



## COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

---

Transcript | Phase 1

Volume 29

---

*Commissioner: Honourable Justice Richard LeBlanc*

Wednesday

31 October 2018

**CLERK (Mulrooney):** All rise.

This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc  
presiding as Commissioner.

Please be seated.

**THE COMMISSIONER:** Good morning.

Ms. O'Brien.

**MS. O'BRIEN:** Thank you.

Good Morning, Commissioner.

Before we begin I'd like to ask to have entered the following exhibits: P-00793 to P-00811, P-00834, P-00852 to P-00854, P-00868, P-00871, P-00874 and P-00875 and 00876. Also, 00877 to 00880.

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

**MS. O'BRIEN:** Thank you, Commissioner.

Our witness today is Derrick Sturge. Mr. Sturge will be affirmed.

**THE COMMISSIONER:** All right, so can you just stand, Sir, please.

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

**MR. STURGE:** I do.

**CLERK:** Please state your full name for the record.

**MR. STURGE:** Derrick Sturge.

**CLERK:** Thank you.

**MS. O'BRIEN:** Thank you, Mr. Sturge.

Just to confirm, you are the VP Finance and the CEO of Nalcor Energy. Is that right?

**MR. STURGE:** CFO.

**MS. O'BRIEN:** CFO of Nalcor Energy. Yes, sorry.

I'm going to bring up Exhibit P-00801, which is in tab 9 of the book before you. And, Mr. Sturge, this is a CV of yours that dates back from 2006. And I understand you were hired as VP Finance and CFO in March – end of March of 2006, is that right?

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** Okay.

So your CV – I think this is the CV you would have submitted to Nalcor at the time you were applying for that job and so that's been entered into evidence. You can feel free to refer to it as you go through, but I'd like you to start with a bit about your education, your background before joining Nalcor.

**MR. STURGE:** Sure, no problem.

I joined Nalcor in, again, as you said, the end of March 2006. And my education, I had a Bachelor of Commerce honours from Memorial in 1982. Then I joined Touche Ross, which is now Deloitte. Articled, got my chartered accountant designation in 1984, my certified management accountant designation in 1985 and I subsequently did an MBA with the University of Durham in the United Kingdom in 1996.

As far as work experience, I left Deloitte or Touche Ross shortly after obtaining my CA. I went into industry. My first significant job was controller of a company called Rhodi Services Limited which was a retail operation with about 100 outlets throughout Canada and the United States. And I joined them as they were going through a bit of a financial restructuring. And my key role was to help grow the business but to bring some – restore their trust to lenders, basically, at that point.

I was there for three years and I left there and that's when I joined Newfoundland and Labrador Hydro in 1989. I first joined as manager of internal audit. And I was in that job for about a year and then I moved into another job which I was in then for the balance of my – that stint with Newfoundland Hydro. And in that role I was director of rates and financial

planning and towards the end of that I also added customer service to my duties.

But by and large what I was accountable for there was the regulatory process, rate applications, rate setting, rate design. And then on the financial planning side it was, you know, medium-, long-term financial plans. But through that, I would have had in the 1991 to – 1991 period I would have had a significant involvement in a previous rendition of the Lower Churchill and negotiations with Hydro-Québec for the best part of two years supporting, you know, the team and modelling and assessing the proposals and those types of things.

The other significant thing I would have done during that period is from '94 to – or '93 to '94 I would have spent almost two years pretty focused on the – what was the proposed privatization of Newfoundland Hydro at the time. So I would have been heavily involved in that. So I was in that role for about seven years and in 1996 I was approached as Inco had just acquired the Voisey's Bay fields from Diamond Fields. And I was approached and ended up leaving Hydro and going to Voisey's Bay Nickel as chief financial officer.

I was in that role for about four years, and during that period most of my focus was on three things, I would say. Really it was – I was heavily involved in the financial package negotiation of the IBA with the Innu Nation and what was known as the Labrador Inuit Association at the time, because they had overlapping land claims in the Voisey's Bay area. So I was heavily involved in that piece. I was also involved in the environmental impact assessment for the mine and appeared at the panel hearings for that.

The other piece I was probably – mostly I was involved in during that period, was really around trying to get the business case for the mine mill itself. And I don't know if people are aware, but there was a fair bit of public discussion at the time about finding the right business case, one that worked and there was a lot of discussion. And we were effectively in a four-year discussion or negotiation with the province, from 1996 to 2000. Ultimately, couldn't arrive at a conclusion with the province and Inco shut the

project down. And that's when I left Voisey's Bay Nickel.

I then moved on to CHC Helicopter Corporation that had just done a major acquisition and would go on to do another couple of major acquisitions and to become the largest helicopter operator in the world with a fleet of about 300 aircraft in 30 countries and, I think, seven continents. So it was a big operation. And through that period, you know, heavily involved in acquisitions, all sorts of complex finance in equity and debt. And it would've been during that period also that we listed on the New York Stock Exchange and I think became the first company, in this province anyway, to list on the NYSE.

Around the end of 2004, CHC made the decision to move their head office to Vancouver and I opted not to go to Vancouver. And it was at that point I had, you know, certainly to consider what my options were. I joined Deloitte and I was working – based out of St. John's, but effectively working in international corporate governance practice and servicing clients across the country.

And I was in that for about a year and a half when this opportunity came up and I was approached by, I guess it was Knightsbridge at the time. And I guess the rest is history.

**MS. O'BRIEN:** Okay, so this was Knightsbridge Robinson – Robertson Surette –

**MR. STURGE:** Yes, yes.

**MS. O'BRIEN:** – being a, what people might refer to as a headhunting agency –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – but, essentially, they help go out and find qualified –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – candidates –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – for jobs.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay.

And so you went through an interview – application and interview process –

**MR. STURGE:** I did, yes.

**MS. O'BRIEN:** – with Nalcor? And then were ultimately awarded that job. Okay.

I'm gonna talk to you a little bit about what, you know, generally what a CFO and VP finance does. To assist us with this, I'm gonna bring up Exhibit P-00793, please, tab 1 of your book.

Commissioner, some of the exhibits that we've entered today are actually org charts from Nalcor. We haven't put in all their corporate org charts, but we've put in the ones that are most relevant to the work of the Commission.

And this is one that just essentially shows the board, and it also shows the Executive Leadership Team. And the org charts that we've chosen are from around the time of sanction, so the ones that should be accurate as of the sanction date.

And, Mr. Sturge, can you verify that this would be the right org chart for the executive team at that time?

**MR. STURGE:** Yes, it would be. It's dated December 11, so that's as close as you get, I think.

**MS. O'BRIEN:** Great, thank you.

And so this shows here that you, as vice-president finance and CFO, would have reported directly to Ed Martin, is that right?

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** Okay, and then tab 5 of your book, P-00797, and this is the org chart for the financial division. So this is the org chart that has you at the top, shall we –

**MR. STURGE:** That's right.

**MS. O'BRIEN:** – say? And this one is dated just after sanction. It's dated January 4, 2013. But can you confirm that this is accurate to the

best of your knowledge as it would've – as the organization would've been at around the time of sanction?

**MR. STURGE:** It was the – yes, it is, yes. Yeah, yeah. 'Cause I made some changes in '13, but they were after this, yeah, so that's correct.

**MS. O'BRIEN:** Okay.

And before I get you to give us a general description, Commissioner, I just want to highlight and get Mr. Sturge to confirm that we've had some evidence about Investment Evaluation and what that group does, in particular what they did with respect to the CPW calculation.

And we actually had Auburn Warren from that group provide some testimony, and I just want to confirm here that here's the Investment Evaluation group, Auburn Warren was the manager, and he would've reported directly to you?

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** Okay, so that division was under your –

**MR. STURGE:** Yes, yup.

**MS. O'BRIEN:** – under your management.

Okay, so just – can you, at a high level now – we'll get into –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – the details of the project later, but explain for us what does a CFO and VP finance do?

**MR. STURGE:** Yup. Well, you know, I think if you look at 10 different organizations, you may find that how they – the specific functions of the CFO, there's probably common things, and there's probably things around the fringe that sometimes they're in, sometimes they're not, so I don't think there's a common – this is exactly what the CFO does.

But I think in our case, you know, largely, if you sort of look at my five buckets there, and I had

done some restructuring in 2011, essentially to get ready for the Lower Churchill, because I knew that through 2011, '12 and '13 I was likely to be almost a hundred per cent on things related to the Lower Churchill.

But the day-to-day still had to continue to happen, so as you go along this chart, you look to the far left and you see a position there, general manager finance and corporate services, Kent Legge. What I had effectively done was take everything that was day-to-day operations – IT, supply chain, financial reporting – and in under him would've been various business unit teams unrelated to the Lower Churchill, and he was effectively keeping all of that moving as we were doing other things.

The next position there is manager of rates and regulation, which is Carla Russell, and this related specifically to Hydro's regulated function, so they would've been running all the regulatory applications for Hydro and rate design and those types of things so, again, pretty separate from Lower Churchill, more related to Hydro.

The next position is Mark Bradbury, and Mark was the general manager of finance for the Lower Churchill, and this is a position I had created in some time early in 2011, and Mark was the first one in this job and, at sanction, had been in it almost two years and actually retired at sanction, and then we made a change.

But his role would've been – and this one probably is important, because it's a bit more complicated 'cause it's more embedded in the project. Mark's role effectively was financial reporting, the accounting systems, financial controls. He was involved in some of the financing and cash management and those things.

And one of the big distinctions here, as we designed this, is that there's another function in the Lower Churchill, and I think you've referred to it in the document. It's called project controls, and it's a group that effectively looks at all the controls around the project cost, the project scheduling, and it's a pretty critical role from a control perspective within the project, and it reports directly into Paul Harrington's team –

maybe not directly to Paul but through that chain of command.

Mark's role vis-à-vis project control really would've been around ensuring the flow of data for the accounting systems, but it wasn't around the project controls itself, and I think that's an important distinction in terms of Mark's role.

**MS. O'BRIEN:** Okay.

So just to clarify that point, so this project controls group, that would've reported up to Paul Harrington –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – who was the director of the project, and Mr. Harrington reported up to Gil Bennett so –

**MR. STURGE:** That's correct, yeah.

**MS. O'BRIEN:** – another vice-president –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – not you?

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** Okay.

All right, please continue.

**MR. STURGE:** Then continuing to move to the left – to the right, the next position is Rob Hull.

Rob was the general manager of commercial and financing, and effectively, Rob had a number of things. Rob – I think Rob, individually during that period leading up to sanction, was probably spending 95 per cent of his time personally on the Emera agreements, because he became the point person to effectively negotiate all of the formal agreements, so he was personally spending a lot of time on that.

Reporting to Rob was – I'm gonna go a little bit deeper on this one 'cause I think it's important – reporting to Rob was Jim Meaney, who at the time was corporate treasurer and chief risk officer, and Jim's primary function was really around the treasury function. And as we were

leading up through, particularly – and Jim went into this role I think in 2011, and leading up to sanction, Jim would've been heavily involved through 2011, for example, on the commitment letter, would've been heavily involved on the credit rating work we did in 2011 and 2012 and, you know, and effectively heavily involved in pulling the financing package together.

**MS. O'BRIEN:** Okay.

And we're gonna cover all those topics –

**MR. STURGE:** Yeah, we will.

**MS. O'BRIEN:** – in some detail this morning, okay.

**MR. STURGE:** And then continuing to move to the right, the final position, as we talked about, was Auburn Warren, who was manager of Investment Evaluation, and they were, effective, the financial modelling group, so they would've been doing not just Lower Churchill. They would've maintained financial models for Hydro, for Churchill Falls, for the oil business, for the energy marketing business and for Lower Churchill Project.

So they would've been doing, you know, anywhere from – you know, sometimes they'd do five- to 10-year medium-term plans, and that would extend right out to longer term plans, which, you know, were – in this case particularly, and so that group consisted of folks who were financial analysts. They were heavily involved in – not only were they doing modelling for the Lower Churchill – now, they weren't doing the CPW, but they were doing inputs that would've fed into the CPW.

**MS. O'BRIEN:** Yes, and we've had testimony about that already, yes.

**MR. STURGE:** So that was the group.

**MS. O'BRIEN:** Okay, thank you.

All right, so when you started in 2006, is it fair to say that your primary role, with respect to the Lower Churchill Project, was you were to figure out how to finance it. Is that a fair ...?

**MR. STURGE:** That was really my primary role, and I would say yes, yeah –

**MS. O'BRIEN:** Okay, and –

**MR. STURGE:** – at that point.

**MS. O'BRIEN:** – I'm gonna turn it over to you to sort of describe those activities, Mr. Sturge, that you went through –

**MR. STURGE:** Sure.

**MS. O'BRIEN:** – and I'm gonna ask you to begin with the period 2006, when you joined, to 2010. So I want to kind of go up to that Decision –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – Gate 2 period and get you to focus right now on the activities that were going on in that period.

**MR. STURGE:** Yeah.

So when I joined in 2006, I mean, it was Hydro then, so it was effectively a regulated utility. It had some non-regulated activity. One would've been Churchill Falls, which – you know, the Churchill Falls plant in Labrador, which would've been a subsidiary of Hydro, and Hydro also would've had some other non-regulated activities in terms of recall power.

So there was a block of power that came out of Churchill Falls that we would've sold to Hydro-Québec at the border for a price, a fixed price, and that would've been non-regulated cash flow, but it resided within Hydro, so Hydro was effectively the parent company at that point.

One of the first things that we had to do – because not only was Lower Churchill now on our radar, but the company was going through a pretty significant transformation in that we were now going to be going into oil and gas investments. And in addition to that, both the existing operating businesses had – were about to embark on a pretty broad period of reinvestment, and both Hydro and CF had probably been under-invested up until that point. And I know Ed, when he came in, was heavily

focused on trying to get sort of an asset management plan to reinvest in those businesses.

**MS. O'BRIEN:** I should've made – I'm just going to interrupt you because I should've made clear, when you were first hired, you were hired with Newfoundland and Labrador Hydro.

**MR. STURGE:** Yes, yeah.

**MS. O'BRIEN:** But at this time the creation of Nalcor was being envisioned –

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** – and so the idea would be when that company came into existence you also became VP –

**MR. STURGE:** Absolutely, yeah.

**MS. O'BRIEN:** – of Finance and CFO of Nalcor. So this work was all – when you took the job, you knew what was ahead of you.

**MR. STURGE:** Right.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So at that point – and the only source of cash flow we really had was the meagre return that Hydro would've had at the time, which was very low and really just the recall. So it was \$40 to \$50 million there of cash flow. But I think what we knew is that not only was Lower Churchill potentially coming on the scene here, but we had oil and had investments and heavy reinvestment about to take place in other parts of the business.

So the first thing that really became a priority – and, actually, the work had started I think before I got there; I think Mark Bradbury had kicked this off. But we needed to find a way to get some – a source of cash, so one of the first things we did is we approached the province and we said, you know, the prudent thing to do is to – because we were at that point paying a dividend effectively to the province every year, equal to the recall sales.

So we agreed that we would no longer pay that dividend as we were going through this reinvestment period, and we would use that cash

flow to now, at least be some seed money to start the reinvestment. And, obviously, it wouldn't take us all the way, but in the early years it was enough to get us some cash flow. So that work took place and carried on.

The next thing had taken place, is just before I got there I think Gilbert, Gilbert Bennett, had engaged RBC and Scotia, and at the time they were our two leads on Hydro's financing. And sometime late in 2006 I think Gilbert had engaged them with a series of questions about the finance-ability of the Lower Churchill.

**MS. O'BRIEN:** Would that have been late 2005?

**MR. STURGE:** Late 2005, I'm sorry, and the letter came out in early 2006.

**MS. O'BRIEN:** Yeah, that letter is actually entered as Exhibit P-00800. It's at tab 8 –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – of your book, Mr. Sturge –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – if that's helpful to you.

**MR. STURGE:** So this would've been the outcome of that work. And as you go through it, you know, it deals with things like – because at that point there was this whole discussion taking place of, we were looking at Gull and Muskrat, would we do 'em concurrently, would we stagger 'em, and they're trying to get some feedback on that.

They were also trying to get some feedback on another – it became a very important issue, was the finance-ability of the project from an equity perspective and what might be the province's equity capacity for the project. And you'll see in this letter, I think they gave some opinion on that and had done, you know, a fairly decent piece of work to sort of arrive at that. And I think they landed at that point, 2 to 2½ billion was a reasonable number.

**MS. O'BRIEN:** Two to 2½ billion was a reasonable number for what?

**MR. STURGE:** Equity for the province. And I think that is discussed on – I'll find the reference now. Again, this was – it was preliminary work, but now that I've said it, I can't find it. I know it's here, just bear with me for one sec.

**MS. O'BRIEN:** That's fine. I think it might be at the bottom of page 6?

**MR. STURGE:** Yeah, the top of page 6, actually.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah. And it's probably at the bottom as well, yeah.

So that work was done, and it talked about some other things about, you know, the importance of PPAs and how that would come into the financing. And it talked a little bit about the debt-service coverage ratios and I think at that point they were talking about 145 and we ended up with 140. So, you know, it was fairly good piece of work and I took comfort in it because it was prepared by our leads.

But the two guys that prepared it and signed the letter, one was David Dal Bello and the other was John Matovich, and they both respectively led the power and utility financing pieces of their respective banks, so they were the most senior power and utility guys in those banks. And ironically – I don't know if ironically, but about four or five years later John Matovich, who at this time was at Scotia, we ultimately engaged him as an additional financial advisor in 2011 after he had left Scotia and was in another – working for another company.

So that was that piece of work. So I came in, that was done, then I started immediately with that piece of work to try to, you know, have a number of meetings with Scotia and RBC to try to – I was trying to flesh out in my own mind what was sort of the (inaudible) possibility here; what were these big challenges we need to deal with. So we would've had a series of meetings through 2006 trying to work through some of those issues. I would've been documenting sort of my own thinking in terms of, here's an inventory of things we could do to finance the Lower Churchill. Some of them now as I look back at them might've been crazy ideas, but at

the time it was an inventory and I was trying to get that inventory as broad as I could. And that really went through 2006.

And towards the end of 2006 it was becoming apparent to me that we needed to engage our own financial advisor. So we put an RFP out in, I think it was the end of November 2006, for a financial advisor and we ran a competitive process through, I'd say, the early part of 2007. And in around April of 2007 we engaged PwC as our financial advisor. Through that process we would've spoke to probably – maybe had proposals from 10 or a dozen banks and firms like PwC, so it would've been a combination of banks and advisory firms. We interviewed, I think, five combinations of banks and firms and ended up with PwC.

And through that process, in the evaluation process, it would've been myself, Mark Bradbury was involved in that, I know Terry Paddon was on our team who was deputy of finance at the time, I think Rob Hull. So it was, you know, four or five of us went through that process. So that brought us through 2006 into 2007 and we've now had PwC engaged and they started work, I think, in around May of 2007.

So the other thing that happened – and, again, I'll sort of give it from my perspective, I think, because I was involved – in early 2007 – and you got to realize at this point we were looking at Gull Island. So Muskrat was, I think, probably the second piece that will likely come. Gull Island was clearly the focus and Gull was – if Gull was to happen, Gull was really – it either needed some combination of large, domestic, industrial customers or it needed some combination of export markets.

And one of the customers would've been Hydro, but Hydro was just going to be one of probably three or four anchors at that point. Gull was clearly too big for just Hydro; it needed some combination of other customers. So Ed had set up a process where we were – and I think he called them deal teams, and effectively he had teams of people looking at various options for power.

And he would've had one team that was looking at the Quebec route, and I think Gilbert would've been driving this. And at that point we



had a number of applications went into the Régie – or not into the Régie, ultimately to the Régie, but in the first instance went into Hydro-Québec transmission to try to get transmission through Quebec to Ontario and other markets. And they would've been for large amounts of power, you know, as much as the full output of Gull. So they were big, big transmission applications.

So Gilbert was driving that process. And in early 2007, Ed had approached me and said one of the other things they wanted to look at was aluminum. And the province had looked at aluminum, I think, in 2001, 2002 as an option and I think they ruled – and I think at that point they had some active discussion with Alcoa. And at that point they concluded that aluminum probably wasn't going to work.

