers have methods of calculating loadings on those transmission lines, which is where the rime ice comes into this. And depending on icing levels and wind and weather, they can predict just how much strength you need to build into those transmission lines, and at a very high level, that’s where the reliability issue is (inaudible) –

MR. LEARMONTH: Yeah.

MR. WILSON: – structured.

MR. LEARMONTH: Okay.

Now, what's – turn to tab 60, please, which is Exhibit 00783. Can you tell me what this document is? It's dated – it appears in the top right-hand corner – October 24. So that's three days before the final report was given to government, correct?

MR. WILSON: Yeah, I believe so. So this –

MR. LEARMONTH: So what is this?

MR. WILSON: This is a presentation that I had prepared in the off chance that I needed to present this. I had been called to Toronto, I believe, to meet with Charles Bown and the premier, Kathy Dunderdale, and members of her Cabinet, I believe.

MR. LEARMONTH: And you believed everything in it was true?

MR. WILSON: Everything in what?

MR. LEARMONTH: In this slide show or whatever it is.

MR. WILSON: It was based on what we had been preparing in our DG3 report.

MR. LEARMONTH: Yeah. Well, let's just have a look at page 31 of Exhibit 00783.

MR. WILSON: Just to be firm though, this was never presented.

MR. LEARMONTH: No, but it reflected your true thoughts when you made it on October 24, didn't it?

MR. WILSON: I believe it's consistent with what's in our final report.

MR. LEARMONTH: Yeah. Okay. 31: "Schedule ... target schedule indicates," and you say – well, I'm not gonna go through this again. First power date, we've already gone through that twice or three times, so there's no point going through that.

But in the bottom: "Cost Estimate."

"For DG3, the Muskrat Falls Generating Station project cost estimate increased by 21 ... after allowing for a decrease of ... The Muskrat Falls Generating Station project contingency in the DG3 is 9.0%, but maybe higher ... ***Based on the amount of engineering and levels of costs provided, MHI considers the DG3 cost estimate to be an AACE Class 3 estimate and therefore would be considered reasonable for the DG3 project sanction.***"

Now, that's a pretty strong statement. Do you agree with me?

MR. WILSON: I believe it's the same statement in our final report.

MR. LEARMONTH: Yeah, yeah, but there's no qualification at all about the lack of review that you said that you did on the business case.

MR. WILSON: No and none of that's in our report either.

MR. LEARMONTH: Yeah.

But do you see any problem with that, with not putting something to qualify your position?

MR. WILSON: Not particularly.

MR. LEARMONTH: You know, someone – in other words, someone reading this – how – can you give me your comment on the question of how anyone reading this would come to the conclusion that there was some reservation in what you're saying when you're making a recommendation to project sanction.

MR. WILSON: Well, given that – so I think it's very dangerous to dive into the one slide and pull that out as the strong statement overriding all – everything else in this whole report or presentation.

MR. LEARMONTH: Mm-hmm.

MR. WILSON: And if you go back to slide – page 3, Terms of Reference and the objective is, like, stated here as to what we were doing: "The review shall include an assessment of the Cumulative Present Worth Analysis of the various components for each of the two Options,

including a reasonableness assessment of all inputs into that analysis.”

MR. LEARMONTH: Yeah.

MR. WILSON: And that’s the context with which our statements are made throughout this entire report.

MR. LEARMONTH: Yeah.

Well, anyway, you’re – I’ve pointed out issues that I believe – whether they exist or not – about issues that I think applicable on the final report. So we have the final report so we don’t have to go through all that again.

However, I would like you to look at page – no, I’m not going to ask you to because I already done it, okay?

MR. WILSON: Okay.

THE COMMISSIONER: Is this a good place perhaps to take our afternoon break, Mr. Learmonth?

MR. LEARMONTH: Okay, could I have – let’s see, could I just have one more peek at the document?

THE COMMISSIONER: Sure.

MR. LEARMONTH: Okay, that’s a good point for me –

THE COMMISSIONER: To break here?

MR. LEARMONTH: Thank you. Thank you.

THE COMMISSIONER: So we’ll adjourn now for 10 minutes for a break.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: All right, Mr. Learmonth?

MR. LEARMONTH: Thank you. I’d like to turn to tab 82. And I think Mr. Mack Kast can answer my questions on this.

This is Exhibit P-00819, and on page 4 and 5, Mr. Kast, could you identify this as a document that you sent requesting answers to certain questions?

MR. KAST: Sir, based on what I have in front of me, I can’t unequivocally say that. I do recognize the content, but I don’t see my dispatch reference on here anywhere.

MR. LEARMONTH: Bottom of page 1?

MR. KAST: Page 1

Okay. Okay, and the questions that we’re referring to would be the attachment on the bottom of page 3, and the questions themselves are on page 4 and 5, yes, Sir.

MR. LEARMONTH: Does that all make sense?

MR. KAST: Yes, Sir.

MR. LEARMONTH: Okay.

And then Mr. Harrington’s reply is: “I guess nobody told Mack that there wasn’t an RFI process? There’s a couple of weeks work here and I don’t think much of has anything to do with their scope of work.

“I am not in today but I think we need to shut this one down.”

Were you aware of this email before you got the disclosure document?

MR. KAST: No, I was not.

MR. LEARMONTH: Okay.

Now, there’s one other thing I want you to help me with, any of you, if you can. First turn to tab 80, that’s Exhibit 00817.

Do you see that? It starts off with a two-page email. Page 1 and 2 are an email, correct?

MR. KAST: From Brian Crawley – yes, there’s two emails on the first page, page 1.

MR. LEARMONTH: Well, yeah, okay. But the first two pages of – this document is 18 pages in total, correct? You just go to the end of it.

MR. KAST: Yes, that’s correct.

MR. LEARMONTH: Okay. So the first two pages are email?

MR. KAST: Okay.

MR. LEARMONTH: Right?

MR. KAST: Yes, Sir.

MR. LEARMONTH: And then you go from page 3 to 18.

MR. KAST: That’s correct.

MR. LEARMONTH: Right.

Did you ever see this document? Do you have any recollection of ever seeing it?

I should tell you, I don’t have any – I’m not suggesting – I don’t have any proof that you ever received it.