And just to put aluminum into context, aluminum is attractive for a couple of reasons: One is that it's a huge user of electricity and –

**MS. O'BRIEN:** And we're talking about smelting aluminum, yeah.

**MR. STURGE:** Smelting, yeah, aluminum smelters. And aluminum smelters, the primary factor for where they locate is power. So they – it's not the raw material, because they'll move the raw material from wherever it is, the primary factor is location of power, so – which is why there's a large aluminum industry in Quebec and so on.

So since – so this was now 2007 so, you know, it had been five years since we looked at aluminum. And the reason we looked at it again is that in that intervening period a couple of things that happened is that the whole growth and explosion of China had happened and the pricing for aluminum on – because there was a market for aluminum – had risen substantially, so we thought those two factors were enough to have another look at aluminum to see if it was a good fit.

So we started off a discussion with, I think we had four of the large aluminum companies in the world, all names everyone would be familiar with and very clearly the leaders in that business. And I won't call it negotiations

because we were really in discussions to see did this make sense for them and us.

And what was happening at that point is that while a lot of aluminum smelters had been built in Quebec back in the early '70s and '80s, at that point the industry was really heavily focused on places like Iceland where they had a lot of stranded power, the Middle East, places like Oman where they had a lot of gas and they could generate electricity relatively cheaply –

**MS. O'BRIEN:** And when you say stranded power, you really mean there's a lot of electricity being generated there but you're not connected to a broader –

**MR. STURGE:** Can't get it to market.

**MS. O'BRIEN:** – grid, can't get it to market.

**MR. STURGE:** Yes, yeah or –

**MS. O'BRIEN:** Okay, so ...

**MR. STURGE:** – is certainly excess to needs. So, you know, we – I think we knew clearly that aluminum was very price sensitive. So while it was a huge input into their production, they were very price sensitive on the electricity.

So it could've been an option, but probably in combination with other customers. You'd still probably need some other anchors and this would be one anchor. In any case, we worked through that process through 2007, 2008 and it probably wasn't until mid-2009 that we finally concluded that aluminum probably wasn't going to work for us.

**MS. O'BRIEN:** And is – and that's – is that because ultimately that the cost that it was going to – if the cost it was – Nalcor's cost to produce the electricity was going to be higher than what the aluminum smelters were willing –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – to pay for it.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** So it didn't make financial sense.

**MR. STURGE:** Didn't make financial sense.

**MS. O'BRIEN:** They wanted really cheap power.

**MR. STURGE:** They wanted really cheap power and they would've been in, you know, the 3- to 3½-cent range. And, again, it all depended on where they're located, because as they're located closer to the source of generation you don't have transmission, so there's a lot of factors came into consideration.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But we did, I think, a pretty comprehensive piece of work on that. And as I described earlier, you know, we were systematically going through different markets and saying is there any cheese down in that hole? If not, let's move on. So I think we exhausted aluminum and we moved on.

But during that period – so I'm now back to 2007, so we were now back – so I'd started the aluminum, to finish that, we had PwC starting to do work, and they were – I think their work revolved around, I would call it two streams; one was a – working with us to get the financial models to a point that would ultimately be of the quality of financial models so that we could bring to the capital markets for financing, and they did a lot of good work around that.

And the second piece really was around strategy; it was around what would we need in PPAs, what would the regulatory regime need to look like, recoverability of cost, all of those types of things, and some were just probably 20, 30, 40 papers, individual papers that PwC have prepared on different topics. And through that process they would've been – and, again, I should say that the PwC team was based out of London, England, so that was their global energy practice and it was supplemented by folks from Montreal and Toronto, of which Tom Garner you met last week would've been one of those.

And they would've been doing all of that work; they would've been meeting with us probably at least once a month here in town. They would've been meeting with the province on different issues, so they were pretty active during 2007

and 2008. And I think we got, you know, a lot of really good work out of them at that point that ultimately ended up shaping, I think, how we did proceed.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But I think towards the end of 2008 it was becoming apparent to me that, you know – because as you say, financing the project, the key thing is what is the project you're financing? And I think we had done enough work from a financing perspective at the end of 2008 to know here are the things we ultimately need to do, we need to deal with regulatory, PPAs and so on. But I think in us – for us to advance the financing further, we now needed to clearly understand what the project was, who the customers were, what the markets were, and that affected a whole host of things.

So around – and, again, this goes to my next involvement. Around the end of 2008, I think early 2009, I – it was my first involvement in the Maritime route piece, which was sort of the next piece that Ed had given me to now look at to see if, you know, if there was any cheese down that hole, shall we say. And I started that work in early 2009. I know we had a kickoff with the Emera team in Churchill Falls, and I think through 2009 we were doing some work with Emera, we were modelling the Maritime Link and looking at those types of things.

Around mid-2009, I think, was an important point, because at this point we were now starting to embark on a three-way negotiation between Emera, New Brunswick Power and Nalcor. And these negotiations, maybe it's just – exploratory discussions are probably a better term, probably were happening sort of August, September, October 2009.

And the concept would've been a Maritime Link, and the Maritime Link at that point, I think it was quite a bit different Maritime Link, it was probably a 900-megawatt or a thousand-megawatt Maritime Link that would've brought pretty significant blocks of power and dropped them in New Brunswick and Nova Scotia. And that was sort of the concept that we're trying to explore.

And it may have been a different Maritime Link in that it may have went – you know, I’m trying to recall. It may have – because the Maritime Link ultimately ended in Cape Breton. I think at that point we may have been looking at options that brought the Maritime Link as a DC line, perhaps even through Nova Scotia and maybe to the New Brunswick border. So that discussion was taking place on a three-way basis.

And we were all exploring sort of what would be the win-win conditions for us, Emera, New Brunswick Power. And in October – and that was – we were having, I thought, pretty good discussions. In October 2009 New Brunswick announced a potential deal with Hydro-Québec. And in that deal, Hydro-Québec would acquire a significant portion of New Brunswick’s assets and, I think, would basically provide their future power growth and those types of things.

So at that point, we had to sort of reassess the whole Maritime Link thing because I think New Brunswick’s role in that and how they might fit was now becoming muddy. And we probably lost a little bit of steam, I would say through October, November. My recollection is probably just before Christmas 2009 I would be engaged with Emera; I think it was Dan Muldoon at the time was my contact. And we would’ve had a discussion around, you know, we need to come out and continue the discussion on a two-way basis to continue to see if this would continue to make sense.

**MS. O’BRIEN:** Okay, so when it became clear that New Brunswick Power and Hydro-Québec were in talks that really ended the three-way discussions. Is that fair to say?

**MR. STURGE:** You know, I think it introduced a level of uncertainty now as to whether New Brunswick was actually going to do the deal. And in any case, they totally didn’t, but it created a level of uncertainty that, you know, we just had to see if – we couldn’t assume New Brunswick anymore was going to be a part of it.

**MS. O’BRIEN:** Okay, so ultimately they did not do the deal with Hydro-Québec –

**MR. STURGE:** They didn’t do it.

**MS. O’BRIEN:** – but that sort of ended the three way, and so then you decided to – still worth pursuing with Nova Scotia with Emera.

**MR. STURGE:** We did, and so we would’ve had a number of sort of, early exploratory discussions with Emera for the first part of 2009. And that ended up – and we would’ve had discussions around what sort of work did Emera need to do to see if this was a fit with their needs. And that would’ve resulted in a – I think it was an MOU, we had it with Emera and it might be here somewhere.

**MS. O’BRIEN:** Yeah, P-00805. I’m sorry; I don’t have the tab number written here.

**MR. STURGE:** I’ll help you find it here somewhere.

**THE COMMISSIONER:** Tab 13.

**MR. STURGE:** Thirteen.

**MS. O’BRIEN:** Thank you, Commissioner.

It’s up on your screen as well.

**MR. STURGE:** So this would’ve been the outcome of, sort of the discussions that took place over maybe January, February, March 2009. And what we concluded with Emera is that in order for Emera to move this to the next level, they needed to do some studies. And effectively we entered into an MOU here; it was really an MOU to agree to do some joint studies. And the essence of the studies here were that – and I think Emera was leading the process, but we were heavily involved in it. The concept was that Emera would engage Ventyx – which, you’ve heard, is the –

**MS. O’BRIEN:** Yes, who makes the Strategist software.

**MR. STURGE:** – Strategist folks. And what – the concept is that we would each take our existing generation expansion plans at that point. So I think we took our 2009 plans – this was 2010; we took our 2009 plans and we said, here’s Nova Scotia Power’s plan, here’s Newfoundland Hydro’s plan. Ventyx would’ve taken those and put them together in one model, and try and effectively model what Nova Scotia

and Newfoundland looked like as a system. That was effectively the concept.

And then, as you see here, there were a number of scenarios that they were running. First of all, just put the systems together and no Lower Churchill, but just as the systems existed today and is there any value. And then, subsequently, overlay other pieces of Lower Churchill and so on to get to, you know, a comprehensive analysis of what the value of the Maritime Link could be to the parties.

And that work played through – this was the end of March we entered into this, and that work would've played through from April through to the summer, really, until 2009. And through that period, our system planning –

**THE COMMISSIONER:** 2010?

**MS. O'BRIEN:** 2010?

**MR. STURGE:** '10, sorry. Glad somebody is keeping me on the straight and narrow here.

Through 2010 – and our system planning teams, Paul Humphries and those folks, would've been working with Emera's teams – Bob Boutilier, I think that's the name – and these were the technical folks working with Ventyx to try to work through these scenarios.

And through that period, we wouldn't have had many other discussions because really, at that point, we needed to get some data, and that was taking place. And I recall sort of around the end of – and I think they had some – I think the process of bringing the system together was probably more complicated than they thought, in terms of trying to model it as one. So I don't know by the time the end of summer came they had actually got all those scenarios run. My recollection is they'd probably run Option 1, I think, which was just bringing the system together. That was my recollection at that point – Option 1 on page 3 of 00805.

And that was around the end of July, I think, we completed that, and this was now leading into, I think, probably a pretty important period because with those results in hand, the teams –

Am I going too long or ...?

**MS. O'BRIEN:** No, that's fine.

**MR. STURGE:** No, okay. Stop me if I am.

With those results in hand, the teams now came together in Halifax on Regatta Day 2010, and this would've been the full executive team. So it would've been myself and Ed and Gilbert and, you know, four or five others on the Nalcor side; folks from the – on the Emera side, on the Nova Scotia Power side. I think there were actually probably some folks from Bangor Hydro there at the time. So fairly large groups, and it was all the key decision-makers, so you would've had the CEOs on both sides here.

And that was an important period because that – in that meeting, I think, some of these results from this MOU were laid out and it was really the meeting that started to form the basis of what ultimately became the term sheet. And we worked through August and September and the whole concept had emerged. Because at this point, the concept that we had been discussing was maybe Nalcor would build the Maritime Link, maybe Emera, and at one point maybe New Brunswick Power would've had interests in it, or we may have had a three-way interest in it. But it probably would've been our asset, and we would've been, more or less, selling power to Nova Scotia under a PPA type of arrangement.

So the concept that had now emerged in this Regatta Day period and probably the subsequent few meetings was the concept of Emera actually owning the Maritime Link, building it and putting it in their rate base, and us providing them with the block – the one-terawatt hour to Nova Scotia – power block. So effectively, as Nova Scotia Power would've then looked at – or Emera, is that they were effectively buying a block of power from us – the one-terawatt hour block – and they were effectively paying us in kind by building this transmission line; that we would effectively get the transmission rights on and would ultimately own the line in 35 years.

So that was the deal that started to emerge, and that was taking place over the August period. I think by early September we had started – Nalcor had started to take the pen on drafting the term sheet – and I think I was actually the pen at that point – of trying to put the business deal, that we had agreed on, on paper.

**MS. O'BRIEN:** So the 80-20 principle –

**MR. STURGE:** The 80-20 principle –

**MS. O'BRIEN:** – this is when that came to light?

**MR. STURGE:** – that had been agreed through August.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And I should say, through that period we would've had a number of meetings. I know specifically we would've had a meeting with Premier Williams and Minister Dunderdale and a few others, in advance of commencing negotiations with Emera to get a line on, sort of, where we could go on this. And I recall after the first meeting we would've had another meeting, a same type meeting, with the premier and the minister and other officials. And that would've taken place quite a number of times through this period, to make sure we're aligned on the deal, because this is really where it came together, in this period, in terms of structure.

And in early September 2010, we started drafting the term sheet. And through that period we would've been sharing drafts – initially, internally more. And I know Robert Thompson and Charles – who were, I think, at that point Robert was the deputy of Natural Resources and Charles was the ADM – would've been involved in giving us feedback on it. It would've been circulated amongst our executive team. So, you know, we would've been getting a fair bit of input, at that point, on the deal. And at some point, probably mid-September, we would've then shared that with Emera.

**MS. O'BRIEN:** Okay, so where was Gull Island in all of this?

**MR. STURGE:** At this point – okay, I jumped ahead probably a bit there. Let me backtrack to 2009.

In 2009 – again, this is my recollection – it's in around October 2009, because at that point Gull Island was something I – we were doing not much at all on Gull Island at that point. It was really – if it was gonna be, it would be the second project after the big export project.

My recollection was around October 2009 – and a couple things were happening here that I think were important. One is that, I think, at that point we had got the initial – or we were getting some feedback that the applications through Quebec were probably not gonna go the way that we wanted. And I don't know if it was – if we had decisions or we were getting some feedback. But in any case, we had enough at that point to say that there was now – there was clearly becoming a risk of being able to get through Quebec and it's clearly put the Gull Island thing at risk. And don't forget, aluminum at this point now had – we had already dispensed with aluminum, so –

**MS. O'BRIEN:** So all the other business cases that you said, you know, the checking for cheese down the holes –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – none of them have panned out, you are now into – well, okay, if we can go through Quebec now we've got a business case for Gull Island –

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** – and so these applications before the Régie there, were very –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – critical to that. Is that a fair summary?

**MR. STURGE:** Yes, yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So with some risk around those applications – and with New Brunswick also now, I think, at that point was also now starting to look uncertain. It became clear that there was risk around Gull Island, so I think the decision was made that we needed to start looking at Muskrat as another alternative, because we still had to deal with the Island growth and the Holyrood issue.

So I recall in October 2009, I remember the project team had put together a presentation of, you know, the status of Muskrat at that point, the cost estimate and what they needed to do to

bring that up to a, you know, a level that we could sanction in – I think maybe at that point we're looking at probably a 2011 sanction, or something.

So I remember that discussion took place, and I remember somewhere around, I think, not too long after that, sometime in November there was another meeting that took place with the premier and probably the – I'm assuming the minister because most of those meetings would have been with the minister and premier where that concept was introduced, and not any decision made but just a decision that, yes, we would now start to try to move Muskrat forward as an option and keep two options alive during that period, which we did.

So, we went through 2000, the early part of 2010, so when we were doing the initial work with Emera around the MOU. We still weren't certain whether it was Gull or Muskrat and it wasn't 'til, I think, the Régie decision came out in April 2010 (inaudible).

**MS. O'BRIEN:** My note here is May –

**MR. STURGE:** May.

**MS. O'BRIEN:** – 2010, but it's –

**MR. STURGE:** Somewhere around there.

**MS. O'BRIEN:** We could confirm it.

**MR. STURGE:** Then it became obvious that Gull wasn't happening and the decision then pivoted to Muskrat, you know. So we now had at least some clarity on what the project would be.

**MS. O'BRIEN:** Okay.

So I'm just – before we – so that kinda brings us up to the term sheet time and the –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – switch now between, you know, Gull Island first to Muskrat first.

When that shift was made to go with Muskrat Falls first, was there also a shift in how you would have viewed the project from an

investment perspective; from a financing perspective?

**MR. STURGE:** Yeah, I think, it was because, you know, up 'til that point it was all about maximizing return in the market, and we recognized all along a piece of that still would've been that Hydro still had to make its least-cost decision that Lower Churchill was its least cost. But the big focus was on maximizing return.

**MS. O'BRIEN:** And that would be from the export because you had all –

**MR. STURGE:** From export.

**MS. O'BRIEN:** – this extra power to export. Yeah.

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And now it shifted slightly, you know, and I think it was a subtle shift and maybe you didn't even realize at the time it happened. But, effectively, now what we shifted from is that our primary focus now was making the least-cost decision for Hydro and then the secondary piece of that became how do we now make or maximize the return or – in the export market of the excess power. But the primary decision now had become least cost versus maximizing return in the export market.

So, I think, that was a subtle change that took place but, I think, an important one.

**MS. O'BRIEN:** Okay.

And so is it fair to say, you know, just to put that in perspective in terms of some of the other terms that we've heard here at the Inquiry, so when you're saying, you know, the focus here became, you know, least cost, and we're all aware that the legislative requirement is least cost and reliable power. So is it fair to say that this is why the CPW calculation that analysis, that form of analysis, became so important?

**MR. STURGE:** Right. It is.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And we would have always had that because even with the Gull scenario Hydro would've still had to justify that Gull would have been the least cost compared to the other alternative. So that still would have happened.

**MS. O'BRIEN:** For the domestic market –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – portion of it.

**MR. STURGE:** So it still would have happened. It's just that it now became probably the predominant activity around all of Lower Churchill versus being sort of just a piece of what Gull would have been. Right?

**MS. O'BRIEN:** Okay.

And so – and another way to put it, because we've also talked about internal rate of returns: IRR. So, when you're looking at exports you're really looking, I guess, to maximize you profit, maximize that rate of return.

**MR. STURGE:** Right.

**MS. O'BRIEN:** And then when you are looking at it from a utility decision, you're looking to minimize costs, keep it the least cost.

**MR. STURGE:** Right, so, –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – and once we decided what the lowest cost was then we still had a secondary decision though of, we still had to optimize the value of the extra power, so that was a secondary decision.

**MS. O'BRIEN:** Okay, thank you. That's very helpful.

I'm going to get you now to – maybe we'll go to the term sheet and sort of pickup, sort of, from the end of 2010 onwards.

**MR. STURGE:** Sure, okay.

**MS. O'BRIEN:** There's a couple of documents, and I know you're aware of both of them, Mr. Sturge, but I'm just going to draw them to your

attention in case you want to take a, you know, us to have to bring them up on the screen at anytime, but we've had two timelines entered into evidence so far.

**MR. STURGE:** Okay.

**MS. O'BRIEN:** One was one that was actually prepared by us here at the Commission.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** That's entered as Exhibit P-00005. And I know you're aware that we had some evidence from Tom Brockway already on the –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – Emera deals, in particular, which is a piece of evidence you're going to give us here this morning and he did a timeline –

**MR. STURGE:** Yeah

**MS. O'BRIEN:** – as well on those events.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And that's been entered as P-00523 and –

**MR. STURGE:** I got it pretty good in my head –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – so I'm probably fine.

**MS. O'BRIEN:** That's absolutely fine. So, okay.

So, if it's helpful hear now, I think I'll let you pick it up – there's a couple of exhibits here, when it's appropriate I'll bring up the term sheet, and I know you also asked PWC to do some further work at around this time.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So I'll bring up the exhibits as appropriate.

**MR. STURGE:** So you want me to talk to the PWC thing?

Yeah, okay.

**MS. O'BRIEN:** You can do it the way you think makes most sense.

**MR. STURGE:** So, through 2009 our focus really was on, we needed to understand what it is we're financing before we could now bring it to the next stage of finalizing a financing plan because, you know, it depended on the markets and the risk and customers, and it all influenced it.

So, you know, we did some work with PWC through 2009, early 2010, but it was sort of around mid-2010 we really heavily engaged again, when the deal was now becoming clearer. So we would have had PWC through the summer of 2010 do some work and that would have ultimately ended up, I think, in the DG2 support package.

And around that point, from a financing perspective, a couple of things had evolved is that over 2009 and 2010 we were having a lot of discussion with the province around equity, equity capability, how would we finance the project and what was sort of starting to evolve was this concept that I think the province was thinking they would have had probably – you know, we're actually doing oil deals, and I think the province was asking us to look at, you know, could we actually probably put more equity into the generation project.