MR. KAST: Yes, Sir. There –

MR. LEARMONTH: But you may have.

MR. KAST: Yes, Sir. Thank you.

There are some pages in here that I recognize, but there are others which seem a bit – well, I could use the word foreign to me. For example, page 10.

MR. LEARMONTH: Yeah, what about page 12?

MR. KAST: And –

MR. LEARMONTH: (Inaudible) –

MR. KAST: – I was going to say the same thing about page 12, as well.

MR. LEARMONTH: Well, I mean, I should say, it’s page 12 of the document, but page 14 in the top right-hand corner –

MR. KAST: Oh, sorry.

MR. LEARMONTH: – where it’s talking about strategic risks.

Does that ring a bell?

MR. KAST: Not really, no.

Sorry, not really, no, it doesn’t.

MR. LEARMONTH: Okay.

MR. KAST: I understand some of the terminology here in the context that we’ve been discussing, but in terms of this document, I don’t have a – any recollection of that.

MR. LEARMONTH: Okay.

MR. KAST: Yeah.

MR. LEARMONTH: And then – so, maybe – so this was, as I said, 18 pages, right, this –

MR. KAST: Yes, Sir. Yeah.

MR. LEARMONTH: – this document, including two pages of emails at the front.

MR. KAST: Mmm.

MR. LEARMONTH: So that the actual document was 16 pages?

MR. KAST: Yes, Sir, that’s correct.

MR. LEARMONTH: Okay.

Then we turn to tab 81, which is –

MR. KAST: Okay.

MR. LEARMONTH: – 00818.

MR. KAST: Yes, Sir.

MR. LEARMONTH: And then we have, same thing, two pages of emails, right?

MR. KAST: Yes, sir.

MR. LEARMONTH: Correct?

And then this document, instead of being 18 pages, like the previous one, this one is 17 pages. Correct?

MR. KAST: That appears to be the case.

MR. LEARMONTH: Yeah.

And then, Mr. Harrington, in the covering email on page 1 of 00818 says: "I have taken slide 12 out of the deck you sent me- I do not believe we actually shared this with MHI." That page 12 was about the strategic risk.

MR. KAST: Well –

MR. LEARMONTH: Right?

MR. KAST: Just a second, let's have a look at page 12, I just want to –

MR. LEARMONTH: That would be page 12, I think, numbering at the bottom because we hadn't put our exhibit numbers on it yet.

MR. KAST: Yes, that's –

MR. LEARMONTH: Strategic risk.

MR. KAST: Yes, that – and tab 80, that would have been page 14.

MR. LEARMONTH: Yeah.

So then you see, this is – Mr. Harrington is saying: I've taken slide 12 out of the deck you sent me; that's the one about strategic risk.

MR. KAST: Yes.

MR. LEARMONTH: I do not believe we actually shared this with MHI.

Now, I'll be very candid here, I don't know whether Mr. Harrington is saying that he doesn't believe that he showed slide 12 with you or whether he didn't share the entire document with you. I mean, do you have any recollection of ever seeing this document?

MR. KAST: I don't have any recollection.

MR. LEARMONTH: Okay.

MR. KAST: But I think your inference is – well, let's put it this way, I won't say it's reasonable but it's not unreasonable.

MR. LEARMONTH: What isn't unreasonable?

MR. KAST: Well, about the reference to the strategic risk, page 14, and me seeing it and so on.

MR. LEARMONTH: But you don't think you ever saw that.

MR. KAST: No.

MR. LEARMONTH: Okay.

Mr. Wilson?

MR. WILSON: We never saw that.

MR. LEARMONTH: You never saw it.

MR. WILSON: That page –

MR. LEARMONTH: Mr. Snyder?

MR. SNYDER: No.

MR. WILSON: We never this page 14 on that exhibit.

MR. LEARMONTH: You may have seen the other pages?

MR. WILSON: This chart on page 10 is familiar to me.

MR. LEARMONTH: And then, you see – okay – and Mr. Snyder?

MR. SNYDER: No, I have not seen it.

MR. LEARMONTH: Never saw it.

And this is the thing that I can't figure out. If you look at tab 81, like I said, tab 80 is 18 pages but tab 81 is 17 pages. There's been one page removed and it looks like it was page 12, but then do you see that the font on page 12 at the

bottom in tab 81, of page 12, well that's the exhibit page is 14. Do you see how it's different from the font in the earlier pages?

MR. KAST: I do see that, yes, Sir.

MR. LEARMONTH: And then for all the other pages, 12 looks like – well, anyway, I don't know, I guess we're going to have to ask Mr. Harrington about this, but can you shed any light on this problem I have where one is 17, one is 18, and then there's a reference to slide 12 being taken out? Can you shed any light on that, any of you?

MR. KAST: I can't shed any light, and as a supplemental to that is with respect to the font, personally, I wouldn't read too much into the font, but I'll leave that for you to conclude.

MR. LEARMONTH: Okay. Thank you. We'll have to ask Mr. Harrington about that I guess.

Now, I wanted to ask you some questions, if I may, about the P-factor. And I know that from earlier discussions with Mr. – particularly with Mr. Snyder, not only with Mr. Snyder, but that you have some views on the appropriateness of using a P50 factor for a sanction decision.

MR. SNYDER: Yes. In 2012, Manitoba Hydro, BC Hydro, Hydro-Québec all used P50 for hydro development projects that they were considering at that particular point in time, so P50 for use in Newfoundland seemed to be appropriate.

MR. LEARMONTH: Well, you've just selected three jurisdictions: BC, Manitoba and Quebec.

MR. SNYDER: Yes.

MR. LEARMONTH: What about other jurisdictions? Was it used –

MR. SNYDER: There wasn't anybody else doing major hydro development.

MR. LEARMONTH: Yeah.

But what about megaprojects in general? Because we've had some evidence from Guy Holburn, who's testified about, you know, P

factors being used for other megaprojects, not necessarily hydroelectric, but other, and the figures he was floating around, you know, could be 90 – I think he went as high as 98 on – a little lower, maybe even 70. I'm not sure exactly.

But I want you to tell me why you think a P50 factor – or whether you still believe today that a P50 factor for basing – being used to base a decision on sanctioning of a megaproject hydroelectric dam is appropriate.