So at that point we were – it was a concept we were talking about, we were calling it deep equity, but it was just to put a pretty significant equity block in the generating project

So when we went through DG2, the working assumption we had was that we were financing Labrador-Island Link 75-25, which is ultimately where we ended up, but on Muskrat, we were actually making the assumption of 100 per cent equity financing. And we knew that was, I think, a working assumption at the time, but it was a good assumption from two perspectives, I think.

One is that equity is higher cost than debt, so it, in some regards, penalized the project and the

second thing is that it forced us to have the discussion with the province around a higher level of equity and whether that was doable or not.

**MS. O'BRIEN:** And up until this point the levels of equity you'd been talking about were in the 2 to \$2.5 billion range.

**MR. STURGE:** Yeah. And we are now at DG2, I think, probably in the \$3 billion range of equity is what we were talking about.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So the other thing was starting to happen around this point in time as the Emera deal was starting to converge and the least-cost decision had been taken from a Hydro perspective, is we were now starting to look – turn our attention to financing.

And I recall in early September 2010, myself, Terry Paddon and Mark Bradbury, who at the time was our treasurer, corporate treasurer, went to Toronto and we met with the two lead banks, Scotia and RBC, at the time, and the three rating agencies. So it would've been DBRS, Moody's and Standard and Poor's. And what we, effectively – we weren't asking them for a formal reading, at that point, but what we were saying is here's what the deal is starting to look like, so we described what the least-cost decision was, we were starting to describe what the Emera thing could – was starting to evolve into. And we (inaudible) –

**MS. O'BRIEN:** And you were in September 2010?

**MR. STURGE:** September 2010.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** I think it was September 13 and 14, 2010.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And we had a, you know, a pretty good discussion with the banks and the rating agencies around finance-ability of the project from the province's perspective. And we would've got input from, you know, what was



doable from the province's perspective. And none of these things were without risk 'cause there was all caveats and, you know, some of the discussions at that point would have been, you know, it depended on how much of the province's equity would be – come from cash, how much was gonna be new debt. A whole host of other factors.

But I think we got enough comfort and, I think, you know, Terry was with us at that point, I think we all collectively would've got enough comfort that we were in a reasonable range that we could move forward and go through DG2. And that process is actually described in a fair bit of detail in the DG2 package, (inaudible).

**MS. O'BRIEN:** And just for a reference for you, Commissioner, the DG2 package has been entered as an Exhibit at P-00778 and I believe the discussion about the financing and PwC's involvement, in particular, is at page 22 of that exhibit.

**MR. STURGE:** Yes. And I think PWC had a separate report as well that flowed into that.

Continue?

**MS. O'BRIEN:** Yeah, you can – please continue.

**MR. STURGE:** So I'm gonna bring you back to the term sheet now. So we're in mid-September. We've now started to share versions of the term sheet with Emera, and they're starting to go through it, provide comments. We're starting meet on a fairly regular basis. And this would have happened through mid-September through, you know, mid-October, that we were continuing to share drafts and meet – and making really good progress at that point.

You know, we were starting – I mean, we still had a list of issues, which, for that type of negotiation, is not surprising – but we were starting to whittle the issues down and at least get a common understanding of what the issues were at that point that we had to talk about, and the deal was starting to come together.

Through this period – pretty certain we would have had other discussions with the province, and they would've been brought up to date, and

I know Robert and Charles would have been feeding into it at that point.

**MS. O'BRIEN:** Robert Thompson and Charles Bown?

**MR. STURGE:** And Charles Bown, sorry. Yes.

**MS. O'BRIEN:** Okay.

At around this time – so what – you know, you're saying that Terry Paddon was there. It's looking really at what the province can afford and, you know, what they'd be expected to put in here, and what types of numbers were you talking about?

**MR. STURGE:** We were – at that point, the equity was three billion, is what we were –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – looking at, at that point.

**MS. O'BRIEN:** And are you aware – and we'll maybe touch on this again a bit more later – but are you aware whether one of the – you might have heard at the Inquiry – (inaudible) we've been looking for sort of documents to show that what financial analysis was done by government. Are you aware whether there was any – you know, were you privy to any of that type of analysis at that time that government was doing?

**MR. STURGE:** I don't know if I was privy to the analysis, but I'll describe to you sort of – 'cause we had – we were having this discussion with the province around equity over a fairly long period of time, and I would say it started in 2007, and I know with PWC we would have had meetings – 'cause they would've been obviously trying to – as they carved out the strategy of what the province's capability was. And we would have had a number of meetings through 2007 and '08 with Terry Paddon and his folks.

I recall a period specifically, though, and I'm trying to think – the dates were – it was around the middle of 2009 and that we – now, this concept of deep equity was on the table, so our equity ask then was probably in the three to four billion, so we were trying to get the province to assess, you know, what was their capability to

do that type of equity, and if it wasn't there, then clearly we couldn't proceed with that type of level, but – and I know we were working through with Terry, and I think Bob Constantine, who was, I think, Terry's ADM on the debt side at that point, was actively involved in it. And I know through August, September, October, leading up 'til Christmas, 2009, I know the province was back and forth getting data from us. I think they were trying to develop their own models at that point.

And I recall that we hadn't at that point got any data or feedback. But I know, sort of – I remember having the discussion with Terry just before Christmas 2009. And the expectation is that, some point early in the new year, we'd get some feedback on that. And I don't know if we ever got it, but I can't say that doesn't mean that they don't have it, you know? (Inaudible.)

**MS. O'BRIEN:** Okay.

So you have no memory of getting any, but you think – around that period to look at. And you've given us two –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – names of people who may be able to shed more light on it.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Fair enough. Okay.

And then when you're looking at mid-2009, of course, the Régie decision had not yet come up then, so Gull Island was still at the table. Was this work that they were looking at under a Gull Island scenario, or was this deep equity into Muskrat Falls?

**MR. STURGE:** At that point I think we were still – 'cause I went back and reviewed this a couple weeks back, and I know we were talking about Gull early. And I know, early in 2010, we started to have some discussions with Terry and Bob about looking at some alternate scenarios, which might be a Muskrat lower equity-type scenario. And I know that was starting to happen. And then I know we had another meeting or two around – once we got the

decision that it was now clearly Muskrat – that we probably sort of re-engaged again.

So it was happening over probably an eight or nine month period that we were having this ongoing discussion around equity, right?

**MS. O'BRIEN:** Okay. That may help us locate documents, thank you.

Okay. You can continue on. I guess it might be a good time to go to the term sheet.

**MR. STURGE:** Sure.

**MS. O'BRIEN:** Does that make sense? P-00227 please.

And – actually, I don't – this is not in your binder before you, Mr. Sturge, I'm sorry, 'cause it was already entered as an exhibit –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – and I don't think they put it in the binder. But we can – it will come up on your screen here.

**MR. STURGE:** Is it in these common ones perhaps, or ...?

**MS. O'BRIEN:** It may be, and I'll ask if –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – one of our – if we can just get someone to confirm that.

**MR. STURGE:** Yup. That's it.

**MS. O'BRIEN:** Okay.

So the term sheet is here. And we can go anywhere in it you would like, but maybe you just want to give us a bit of a highlight on, you know, what were the key terms of the term sheet –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – from (inaudible) –

**MR. STURGE:** You want me just to finish – to close the loop on how we got to this point?

**MS. O'BRIEN:** Sure, absolutely.

**MR. STURGE:** Before I do it? 'Cause I think –

**MS. O'BRIEN:** Yes, I don't want to leave open loops.

**MR. STURGE:** – that's probably important. I'm not trying to –

**MS. O'BRIEN:** No, go ahead.

**MR. STURGE:** So around the middle – towards the end of October, we had brought the term sheet to a point where I think we knew the issues. The teams then went, got together in Halifax for about a 10 or 12-day period. And this would have been at this point now Ed and Chris Huskison on the Emera side. So all of the senior folks from both sides were together.

We would have worked through 12 days straight, I think, in Halifax, and day and night through weekends, and it was a heavy, concentrated focus, now, on bringing closure to the term sheet. We would've come back here, and then, for another 10 days, done the same process with all those folks at the table, and at this point we would've had legal counsel for both sides would've been at the table, and it was a heavily focused period of getting to this point.

So what you see here was the outcome of that, I think, on December – or November 16 or something like that ...

**MS. O'BRIEN:** November 18, I believe.

**MR. STURGE:** Yeah, it was probably signed on the 18th.

And so we went through a period, and there was a lot of discussion and, you know, a lot of issues, and I think every one of the items you'll see in here – we would've had significant discussion right through that period. And again, right through that period, I know Ed was – I know at several points in time Ed was keeping the province in the loop –

**MS. O'BRIEN:** Ed Martin.

**MR. STURGE:** – Ed Martin – I suspect he would've been – I don't know if he was

speaking to the premier daily, but he was speaking to him pretty frequently and getting alignment on key issues, and I know at one point – I think we were actually in Halifax, and I believe we had a conference call with Cabinet or a group of ministers – it was a conference call, so I can't quite recall – where we updated 'em, and I think before it got executed, Ed would've updated Cabinet again.

So through that period there was huge alignment on the term sheet.

**MS. O'BRIEN:** Okay. Thank you.

**MR. STURGE:** So would you like me to ...

**MS. O'BRIEN:** Yes. Now, we've already had – we don't need to go through – you know, we've gone through the term sheet and the Emera agreements in some detail with Mr. Brockway, so I don't need you to redo that piece of work, but I'd like you to highlight what were the key – we're gonna go to the conditions –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – precedent, I think, because that's gonna help –

**MR. STURGE:** Yes, yes.

**MS. O'BRIEN:** – tell the story of how you ultimately got to –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – close this deal.

So maybe if you could just kind of at a high level take us through the term sheet, what the key points were, and then, you know, which of the –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – conditions precedent that we're gonna be focusing on as you continue through your –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – testimony today.

**MR. STURGE:** So maybe I could just describe it simply, and maybe I can point out some of the areas in here which were probably the more significant points of discussion –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – as we went through.

So the deal effectively – and it's a complex looking deal, but effectively, it's relatively simple in that it's got two pieces. One is that Emera builds the Maritime Link. They own it, and they put it in rate base, and that cost is recovered from Nova Scotia customers. In return for doing that, they get a block of power from us, the Nova Scotia Block, the one-terawatt-hour block.

And so effectively what we were doing is we were effectively selling Emera a block of power, and they were paying us a price of 12.5 to 13 cents a kilowatt hour, is effectively what the deal was, and that's how it looked like from the Nova Scotia customer perspective. So that was that part of the deal.

And included in that part of the deal was we would get transmission rights on the Maritime Link, and we would get transmission rights through the Nova Scotia system. So they would operate their system in a fashion that would give us transmission rights through Nova Scotia to the New Brunswick border and we would ultimately get ownership of the Maritime Link in 35 years.

**MS. O'BRIEN:** Okay.

And it's fair to say that the Emera is – the regulated price there. So Emera would be getting a set rate of return that would've been built in to that regulated price.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** And that you're saying it worked out to about 12½ to 13 cents per kilowatt hour –

**MR. STURGE:** Somewhere in that range (inaudible).

**MS. O'BRIEN:** – that the Nova Scotia ratepayer would be paying for that electricity?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So that was what I would call the regulated part of the deal. Now then, the other – and the other really key piece for us as we went through this was to get transmission access. So what we were looking for is to get transmission through Nova Scotia, through New Brunswick and ultimately get us into Maine (inaudible) in the market.

**MS. O'BRIEN:** And sufficient transmission to – for all the surplus power. Was that the idea?

**MR. STURGE:** Yeah or as much as we could get, you know.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Because – but by and large that's effectively what we're trying to do. And so the regulated piece of it – piece of the deal got us from the province – from the Island of Newfoundland to Cape Breton, then the Nova Scotia power transmission rights got us through the New Brunswick border. So then we needed to get further. So then the second part of the deal, which was sort of the non-regulated part of the deal, is that Emera was going to give us transmission rights that they had in New Brunswick. You may have seen referred to it as the Bayside rights.

**MS. O'BRIEN:** Yes.

**MR. STURGE:** And they were a set of transmission rights that I think was about 260, 265 megawatts that they had acquired as part of when they purchased the Bayside plant, which I think they purchased from Irvings at some point previous to that.

So they had transmission rights that could get us to the New Brunswick-Maine border. They also had transmission rights which are referred to as the MEPCO transmission rights, which is into Maine – I can't remember the term, but it's transmission rights they had in Maine. So what they were effectively doing is creating a path for

us from Newfoundland through Nova Scotia through New Brunswick into Maine and that's what we wanted.

So that was the non-regulated part of the deal, the New Brunswick and the Maine stuff. And the other side part of that deal then is we were giving them an investment in the Labrador-Island Link. So in return for those transmission rights, they were given the right to invest in the Labrador-Island Link.

And that's effectively the deal. I mean, there's a lot of complexities to it, but it's really no more complicated than that. But from our perspective, the key piece was getting access to market. And that became important for really two perspectives – is that physically we actually wanted to get to the market, but even if we didn't get physically to the market, it established an important benchmark. Because let's assume we were trying to negotiate a block of – the sale of power in Nova Scotia or in New Brunswick, PEI, somewhere in the Maritimes. Why – having access to the New England market, it now established a benchmark.

So when we had a – when we would then have a discussion with New Brunswick, for example, we would say, well, our alternative rather than sell to you is now give in to Maine and sell it into the New England system at probably Mass Hub prices. So we'd now established an important benchmark that would become valuable in any – and it really established in the value of our power anywhere in the Maritimes. And so that's why getting to the markets was important. It was not just the physical access; it was even if we didn't take the market, the power was important.

**MS. O'BRIEN:** And when you're selling – when you're saying we get our power down and sell it at sort of the hub prices in New England, I take it that would be whatever that hub price was minus any transmission costs that Nalcor would've had to get it down there. Is that how it works?

**MR. STURGE:** That's correct, yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So the way it works is in this case we would pay transmission in Nova Scotia, we'd pay transmission and tariff in New Brunswick. We wouldn't pay a tariff in Maine because Maine is the target market so we wouldn't have a tariff there, but you would have tariffs to get there, yes –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – and losses.

**MS. O'BRIEN:** So you – losses.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So losses over the line – the longer ways you ship your power the more you lose. And, of course – and then every time you're passing through a jurisdiction, you have to pay –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – to go through that jurisdiction.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** That's what you mean by tariff?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But the other important piece happened in this discussion was that typically when you book a transmission tariff, you say I want – and I'll give you an example, our existing transmission tariff from Labrador through Quebec to Massena in Maine, a 265-megawatt booking, we book that for recall.

When we book that, we booked 265 megawatts and we pay for it 365 days a year whether we use it or not. So – and that's typically the way transmission bookings work. You say I want this amount of power, I want it from point A to point B and I make the commitment to pay for it. The difference in the Emera deal is that the arrangement we had there is that we only pay the tariff in New Brunswick and Nova Scotia if we use it.

So if we never – this is when we never bring power to New England, that we always find a market for it in Nova Scotia or New Brunswick, then we would never pay any transmission tariffs. Whereas on the Quebec piece, we're paying – there are times of the year we're paying for transmission through Quebec that we don't use.

**MS. O'BRIEN:** Can you give me a sense of how – you know, in dollars and cents, like, you know, what's – give us some numbers around that? So, like, how much are we paying for transmission rights for the recall block that we ultimately don't end up using?

**MR. STURGE:** Yeah, so that booking – again, the rate on that is regulated through the Hydro-Québec transmission, which is ultimately regulated by the Régie. But I think our annual costs for the 265 megawatts is \$21, \$22 million a year. So your effective cost of bringing power over that, it really depends how much you bring over. If you bring a lot, your unit cost is low; if you bring a little amount, then your unit cost is high.

**MS. O'BRIEN:** And how long have you been doing –

**THE COMMISSIONER:** Excuse me, Ms. O'Brien.

Excuse me, did you say it was 22 or –

**MR. STURGE:** Twenty-one or 22 million a year.

**THE COMMISSIONER:** Thank you.

**MS. O'BRIEN:** And then how much on – and I'm not expecting a precise number –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – here, Mr. Sturge, but how often are we using it? Like, how much – you know, how much of the year is that – are we not using it?

**MR. STURGE:** We would, in the case of the recall, we would be – and, again, the recall block is the power we don't use in Labrador. So if you think about that, then we have more to sell in the

summer when we don't need it in Labrador and less to sell in the winter.

So of the recall block at 300, my recollection is somewhere around 220 megawatts is available in the summer to export and, I believe, in the winter it could be as little as 80 megawatts because we're using it in Labrador. So there's periods of time throughout the year that we're not using that booking. But just the nature of transmission bookings is you can't say I want it for part of the year, you had to book it for the whole year.

**MS. O'BRIEN:** Okay, but in the case of the term sheet with Emera, you got it so that you only have to pay as you go.

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** Okay. All right, I'll let you finish now.

**MR. STURGE:** So that's the deal. So maybe I can sort of scroll through the term sheet and –

**MS. O'BRIEN:** Sure.

**MR. STURGE:** – highlight some.

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** I'll talk to some of the items that were probably more contentious items of discussion, maybe?

**MS. O'BRIEN:** Okay.

And if you give the page number on the red page numbers –

**MR. STURGE:** Sure.

**MS. O'BRIEN:** – that are at the top, then Madam Clerk can bring it up on the screen.

**MR. STURGE:** So one of the other things – and I don't have the page number here, I'll just talk to this one. One of the other things that – as in terms of items that became key discussion points, one was the term of our Nova Scotia Block, and as everyone knows, it ultimately became 35 years. And, I think, at the time, the original thinking is that could be as much as 45-

50 years. And if you sort of look at maybe the life of the Maritime Link, probably 50 years, maybe that could have been the life of the block of the power we sold to Nova Scotia.

And we were having, I think, initially some earlier discussions around probably a longer term and I think – and I think this probably came out of the – at the political level in terms of not wanting to have a deal that was too long. And I think there was clearly some thinking that we didn't want a deal here that was probably longer than the original Churchill Falls contract, which probably pushed us to the 35-year piece.

So, in doing that, what it forced us to do then is have a discussion with Emera around the terminal value of the asset. Because, effectively, now Emera was building Maritime Link at a 50-year life, but we were only providing power 35 years. So it – they are now building an asset that had still 15 years of life left.

So, we had this discussion with Emera of there's ways around all of those things, and the 35 years was no big deal. The way you'd deal with that is you'd say, you'd quantify the remaining value of that – the asset – the terminal value of the asset and we, effectively, then converted that terminal value into a block of power that we would give Emera over the first five years; a supplemental block.

**MS. O'BRIEN:** And that's the –

**MR. STURGE:** And that's –

**MS. O'BRIEN:** – supplemental block, yes.

**MR. STURGE:** – how evolved. But it – my recollection is that was – we could have went longer, we could have went shorter. But I think it was a political decision to have to deal shorter than the Churchill Falls (inaudible).

**MS. O'BRIEN:** And that's being driven by our government here in –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – Newfoundland and Labrador. So the premier of the day, or the minister of the day.

**MR. STURGE:** That would be my recollection.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And that's not necessarily to say that's good or bad, it's just that that's where it landed.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** The other item – so in terms of discussion items. The other one that became a big discussion was the Emera investment in the Labrador-Island Link because I think from the get-go that wasn't, probably, what we were thinking about.

And it became a discussion point. And it largely became a discussion point when we started looking at creating this transmission path through the Maritimes into New England.

And I think Emera's view was, you know – 'cause they were taking – and they are taking a, you know, risk in guaranteeing us pricing and access through there and giving us access to that.

So the balancing act was, we're giving you this and we're giving you – and we were pushing Emera hard to get certainty on those transmission pieces to Maine. We didn't want – you know, we wanted to get as much certainty as we could. So for them to give us certainty, they wanted something in return. And the something in return was an investment. And that ultimately ended up becoming the investment in the Labrador-Island Link.

And, I think, you know, initially that – we sort of put that discussion off. We didn't have that discussion initially. We wanted to sort of have the remainder of the deal firm up before we went back to the Labrador-Island Link and the additional investment discussion. But we ultimately did go there 'cause it was – we – I think we all concluded that it was a key piece to Emera moving forward.