MR. SNYDER: If the capital cost estimates are appropriately done, I think a P50 is still appropriate today.

MR. LEARMONTH: Okay.

MR. SNYDER: There are some people that are up to a P70, but in my view, it's no more accurate than a P50 in the sense that the P70 number is probably substantially higher.

MR. LEARMONTH: Say that again please?

MR. SNYDER: The P70 number – you know, the basis – the base estimate, I would say, would be higher than a P50, because people are saying they want to make sure that if they're gonna go to a P70, that they've included –

MR. LEARMONTH: Okay.

MR. SNYDER: – factors in that number that would make it achievable.

MR. LEARMONTH: Okay.

Now – so did Manitoba – when you were at Manitoba Hydro, did you use a P50?

MR. SNYDER: We used a P50.

MR. LEARMONTH: And what was used for the Keeyask dam?

MR. SNYDER: I was not involved in that project.

MR. LEARMONTH: Do you know what was involved? What was the P-factor used?

MR. SNYDER: I don't know what was involved.

MR. LEARMONTH: You don't know?

MR. SNYDER: No.

MR. LEARMONTH: Okay.

Now, we've had evidence – I'm not gonna take you through all their opinions, but – from Professor Bent Flyvbjerg. Are you familiar with him?

MR. SNYDER: Yes.

MR. LEARMONTH: Who said, I believe is an accurate way to put it, that for, you know, for a megaproject he thought, like, a P80 would be appropriate. Do you have any comment on that position?

MR. SNYDER: That's his opinion. It's not mine.

MR. LEARMONTH: So you disagree with Professor Flyvbjerg?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay.

And I think there's reference in the Grant Thornton report to an opinion provided by John Hollmann of Validation Estimating, and he said that he – I think he said something to the effect that a 70 – a P70 would be appropriate or something around that. You disagree with that also, do you?

MR. SNYDER: I don't disagree with that. I'd just make sure that the – if people are doing a P70, that they're doing an honest base estimate so that we're not padding the estimate.

MR. LEARMONTH: What do you mean by that?

MR. SNYDER: I'm meaning by adding some contingency, if you will, to their overall estimate.

MR. LEARMONTH: But why would that – why would you be – or concerned about possible padding of experts? Padding of – by using a P70 as opposed to something else?

MR. SNYDER: The likelihood of achieving a P70 is – it's more difficult, obviously, to achieve. People doing the estimating are going to make sure that they have numbers that are larger than they would, say, in a P50 of it.

MR. LEARMONTH: Anyway, even with – even in the face of conflicting opinions, you're still of the view that a P50 for a sanctioning decision for a megaproject such as Muskrat Falls is appropriate?

MR. SNYDER: Yes.

MR. LEARMONTH: Okay. Thank you.

Now, I have –

MS. O'BRIEN: (Inaudible)

MR. LEARMONTH: What's this now?

MS. O'BRIEN: (Inaudible)

MR. LEARMONTH: There's another exhibit here – 00867. It's gonna be added as an exhibit.

THE COMMISSIONER: So we're adding an exhibit, did you say?

MR. LEARMONTH: 00867.

THE COMMISSIONER: 00867. All right. This is late. Has – have counsel received this?

MR. LEARMONTH: Now, that concludes my –

THE COMMISSIONER: Mr. Learmonth, P-00867, so this is a late exhibit.

MR. LEARMONTH: Yes.

THE COMMISSIONER: Have counsel got this?

MR. LEARMONTH: Perhaps (inaudible) – I have no idea.

MS. O'BRIEN: Mr. Learmonth, if you'd just turn off your mic for just one moment.

Sorry, Commissioner. This is an exhibit that one of the counsel, I believe actually, Mr. Fitzgerald,

for Charles Bown, had asked to be entered as an exhibit so that it was available for his cross-examination of MHI. I do believe it's been circulated to other counsel but only very recently.

It's a one-page exhibit, and if anyone doesn't have it and needs to get a copy, they certainly can.

THE COMMISSIONER: No. That's fine. I thought it was coming in at our behest or whatever.

So 00867 will be marked as numbered.

Anything else, Mr. Learmonth?

MR. LEARMONTH: Well, there is something else, but I tell you – I had a very short list of –

THE COMMISSIONER: Your microphone.

MR. LEARMONTH: I had a very short list of notes made for – to ask a few questions, very limited, on wind –

THE COMMISSIONER: Okay.

MR. LEARMONTH: – but I must have left them upstairs. So what my suggestion would be is that we can turn it over to cross-examination, and I can ask those questions tomorrow, or I can stop and go upstairs and get them.

THE COMMISSIONER: Yeah. Let's do that.

I think it's probably better so that all the counsel have knowledge of what those questions are, so –

MR. LEARMONTH: Okay.

THE COMMISSIONER: – we'll just take a couple of minute break just so Mr. Learmonth can get his notes.

MR. LEARMONTH: Okay.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Mr. Learmonth.

MR. LEARMONTH: Can you find the wind report for me?

MS. O'BRIEN: Which (inaudible).

MR. LEARMONTH: Mr. Snyder, did you have anything to do with the wind report?

MR. SNYDER: No, I did not.

MR. LEARMONTH: And, Mr. Kast, did you?

MR. KAST: No, Sir.

MR. LEARMONTH: Okay, well, I won't ask you any questions about it then.

MR. KAST: Appreciate it. Thank you.

MR. LEARMONTH: Now, Mr. Wilson, did you have any involvement in the wind report?

MR. WILSON: Yes, I did.

MR. LEARMONTH: Okay. Did you prepare it?

MR. WILSON: I helped prepare it with a number of team members who were my technical leads on this project.

MR. LEARMONTH: Okay. Is this something you know much about? I mean, what's the level of your knowledge on wind?

MR. WILSON: My knowledge on wind power is rather limited and mostly from what I learned in putting this report together for my experts.

MR. LEARMONTH: Okay, so you wouldn't be the top person from MHI to answer this, but you have –

MR. WILSON: No.

MR. LEARMONTH: – some knowledge, do you?

MR. WILSON: Mr. Tom Molinski and Mr. David – Dr. David Jacobson.

MR. LEARMONTH: Okay.

Well, anyway, I'll ask you the questions and do your best to answer them, please.

MR. WILSON: Mm-hmm.

MR. LEARMONTH: It says P-00059 is the wind report.

MR. KAST: Is it in here?

MR. LEARMONTH: Yeah.

MR. KAST: Fifty-nine?

THE COMMISSIONER: Tab –

MR. LEARMONTH: It'll come up on the screen, yeah.

MR. KAST: Okay.

MR. LEARMONTH: What was the purpose of preparing this report? Why was it prepared?

MR. WILSON: It was to address basically two questions which had, I guess, come to light, you know, of relevance to the Government of Newfoundland. And that was there was a prior Hatch report on wind on the Island that was to be reviewed, and the question – the central question here was basically how much wind power and, you know, alternative sources to support that wind is required if you were to replace, basically, the Holyrood generating station.

MR. LEARMONTH: All right, now, on page 15 you indicate that “up to a 10% wind penetration level on an energy basis is achievable without the need to: Add a sophisticated wind forecasting system; Retrofit existing generators to allow lower minimum outputs, fast starts, and higher ramp rates; Increase regulation reserves” and “Implement aggressive load management systems.”

Now, did you assess the cost of these measures and whether they might be economically feasible to enable a greater than 10 per cent wind penetration level?

MR. WILSON: As part of the second piece of the scope, yeah, we did an analysis on two options to help support the wind; one was how much high-speed combustion turbines would –

MR. LEARMONTH: Mmm.

MR. WILSON: – need to be installed in order to support wind for, you know, those events where the Island is – be calm and there's insufficient wind generation. And another option that was looked at as well was how much battery backup supply would you need in order to – you know, the technologies available day today –

MR. LEARMONTH: So you assessed the cost of these measures?

MR. WILSON: I believe so. We did provide some analysis similar to CPW.

MR. LEARMONTH: Well, do you have that analysis or what? Do you have any documentation to establish that you did a cost review of these measures?

MR. WILSON: Just hang on a second, Sir.

So it's section 3.4 of this report is: Cumulative present worth analysis of scenarios.

MR. LEARMONTH: Okay, so that's the work you did to answer that question about the costs of these measures?

MR. WILSON: Yes.

MR. LEARMONTH: Okay, did you do an assessment of whether there might be an economically feasible way to achieve a greater than 10 per cent wind penetration level; in other words, say, well, what would we have to do to in order to get that up to 20 per cent from 10 per cent?

MR. WILSON: Essentially, that's the option two. To replace Holyrood requires a significant amount of wind, over and above 10 per cent.

MR. LEARMONTH: No, but I'm talking about – the question is whether you assessed – you know, let's say the province wanted to increase the 10 per cent penetration level for wind. Let's say –

MR. WILSON: Beyond 10 per cent?

MR. LEARMONTH: – 10 per cent – greater than 10 per cent.

MR. WILSON: Yeah.

Typically up to 10 per cent most grids can deal with without modification –

MR. LEARMONTH: Yeah, but I'm talking about – let's say the Province said, well, we want to increase wind to 20 per cent, what would be the cost of reaching that?

MR. WILSON: Specifically to 20 per cent? We didn't do that analysis.

MR. LEARMONTH: Well, above 10 per cent.

MR. WILSON: But that would be the Holyrood option replacement. So, you know, there's some 1,100 megawatts –

MR. LEARMONTH: Well, I'm talking about in –

MR. WILSON: Eleven hundred megawatts of wind would need to be installed –

MR. LEARMONTH: Yeah.

MR. WILSON: – to replace. I believe, that's my recollection on the conclusions in this report.

MR. LEARMONTH: But did you give any assessment to – forget about replacing Holyrood, I'm saying just increasing the wind penetration level to, say, 15 or 18 per cent, did you address that subject?

So what I'm saying is that – here's what I'm asking you to do – forget about Holyrood, it's going to be there – forget about it. But we want to increase these – the system's capability to allow the penetration of wind power to increase from 10 per cent to 15 per cent for example. Did you assess the cost of that?

MR. WILSON: No, we did not. We assessed the costs. We have the Interconnected Option from our prior work; we have the Isolated Island Option from the prior work on DG3. And then we did a wind and thermal scenario, right,

cumulative present worth which topped out at \$11.86 billion. And we did a wind and battery scenario which topped out at \$17.43 billion.

MR. LEARMONTH: Okay.

Now, I don't know if you're aware but the Holyrood facility ramps up very slowly and so, in practice, we have to run it constantly throughout the winter.

MR. WILSON: Yes.

MR. LEARMONTH: And then the Hatch report analysis of wind at page 31, what would happen – I'd ask the question: What would happen if the Holyrood plant were replaced with a new facility that was able to ramp up faster and it concludes that significantly more wind development could potentially be economically viable without the thermal minimum constraint. Did you review that finding?

MR. WILSON: I apologize, Sir. I don't recall specifically.

MR. LEARMONTH: You don't recall? Okay.

MR. WILSON: I didn't focus a lot of time on this report and I should've.

MR. LEARMONTH: Okay.

Did you do any analysis of what the cost to replacing Holyrood with a new combined cycle combustion turbine, a CCCT, would be?

MR. WILSON: Not in the wind report. I believe that type of analysis was included in the DG3 report for Isolated Island Option which assumed a replacement of Holyrood at some point in its life.

MR. LEARMONTH: Okay so if it isn't in there, you didn't do it.

MR. WILSON: It's not in this wind report though.

MR. LEARMONTH: So, if it isn't in the other report, you just referred to, you didn't do it, is that right?

MR. WILSON: It wasn't included as a scenario in this report, no.

MR. LEARMONTH: But you said it was included in the DG3 –

MR. WILSON: Well, it's in the – pardon me, let me rephrase that – it is implicit in the Isolated Island Option –

MR. LEARMONTH: Okay.

MR. WILSON: – as replacement of Holyrood with other combustion turbines to have generation.

MR. LEARMONTH: Okay.

As part of your review for – on the wind question, did you inquire into whether Bay d'Espoir or other hydro – Island hydro facilities would be capable of adding extra units to allow additional wind to be integrated without increasing spill?

MR. WILSON: I don't recall that. I don't –

MR. LEARMONTH: Okay.

MR. WILSON: – recall.