And not only that, it did take a piece of investment away from us that we wouldn't have to finance anymore – the equity piece.

**MS. O'BRIEN:** And so we had to give Emera a rate of return – a return on that –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – investment, and so –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – that's something that we're locked into, giving them that return.

**MR. STURGE:** Absolutely.

And, you know, we did a – we had a fair bit of discussion around this at the time, 'cause we knew that there was puts and takes of having Emera own that piece versus us owning it.

From an equity perspective, I don't think we saw any different. Because if we owned it or Emera owned the piece were still going to get the same equity, return on the equity. So it wasn't gonna be any different. So Emera having the ownership of LIL, there's no difference on cost.

The only piece that probably, at the end of the day, may have some impact was that Emera's taxable, and the taxable piece got brought in. That's probably the only difference I could see in terms of a cost differential between the two.

**MS. O'BRIEN:** Okay. And just to bring that forward a bit though because we've had some discussions about, you know, rate mitigation, how rate mitigation would take effect. But we would – so while you're saying that the rate of return is built in – and we'll get to that a bit later – in both agreements, the difference would be the Government of Newfoundland and Labrador has some flexibility on what it's earning from its investment in Nalcor Energy, but we don't have that flexibility on the Nova Scotia investment?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** They wouldn't have that flexibility on that piece.

**MS. O'BRIEN:** Yeah, okay.

**MR. STURGE:** Now, the flip side is they didn't have to put that piece of equity either, so it's ...

**MS. O'BRIEN:** Sure, okay.

All right, please continue.

**MR. STURGE:** So we would have had a lot of discussion around that.

The other piece we would have had a lot of discussion around is firming up the transmission path. And I know a lot of work went into this. I know Paul Humphries was a key guy on our side on it because he was our transmission guy and he understood the market piece of this. And a lot of work went into ensuring we understood and a lot of clarity of what that transmission path was gonna look like because it wasn't as simple as we're building a line from Cape Breton to Maine and it's simple. It was a combination of operating the system in a certain (inaudible) Nova Scotia, New Brunswick and really stitching that together to give us that transmission. So a lot of work went into the transmission piece of it to get us there.

I'm jumping all over the place here now. Just let me just have a flip through here.

One of the other pieces related to that – and we had a strong need for certainty, and we pushed hard on the certainty piece. And one of our things we were trying to get certainty on was in New Brunswick and the Bayside transmission rights. We knew that – that was probably the most tangliest piece of what Emera was putting together for us. And I think we were comfortable what we had, but we pushed hard to get, what we used to refer to as, the backstop. And, effectively, what it describes – and it's here in the term sheet somewhere is if for some reason Emera no longer owned those transmission rights, for some reason can't get us through New Brunswick, they're effectively backstopping – they're effectively guaranteeing us the market price.

So, effectively, they – we end up with a commercial transaction that effectively gives us the same as we would get had we been able to get to Maine. So, it's another belts and suspenders type of backstop that Emera gave us, and there would've been a lot of discussion around that as well.

It's probably not doing justice to the three months of discussions we had here.



**MS. O'BRIEN:** That's okay, it's the highlights really what we want from you.

**MR. STURGE:** You know, they were some of the bigger issues that we were – we would've been talking a lot about.

**MS. O'BRIEN:** Okay.

So at this point, this is the term sheet between Emera and Nalcor Energy?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** So, I know you've described that government was on the phone in the background. There was, you know, Ed Martin was, you know, in touch with, you know, our government back here, but they weren't at the table. Is that fair to say?

**MR. STURGE:** They weren't at the table until we got to Halifax, and in Halifax, the way it sort of operated was we had about 10 people up there; seven or eight from Nalcor. At that point, Charles Bown, who I think was the ADM at that point, and Todd Stanley who was Justice – a lawyer in Justice – had joined us and they were part of our team.

So what was happening is we were settled away in an office, and the 10 of us would've been around a table. And at points during the day, we would've said we're going to meet with Emera on a particular topic, for example. And it would've been probably a smaller group that met with Emera, and on the same side, Emera probably would've had a smaller group. That smaller group tended to be – would've been always Ed, I would've been there typically, Gilbert was there sometimes, Paul Humphries might have been there. But it was sort of that smaller group, I don't recall Charles and Todd sort of in the direct negotiation with Emera.

And on the Emera side, it might have been Chris Huskilson and Dan Muldoon and Bob Hanf and that group, but it would've been a smaller group, but I'm sure they were doing the same things in reporting back to a larger group.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** We'd come back, we'd brief the bigger group, so I think everybody is still very engaged in what was happening.

**MS. O'BRIEN:** Okay, and at this point, we don't have the – the FLG isn't on the table, I understand that's going to come on sometime in the summer of 2011. Is that a good time –?

**MR. STURGE:** Yeah, so concurrent with us doing the term sheet, I think, but, I think, about that point in time, I think, Premier Williams had, I think, written maybe Minister MacKay, at the time, I think, and asking for a loan guarantee. But, I think, it really didn't involve them until early in 2011, I think, when Premier Dunderdale had discussions with Prime Minister Harper, I think, and that sort of –

**MS. O'BRIEN:** Okay, so –

**MR. STURGE:** – started the process.

**MS. O'BRIEN:** – starting the ideas –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – were starting to ferment in the background.

All right, and we're going to get back to it, but just to be clear, the term sheet had a number of conditions precedent, things – requirements that had to be met for the deal to close, ultimately.

**MR. STURGE:** Yeah, there were some here, yes, yeah.

**MS. O'BRIEN:** Okay. Oh, and, yes, and I suppose they're more important when I get to the federal loan guarantee. Okay.

Can we go to P-00040, please? And I understand this is a memorandum of agreement – August 19, 2011. And so this can maybe – will probably help frame your discussion, Mr. Sturge, on the –

**MR. STURGE:** What tab is this?

**MS. O'BRIEN:** I don't have it on –

**MR. STURGE:** Oh. I got it. Okay.

**MS. O'BRIEN:** – I'm sorry –

**MR. STURGE:** Yeah. I got it.

**MS. O'BRIEN:** – it's up here. It's a fairly short document.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And this is where we see Canada formally coming into play here –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – because we have an MOA between the Government of Canada, government of this province, Nova Scotia, and it's to support the Lower Churchill River hydroelectricity projects. So this is, I think, where we see the early roots of the FLG –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – so can you explain to us what was going on here?

**MR. STURGE:** So what had happened in early 2011 – to my understanding – there was a discussion between Premier Dunderdale and the prime minister, and that triggered a process where Canada said – at least they said they're willing to entertain looking at a loan guarantee.

And that was the key point, because up 'til that point we'd had – I remember being in meetings in December 2010 in Ottawa, and I know at that point Finance wasn't – they were lukewarm, shall I say – but I think Peter McKay's office, at the time, was a supporter of it. So somewhere during that two-month period, Canada clearly had warmed up to at least looking at the idea of a loan guarantee.

So we had been provided a list of questions that Canada wanted – and this was in February – so we went through a period of February, March, April, and effectively, Canada was in what I would call the due diligence process at this point.

And we were working strongly with Emera at this point, because this was not just a Nalcor thing. And we had, I think, two big meetings in Ottawa where we would've went up with – we would have rolled out the projects, how we see the financing playing out. They were asking

questions about cost recovery, the regulatory frameworks – all those things – how it was gonna be financed.

So we would have been providing – and you may have these documents, I'm sure you do somewhere – fairly comprehensive overviews of what this looked like. Now, at this point, we had now morphed from this 100 per cent equity on Muskrat to probably a 60-40 type thing, because if we were gonna get guaranteed debt, you know, we wanted to try to maximize the guaranteed debt we could get.

So this place – this took place over February, March, April 2011. My recollection is in – was either in – in April or May 2011, when the prime minister was in St. John's on a campaign stop – because it was a federal election taking place, here, which probably didn't hurt moving this along – the prime minister announced that they had obviously done their due diligence and they were willing to give Newfoundland and Nalcor and Emera a loan guarantee.

So that was in April, May. So then we quickly started to mobilize having discussions with Canada. Canada had identified a contact person in the, I think it was, in the prime minister's office or PCO, and we were working through with that person, and we were trying to move to process quickly, and you know, I think our vision is that we wanted to get a more detailed term sheet in the summer of 2011.

And we would have been working pretty close with the premier's office, with Natural Resources, Finance to try to move this along. And that brought us to August – early August 2011 – might have been Regatta Day, I don't know – seems to be a trend there.

We went to Ottawa, and – I think in Ottawa it would have been myself, Ed – Robert Thompson was there. Charles Bown was there, and I think Auburn was with – Auburn Warren. May have been one or two others, but it was that group. Emera would have had folks here. I think Nancy Tower and others, and there was folks there from the Government of Nova Scotia, actually, at that point, and I think – I'm trying to think if there was anyone on the political side in the province, I can't recall.

But in any case, we had a day or two with Ottawa – in Ottawa. This was the outcome. And it was, you know, as you see in this document, it was a fairly –

**MS. O'BRIEN:** Not long.

**MR. STURGE:** – high-level principles document. We were hoping to get more detailed at this point. I think this was as far as Canada would go, and at this point, I think it was important to note that –

**MS. O'BRIEN:** (Inaudible.)

**MR. STURGE:** – Canada still hadn't engaged a financial adviser; they hadn't engaged legal counsel. So I think, from their perspective, this is as much as they would do at that point.

**MS. O'BRIEN:** So it's a fairly short, brief document. It is essentially a two-page document –

**MR. STURGE:** Yup.

**MS. O'BRIEN:** – but there's some key –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – you know, three – I think three key points that come out –

**MR. STURGE:** Yup.

**MS. O'BRIEN:** – of that document. So can you just highlight –?

**MR. STURGE:** Yeah, so just – could you just scroll to the top of the document, I think – yeah, right here.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So I think this would probably – you know, probably the most important thing that came out of this is Canada set three criteria for the loan guarantee. And you'll see in there in the second paragraph of this page, said: "The Government of Canada confirms the projects collectively" – and the word collectively became – would become very important on this – "collectively have national and regional significance" – so that was now pointing to the –

collectively, the projects as a regional thing, not just individually, have "economic and financial merit" – and I'll come back to that one – "and will significantly reduce greenhouse gas emissions."

So there was three key criteria Canada had set, and while they look benign there, they would ultimately shape how the next 18 months would play out on this from here on in. And – you know, and it also sort of described the guarantee, but at that point, it was pretty high level. There was a lot of work yet to be done before we could finalize the guarantee.

**MS. O'BRIEN:** The next document that I have on the timeline as being a significant one is the commitment letter in October 2011, so is it maybe a good time to bring that one up? It's at tab 28 of your book, Mr. Sturge, P-00868.

**MR. STURGE:** Yeah –

**MS. O'BRIEN:** So now you have this memorandum of agreement, so it's pretty loose, but some key principles coming out of there.

And then we get – this has been – we've discussed it at some length already, probably more to come on this in terms of our evidence, but this is the commitment letter.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So can you tell us, you know, what was this letter, what was its significance to Nalcor, why did you need it?

**MR. STURGE:** This would ultimately become, I think, probably one of the most important documents of the whole period, really.

And what it was doing is – we were doing two things here, and this was October 2011, so it was now three months, four months after we had – three months after we had the MOU with Canada – MOA with Canada – and two things were now starting. So Canada was now starting to ask questions about, you know, cost recoverability. They were asking questions about equity, where is it gonna come from and those types of things.

And concurrent with that, we were now getting ready to go to the rating agencies, and if you recall back in the MOA, those three little criteria, one of those was it had to have economic and financial merit.

So the way we were demonstrating that to Canada is we were gonna go off and get credit ratings without a federal loan guarantee. So our plan was to go to the three rating agencies, say here's the project, but it's without a loan guarantee, so it would have to stand totally on its own, and get that rated, and if we got investment grade ratings at that point, that would be our ability to demonstrate to Canada the projects had economic and financial merit. So we were preparing for that process in November of 2011, and we were trying to satisfy Canada's needs as well.

So I would say around April 2011, this process that led to this P-00868 commitment letter kicked off, and – 'cause it would've kicked off originally as we started going through Canada's due diligence process. And Jim Meaney, on our side, led this one and had the pen on it, and – but Jim would've been working closely with the province on this.

I know Todd Stanley was heavily involved in this one. Finance was involved. Natural Resources was involved, 'cause this one was starting to cross over all of those pieces, and so it would've been heavy government interface on this one.

And this played through – right through the summer, and I recall, specifically, it was sort of at the very end of the summer that there was a set of Cabinet papers, and – 'cause there was a companion document to this one.

This is the commitment letter, which really deals with the province's equity commitment and the regulatory framework. There was another companion document that (inaudible) worked at the same time called the memorandum of principles. We used to call it the MOP. We had acronyms for pretty well everything. But it was effectively looking at what the terms of the PPAs and the commercial agreements with – between the project and Hydro would look like.

So both of those were working through the system at the same time and I recall this – we would have met with – I remember briefing Minister Skinner – I think, yes – at the time, at the end of August 2011, in advance of these going to Cabinet because I think he had two Cabinet papers at the time.

They went to Cabinet and I remember I was invited to go and I remember sitting outside the Cabinet room in case I was needed and I wasn't needed after. And the Minister brought these through – two papers for Cabinet and they were approved in early September and, ultimately, then that led to prime minister – or prime minister – Premier Dunderdale executing the commitment letter in October of 2011.

**MS. O'BRIEN:** Okay. And why did you need the commitment letter? What was –?

**MR. STURGE:** So we were now getting ready to go to the rating agencies in November 2011 to get the non-guaranteed ratings and this was a critical piece. In our view, we couldn't go and get the ratings without this, we just would have had – because, really, we wouldn't have been able to categorically answer how's the cost recovery going to work and where's the equity going to come from? We needed – so the strength of this letter was really powerful for rating agencies.

**MS. O'BRIEN:** Okay and just to just get some clarity about when you're going to the rating agencies – and I understand at this time you went to three of the big rating agencies. Who were the ones you went to?

**MR. STURGE:** We would have went through the three primary ones: Standard & Poor's, S&P

–

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** – DBRS and Moody's.

**MS. O'BRIEN:** Okay.

And at this point you're trying to get an investment grade rating. And I just want to clarify that this – what you were getting here is sometimes called a shadow rating. Is that another –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – or used another word, I think, just there a moment ago for it.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But the idea being that they don't actually issue you the rating, it doesn't get issued. But they look at your project, they do the analysis and they say, look, assuming A, B and C, this is the rating we would give you. So it doesn't get to be –

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** – a formal rating.

**MR. STURGE:** They put it through the exact same internal process of – that they would a regular rating. They go to their credit committee, their ratings committee and the only difference really from their perspective is that one becomes a public issue, a rating that gets issued, and the other's a private rating.

**MS. O'BRIEN:** And when they issue one of these shadow ratings you're not allowed to make that public I take it.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

And – but it was important, I know you said, to have them be investment grade. Can you explain to us what does that mean, investment grade, to you?

**MR. STURGE:** Yeah, so if you look at the – and each of the agencies has a slightly different categorization but, you know, as you get down into the BBB level is where investment grade kicks in, and then you start getting into BBB+, A-, A, A+, AA-, AA+ and it goes right up to AAA –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – which is – would be very huge. In this case, Canada would have AAA.

**MS. O'BRIEN:** Right, okay, so you basically wanted something from sort of the BBB above, more or less.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Fair to say? Okay.

And now, a couple of things I just want to make sure. So we don't – we won't know what the actual rating you got, but I understand it was ultimately a – it was an investment grade rating.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

And I just want to bring up – it's at tab 15 of your book, it's P-00264. And I just want to confirm – I'm not going through this in detail, but it may be of some interest to people. But this – it's a fairly lengthy document where you got a, you know, a large package here, this runs to 234 pages. Sorry, I don't – sorry, I'm at 264. Oh, I've got the wrong – okay, what do I have?

**MR. STURGE:** P-00264 is the rating agency presentation, yeah.

**MS. O'BRIEN:** Yes, and I –

**MR. LEARMONTH:** Tab 15, yes?

**MS. O'BRIEN:** Yeah, but that's not what's on the screen, is it?

**MR. STURGE:** No.

**MS. O'BRIEN:** No, it's not what's on the screen, so we have a problem here with how that document – I have it in my book as P-00264, tab 15 of your book. So we'll just get that straightened out, but this is a – it's entitled: Lower Churchill Phase 1: Indicative Rating Presentation, November 2011.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I understand, Mr. Sturge, once we get it up or you can look at it, that you can confirm this is what –

**MR. STURGE:** I got it here.

**MS. O'BRIEN:** – you would've gone and presented. This is what you would've presented to the rating agencies?

**MR. STURGE:** It is, yes. Yeah.

**THE COMMISSIONER:** What tab is that in?

**MR. STURGE:** In my book it's 15.

**MS. O'BRIEN:** Yes.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** It just seems to be the electronic version. There's a – we've got an issue there.

Okay, and at this point – and, again, I'm not going to go through it. You know, the presentation is there, it speaks for itself, it's fairly detailed. Would this have been based on the Decision Gate 2 numbers, the estimates for the project?

**MR. STURGE:** At this point, we were at Decision Gate 2 numbers, yes.

**MS. O'BRIEN:** Okay.

Okay, so maybe can you continue on then? So you went through this exercise with Moody's, S&P, and DBRS. What's the next significant period of time?

**MR. STURGE:** Yeah, so we went through this process – and I should say, in this process that we had a lot of people involved in this. And I think actually at the meetings, Terry Paddon and Charles Bown were both in – participated in the meetings and actually would've been able to speak to two important things: one is the province's commitment, and the second one is the equity – how the province would deal with equity. So that was an important piece.

**MS. O'BRIEN:** Any discussion of what the – you know, how much equity, how much investment we were going to be seeking from the province at this time?

**MR. STURGE:** At this point I think we were in the 2-billion range. Just let me – I can quickly find it. Because we've now put some debt on

Muskrat, so the 3 billion that we had at DG2 had now moderated down slightly.

**MS. O'BRIEN:** And the hope would be that that debt would eventually be covered by the federal loan guarantee?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** We'll find it. I know it's here somewhere.

**MS. O'BRIEN:** Well, we're coming up to the break, and the – so maybe over the break, Mr. Sturge, I'll ask you if you can –

**MR. STURGE:** Yeah, it's the Sources and Uses on page 210.

**MS. O'BRIEN:** 210?

Yes, okay, I certainly have it up here. I'm sure they'll get it up on the monitor when they can. But the document is here, page 210. And so, which number would we be looking at on this?

**MR. STURGE:** So there was about – it was about 2 billion equity there in total, between the equity invested before financial close, the equity post-financial close –

**MS. O'BRIEN:** I see. So –

**UNIDENTIFIED MALE SPEAKER:** I'm sorry, is this exhibit up now, or is it (inaudible)?

**MS. O'BRIEN:** I don't know, they're –

**THE COMMISSIONER:** No, it's not up (inaudible).

**MS. O'BRIEN:** Okay, well, you know what, Mr. Sturge, why don't – we're just about, Commissioner, at 11 – we're just past 11, it's not a bad time to take the break anyway.

**THE COMMISSIONER:** All right, so let's get that fixed and we'll take our break, 10 minutes.

**MS. O'BRIEN:** Thank you.

**CLERK:** All rise.

Recess

**CLERK:** All rise.

Please be seated.

**THE COMMISSIONER:** Okay.

Ms. O'Brien.

**MS. O'BRIEN:** Thank you.

Mr. Sturge, could you please activate your mic by pressing the button there, please? Thank you.

Can we please bring up – now, we have a new Exhibit that's been entered. Madam Clerk – yes, I believe you have it up there on the – and it is page –

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** – page 2 – I want page 63 of that Exhibit. Sorry, I thought I just had that organized.

It's slide 63. So go to the next slide, please. There we go. Here's the table that you were speaking about, Mr. Sturge, before we broke.

**MR. STURGE:** I think my screen's gone blank for some reason. I don't know.

**MS. O'BRIEN:** Well, that won't do.

**THE COMMISSIONER:** So somebody will be in very shortly, I suspect, to assist you with that, but in the meantime you have –

**MR. STURGE:** I can push a button, but that's always dangerous.

**THE COMMISSIONER:** You have the exhibit in your –

**MR. STURGE:** Oh, I have it here anyway. Okay, yeah.

**MS. O'BRIEN:** Okay, (inaudible).

**MR. STURGE:** Okay, yeah, yeah.

**THE COMMISSIONER:** So we can just keep going, and we'll have somebody look at your –

**MR. STURGE:** Yeah.

**THE COMMISSIONER:** – screen there.

**MS. O'BRIEN:** Okay.

So if you can please pick up what you were talking about here? We were talking about the equity investment needed by our government.

**MR. STURGE:** Yeah.

So the total equity here, if you roll it all together, was about a \$2-billion investment. So that would've been less than we had talked about when we actually sanctioned the project in November of 2010 where we were around 3 billion.

**MS. O'BRIEN:** Okay. And I'm just gonna ask if they could, please, bring this up for the public on the webcast there. I can see it's not up; if they could bring up this Exhibit.

And when you're talking about the numbers here, you're looking at – under these two, on this table –

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MS. O'BRIEN:** Sorry, I'll just wait because I think we've got –

**MR. STURGE:** That's okay, I can go with the paper.

**MS. O'BRIEN:** Yes. I was just going to – for the benefit of people who may be watching it on the webcast.

Sorry, can you bring up the Exhibit when you go in, please?

So in this table – that will come up now in just a moment – but we see equity invested before financial close, equity post-financial close. It's broken up – here it is – it's broken up between the three different components, but we see the totals here, it's 1.3 billion and then another 619 million.

**MR. STURGE:** That's correct, yeah.

**MS. O'BRIEN:** So that's coming in at just under \$2 billion.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay. And if – just to give us a little bit more explanation, Mr. Sturge, we're talking about debt, we're talking about equity. So when we're talking about it with respect to the Lower Churchill Project –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – debt would be money that Nalcor was gonna be borrowing. And in this time, it was envisioned that that would be guaranteed by the federal loan guarantee. So Nalcor would go out in the market, borrow money – Nalcor's debt – and that would fund the debt part.

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** And the equity piece would be coming from, essentially, the Government of Newfoundland and Labrador.

**MR. STURGE:** Effectively, yes. Even though with the Emera piece of it there is a piece of equity that comes in from Emera as well.

**MS. O'BRIEN:** Okay, so – but when we are talking about this province's part –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – of the equity; that would be money coming from our government?

**MR. STURGE:** By and large, yes.

**MS. O'BRIEN:** Now, is that money that the government would be borrowing too or is that money they have in their, you know, they would have in the coffers? How does that work?

**MR. STURGE:** Well, that's – I think that's probably an important piece of discussion because as we met with – and my screen is still not working by the way, but I can work with the paper.

But as we worked through this with the rating agencies – I mean, the key thing they're

interested in is two pieces: What's the overall level of equity? And then they also ask the question: Where's the equity coming from? And they seem to have – make a very big distinction between if it's coming from cash, that the province might have, or if it's new debt that the province may have to borrow.

And I may not be the best one to speak to the province's situation on that. But I do recall a discussion that – like, early on there was this discussion that the province had about 2 billion of cash and the thinking is that that cash would be part of what would go towards their equity contribution. I seem to recall that as time passed that might not have been the case anymore, but the province would be definitely the best to speak to that I –

**MS. O'BRIEN:** Okay, thank you.

But the point here, then, that I want to make sure that everyone is clear on, when we're talking about this equity, it could still be money that our province is having to borrow?

**MR. STURGE:** Very, very possibly, yeah.

**MS. O'BRIEN:** Okay.

And, of course, obviously then that could affect the province's credit rating and those things – how they're financing the project. Okay.

Thank you.

All right, in my timeline then we're back up – I had the next – was during the summer of 2012. So this would be you, I think, you were involved in negotiations in Ottawa around that time.

**MR. STURGE:** That's correct, yeah.

**MS. O'BRIEN:** So can you tell us what was happening then, please?

**MR. STURGE:** So we – just to frame that up a little bit. So we now had the MOA from August of 2011. We've now gone through the credit ratings, this thing we just looked at, in November of 2011. We have the ratings between November and December of 2011 – that's taken place. Canada has now engaged the financial



adviser; that happened in October 2011. And we're now into 2012.

So through 2012 the activity ramped up pretty considerably on the term sheet and on the loan guarantee. And through the early part of 2012 we would've been meeting with Canada and having discussions around the nature of the guarantee; what it is we needed to ensure we got the AAA credit rating, and those types of discussions.

I know Canada went through a period of – they were waiting to get, I think, a Cabinet mandate to negotiate in – to be able to negotiate with us sort of what their parameters were, and I recall they got that around the end of May 2012. And that then led to them giving us – kicking off the process – the formal negotiations – in June of 2012. And there were two documents they gave us at a meeting in Ottawa. One was sort of a set of principles around the guarantee, and the second was a, I think, the first draft of the term sheet itself. And that started the process, and that was mid-June 2012.

**MS. O'BRIEN:** And I know we have a memo here that you wrote in August 30, 2012, that goes through some of these key focus areas, and I'm going to ask to bring that up. It's Exhibit P-00811, tab 21 of your book, Mr. Sturge, and it sets out – you can just maybe give us a little – there's a covering email on the first page, and it's an email from you to Ed Martin re Premier Briefing Note. And you can just explain why you did it, but then, if you can maybe use this document to talk about some of the key areas that were coming out the federal loan guarantee negotiations.

**MR. STURGE:** Yeah. I seem to recall that Minister Dunderdale was going to meet with Minister Flaherty, who was Finance Minister, and –

**MS. O'BRIEN:** Of Canada?

**MR. STURGE:** – I guess thought this would come up in discussion and wanted a briefing.

So what I would have done here is this is a summary of – really of all the key issues we had and where we were at that point in time. And this was August 30, so one of the key things that

just happened is that the DG3 capital costs had just been rolled out to Canada. And this took place, maybe, the third week of August, so when I wrote this on August 30, this was pretty fresh. Yeah, and I actually refer to it there.

So up 'til – and we'd been meeting with Canada right through the summer and all through 2012, but the discussion was all around DG2. So DG2 had influenced the level of debt that Canada would have to guarantee. So now when – with the benefit of DG3 capital costs, which had increased by a billion, too, at the facilities cost level, that would ultimately mean that Canada would now guarantee a larger debt number.

So this – the capital costs got rolled out to Canada, and at this point, we'd been meeting with Canada every week in Ottawa from – right from June, July, August, so we'd been pretty actively involved. At this point sort of two things – it was an important juncture 'cause I think two things had happened.

One is that Canada now said in order for us to move forward we need to now get satisfied with the DG3 capital costs, so that was one stream, and the second stream is that they were now sending us back to the rating agencies with DG3 capital cost, so our focus then became now we had to get ready for rating agencies again. Canada's focus now became getting satisfied with the capital costs.

And the other thing that happened – important – really concurrent with this whole point – is that the independent engineer had just been appointed. I think it was August 28, is my recollection of when we appointed the independent engineer. And so the independent engineer was fresh.

So all this discussion was taking place with Canada, and it was happening at, you know, fairly high levels as well as to – how is Canada gonna get happy? And were are they gonna get the independent engineer to jump in and do a piece of work, were they gonna rely on MHI, were their financial advisors gonna do a piece, so that whole discussion was taking place, and at this point I wrote this – clearly that hadn't yet played out.

I should move closer to the mic.

So in terms of the issues at this point – capital costs I talked about – there was still – I mean, we were still, you know, in some of these places – miles apart on different issues at the end of August. And some of those were the term – the term of the guarantee, and at this point, you see here, Canada's position was a five year (inaudible) construction and 20 years post-construction. And we were looking for up to 50 years, and I'll come back to that piece.

But where we ended up, ultimately, on this is – on both pieces – five years for construction, and then, in the case of Muskrat, 30 years post-construction, and in the case of LIL, 35 years post-construction, is where we ended up.

**MS. O'BRIEN:** So you were just reading from page 3 of this document –

**MR. STURGE:** Page – I'm sorry –

**MS. O'BRIEN:** Yes.

**MR. STURGE:** Page 3, yes.

**MS. O'BRIEN:** Yeah. And item 2 there. Okay.

**MR. STURGE:** And – so that was an ongoing discussion. The FLG implementation was still an ongoing discussion, because, you know, things like the amount of the guarantee, the length of the guarantee, were all important, but another really important piece was the form of the guarantee and the structure as to how it came together, and at that point, I think, we had some, I think, a straw man developed of what this needed to look like, and I don't think Canada, at this point, still hadn't engaged legal counsel. So they weren't ready to move forward on that.

**MS. O'BRIEN:** Did you just use the word straw man?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

Can you – I've noted that people in Nalcor have a different definition of straw man than some of us might be –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – used to.

**MR. STURGE:** Okay.

**MS. O'BRIEN:** So can you – from your Nalcor perspective –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – when you say a straw man developed, what do you mean?

**MR. STURGE:** So we had – at that point, our finance and legal counsel was Fasken Martineau, and they had developed a structure of what they thought we needed – how the guarantee needed to be structured in terms of moving forward, and ultimately, what they had designed at that point is where we ended up, but at that point, Canada hadn't had a chance to review it; they hadn't had legal counsel, so it was our review at the time.

**MS. O'BRIEN:** So it's an early draft?

**MR. STURGE:** It was an early draft, but –

**MS. O'BRIEN:** And when you say straw man, you mean an early draft?

**MR. STURGE:** Yep, yeah.

**MS. O'BRIEN:** Okay. Thank you.

**MR. STURGE:** Maybe it wasn't the right term.

So then the next issue – and there was a lot of discussion around this one – was debt-service-coverage ratio. And this was a critical number because it was the number that a lot of things were triggered off of, right?

So first of all, the project had to have enough cash flow above and beyond its debt-servicing costs to produce a debt-service-coverage ratio of 1.4 times. So that was, you know – and as we saw earlier in the 2006 Scotia document, the discussion there was around a debt-service-coverage ratio of 1.45 times. So the 1.4, in that sense, wasn't, you know, out of whack. I think what was different is that Canada was saying is that if you didn't meet 1.4 times, it was event of default.

And our – and right from the get-go on this, the whole discussion with Canada – and, really, it was actually their principle – is that we're – even though we had a federal guarantee, we were gonna structure the entire deal as a commercial deal.

So if without a guarantee we could get 65 per cent debt in the market, just because we had a federal guarantee, we wouldn't now go out and get 95 per cent debt. It still had to resemble what a commercial deal would look like. And that became an important principle that we both used from time to time.

In this particular case, our view was that the market deal would be that, you know, 1.4 times might be a point where you'd have some form of discussion, but in terms of being a trigger of event of default, it would be a much lower debt-service coverage ratio.

**MS. O'BRIEN:** And I think –

**MR. STURGE:** So that's where we were.

**MS. O'BRIEN:** – you eventually got it down to 1.2 or something?

**MR. STURGE:** We did, yeah.

**MS. O'BRIEN:** Yeah. Okay.

**MR. STURGE:** We were continuing to have discussions around additional debt, because we wanted to keep total flexibility, above and beyond debt that was guaranteed – that if we needed to do some additional borrowing through the project, maybe to fund capital cost overruns, should they arise, we wanted that flexibility. So that discussion was playing out.

The discussion around debt-equity ratios was playing out. And at this point we were, I think, 75-25 on LIL, and I think we were all pretty well agreed on that. Our DG2 estimate that we had been working with them on was 60-40 debt-equity on Muskrat LTA.

But I think our modelling was starting to show that we could probably support 65-38. And so we weren't aligned –

**MS. O'BRIEN:** Sixty-five –

**MR. STURGE:** – with them –

**MS. O'BRIEN:** – 35.

**MR. STURGE:** Sixty-five-35. (Inaudible.) And I'm the accountant.

And we also made – did get there on that.

**MS. O'BRIEN:** Mmm.

**MR. STURGE:** Financing plan – it was – (inaudible) just keeping flexibility.

Confirmation of the credit rating – so I just talked about that when – we were about to embark on another credit rating process with DG3 data.

We had a lot of discussions around cross defaults and those things, and at one point, I think that Canada's view was that our projects were cross defaulted with the Maritime Link, even. And I think, at this point, we've got them off that and now they were talking about cross-defaults between LIL and Muskrat and those types of things, which I think we ended up landing there.

There was discussion at one point – the point 10 here on debt drawdown. There was a discussion at one point that Canada was saying they wanted all the equity funded up front before we drew any debt down. And, again, we anchored back to the market principle. That wasn't market. Market was more to – you fund with equity until financial close, and then at financial close you fund with debt for a period until you get to your ratio, and then you fund debt and equity sort of proportionally until –

**MS. O'BRIEN:** And that's ultimately what happened, right?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** Yeah and in our case we did that. But then at the end, once the debt ran out, then it became all equity from a cost overrun perspective.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** The independent engineer really wasn't a big issue.

So that's sort of – you know, that was a good snapshot of where we were at that point. But the other issue I will go to though – because I think it is an important one, I'm sure we'll come back to it – is number 14 –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – this Maritime Link sanctioning delinking. So this was a key issue right through. And Canada's view was that, you know, our ability to draw the debt was clearly linked to Emera's financial close. And if Emera didn't move forward, we couldn't get the guarantee. So, to that sense, the projects got linked. And if you go back to this wording in the MOA, this collectively of regional significance, that's – I think that's how it manifested itself really.

But as you'll see here, my note was: This is under discussion; it wasn't being discussed at the table. So the negotiators from Canada were saying we have no mandate to discuss this. If it was going to be discussed, it would be at some other level, another table.

**MS. O'BRIEN:** Okay and that does come back to be important –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – I know.

Okay, so the next step – I know, you're going back to the credit-rating agencies, and I think you did that in October 2012?

**MR. STURGE:** Yes, we did.

**MS. O'BRIEN:** And if we could just bring up just quickly P-00854, tab 26, Mr. Sturge.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And, again, this is another extensive slide deck, similar to what we looked at just after the break. But this is – can you identify this as the presentation that you would have gone and presented to the rating agencies in October 2012?

**MR. STURGE:** It is, yes.

**MS. O'BRIEN:** Okay.

And just in terms of who prepared this, so would this have been – you know, would you have prepared all 118 slides or whatever it is or would this have been a collaborative effort within Nalcor? Would other people have been involved? How did it come together?

**MR. STURGE:** Yeah, how we handled both of these – and we put a lot of work into these because, obviously, they were – the outcome was really extremely important. So what we did in both these cases, we would've – I would say for a period of three or four weeks we would have locked ourselves away, probably in McInnes Cooper's office, actually and with a team. And we would have continuously worked drafts. And, you know, so we were working this through and we would have had most of the people on page 2 in the room when we were doing that and others as well. And you see the list of people there.

**MS. O'BRIEN:** Yeah. We're going to bring up page 2 there, yeah.

**MR. STURGE:** And –

**MS. O'BRIEN:** So we see a lot of familiar names here of course, yeah.

**MR. STURGE:** And we would have had folks from the province embedded with us there. Our own team, the project execution team, would have been there for periods because large chunks of this would have been their pieces of work. Our financial advisors, both PwC and Jon Matovich, would have been there. Our legal counsel, Faskens, would've been at the table and, I think, McInnes Cooper for some periods as well.

So there would have been a large group and we would have been working this constantly. We would have been doing dry runs and then we'd fine tune after the dry run. We'd send people away to do more work and they'd come back. So it was a collective effort, you know, until we got to the final product here.

**MS. O'BRIEN:** Okay. So then you go –and did you present to the same three credit-rating agencies again?

**MR. STURGE:** We did. Yes.

**MS. O'BRIEN:** Okay. And this was – the goal here was to still show that you could get an investment grade rating without the FLG.

**MR. STURGE:** Yes. And as you see through this, our focus was we're trying to highlight what had changed since our 2011 visit and highlight what hadn't changed. And each of these sessions with the rating agencies probably ended up being five to six hours. They were pretty lengthy sessions and, you know, and lots of Q & A in addition to just our material.

**MS. O'BRIEN:** And, ultimately, did you get the investment grade?

**MR. STURGE:** We did, yeah.

**MS. O'BRIEN:** And, again –

**MR. STURGE:** We ended up with –

**MS. O'BRIEN:** – this would have been a shadow rating.

**MR. STURGE:** Yes. We got the exact same ratings we had the prior year.

**MS. O'BRIEN:** Okay.

All right, so then we get the term sheet signed in the end of November 2012 and that's at tab 22 of your book, Mr. Sturge – oh sorry, the FLG.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Yeah, this is the federal loan guarantee.

**MR. STURGE:** Yeah, the term sheet.

**MS. O'BRIEN:** The term sheet.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** P-00065? Okay.

All right, so I know this is where we're going to get to the – maybe you can give us a little bit of a high level on how the various conditions precedent worked on this with respect to Nova Scotia with respect to Newfoundland and –

**MR. STURGE:** Right.

**MS. O'BRIEN:** – how it was envisioned to all come together here in this document.

**MR. STURGE:** So this came together in Ottawa at the very end of November 2012. And it would've been myself and Ed. I think Brian Taylor, Premier Dunderdale's chief of staff, was at the table with us. I think Charles Bown was there and a couple of other Nalcor folk, a bunch from Emera and Encana, so it's, again, a big group-type thing.

And when we went to Ottawa there was a couple of issues that needed to be dealt with really – we'd really – that was most of the issues, but like most of these things, the toughest ones always get left to the very end. And there were two issues; one was that we needed the language to clearly say that Canada's intent here was to give us the benefit of the AAA rating. And we worked through it and we put that one aside and we got that.

So the final issue came down to this whole issue of the linkage to Emera and so we worked through that issue. And the solution really arrived at the table came down to these two sets of conditions precedent. And in the document they're section 3.5 on pages 6 and 7.

And the solution arrived at was – so Canada hadn't changed from its view that we still needed to get – have Emera move forward with sanction of the Maritime Link for us to move. That hadn't changed. All this was doing now was trying to lay out a set of conditions as to how that would take place. So from the federal loan guarantee, you see in pages 6 and 7 there's two sets of conditions precedent. Now, these are things that would have to be satisfied after the fact.

So there's a B list on page 7. About halfway down page 7 the B list starts and it goes to the remainder of page 7 and a little bit on the top of page 8. So that's the B-list conditions. And then

on page 6 is the A list and it starts on 6 and goes to halfway through 7. And the concept here was that each individual borrower – so Nalcor would have to satisfy its own B list and Emera would have to satisfy its own B list.

So those we largely – we had more control over because we – they were all on lists. On the A list, these were things that had to be satisfied for either party to move forward; so, you know, the more tangly things, the more things that crossed over, were probably on the A list.

So then our focus – once we had this in place, the focus for the remainder of 2013 was we worked weekly with the province, with Emera and we were having weekly calls with trying to nail down each of these conditions precedent in order to move forward.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But the key one here – I mean, there are lots in here that were – became difficult. And a lot of these weren't necessarily all financing, they were broad-based types of things. And a lot – many of them became very difficult to address, but the one that continued to be a difficult one was on the A list and right on the top of page 7.

**MS. O'BRIEN:** That right here, number 7?

**MR. STURGE:** Eight – 7, point number 7: Sanction of all projects, including the Maritime Link. That became one that would play out in many fashions through 2013, right up until the end of 2013, really.

**MS. O'BRIEN:** So we know that – we've already had evidence that on, I think it was December 5, 2012, the board of directors of Nalcor voted to sanction the projects.

**MR. STURGE:** Correct.

**MS. O'BRIEN:** And then, I think it was December 17, so a little bit later on in that same month, in 2012, the Government of Newfoundland and Labrador sanctioned the projects and there was a – you know, there was a media piece around that and a bit of a ceremony.

So at that point, I take it, you would've assumed that Newfoundland and Labrador – or Nalcor had satisfied this A list condition precedent number seven?