MR. LEARMONTH: Did you inquire or address the question of the availability of pumped storage?

MR. WILSON: I believe that was a subject of one of our – one of the experts' visits, was to determine how much pump storage was available on the Island, because it has an implication on how much backup is required in terms of reserve margin. Because there is existing generation to off-set that.

MR. LEARMONTH: Okay.

And my last question is did you inquire into whether there were any small-scale hydro sites on the Island that had storage, apart from Round Pond, Island Pond and Portland Creek?

MR. WILSON: That might have been in the same question, I – with my expert, I don't recall what his answer – his findings were, particularly.

MR. LEARMONTH: Okay. Those are my questions.

MR. WILSON: Okay.

MR. LEARMONTH: Thank you.

MR. WILSON: Thank you, Sir.

MR. LEARMONTH: I thank all of you for answering my questions.

MR. KAST: Thank you.

MR. WILSON: Thank you.

MR. SNYDER: Thank you.

MR. RALPH: No questions, Commissioner.

THE COMMISSIONER: All right.

Nalcor Energy?

MR. SIMMONS: Thank you, Commissioner.

I note it's 10 after 4, I'm happy to start now or fresh in the morning –

THE COMMISSIONER: I think we'll start now.

MR. SIMMONS: – whatever is your preference.

THE COMMISSIONER: But I know you – I think everybody's got a meeting at 4:30 –

MR. SIMMONS: 4:30.

THE COMMISSIONER: – or something, so we'll go to 4:30 and we'll stop there.

MS. VAN IDERSTINE: Mr. Commissioner, can I just raise an issue that I've just learned about at the break, and that is there may be additional drafts of the report prepared by MHI contained in the Commission database as disclosed by one of the – one or more of the other parties.

We have not had access or seen it. I shouldn't say access, perhaps if I had searched and I had access, I might – maybe I do, but I'm not aware

of them, personally. But I do think that if they are there, we can't leave the impression with the Commission that they're not available and nor should my – the witnesses probably continue until they've had a chance to review those additional drafts in case there is something that needs to be addressed within them.

THE COMMISSIONER: Okay, so who's suggesting that there's additional drafts?

MR. RALPH: Yes –

THE COMMISSIONER: Can you turn off your mic, Mr. Simmons, if you would, please. Just turn off your mic.

MR. RALPH: Yes, Commissioner, I searched the database, which we've – the documents that we've given to the Commission, and I understood my friend to say there was maybe perhaps three drafts of the final report. And I found an additional three in – this afternoon. There may be more, but I have found three more drafts.

THE COMMISSIONER: Okay. So three drafts that we haven't made available to everybody or is –

MR. RALPH: (Inaudible.)

THE COMMISSIONER: 'Cause my understanding is, is that whatever drafts we had in our database went out to all the parties. So you're telling me that we missed three?

MR. RALPH: I can't tell you what you sent to the parties. I can tell you that we sent the Commission – by my count – six drafts.

THE COMMISSIONER: Okay.

MR. RALPH: And my friend, Mr. Learmonth, this afternoon, or this morning, indicated that he could only find three drafts, I believe. Was it three?

MR. LEARMONTH: Whatever, well – whatever –

MR. RALPH: Whatever you reviewed –

MR. LEARMONTH: Whatever was in the disclosure is –

MR. RALPH: Right.

MR. LEARMONTH: –all (inaudible) –

MR. RALPH: I thought –

MR. LEARMONTH: – I understood.

MR. RALPH: Fair enough.

MR. LEARMONTH: Is it possible that there are others? Anything's possible (inaudible).

THE COMMISSIONER: Okay, look, I want to use our time this afternoon. So, you – I don't think Mr. Simmons, by the sounds of it, is going to finish with these witnesses this afternoon anyway. So let's use our 20 minutes and then we'll try to figure out – maybe, Mr. Ralph, what you could do is highlight – just meet with Mr. Learmonth, advise him what they are, if they're not there then we'll find out why they're not there and we'll get them there for tomorrow and everybody else will have copies as well. All right?

MR. RALPH: That's fine.

THE COMMISSIONER: All right. Go ahead, Mr. Simmons.

MR. SIMMONS: Thank you, Commissioner and good afternoon, gentlemen. Dan Simmons, counsel for Nalcor Energy.

I'd like to start with understanding a little bit more about what the process was that was used by MHI to carry out the mandate that MHI was given from the Government of Newfoundland and Labrador to prepare the report that eventually got filed in October of 2012.

Now, Mr. Wilson, I understand that you were the managing director of MHI.

MR. WILSON: At the time I was, yes.

MR. SIMMONS: Yes, at the time. And that you were the principal contact for working out the scope of the work that was going to be done, and you made those arrangements with Mr. Bown,

who I believe was the associate director – or the associate deputy minister of the Department of Natural Resources for the government. Right, so far?

MR. WILSON: I think that's right, yeah.

MR. SIMMONS: Okay.

So, aside from your role of working out the scope of the terms of reference for the report and – what else were you hands on involved in doing? What kind of organizational work did you do for it? What kind of involvement did you have directly in the work preparing the report?

MR. WILSON: In general, you know, I needed to assemble a team of experts for myself to execute this work and deliver this report because I don't have all the expertise needed to review this work on my own.

MR. SIMMONS: Right, okay.

MR. WILSON: So that's why I have Mr. Snyder here and Mr. Mack Kast, and they have their people as well under them – working with them.

MR. SIMMONS: How large did –

MR. WILSON: So, in terms of hands on for DG3, sort of the housekeeping aspects of this report: communication with client, the deployment and setting up of document standards at the start, developing sort of the story board of how this report should be wrote out and, you know, how many pages I'm allowing to, you know, my technical people and this is what my expectations were to them. I set a lot of this up in advance so that they can give me something back that was usable fairly quickly.

MR. SIMMONS: Okay. So how large an organization was MHI in 2012 when you got this mandate?

MR. WILSON: MHI, at that time, was a \$30 million organization of annual revenues; roughly between 80 and 90 people –

MR. SIMMONS: Mm-hmm.

MR. WILSON: – on staff.

MR. SIMMONS: Mm-hmm. Okay.

MR. WILSON: Located in Winnipeg and in other locations around the world.

MR. SIMMONS: Okay.