**MR. STURGE:** Are you – were you talking about 2013 at that point, or 2012?

**MS. O'BRIEN:** 2012.

**MR. STURGE:** 2012 –

**MS. O'BRIEN:** I'm sorry if I misspoke. 2012 –

**MR. STURGE:** Yes, you're right, yes. At 2012, so what would've happened is we would've sanctioned – “we” being Nalcor and its subsidiaries – we would've sanctioned December 5, as you said.

And that sanction resolution, I recall, had two conditions precedent. One is that the province subsequently sanctions – Cabinet, I guess, which happened. And the second is that we enter into a sanction agreement with Emera that was largely consistent with the terms and conditions that were described to the board on December 5. And if it changed materially from that, well obviously we're coming back.

So – but our view at this point was that once we – with this federal loan guarantee, term sheet and with the subsequent sanction agreement –

**MS. O'BRIEN:** And that was December 17 –

**MR. STURGE:** December 17.

**MS. O'BRIEN:** – 2012, that was signed – the sanction –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – agreement between Emera and Nalcor? Okay.

**MR. STURGE:** Yeah. We then had satisfied this condition, yes, that was our view.

**MS. O'BRIEN:** And at this time, back at the end of 2012, what was your understanding of the status with Emera? Did you understand that they

–

**MR. STURGE:** So –

**MS. O'BRIEN:** – that they had also achieved sanction at that time?

**MR. STURGE:** So I think what we had agreed collectively – that once we finished the sanction agreement – 'cause I think what Canada had said is you guys go and work this out commercially between yourselves, which we did, and the sanction agreement really was that commercial agreement.

And I think our view at that point is with the sanction agreement in place and then the sanction of Emera and the sanction of Nalcor, that we had satisfied that condition and we're ready to move forward.

**MS. O'BRIEN:** So you thought – that A list, that A requirement had been satisfied on both sides?

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** Okay.

And we're gonna come back to that in a few minutes, because I know that didn't turn out to be the case.

But right then I just wanted – before we get back, because I understand even in early 2013 you thought that condition precedent was (inaudible) – you were going to – back to the credit rating agencies.

**MR. STURGE:** Yes, yeah.

**MS. O'BRIEN:** And just explain for the Commissioner, please, why – you already had that indicative rating you needed, why were you going back another time?

**MR. STURGE:** So in early 2013 the focus shifted now, because when we had went to the credit rating agencies in 2011 and 2012, it was all about the risks of the project and they were assessing cost recovery, equity, the projects – all of those things. The focus now totally shifted, because now we were going back and in this intervening period we now negotiated what the forma guarantee would look like and we got –

obtained alignment with Canada on the structure.

So we were now going back to the three rating agencies and we said if in – at the end of 2012 we come to you with this forma guarantee and with this structure implementing that guarantee, will this result in the AAA – transfer the AAA credit rating from Canada to the projects? And they all confirmed it would. So – but it was a very different process because now their credit assessment was really around – was more of a legal assessment: the enforceability, the guarantee and that type of thing, versus the project.

**MS. O'BRIEN:** Okay.

And so then I also know in this period – February, March 2013 – you're looking at going out for financing and putting –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – in a request – you know, starting to develop a request for financing.

**MR. STURGE:** That's right.

**MS. O'BRIEN:** So can you just explain to us, you know –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – what does that mean? What were you doing?

**MR. STURGE:** Yeah.

So right through from the start, I think, we had always envisioned that we were going to do a competitive process on the financing, which we did. And our view is that that was really the only way to keep people honest and get the best pricing, and I think that played out well for us. But through – so we started a discussion with Canada around March of 2013 and the discussion was around, sort of, what would we be asking for in that RFF, the request for financing. You know, would we be asking for an upfront bond, all those types of things.

So we had those discussions and got aligned with Canada and the province in March of 2013

and the decision is that we were going to go out, we were going to ask for an upfront bond and, sort of, more the shape of what the RFF would look like. And the upfront bond was an important discussion because through the term sheet we kept it flexible enough that we could go many ways with the financing then – and, sort of, when you look at financing these things there's, sort of, a continuum of options.

At one end you got an upfront bond where you effectively go out and you issue a single or series of bonds on one day, you get the cash, you reinvest the cash and you draw it down as you need it. At the other end there's, sort of, that continuum you might have where you'd have a, say, a billion and a half dollar bank facility and you would draw that facility down over time. And at any point in time you'd say: I'm now going to take a billion dollars and term it out into long-term debt. Then you'd draw down your bank facility again. And so – and there's options in the middle where you could do upfront bonds, but do them once a year for five years. So there's –

**MS. O'BRIEN:** Tranche bonding, is that what that would be called?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So you're doing – each time you're going out to the market you're looking for a smaller amount of money –

**MR. STURGE:** Right.

**MS. O'BRIEN:** – and you do it a number of times, over time.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And they're all acceptable and they've all been used. When we did our credit ratings in 2011 to 2012, they were based on more of a tranche bond, bank facility type thing. And the reason being is that our view and our advice we would get from our financial advisor is that without the federal loan guarantee, there's no way we could get the credit ratings for an upfront bond.

So that was one thing that the credit rating gave us – important – is the ability to do the upfront bond.

**MS. O'BRIEN:** And so you're saying without – essentially, without the federal loan guarantee you don't think you would've got the upfront bond?

**MR. STURGE:** I'm pretty certain we wouldn't, no.

**MS. O'BRIEN:** Okay. And that's something that you wanted. That was your preferred method of doing it. So basically go out, raise all the money at once.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

Can you just explain to us why –

**MR. STURGE:** Yeah. So –

**MS. O'BRIEN:** – was that? You know, what's the preference there? Why?

**MR. STURGE:** So, you know, our view at the time was – and it wasn't just our view, it was that the market was saying that interest rates were gonna take a step up at some point. And we wanted to have certainty. So what the upfront bond gave us is we knew from day one – once we borrowed it, we knew exactly what our interest rate would be for the remainder of the life of the project.

And as part of asking for the upfront bond, we would also ask the banks to propose investment options. So how do we take the proceeds that we get and invest it at the maximum value during the period we're not using it, so we minimize the cost of having that money borrowed upfront.

So when we were evaluating these proposals, we were evaluating from two perspectives. There's one, what was the cost of the debt, but we were also evaluating the investment plan they were giving us. So we were negotiating and sort of squeezing them on both sides of that.

But what we wanted to get with certainty. We wanted to know what the rate was gonna be. We



didn't wanna be going through the project and having a situation where two years out we'd kick ourselves that interest rates had risen, or we had some sort of black swan event in the capital markets that we'd say: We had the chance to borrow this back in 2013 and didn't do it. So it was really about bringing certainty. It really wasn't any more – anything much more than that, really.

And we had run all the numbers to say, based on the – where rates we thought were going, we'd done that analysis and so that piece is available.

**MS. O'BRIEN:** Okay.

I wanted to bring that up, because up until now the evidence we've typically heard is the big benefit of the FLG was –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – a lower interest rate, which I understand that was a benefit, but you've identified now a second benefit for us.

And I know in our interview you identified a third benefit of the FLG, and that was the benefit of having a friendly lender. And if you could just explain to the Commissioner –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – your thoughts on that?

**MR. STURGE:** So, I mean, this is one you never wanna tout as the primary benefit, because it's – if you're looking to talk to a friendly lender then you're obviously in some difficulty. But it is a factor.

I mean, if we ever had difficulty on the financing, I think everyone would agree that we'd be in a better position sitting down with Canada, who had a broader stake and collective interest, than to be sitting down with a private lender. And, I think, the way we ended up negotiating, finally, with Canada is that, I think, we got some things that were probably things we wouldn't have got in a commercial deal.

And one of the things they did agree to is that – and you'll see in the agreements, the project finance agreements, there's a long list of things

that would be events of default, but what Canada agreed to is that, two things happen if we have an event of default. One is a cure period. So we may have – depending on the issue – five days, 10 days, 30 days to cure the issue. But, beyond that, if we didn't cure it and we're now into default, there's a 150-day consultation period with Canada.

So, we've effectively got what, five months with Canada to have a discussion as to how we could find a solution to move forward before they could, in any way, put us in default. And that's the type of discussion and benefit – you would not get that type thing in a commercial agreement.

**MS. O'BRIEN:** Okay.

And just in terms of the lower interest rate, can you give us a sense – your sense of what was the difference in the interest rate that you, you know, the benefit you feel are able to get in terms of percentage points, having the FLG versus the no FLG scenario?

**MR. STURGE:** So, at DG3, when we – our review at DG3 of the finance, the cost of this financing without a federal loan guarantee, and all of these things are based off of the Government of Canada rate, which varies, plus a spread on top of that. So, the important discussion is not what the Government of Canada rate is 'cause you can't control that, but it's the spread.

So at DG3, our view is that on a non-guaranteed basis, we would be about Government of Canada, plus 350 basis points, and that 350 basis points is 3½ percentage points.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** On a guarantee basis at DG3, our view was Government of Canada, plus 115 basis points.

Now, we may have been trying to be conservative on this because we did not want to be low. We wanted to have enough room there. But, in any case, once we placed the final debt in 2013, we were Government of Canada, plus 65 basis points, so we were considerably lower than what we had had in at DG3.

**MS. O'BRIEN:** Okay. So, we're looking at a range: 2, 2½ per cent or somewhere in that ballpark.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Is that fair to say?

**MR. STURGE:** It was considerable. I think our – we initially categorized it as about a 1.1 billion benefit at DG3, and I think, then, through the financial process, we squeezed, I think, we estimated probably another 100 million out of – of value out.

**MS. O'BRIEN:** Now, I understand your counterpart at Emera was the CFO there, Scott Balfour, is that right?

**MR. STURGE:** For most of that period, yes.

**MS. O'BRIEN:** Okay. So the period I wanna –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – talk about, I think that would have been him because I –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – understand you got a call from him some time in March of 2013.

**MR. STURGE:** I did, yes.

**MS. O'BRIEN:** Yeah. So can you please tell us about that call?

**MR. STURGE:** Yeah.

So in 2013, Emera would have been doing the same type things we were with Canada, sort of working through some issues. And I had an email from Scott and it said something along the lines of he'd met with Canada and Canada had come back and said that they believe that Emera hadn't really sanctioned, and the term they used was a conditional sanction.

So, I guess, what they were, in a roundabout way, saying is that we hadn't met this condition precedent that we thought we had met through the sanction agreement and they viewed – I

think ours was fine. I think it was the Emera sanction that they viewed as conditional.

**MS. O'BRIEN:** Okay. So, and that was because the idea of what was – what did they consider conditional about the sanctioning of what happened in Nova Scotia?

**MR. STURGE:** I'm not totally certain what they saw but, I think, it related something to the fact that perhaps Emera's sanction was contingent on the sanction agreement or something like that. So, I think, they probably viewed it as not a clean sanction in that it was subject to something. I think that was the issue.

**MS. O'BRIEN:** We know it was subject to approval from the UARB, the regulator in Nova Scotia. Was that the issue?

**MR. STURGE:** It was, but if you – and we hadn't talked much about the sanction agreement, but what effectively we did in the sanction agreement is we said, if we go – because we were saying we're both going to sanction, so once we sanctioned, then Emera still had to go through that UARB process.

**MS. O'BRIEN:** And you knew that. That was something –

**MR. STURGE:** We knew that. Everyone knew that.

**MS. O'BRIEN:** You knew that. You knew they had to get approval –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – by their regulator.

**MR. STURGE:** So what we had – what the sanction agreement was effectively doing is saying that if we both sanction, Emera goes through the UARB process and either the UARB doesn't approve it, approves it with some sort of conditions, how do we effectively still – as two companies move forward, now that we've sanctioned?

And so in the sanction agreement, it's a complicated agreement. It's got all sorts of options: if this happens, if that happens. But, effectively, we worked through the options of if

bad things happened, things came out of the UARB, how do we continue to still move forward? That was the essence of it.

**MS. O'BRIEN:** So your idea at that time was that, look, even if there's problems with the UARB, they don't sanction it, we're still going to be able to move forward with the FLG on our piece. Is that –?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** That was the Nalcor position –

**MR. STURGE:** That was (inaudible) –

**MS. O'BRIEN:** – up until you go this call.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay. So up 'til then you knew the UARB was in a position but you hadn't anticipated that they could – that a failure by the UARB to approve could stop the project – the loan guarantee from going forward for our piece.

**MR. STURGE:** Well, we always knew that – in some ways it didn't change anything. In other ways it did because – so Emera had a conditional sanction. So what we knew then is that we didn't have sanction in Canada's eyes.

**MS. O'BRIEN:** Right. You didn't have the one condition –

**MR. STURGE:** Right.

**MS. O'BRIEN:** – the precedent, which you needed –

**MR. STURGE:** Right

**MS. O'BRIEN:** – to get the guarantee.

**MR. STURGE:** So, now, if nothing else happened, what would've happened is Emera would have – the UARB process would have continued to play through and, in some regards, they would've still put the report out and we would still have to deal with whatever the outcome of that report was.

I think the only difference is that in the original instance we would be dealing with that in terms

of how we agreed in the commercial agreement. Now, it was becoming more important because, you know – so we still needed the UARB approval, right, but it just – so I think it created a period of uncertainty, is what it did, because, ultimately, the UARB report came out, a report came out, the condition got satisfied, Canada issued a guarantee.

**MS. O'BRIEN:** Yes – no, and we're going to go through that.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But at this time now, like, up until you got this call to find out Canada only considers this conditionally sanctioned, you had thought you were going to be able to go through, get your financing and close.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Now, you've got this information, now it becomes a bigger concern because if you don't, now your condition – the condition precedent you thought was taken care of, the box was ticked, was not ticked.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** And so now before you could get that guarantee from Canada and close the deal, that was going to have to happen.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** And so this is all taking place right about when you are about to go and put out a request for financing.

**MR. STURGE:** Right.

So, we were in – this was in March of 2013, we were trying to get our financing, our RFF out, I'm thinking around – I think we were initially targeting 1st of May 2013. So this was now – so this process with Emera was working through; my recollection, was through March, April, May, we were continuing to have discussions around –

**MS. O'BRIEN:** My notes say you had – you were going to – you were looking at issuing it at

the end of March with proposals due by the end of July, is that –?

**MR. STURGE:** I think initially we were trying to get it out the 1st of May and we ended up getting it out the end of May.

**MS. O'BRIEN:** Okay, I may have –

**MR. STURGE:** Yeah, I may have (inaudible).

**MS. O'BRIEN:** I'll check the transcript on the break. Okay.

**MR. STURGE:** But in any case, we – so we were working through this issue and, you know, it did cause us to pause as to whether we should continue to go with the RFF with this uncertainty and – but we did go with it because our conclusion was that nothing was – we hadn't locked into anything on the RFF, we were just looking for proposals.

And if we made a decision then not to go forward, then we effectively cast the die in terms of when we could hit financial close, so we made the decision to keep moving.

**MS. O'BRIEN:** Okay, and when was the due date for the RFF? When were you expecting proposals to come back?

**MR. STURGE:** So, we went out the end of May and we'd asked the lenders to come back with proposals by the end of July.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And, yeah, the end of July.

**MS. O'BRIEN:** Okay. So, take us through the next –

**MR. STURGE:** So, during that period, you know, a number of the lenders would have combined and we had teams and we – so they had sorted out who was coming back with proposals.

Late in July two things happened that caused us to sort of pause. And one was that the UARB decision came out in –

**MS. O'BRIEN:** July 22.

**MR. STURGE:** – July 22, so pretty close to when we were supposed to get the proposals.

And the second thing is that Hydro-Québec had filed the declaratory judgment case, I think, around about the same point. And some of the other CPs we were working through were not moving as rapidly as I probably would have liked, so I had raised the issue of whether it was prudent to continue to receive – because my fear was that we continue down the road, we get these proposals from the banks and we get delayed in trying to work through these CPs and their financial proposals get stale-dated. So – and that wouldn't have been good because then we'd be back to the drawing board.

So we made the decision that we were going to approach the banks in the last week of July and say, you know, explain that we were working through some of these issues – the Emera report had just came out and so on – and asked them could they hold their proposals from July 31 till October 1? So that gave us another two months, right, to work through some of these issues.

**MS. O'BRIEN:** And to be clear, so they – just want to go back – the filing for the declaratory judgment by Hydro-Québec, this has to do with the continuous energy and the water management decision that we've had some –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – evidence on today, so that was filed in July. But the UARB decision that came out, this was the UARB declined to sanction the Muskrat Falls Project as being the least cost because it – they said – they wanted to make – ensure that Emera had access to market-priced energy, which they didn't feel they had under the current commercial scenario?

**MR. STURGE:** That's my understanding, yes.

**MS. O'BRIEN:** Okay.

All right, so you – that – one reaction you had to that decision was you went to the banks and said please hold your proposals till the end of October. Was this causing some pressure at Nalcor, I would think, or ...

**MR. STURGE:** Well, you know, I – it – I mean it was disrupting what was, at that point, a fairly smooth process. So from that point, I guess, it was causing pressure. But having said that, you had to do the right thing, you couldn't – you know, it would be wrong to move forward with the financing, because then we could find ourselves in a position two months from now where the proposals were stale-dated, and then we're starting from scratch two months out. So I think it was the right thing to do.

But, internally then, the focus really came on now we had to resolve this issue with Emera. And then that started – my recollection is that started in August. It played through August, September and I think we ultimately had an agreement with Emera around October 18, or somewhere around that point.

**MS. O'BRIEN:** My note says October 20 –

**MR. STURGE:** Twentieth, somewhere around there.

**MS. O'BRIEN:** – but, so, yeah, 2013. Okay.

**MR. STURGE:** That it played through.

**MS. O'BRIEN:** Okay, so you had that going on. And I understand, based on our interview, there was other – you know, you had a lot of balls in the air at this time really. So there was some other complicating factors at play in the marketplace. So I know you mentioned three of them, maybe you could go through those ...

**MR. STURGE:** Yeah, so as we were – I mean, what was really driving us is we wanted to make sure the financing was successful. And there was a couple of – we had a couple of deadlines on the financing. And I think, as I said in the interview is, you know, we weren't trying to get the financing done for the sake of getting the financing done. If we had to delay it, we had to delay it, and that was – you know, I think that was the way it was going to be.

But I think the – in the context of where we were, we knew that this – when this paper went in the market, the market was viewing it not as Nalcor, Muskrat Falls paper; it was being viewed as a Canada paper. And that's what we wanted because that's how we got –

**MS. O'BRIEN:** The AAA.

**MR. STURGE:** – the AAA guarantee.

So we had to coordinate with Canada and we knew there were a couple of things going on in the market is that Canada was doing a big CMHC bond issue, I think it was the 13th of December. We wanted to be out – in and out of the market before that so we didn't start to move the market for Canada. So that was happening. We also knew that – and the markets – you know, the capital markets effectively shut down mid-December, they don't really get going in full earnest 'til mid-January again.

So if we missed doing a financial close in early December, we were likely going to be back trying to do this in late January into February. And there was stuff going on in the US around the debt ceiling and so we just – you know, if we could at all possibly do it, we wanted to get done before Christmas in that window. But if we couldn't, we couldn't and we weren't going to do it just for the sake of doing it.

**MS. O'BRIEN:** I guess you couldn't really do it without the federal loan guarantee and this (inaudible) through it, yeah.

**MR. STURGE:** And we couldn't do it without the loan, right. That was sort of important. So all this was playing through at that point.

**MS. O'BRIEN:** Okay.

So, ultimately, the excess energy agreement was signed but it still had to be approved by the UARB?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

So did you get – so you're – did you get the responses back from your financing at the end of October?

**MR. STURGE:** We did. We had the financing proposal come back October 1, and then we went into a rapid process of analyzing those, yeah.

**MS. O'BRIEN:** Okay.

So how does that play out? So you're starting to now – you're starting to – you're getting the proposals back, you're starting to evaluate them. You know, you've come – you've managed to come to a deal with Emera, but you still – that still has to go before the regulator –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – for that to work out. So, you know, how are you dealing with the financiers now? You know, you've got the proposals in; you still don't have certainty that your condition precedent is going to be met.

**MR. STURGE:** Yeah and the – so the whole process is sort of like a GPS when you take a wrong turn and everything recalibrates and it was a constant recalibration as things were moving on because the sand was shifting. So what was happening is we got proposals October 1, we had all the banks back in St. John's October 8 for our second round where we squeezed them a bit more and gave them feedback on their proposals. They came back with a second proposal and we did the same thing again.

And before they came back with the third proposal in – later in October, this scenario you just described was playing out in that we'd now, I think, got agreement with Emera, so at least we had clarity between ourselves. And we – but we still didn't have clarity, I mean, we still had a risk on it. And it wasn't only that, we had some other CPs that were lagging.

So we made the decision – before we asked the banks to come back with their third proposal, we made the decision to ask them to come back with pricing that would hold their pricing or tell us what it would take to hold their pricing until, say, January, February, March, that type of options. And they all did and they gave us ... so what we're trying to do is buy flexibility because we didn't want to get squeezed into having to do a deal in December and conditionally they didn't want –

**MS. O'BRIEN:** You couldn't do a deal in December.

**MR. STURGE:** Or we couldn't, so we needed – but we still wanted to keep the banks engaged, so we were trying to keep that process moving.

**MS. O'BRIEN:** So is it fair to say that sort of, to mitigate the risk of this, you at least got pricing from the banks, like if we have to delay it, how much is it going to cost us kind of thing.

**MR. STURGE:** Absolutely, yeah.

**MS. O'BRIEN:** So you –

**MR. STURGE:** And why that was really important is that the way we'd structured the financing is we said to the banks – and, again, all about this seemed a certainty. We said to the banks we want – we don't, you know – because you could go out and ask for a proposal and banks would come back and they could give you a really good proposal with their best efforts to place the bonds, but no commitment.

And what we wanted to do is we wanted the banks to stand behind the finance with their balance sheet and effectively say that not only were we going to give you best efforts, we were committing – so we call it a committed financing. So they were committing that they were going to deliver 5 billion in financing to us and that's a very different scenario than a best-efforts-type process.

**MS. O'BRIEN:** Okay.

So, now, I understand you're really then – I understood the last condition precedent you were waiting for was this sanction condition precedent and this had to do with the UARB sanction. But you just mentioned there was other CPs that were still –

**MR. STURGE:** Yeah there were some others. I think there was an Emera – there was an agreement Emera had with Ottawa – with Canada, it was something that they were doing. I remember Scott Balfour being in Ottawa very close to the end of when that one got finalized and there were a number of others.

But a lot of the others that, even though they may not have been completed at that point, if they're ones that are within your control – like, for example, like, there was a whole series of

equity agreements that the province had to execute, you had to go through Cabinet and so on. But we knew that we controlled that one so that we, you know, we weren't as –

**MS. O'BRIEN:** Sure. So from your perspective, the big last piece to come into place was getting this UARB sanction of the excess energy agreement.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay and so that happened.

**MR. STURGE:** Yeah, so we filed and I remember – but we weren't getting tight because, I think, the – once the UARB got our application, or Emera's application, they had to go through a process of three or four weeks of hearings or whatever. And their decision was getting very close to the point where we either had to say we were moving ahead or we were gonna go after Christmas. I mean, we were, right, I would say within – my estimation was days of that decision point. Yeah.

**MS. O'BRIEN:** So, fine, but it came in within –

**MR. STURGE:** But it came in –

**MS. O'BRIEN:** – those days.

**MR. STURGE:** – and sometimes the stars align, and it did.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So, it did come in.

**MS. O'BRIEN:** And that was at the – towards the end of November, I think, November 29.

**MR. STURGE:** Yes. And then Canada immediately issued the guarantee, I think, on the 29th or 30th.

And from then on the process became no longer worrying about the guarantee; it now became about execution of the financing.

**MS. O'BRIEN:** Okay. And that's getting up to financial close –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – is the – and financial close, we've all heard the date, it was, you know, December 13 of 2013.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Can you just explain for us what does that mean, financial close?

**MR. STURGE:** So what happens is once we give Canada the – or give TD, who is the lead arranger, the go-ahead, they start – go out and they start building their book, and they start creating interest. They speak to insurance companies, to pension plans, to all their dealers.

And we had a syndicate of all the banks doing this, too. So it just wasn't TD, but TD was leading it.

So they'd build the book, and by the time they had financial close, which was actually – we closed on the 10th and we had – the cash flowed on the 13th, but the deal was priced on December 10.

So, by that point time, for the 5 billion financing, they've probably got a book of business of, maybe, \$8 billion of interest that they've now start allocating the 5 billion through that book. The deal gets priced. There's a specific process that takes place. The deal is priced off Government of Canada rates and the spreads that TD has agreed to in the financing. That all takes place in a very systematic process – took place on December 10.

So, once December 10 took place, the deal was done. So then it was just a matter of – it takes three days for the cash to flow and end up in our bank accounts.

**MS. O'BRIEN:** Okay. So, by the 13th you had the money.

**MR. STURGE:** It was done.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** The – I just want – just for completeness here, in terms of who, you know, who the lenders were, I understand it was a

syndicate, so – with TD, sort of, being the lead, so ...

**MR. STURGE:** So TD and Goldman Sachs were the lead, and of that group, TD really were the primary lead. They drove the deal. But we would have – and part of that always would have been TD would have come to us and said: We now need to build out a syndicate. Because, you know, what TD wants is they want BMO and RBC and CIBC and everybody out in the market creating interest around this product to –

**MS. O'BRIEN:** \$5 billion –

**MR. STURGE:** – build the book –

**MS. O'BRIEN:** – is a lot of money to raise.

**MR. STURGE:** It's a lot of money for – on a single – I think it was the largest single-bond issue at that point, for an infrastructure project.

**MS. O'BRIEN:** In –

**MR. STURGE:** So you need –

**MS. O'BRIEN:** You mean the largest single (inaudible).

**MR. STURGE:** It's the largest single infrastructure financing done.

**MS. O'BRIEN:** Ever?

**MR. STURGE:** Yeah, ever.

**MS. O'BRIEN:** Okay. That's significant.

**MR. STURGE:** Yeah. There may have been others that were equally large or maybe done over a longer period, but in one tranche, in one day, it was the largest.

Now, Canada would do financing to that magnitude. It was part of their regular borrowing program, but for of a more project finance-looking infrastructure projects it was the largest.

**MS. O'BRIEN:** For a single project?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So they would have wanted to build out a syndicate, and so we had that discussion, and what we suggested to them is our preference would be that the four other Canadian banks who had bid but hadn't won, we wanted to make sure they were in the syndicate with a significant piece. So they would've been the next layer. And then you'd have another layer of small players. And some of these people might had 1, 2, 3, 4 percentage of the total deal or less, but for some of these places – people, that was still a big piece of the deal.

**MS. O'BRIEN:** Okay. So the other four Canadian banks would have been BMO, CIBC, Bank of Nova Scotia or Scotiabank and RBC.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Is that right? Yeah, okay.

Now, one of the – I'm gonna – one of the topics that have come up – so, you know, and as we've been preparing for these interviews – sorry, for these hearings – Mr. Learmonth and I and our team have been conducting interviews –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** – as you know, and one of the things we've been asking people questions on is about this access energy agreement.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And it was – it has been described to us by people within Nalcor as a win-win situation.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I think you kind of used terms similar to that, I don't know if you used those exact terms or not.

**MR. STURGE:** Yeah, I think I may have, yeah.

**MS. O'BRIEN:** Okay. So, but it's an area which I'm still, I confess to struggling to understand. But I understand why it was beneficial to deal with Nova Scotia.

**MR. STURGE:** Yeah.



**MS. O'BRIEN:** I do understand that part, but explain to me why – what was the benefit? I mean, we already had what we thought was the deal with Emera.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** With Nova Scotia. What was the benefit? I mean, I know the big benefit is we got the FLG, right?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So we were able to get the FLG. So I understand that benefit, and I'm not trying to minimize that.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** I understand that's a very significant –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – benefit. But what were the other benefits to this province of the access energy agreement?

**MR. STURGE:** And I'm not gonna be the technical expert on it. I believe Mr. Humphries is somewhere on your list, and I don't want to put pressure on him, but he would understand how it operates.

But, essentially, what happens is – and I just should give you a little bit of background because this whole discussion with Emera around an additional block of energy, this wasn't the first time we'd had this discussion. You know, if you go back to the term sheet, when we first looked at the term sheet there were – in early days of the term sheet there was sort of two blocks of energy. There was the base block, the Nova Scotia Block, the one terawatt hour, but we'd also had a discussion at one point with Emera around another block of energy which would be, sort of, a more market-based-type product.

So there – we'd started out with that type discussion and it evolved to just the one block. So it wasn't a new discussion, this concept of – and even through our discussion or formal

agreement negotiations in 2011 and '12, we continued to have some discussion around this.

**MS. O'BRIEN:** But why did that second block ultimately come off the table in the decision?

**MR. STURGE:** So my recollection on that is that as we went through the term sheet I think the province was feeling that we probably had committed, at that point, enough to Emera. And that I think their view was that we probably wanted to put a bit of space between the main deal and any other deals we might do with Emera. So we just didn't want to have right from the get-go all the power committed to Emera, I think it was –

**MS. O'BRIEN:** So this was coming from the – from Premier's office?

**MR. STURGE:** It was probably more –

**MS. O'BRIEN:** Is that your understanding?

**MR. STURGE:** – yeah, at that level. Yeah. Yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah, yeah.

**MS. O'BRIEN:** All right.

So the premier – from the Premier's office is my –

**MR. STURGE:** I –

**MS. O'BRIEN:** – based on my understanding, please correct me if I'm wrong.

**MR. STURGE:** I recollect it was that discussion of trying to put some space between the deals, yeah.

**MS. O'BRIEN:** Okay.

So they didn't want to have this additional as part of the main deal, okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So –

**MR. STURGE:** But we always knew that – it was always there that we still could come back to that at some point.

**MS. O'BRIEN:** Okay and I believe in the discussions about when you read the UARB decisions there was – you know, that came out in the evidence, at least to some extent, and that there had been always talks that there would be market-priced energy available for Nova Scotia.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay but now we get to the agreement itself, just –

**MR. STURGE:** Right.

**MS. O'BRIEN:** – tell me what the benefit is.

**MR. STURGE:** So the agreement's a little bit different in that the earlier discussions we would have had with Emera were strictly around excess power out of Muskrat Falls and that was the discussion. This now evolved into something a little broader and, again, Paul Humphries, he was really the architect of it.

But, essentially, it looks at the differential between what's the firm power we have available on the system and what the average power we have available. So the average power would be higher than the firm power. And it's really in that space between firm and average that I think we were able to carve out this block of power that we felt pretty comfortable we could make available to Emera.

**MS. O'BRIEN:** But here – I guess this is the point, and I know I put it to you in the interview as well but, we – if we had excess energy available –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – so we have a product, we have it to sell. If Nova Scotia wants to buy that power, right, and we have it to sell, they want to buy –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – we can come to a price – you know, we can always sell that power, right?

**MR. STURGE:** Right.

**MS. O'BRIEN:** And that's the scenario we were in before the excess energy agreement –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – right? Like, we could have still offered them and they could have bought.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But after excess energy agreement, I understand they didn't have any obligation to buy, right, under the excess energy agreement.

**MR. STURGE:** No, no.

**MS. O'BRIEN:** No obligation to buy, so the only ones under that agreement that had an obligation was us. We had, in this province – Nalcor had the obligation. And so that was an obligation to – well, I'm going to put to you – if you bring up Exhibit P-00876, this is – and I'm just – this is from a filing before the Nova Scotia – the UARB proceeding and it was an evaluation done by consultants MPA, Morrison Park Advisors Inc., who were hired by the UARB to do an analysis of the excess energy agreement. And, as I understand, they were essentially asked to look – go look at the excess energy agreement. Please, tell us, in your opinion, does it do what we want it to do?

**THE COMMISSIONER:** Tab 32.

**MR. STURGE:** Oh, 32?

**MS. O'BRIEN:** Yes, sorry, tab 32, Mr. Sturge.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I'm just going to take you to page 16 there.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And, Mr. Sturge, I'm just going to put these – answer if you can and, if not, I heard what you said, that Mr. Humphries may be better placed.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But I'm just going to look at this paragraph here. It says: "NSPI could have chosen to follow this exact procedure (i.e., annual or other periodic solicitations), even without the Agreement in place. Nalcor would face the same pricing pressures, and the same competitive landscape within which to sell their surplus energy. However, there are two crucial differences with the Agreement in place: Nalcor is disclosing its expectations about power availability through its forecasts, to NSPI's benefit; and Nalcor is specifically committing to participate in the annual solicitations, instead of seeking alternative long-term buyers of its power."

So, you know, when I – when I read this, and I'm – you know, others – I'm struggling to see – I understand it got us the FLG. And if that's the answer, look, that was the big benefit, it got us the FLG –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – and I understand that. But to date, I've had people from Nalcor keep telling there's other benefits as well and –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – I'm just not seeing them.

**MR. STURGE:** So the way it works, and go back to – when I talked about the Emera agreement, one of the key points is that – what the Emera agreement did is it established our benchmark. And it established our benchmark as the price in New England. So without any additional sales to Emera, our benchmark was the best we could do is get it through this transmission system, sell it into the New England market.

And to do that, two things would happen, is we'd get the Mass Hub price, which is the – probably the most attractive price in the New England ISO, but two things would happen: We'd pay transmission through Nova Scotia, New Brunswick and so on, Maine, and we would also have transmission losses, right?

So let's assume the Mass Hub price – I'm just going to make a number – let's assume it was \$50 a megawatt hour, so when you take off the –

and, again, I don't know if these were the right numbers but it's just to illustrate, if you take of transmission losses and the tariffs, our net price back in Nova Scotia might be \$43 a megawatt hour, right.

**MS. O'BRIEN:** Yup.

**MR. STURGE:** So what's happening in this agreement now is that – so, put that aside. So, then, if Emera, without disagreement, if they went into the market, they would say: Our alternative is to go and buy at Mass Hub price. So they would pay 50, but they would have to pay the transmission losses, effectively, because the power is getting diluted as it's getting back to Nova Scotia, and they'd have to pay the transmission tariffs.

**MS. O'BRIEN:** But why couldn't they just go right to Nalcor and offer to buy the price at better than what Nalcor could get at the Mass Hub?

**MR. STURGE:** But that's effectively what they've done, right. Because what happens now is – so we go in and we bid and we'd say: We're going to bid Mass Hub, which is \$50, say. So, from our perspective, we'd say: Well, 50 is \$7 better than we'd get net if we bought it – if we actually sold it in the market. Emera would look at it and say: Well, 50 is actually better than we would pay if we bought it in the market because we would pay 50 but then we would've tariffs and transmission losses. So that's the win-win piece of it, right, is that –

**MS. O'BRIEN:** But you could have had that, could you not have, without the Access Energy Agreement?

**MR. STURGE:** Well, we probably could have, yes, because we – and, again, this goes back to the issue of establishing that benchmark. So let's assume the EAA didn't exist. There was always a provision in the agreements that we could, if we wanted to and had the energy available, we could sell energy to Emera.

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** And the likely scenario is that if we sat down with Emera and we said: Okay, we've got this block of energy available, what

are you gonna pay? The discussion always then starts, though, at our benchmark, which is Mass Hub. So by establishing the benchmark that we could get to Mass Hub, it now gave us leverage back in that discussion with Emera.

**MS. O'BRIEN:** I'm still not seeing it, but – to be frank because I still think you could've come to that deal anyway and it might have been a good deal on both sides to sell power to Emera, I certainly understand that. But when I read this segment here – when I read this Morrison Park, I understand they are saying: Look, NSP could have done this anyway.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But what you got here is two big advantages from Nalcor. The two advantages you got from them is that, look, they're going to disclose their expectations about power availabilities.

**MR. STURGE:** Right.

**MS. O'BRIEN:** So, you know, usually the idea is when you go to negotiate the more cards that you hold tight the better, but Nalcor is putting out some of its cards, at least, on the table in advance.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So MPA, at least, thought this was a benefit for Emera and then, obviously, then on the other side that's not a benefit to Nalcor.

And then also it's saying Nalcor is specifically committing to – “Nalcor has made the critical commitment that it will not contract its surplus energy to any other potential buyer on a multiyear basis.”

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** In other words, I understand MPA saying, look, Nalcor is saying it won't go out and – we've reduced our market, in other words.

**MR. STURGE:** Yeah. So to those two points, I can speak to both.

So, in terms of the first one, you know, and you're right, we could've sat down and come to an agreement with Emera and we could've ended up in the same place, commercially. I think the difference here is that UARB needed some certainty on that. So, even though it may have been the same deal, it was now more certainty on it.

And in terms of us making our schedule available, I think it's probably no secret here that, in terms of the amount of power we'd have available – we will have it available. Everyone knows what the Island needs. I don't think there's too much confidential there.

And, on the last point, in terms of us committing it. Again, a lot of the power that we're – because if you think about this disagreement, it's not just Emera, it's the entire Island grid. So what we're really making available here is, again, we're operating in that – and now I'm getting a little bit out of my zone of expertise, but it's really in that differential between firm power and average power, which a lot of that we could never commit in the market on a firm basis anyway.

So, I think that's why we got satisfied that the conditions that we were accepting here really wasn't imposing that much of a burden on the company.

**MS. O'BRIEN:** And you got the benefit of the FLG.

**MR. STURGE:** And we got the benefit, and the pricing we got was no – certainly no worse than we would've probably negotiated with Emera anyway, you know? So –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And, again – but it really does go back to us being able to – having established a benchmark in New England with the agreements.

**MS. O'BRIEN:** Okay, thank you.

It's probably a good – I'm finished that area of questions. It's probably a good place to break for lunch, Commissioner.

**THE COMMISSIONER:** Okay, it's 12:30. All right.

Okay, yes, we'll take our break 'til 2 o'clock.

**CLERK:** All rise.

### Recess

**CLERK:** This Commission of Inquiry is now in session.

Please be seated.

**THE COMMISSIONER:** All right.

Sir, you remain affirmed at this time.

Ms. O'Brien.

**MS. O'BRIEN:** Thank you.

One item before we begin, Commissioner. I – there's a further exhibit that needs to be entered. It's P-00882. I think it's an exhibit – was already in there in a different form.

**THE COMMISSIONER:** Okay.

**MS. O'BRIEN:** Thank you.

Okay, Mr. Sturge, one area of questioning I had for you before lunch might have caused some confusion –

**MR. STURGE:** Sure.

**MS. O'BRIEN:** – and I just wanted to clarify it.

I – we – I'd been asking you about the benefits of the FLG. And one of the benefits that I had put to you that had come from our interview was a friendly lender. And I just want to make it clear that you were talking about – this would be in the role of Canada being the guarantor of the debt.

**MR. STURGE:** Yes. Yes. Yeah.

**MS. O'BRIEN:** It wasn't Canada lending the money. I think when I had used the term friendly lender –

**MR. STURGE:** Yeah, yes. Yes, yes, yes.

**MS. O'BRIEN:** – it might have led some confusion.

**MR. STURGE:** And I may have not helped that either, but ...

**MS. O'BRIEN:** So, essentially, when you went out to the markets to raise the money, the initiative was led by TD, as to – as your lead financier. And then they would have gone out to the market and any number of individuals or organizations could have bought the bonds to invest into the project.

**MR. STURGE:** Right.

**MS. O'BRIEN:** Essentially. Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And it was Canada who guaranteed the money that was being lent.

**MR. STURGE:** Yeah. And that's why the – when I talk about the structure was so important, because effectively the lenders had the relationship with Canada on a guarantee. And then the lending relationship, really, was a set of agreements between us and Canada.

So Canada, while being the guarantor, in some regards acted as the lender in terms of all the terms and conditions that we'd normally have with a lender, we now had in our agreements with Canada.

**MS. O'BRIEN:** Right, but the money didn't come from that.

**MR. STURGE:** The money didn't come from Canada.

**MS. O'BRIEN:** Okay. Thank you.

And I think I added considerably to the confusion on that point, so ...