So for the task of preparing this report, how did you organize the people who are going to do it? Was there – did you have a deputy? Did you directly assign tasks to people? Was there something like in an organization chart for who was going to have responsibility for doing what part of this assignment? And I don't mean –

MR. WILSON: I don't know if I –

MR. SIMMONS: – a physical organization chart, I mean can you describe for me what the different –

MR. WILSON: Yeah, well these are my deputies.

MR. SIMMONS: – roles of people were and how they fit together.

MR. WILSON: My deputies are sitting right here with me.

MR. SIMMONS: Yes.

MR. WILSON: So I split the work into a technical track and a financial track.

MR. SIMMONS: Yes.

MR. WILSON: And then, you know, we had the scope of work drafted, they reviewed that scope of work, and then they worked with, you know, my other people – some of them staff members of MHI, some are contractors.

MR. SIMMONS: Mm-hmm.

MR. WILSON: Contract staff that we use when we need them.

MR. SIMMONS: Okay.

MR. WILSON: Retirees and such.

MR. SIMMONS: So the technical aspects then were assigned to Mr. Snyder on your left, were they?

MR. WILSON: Yes, that's correct.

MR. SIMMONS: And the financial aspects to Mr. Kast on your right.

MR. WILSON: That's correct.

MR. SIMMONS: And the CPW analysis, was that part of the financial analysis that fell under Mr. Kast's responsibility?

MR. WILSON: For the most part, yes. Except where some of the inputs would be required from the technical review team.

MR. SIMMONS: Right, okay.

Now, for the technical aspects, did you leave it to Mr. Snyder to decide who he needed to do the work, or did you find the people and assign them to him?

MR. WILSON: I would – like we – Mr. Snyder and I, we collaborated to determine who would be a best fit for some of these tasks.

MR. SIMMONS: Yes.

MR. WILSON: Because he has a large body of experience and had more contacts in the industry than I had at the time, so he just, yeah, knew more people, right?

MR. SIMMONS: So, Mr. Snyder, I'll ask you this: What did you do, then, to identify the people you needed and how did you divide the technical work up among them?

MR. SNYDER: What we did is we tried to look at transmission as one of the major aspects of the work that we had to do.

MR. SIMMONS: Mm-hmm.

MR. SNYDER: We had to look for somebody that was an expert in underwater cable, obviously, because that's not something that's very common. And then we had another person that was involved with generation, so they did the majority of the work on generation. And

those were the two major components, if you will, transmission and generation. And we had experts related to reliability, so the standards of the transmission line et cetera; so that would be a subset of transmission.

And so the majority of those people, you know, crafted reports – met with the people from Nalcor. And input was back to me, who – you know, I collaborated the report and then it went to Paul, in terms of reviewing all of those singular reports. And when they were combined in terms of the overall cost estimate, then it was forwarded to the finance side of the organization.

MR. SIMMONS: Okay.

So did you do any of the hands-on work of the technical review yourself? Or did you oversee the work that was done by the people you identified?

MR. SNYDER: I oversaw the work that was done by ...

MR. SIMMONS: Okay. And how many people did you have working on that team that was doing the technical analysis?

MR. SNYDER: There was about seven –

MR. SIMMONS: Okay.

MR. SNYDER: – six or seven.

MR. SIMMONS: Yeah. And how many were from within MHI and how many were outside contractors?

MR. SNYDER: Would be a fifty-fifty.

MR. SIMMONS: Okay.

Who were the principal people that did the important work under the technical evaluation?

MR. SNYDER: Tom Moffat, yeah, was the person responsible for the generation side of the organization.

MR. SIMMONS: Yes?

MR. WILSON: And Gerry Proteau.

MR. SNYDER: Gerry Proteau on the transmission side.

MR. WILSON: Les.

MR. SIMMONS: Yes?

MR. SNYDER: Les Recksiedler on the reliability.

MR. SIMMONS: Yes.

MR. SNYDER: (Inaudible.)

MR. WILSON: Load forecasting.

MR. SNYDER: Oh, load forecasting was Craig Kellas –

MR. SIMMONS: Fred?

MR. SNYDER: Craig –

UNIDENTIFIED MALE SPEAKER: Craig.

MR. SNYDER: – Kellas.

MR. WILSON: And thermal was Bob Dandenault?

THE COMMISSIONER: If you feel like you can answer the question, you answer the question.

MR. WILSON: Oh, sorry.

THE COMMISSIONER: You're not talking between yourselves (inaudible) –

MR. SIMMONS: Us –

MR. WILSON: Sorry, Commissioner.

THE COMMISSIONER: – you know, if you wanna fill in and answer the question, you answer the question. I don't want any of this.

MR. SNYDER: Thermal was Bob Dandenault.

THE COMMISSIONER: Who?

MR. SNYDER: Bob Dandenault.

THE COMMISSIONER: For what?

MR. SNYDER: For thermal.

THE COMMISSIONER: Thank you.

MR. SIMMONS: Okay. Anyone else you can recall?

MR. SNYDER: No.

MR. WILSON: We had Dr. David Jacobson for the AC integration studies, (inaudible) Pei Wang, they came and looked at two different aspects. David Jacobson looked at the system integration issues, and Pei Wang looked after, I believe, the HVDC converter performance and how it would impact your grid operations.

Is that – that's correct?

MR. SNYDER: Yeah.

MR. SIMMONS: Okay, so I've got seven people there now. And Mr. Moffat, was he an MHI man or was he a contractor?

MR. SNYDER: He was a contractor at that particular stage because he was a former Manitoba Hydro –

MR. SIMMONS: Okay.

MR. SNYDER: – employee.

MR. SIMMONS: Mr. Proteau, was he a contractor or an employee?

MR. SNYDER: Employee of MHI.

MR. SIMMONS: And Les, who was dealing with the reliability.

MR. SNYDER: Recksiedler.

MR. SIMMONS: Yes.

MR. SNYDER: Was an MHI.

MR. SIMMONS: Okay. And Mr. Kellas?

MR. SNYDER: He was a retired Manitoba Hydro employee.

MR. SIMMONS: Okay, so he was a contractor.

MR. SNYDER: Yes.

MR. SIMMONS: And the gentlemen dealing with thermal?

MR. SNYDER: They were both Manitoba Hydro employees at that stage – I believe.

MR. WILSON: Bob Dandenault was an employee.

MR. SNYDER: Yeah.

MR. SIMMONS: Okay, and the HVDC gentleman.

MR. WILSON: That's Les Recksiedler. That's Les Recksiedler –

MR. SIMMONS: Yes.

MR. WILSON: – and he's a staff member of MHI.

MR. SIMMONS: Okay. Yes, okay.

MR. WILSON: And I think Pei Wang was the other fellow; he's a staff member of Manitoba Hydro International – oh, pardon me, Manitoba Hydro –

MR. SIMMONS: Yes.

MR. WILSON: – as well as Dr. David Jacobson, he's a staff member of Manitoba Hydro.

MR. SIMMONS: Okay.

So in order – once those responsibilities were assigned to those gentlemen – maybe I'll ask you, Mr. Snyder – how much independent – how much independence did they have, then, about how they approached doing the work that was assigned to them?

MR. SNYDER: Well, the intent was for everybody to try and do the same type of work so that –

MR. SIMMONS: Mm-hmm.

MR. SNYDER: – we were getting coordination as to what type of reports we expected back

from them, and in the time limits that we had at our disposal.

MR. SIMMONS: Okay.

Mr. Moffat, for example, dealing with generation, would he have been given the ability to independently contact the people at Nalcor? Or how would he go about getting the information he needed, documentary and interviews or contacts, in order to carry out his work?

MR. SNYDER: He was able to do the work by contacting people at Nalcor.

MR. SIMMONS: Okay, and how – what kind of arrangements were made in order to ensure that people like Mr. Moffat or Mr. Proteau would know who to contact in Nalcor? And how was that put together? They couldn't call up out of the blue – was that your role in order to get a list or ...?

MR. SNYDER: No that was that was Paul's role – coordinating –

MR. SIMMONS: Okay, Mr. Wilson –

MR. WILSON: Yeah.

MR. SIMMONS: – that was arranged by you, was it?

MR. WILSON: That was arranged by me and there was a fairly detailed letter put together for myself to Mr. Gordon Bennett with a visit schedule. Gordon –

MR. SIMMONS: Mr. Gilbert Bennett?

MR. WILSON: Yeah, Mr. Gilbert Bennett.

MR. SIMMONS: Yes. Yes.

MR. WILSON: Sorry. So there's a detailed visit schedule and an expectation of what they were going to review when they were on site.

MR. SIMMONS: So then the people who were on your team, then, did they collectively come as a group to St. John's and meet with people at Nalcor to follow this, you know, (inaudible) –?

MR. WILSON: Not all at the same time –

MR. SIMMONS: Yeah.

MR. WILSON: – they all had a – their own schedules.

MR. SIMMONS: They had their own schedules?

MR. WILSON: Their own schedules, to meet – you know, their schedules as well, but the availability of staff at Nalcor, as well.

MR. SIMMONS: Yes, right.

So they would meet their counterparts at Nalcor in order to carry out the work that had been assigned to them, would they?

MR. WILSON: That is my understanding, yes.

MR. SIMMONS: Okay.

MR. WILSON: And expectation.

MR. SIMMONS: Right.

So each of them would have had the opportunity to ask their questions of the people at Nalcor, and get their information and collect it up in order to include it in the portion of the report that they were preparing that would find its way back to Mr. Snyder and then to Mr. Wilson, and eventually in the final report. Is that the way it worked?

MR. SNYDER: Yes.

MR. SIMMONS: Yep. Okay.

So, Mr. Kast, you're on the financial side. How did you structure doing the work you had to do and who did you involve in it?

MR. KAST: Well, somewhat similar, I had the good fortune of having Mr. Rick Horocholyn working with me. And I say the good fortune because Mr. Horocholyn was a very technical guy and very driven and not afraid to express his opinions and options and so on. He is a type of person that I thrive on because I have the ability to understand, appreciate, and temper as

appropriate and so on, so we made a really great team.

MR. SIMMONS: Mm-hmm, okay. So it was you and Mr. Horocholyn who formed the team –

MR. KAST: That's correct.

MR. SIMMONS: – to do the financial –

MR. KAST: That's correct.

MR. SIMMONS: – analysis?

MR. KAST: But then, of course, I have my colleagues with me here –

MR. SIMMONS: Yes.

MR. KAST: – and when it gets to that level, it's –

MR. SIMMONS: Right.

MR. KAST: – the three of us.

MR. SIMMONS: Right. Yeah. So did you do hands-on work then, along with Mr. Horocholyn? Or was your role more like Mr. Snyder's, supervising the work of others?

MR. KAST: To the – in some instances I did do hands-on work. I think we saw one of the memos today that was under my name. Now, it didn't necessarily mean that every line item in that memo was – the thought process for the point was necessarily mine. I wouldn't necessarily take ownership to it –

MR. SIMMONS: Mm-hmm.

MR. KAST: – of it. But what I needed to do was understand the purpose of it and then allow it to be entered. So it was, I'd say, still collaborative in that sense, but I tried to be front and centre when it came this close to the report in terms of what makes sense, what should go in, what should get asked and so on.

MR. SIMMONS: Okay.

So Mr. Wilson, did you do first drafts of any portions of the report that was eventually finalized in October?

MR. WILSON: I essentially assembled the reports that I received from Mack Kast and Al Snyder through his teams –

MR. SIMMONS: Right.

MR. WILSON: – into the final report, and you know, there's a bit of housekeeping with that. I did have some proofreaders on staff. And teams, they would've gone through it, at least at a first brush –

MR. SIMMONS: Yeah.

MR. WILSON: – just to clean up some of the obvious punctuation, things like that, in order to deliver this document.

MR. SIMMONS: Mr. Snyder, did you do first drafts of any portions of the report?

MR. SNYDER: No. I was, you know, reviewing the reports as they were coming in to me and making alterations to them –

MR. SIMMONS: Mm-hmm.

So on the technical –

MR. SNYDER: – discussing it with the people.

MR. SIMMONS: So on the technical side, then, were first drafts of all sections of the report done by the people you've identified –

MR. SNYDER: Yes, they were.

MR. SIMMONS: – who were under your supervision?

MR. SNYDER: Yes, they were.

MR. SIMMONS: Yes. Okay.

Mr. Kast, did you do first drafts of any portions of the report?

MR. KAST: It's possible that there were some paragraphs in the final document that were drafted by me –

MR. SIMMONS: Okay.

MR. KAST: – after, you know, extensive dialogue and understanding and so on, and it would be – let me put the words together.

MR. SIMMONS: Okay.

Mr. Horocholyn, who was working with you, did he draft sections of the final report or do initial drafts?

MR. KAST: Well, he probably did. Yes. I'd say – I would say yes –

MR. SIMMONS: Okay.

MR. KAST: – in fairness to him, because let him take the first run at it and let me then discuss it, dialogue it, edit as appropriate and put it into the draft, because I had the fortune of having the bigger picture in the sense of the whole document, whereas he didn't. He was even more focused.

MR. SIMMONS: Mm-hmm. And your work then, in turn, fed into what Mr. Wilson was doing in order to get to the final (inaudible)?

MR. KAST: That's right. Yeah, we dialogued – we have a very good relationship, or had a very good relationship, I should say.

MR. SIMMONS: So –

MR. KAST: He's still a good friend.

MR. SIMMONS: Okay.

So Mr. Wilson, then, we've heard from your evidence earlier that there were multiple drafts of this report. Some of them, they went back and forth with your contact at government –

MR. WILSON: Mm-hmm.

MR. SIMMONS: – in the province. Did you engage any – once you had these initial drafts that you assembled in a report, did you continue to engage Mr. Snyder, Mr. Kast or others in edits and iterations of the report –

MR. WILSON: Yes, I did.

MR. SIMMONS: – or did you take responsibility then for that?

MR. WILSON: Not totally, no. I would engage them where I thought was appropriate to. Yes.

MR. SIMMONS: Okay.

Now, I have some questions for you about records and record keeping. Now, none of you are currently with Manitoba Hydro International?

MR. WILSON: No.

MR. SIMMONS: No. Okay.

While you were there – and maybe, Mr. Wilson, this is a question for you. Can you tell me something about the sophistication or the thoroughness of the record-keeping systems that MHI had available to it in 2012? Because it sounds, from listening to the evidence, that we may not have a very complete – totally complete record of material that we would expect to have been produced as part of this work.

MR. WILSON: I would really classify them as largely primitive.

Servers in closets here in Winnipeg with, you know, drives and maybe a SharePoint at the outset. Virtual private network connection, that would be the top end, but you needed a low level of ‘primitivity’ in order to work effectively internationally, because communication bandwidths are slow, and there was really no centralized document management system available or deployed in that organization at the time. Yes.

We were maturing. I think we were in our, what, eighth year of operation, moving into more sophisticated forms of document management, but we didn’t have those available for us at the time.

MR. SIMMONS: Did you have a central email server system that would have preserved emails so that they’d be available in 2018 to be retrieved?

MR. WILSON: I understand that we did not.

MR. SIMMONS: What about for electronic documents that were created and used by members of your team, was there a central

electronic system for recording and saving those?

MR. WILSON: I did set one up, but it was used hit-and-miss, and it was external to the organization.

MR. SIMMONS: What do you mean by external to the organization?

MR. WILSON: Meaning it was set-up so it wasn’t relying on our servers, it was relying on – I think it was –

MR. SIMMONS: Something cloud-based, perhaps?

MR. WILSON: It was like a cloud-based –

MR. SIMMONS: Okay.

MR. WILSON: It was a SharePoint that, I think, Microsoft –

MR. SIMMONS: And what about for paper records then? Was there any central system or any organized system for collecting and keeping the paper records created by the people who were doing the work on this task, on this project?

MR. WILSON: Not for technical records, no. Just for, like, the (inaudible) accounting-based records.

MR. SIMMONS: Accounting-based?

MR. WILSON: Yup.

MR. SIMMONS: Okay. For getting the bill out?

MR. WILSON: Yes.

MR. SIMMONS: Yeah.

Now, those people who were not MHI employees and were contractors, such as Mr. Moffat, what sort of arrangements were made, back in 2012, in order to collect and keep the records that they were generating?

MR. WILSON: Nothing specific. Documents were shared largely through email –

MR. SIMMONS: Mm-hmm.

MR. WILSON: – up to Al Snyder, and then – when they came to me, then I would retain them in my personal files. And that was the extent of record keeping on this project, essentially.

MR. SIMMONS: Mm-hmm.

So for someone like Mr. Moffat, then, and, I guess, Mr. Proteau, who were travelling to St. John's to meet with the counterparts at Nalcor, presumably collecting documents if they were provided to them, what kind of system was there to make sure that the things that they collected in doing their work were preserved so that we can know now what they actually received?

MR. WILSON: Well, I did set-up that register – basically, it was the bibliography of documents that was removed out of the report at the end, and these are documents that were collected, you know, through the meetings with Nalcor, and then they were returned to me physically.

MR. SIMMONS: So these were things that were reported up to you by the people who were doing –

MR. WILSON: Yeah.

MR. SIMMONS: – the hands-on work?

MR. WILSON: Essentially, yes. Yeah. Not documents that I collected myself.

MR. SIMMONS: So how confident are you that MHI, today, would have all the records of information that was provided to them by Nalcor in the course of this investigation?

MR. WILSON: Today, I believe they disclosed everything that they were able to find.

MR. SIMMONS: Right.

MR. WILSON: Yeah.

MR. SIMMONS: How confident are you that that would be a complete record of everything that was provided?

MR. WILSON: By Nalcor –

MR. SIMMONS: Yes.

MR. WILSON: – to us? Not confident, no.

MR. SIMMONS: Commissioner, I think that's 4:30, so that may be a good time to stop.

THE COMMISSIONER: Yes, okay.

So we'll continue on tomorrow morning then, Mr. Simmons.

MR. SIMMONS: Yeah.

THE COMMISSIONER: So we'll adjourn for the day.

We'll start tomorrow morning at 9:30. I'm hoping that we'll be able to finish with these gentlemen and we'll be able to move on to Mr. Sturge. So, hopefully, he'll be available tomorrow morning as well.

All right. So we'll adjourn until tomorrow morning at 9:30.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.