Okay, another area now I want to go into has to do with the rate of return. And we have had evidence already regarding the 8.4 per cent, I think, internal rate of return that was used in the PPA agreement?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I – and one of the questions came from Mr. Coffey when Mr. Brockway was on the stand. And I – Mr. Brockway didn't know the answer and I want to put it to you.

And so, first, the question would be: How was the 8.4 per cent selected?

**MR. STURGE:** So I'll try to, hopefully, bring some clarity and not more confusion, but – so what we did at DG2, we said if we sold all of the power of Muskrat into the market, or into Hydro for example, we said if that – what would the rate need to be, the escalating rate, to give us a 12 per cent IRR on a firm basis or 11 per cent on a – 12 per cent on an average basis and 11 per cent on a firm basis.

**MS. O'BRIEN:** And that 11 or 12 per cent, that was chosen, I understand, from Mr. Warren because for an investment at this level of risk that was deemed to be what you'd – the market would expect the rate of return to be.

**MR. STURGE:** Correct, yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So then we backed that into what the starting point of the escalating supply price would be. And then we took that very same supply price and we now applied it to the sales to Hydro which was only a portion of Muskrat. And we ran that through and that produced an outcome IRR of 8.4 per cent because, obviously, it's less than all the power.

So then we said that was an acceptable return to take on the Hydro piece to move forward and that's how it got derived.

**MS. O'BRIEN:** Okay. And the 8.4 per cent was incorporated into the Power Purchase Agreement, PPA.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

And like I say when Mr. Brockway was on the stand from Grant Thornton he went over – he gave us a summary of that agreement. And one of the questions, I believe that – I believe it was

Mr. Bern Coffey, who's here representing Robert Thompson. He asked Tom Brockway was – you know, could the PPA – the PPA we know, it's an agreement between Newfoundland and Labrador Hydro and Muskrat Falls Corporation so, essentially, two Nalcor subsidiaries. And I believe his question, or at least how I understood his question was, look, if this 8.4 per cent is really just an agreement between Nalcor subsidiaries, could you not just agree to reduce the rate of return?

**MR. STURGE:** Right.

**MS. O'BRIEN:** And Mr. Brockway was unable to answer that question. I'm going to put it to you.

**MR. STURGE:** Yeah. So, yes, it can be changed, but the only condition – or probably several conditions, but one of the key conditions is that Canada would need to consent to the change.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So – and I guess in looking at that, Canada would then look at what was the nature of the decrease and what would that do to the forecast debt-service coverage ratios and those types of things.

**MS. O'BRIEN:** Because that could affect that 1.4 debt-service credit ratio?

**MR. STURGE:** Absolutely, absolutely.

**MS. O'BRIEN:** Okay, so, of course, any contract can be changed –

**MR. STURGE:** Right.

**MS. O'BRIEN:** – if everybody –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – who signed on to the contract agrees, but in this case it's not just a matter of agreement between two Nalcor subs, that Canada would have to –

**MR. STURGE:** Canada would have to consent.

**MS. O'BRIEN:** – get on board. Okay.

Earlier this morning I asked you a bit about in terms of what you knew about the Government of Newfoundland and Labrador's assessment of the equity contribution. And I believe you've answered that question but if you have anything to add to it, I'd ask you to do that now.

One question first, though, that I wanted to bring to you – and it's P-00010, tab 20 of your binder. And this is just an email that we have in our records and it has to do with government's assessment. And it's dated – the email is dated actually October 31, 2011, P-00810.

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MS. O'BRIEN:** Sorry, I might have misspoken.

So it's on this topic – so what we see here – it's not a very long email chain. But it's from Charles Bown to you, and it's – subject: Costs. And it says: "Derrick,

"Have you done any research into the history of cost overruns on hydro projects in North America?

"Charles."

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And then you get back to Mr. Bown and you say: "Hi Charles, I have not, but have copied Paul Harrington on this email – perhaps he or SNC / Westney might have something." And then we have – Paul Harrington comes back and says: "We do not have any analysis on hydro project overruns."

So do you recall this query coming from Mr. Bown?

**MR. STURGE:** Once I saw it I recalled it – you know, it refreshed my memory, yeah.

**MS. O'BRIEN:** Okay.

Do you know – so we – you obviously hadn't done any –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – work to see, you know, what's going on with other hydroelectric projects in North America?

**MR. STURGE:** I hadn't personally, no.

**MS. O'BRIEN:** Okay.

And so someone from government – Charles Bown from government's asking you; you got a response. You forwarded it on – from Paul Harrington – he says that he did not have any information. Or he says "we" – "we do not."

Do you recall – was – did this go any further? Was there any other inquiries made –?

**MR. STURGE:** I don't recall any others. But I don't know if it went any further than that.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** When I sent it to Paul, I just assumed that he would have something somewhere between all the advisors, but, clearly, he didn't, so.

**MS. O'BRIEN:** And did that – from – so we'll get to speak to Mr. Bown about what he might have done with this information – but from your perspective, as the CFO, as the VP finance, do you recall whether this caused you any concern? That –

**MR. STURGE:** I –

**MS. O'BRIEN:** – there was nothing – no information?

**MR. STURGE:** I was probably surprised at the answer, 'cause I – when I flipped it to him, I probably would have just assumed that he would have something, you know? I just (inaudible) –

**MS. O'BRIEN:** What about that next step to say, you know, maybe somebody should look into this?

**MR. STURGE:** Yeah, I can't remember if there was anything beyond that. I really, really don't – as much as my recollection is.

**MS. O'BRIEN:** Well, I'm gonna get, in a few minutes, to your, you know, your

responsibilities on the project in more detail, but at this stage, I, you know, put the question to you, you know, why not as CFO that –

**MR. STURGE:** Well –

**MS. O'BRIEN:** – what – we think of you as the financial steward.

**MR. STURGE:** I knew that they were doing a lot of work with SNC and Westney around the cost estimate. So you know, my primary focus would be, you know, an expectation that when they were doing the cost estimate they would have been putting the right things into the estimate. So in some regards, whether – you know, sort of, what the history of overruns was was a piece of information.

But the more important thing is if – whether they were doing the right work to get our estimate right. You know, that was sort of the more important piece. And if they did that right, then the history of overruns is sort of irrelevant, because it's – you know, in some regards I think you control those overruns –

**MS. O'BRIEN:** Okay, I –

**MR. STURGE:** – by doing the estimate, right?

**MS. O'BRIEN:** We'll come back to that when we get to the capital cost estimates.

**MR. STURGE:** Okay.

**MS. O'BRIEN:** Okay.

So maybe that's a good place to go next, because we know that you were the VP finance and that Gilbert Bennett was the VP Lower Churchill Project. He's since had a change in title, but for the period we're talking about, that's what his position was.

Can you please distinguish for us what, you know, what was on your plate, as VP finance, compared to what was on Mr. Bennett's plate as VP Lower Churchill Project?

**MR. STURGE:** So I would say Gilbert would have overall accountability for everything Lower Churchill. But there would have been pieces that I would have been – I think, when it came to the

financing, I would have been, you know, prime responsibility on that one, and I think when it got into the commercial piece, it was a little muckier because there was pieces that Gilbert was doing and there was pieces I was doing but even within that, I think there was a relatively clear delineation of the things I was working on.

Having said that when I worked on the aluminum, Gilbert was involved in some of that, and the Emera, Gilbert was in that as well. So it wasn't really clear but generally mine was financing – I was doing the financial modelling, so whatever Auburn's shop would have been doing and some commercial work.

**MS. O'BRIEN:** And when you say commercial work what do you mean?

**MR. STURGE:** Emera, the aluminum –

**MS. O'BRIEN:** Getting the –

**MR. STURGE:** – that stuff –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – yeah. Working on those –

**MS. O'BRIEN:** Getting the agreements put in place –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – on the Emera –

**MR. STURGE:** Yeah, and –

**MS. O'BRIEN:** – deal and investigating them?

**MR. STURGE:** – the Newfoundland and Labrador agreements too. The agreements between Hydro and the project teams. It would have been in my shop as well.

So they'd be the big areas that I would have had. I'm just trying to go down through the DG3 list in my mind. You know, assumptions on fuel would have come out of Auburn's shop, interest rate assumptions, electricity assumptions – what else was on his list – that was pretty well the big things.

**MS. O'BRIEN:** Okay.



Can we bring up P-00797 again? This is an org chart we looked at earlier – tab 5 for you –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – Mr. Sturge, and I really want to take you to this piece here. Because you talked about it a bit earlier and – but one of the – the chief risk officer of the company reported up to you. So you know, you did say a little bit earlier that the chief risk officer would have been looking at certain financial –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – risks or, you know, the checks and balances. There are controls, I think. But when we're looking at the Lower Churchill Project, what was the chief officer – chief risk officer's responsibility for the Lower Churchill Project?

**MR. STURGE:** So if you look at Jim's role at that point, he had – under risk he would have had two elements of it; one is insurance. So he would have had an accountability for placing insurance for all the business units, including Lower Churchill and managing claims and those types of things.

The second side of his accountabilities would have been on the broader risk piece. And at that point we were – you know, I would say our ERM, or our enterprise risk management, was evolving. And what we were trying to ensure was that each business unit had a risk register.

**MS. O'BRIEN:** Mm-hmm.

**MR. STURGE:** And so in a case of – you know, Hydro had their risk register, CF(L)Co had a risk register and so on. And LCP was a bit of a different beast because it had its own risk – not only did it have a risk register, it had its own risk function, a separate risk function that was part of the project team. And they had no accountability back in to Jim. So Jim, even though they were risk, they –

**MS. O'BRIEN:** Why would that be?

**MR. STURGE:** Well, I guess, you know, it's sort of a – it's a philosophical thing. I mean there's probably no right or wrong answer on

that, but I've probably seen both types of structures. But it's not just risk, I think if you look broadly at the structure of the Lower Churchill, you know, they have many of their own functions: risk, supply chain, IT, HR, communications, engineering.

So in a case of most of the rest of the business, there was sort of a shared services around all of those things. Like, for example, I would have had IT and I would have been providing IT services right across the business, except for the Lower Churchill. They had their own IT and so on.

And, you know, I mean there's pros and cons of any – on one side of the coin you could say that all of those folks should have had an accountability up to the corresponding corporate folks in Nalcor. That's one model. And another side of it is where we were – is that they were accountable on a line basis up through the team.

And one of the pieces why that would be a good model is that if you're saying that at the top of the house here Gilbert is ultimately responsible for Lower Churchill, and all of his folks sort of cascades down, then in order for them to really properly deliver on their accountabilities, then they really have – they need to have accountability over all of the things that impacts that.

So that's sort of some of the logic, why you end up with that type structure is that, you know, one of the things you get into these big projects, I think – and it does get mucky – is you got to have, I think, clear accountability. The minute you got mixed accountability or nobody knows what the real accountability is, it gets hard. So whether that was the right model or the wrong model, the one thing about that model is it was clear, is that those line functions reported up through Lower Churchill, so accountability was clear.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But – so what I'm hearing is that – so I'm going to focus on risk and I –

**MR. STURGE:** Yeah, I understand.

**MS. O'BRIEN:** – understand what you're saying; it had to do with communications –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – and IT and a few other things would fall in this boat, but for all the other business –

**MR. STURGE:** Mmm.

**MS. O'BRIEN:** – arms or units of Nalcor –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – there would have been one, you know, chief risk officer who was responsible for not necessarily preparing the risk registers for –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – each business unit, but they'd flow up through him and he'd be keeping an eye on it to make sure that risk was being managed across the entire enterprise in a consistent way, one eye on it, reporting up to the VP Finance.

**MR. STURGE:** I think each of the business units still managed – I mean, his accountability was to ensure there was a process within which they were doing risk registers. In terms of the responsibility for identification and management of the risks, that still was a line function that would have sat with Hydro or CF.

**MS. O'BRIEN:** Sure.

**MR. STURGE:** So he wasn't managing any of those risks for (inaudible).

**MS. O'BRIEN:** No, no and I didn't mean to imply that.

**MR. STURGE:** No.

**MS. O'BRIEN:** So just to be clear, so a risk register – and we will be hearing more about risk registers in the evidence; we haven't heard a whole lot yet to date. But, essentially, a risk register is – and please correct me if you have a different understanding – it's where you go through and you essentially identify the risks that your business might be facing.

You attempt to do some quantification of how likely that risk is to occur. You look at ways you could mitigate that risk – in other words, reduce that risk of occurring – and then you try to decide, well, if that risk does come to fruition, if it does happen, how much could this cost us –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – for example. And then you manage your risk in that way. Fair enough –

**MR. STURGE:** Fair enough. Yes, it's generally.

**MS. O'BRIEN:** – for a risk register? Okay.

So I understand, but for the other business units – obviously, the units themselves who are working the work day in, day out, they're the best ones to identify their risks and actually manage –

**MR. STURGE:** Mmm.

**MS. O'BRIEN:** – those risks.

But for all the other business units, they – those people who are managing the risks in the different units would – it would flow up through the chief risk officer and then eventually up to the VP Finance in terms of responsibility.

**MR. STURGE:** The accountability for managing the risk still sat with the business unit lead, though, right? So we would have had in Hydro a lead, a business unit lead in oil and gas and so on. So they had the ultimate accountability.

The only place I would say that varied is that when it came to risks like – risks that may have revolved around credit risk or interest rate risk. Finance, corporate finance may have owned those. And, in some regards, that was no different with the Lower Churchill because, if you look at, sort of, the set of risks, there's a clear set of execution risks and then there's a clear set of commercial risks.

So the risks that Jim would have owned and actively managed would have been the risk of unable to get debt financing, unable to get equity financing, cost recovery. So those – that bucket

of commercial risks that probably really reflected themselves in the commitment letter after, he would've been clearly managing those. And they weren't being managed by Gilbert and his team.

**MS. O'BRIEN:** No, okay. But I understood you to say in your interview, and I can get out the transcript –

**MR. STURGE:** Mm-hmm.

**MS. O'BRIEN:** – if it helps, but let's just see if we can clarify it first. I understood you to say that the chief risk officer –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – his position that reported up –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – through Rob Hull to you –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – what – at that oversight level, looked at risks across the enterprise of Nalcor Energy, except the one business unit that was different was the Lower Churchill Project. And they really dealt with their – all their risks internally and up through –

**MR. STURGE:** Their process was separate, yes, (inaudible).

**MS. O'BRIEN:** – and up through Gil Bennet.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** So everybody else: the oil and gas, Newfoundland and Labrador Hydro, Churchill Falls, all reporting up on this element through the chief risk officer, eventually up to the VP of finance. The only exception was the Lower Churchill Project.

**MR. STURGE:** That was separate, yes.

**MS. O'BRIEN:** Okay. And I understand you're saying that there's some benefits to each model, right? There's pros and cons of each model as there often is in life. But why the distinction

between Lower Churchill Project and all the other business units of Nalcor Energy?

**MR. STURGE:** Well, you know, I think – and I probably wouldn't have made those decisions. And, I think, you know, early on there was – early – my recollection is early in the process, you know, as we – and when I say early, I'm thinking 2010 time frame, as a lot of these things were evolving, a lot of the corporate folks were sort of feeling their way as to what this model was going to look like, and probably not totally sure, including myself. And it sort of evolved over time and maybe it had already been decided and we just were catching up, I don't know. But, I think, you know, it became a realization that the Lower Churchill was going to be different.

And in some – in one regard you can't – I mean, it is different. It's big, it is a massive undertaking in itself and it is clear, though, that if you've got that type job to do and you've got people spread out all over the business who have accountability for things that flow up to you, it can cause some, you know, accountability issues.

So, on one hand, you say, yeah, I sort of get that because of the size of what it is and the complexity of it, that's it's that way, you know, and ...

**MS. O'BRIEN:** Whose decision was it to put this structure in place, or do you know?

**MR. STURGE:** I think it would have evolved probably through sort of Ed and Gilbert and the project team and, you know...

**MS. O'BRIEN:** Did you have any involvement in –

**MR. STURGE:** No.

**MS. O'BRIEN:** – that decision?

**MR. STURGE:** No, I mean, there was, you know, there were – there was a time that I thought, for example, that corporate IT would have – what we would've been doing. And so, you know, we sort of –

**MS. O'BRIEN:** You would have thought your corporate IT –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – which was

**MR. STURGE:** Was doing –

**MS. O'BRIEN:** – what you were responsible for, you thought that would cover the Lower Churchill Project?

**MR. STURGE:** Yeah. But as the thing shaped out it became clear that Lower Churchill was going to be – have it's own functions, you know, and –

**MS. O'BRIEN:** You say the same was true with communications, as well.

**MR. STURGE:** Communications had their own.

It was pretty well every function. The only one that was, I think, a little bit different was finance, in that the finance function for the Lower Churchill reports a solid line to me and like a dotted line to Gilbert, and that was probably the only distinction. But when you sort of peel back really what the Lower Churchill finance function ended up being, it really did end up being accounting, cash management, financial statement preparation and the financing. It didn't end up being control of costs and schedule, you know. So, it was always that what's in finance and what's in project controls. And, you know, you saw how that shook out.

**MS. O'BRIEN:** I'd like to get a sense of, you know, Nalcor's, you know, risk – what this project represented in terms of Nalcor's balance sheet.

So, obviously, Nalcor was only formed in 2007, but it really took in Newfoundland and Labrador Hydro, right? So in its, you know, in its first 10 years, say of, existence, can you give us some sense or give the Commissioner some sense of, you know, how did its balance sheet grow in that time in terms of the assets that were held.

**MR. STURGE:** Yeah.

So, when I joined Hydro in 2006, I think the balance sheet was probably 2 billion of assets, dominated by Newfoundland and Labrador

Hydro and some Churchill Falls. Today, it's in the 18 billion range, and if you look at sort of what happened in that period, it's obviously dominated by Lower Churchill because, I think, to date, we've got about, I think, 10 billion is our investment, to date. So of the 18, today 10 is Lower Churchill and it's probably a bit more than that because we've got some cash invested that's not yet spent.

But if you look at the rest of the business, the oil and gas business grew to be a \$1.5 billion business. And we've got massive investment programs underway in CF and Hydro, and just to give some context of those. You know, CF back 10, 15 years ago was investing 5 to \$10 million a year in capital. Today, it's investing \$70 million a year.

Hydro would have been – have an annual capital program of 35 to 40 million a year and today, it's, you know, it's hard to get steady state but it's probably in the \$150 million range a year, with that higher years in recent years. So right across the business, capital investment is high.

So, if you look at this project, I mean, we – as a company, we've gone from a \$2 billion company to \$18 billion in a relatively short period.

**MS. O'BRIEN:** And well over 50 per cent of that is the Lower Churchill Project.

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So, you know, there's no way you can deny that it's a totally transformation of company.

**MS. O'BRIEN:** Okay.

And just to give us some comparison, you know, we've had – there's a lot of talk, obviously, in this hearing room about Hydro-Québec, it's another utility.

Do you have any sense in terms of, you know, dollars of assets it holds? What range that would be in?

**MR. STURGE:** Yeah, Hydro-Québec would be probably in the \$75 billion range, somewhere around there.

**MS. O'BRIEN:** Okay. So, significantly bigger company then Nalcor Energy.

**MR. STURGE:** Significantly, but, you know, I think this project would still be a big project for Hydro-Québec.

**MS. O'BRIEN:** Sure. Okay.

And you just mentioned there, there's been an increase in investment for both CF(L)Co and Newfoundland and Labrador Hydro over what it has been, historically. Is there a reason that you can point to for that added investment in the assets?

**MR. STURGE:** Yeah, I think, you know, came to a realization that probably assets had been underinvested over a period of time and embarked on, sort of, long-term asset management plans for both those business units. Because, you know, if you take CF(L)Co, as an example, the plant came into commission, first power in the early '70s. So it's now over 40 years old, a lot of the moving pieces need to be replaced and the objective is to keep that plant in tip-top shape such that it becomes the crown jewel in '41 and it's still – and we still have to provide reliable service to Hydro-Québec. So despite all the commercial issues and the pricing, we still have an obligation to provide reliable service. So it was underinvested.

Same thing in Hydro really, and, you know, we're to the point now where we're rebuilding a lot of assets, investing – probably should have happened a long time ago.

**MS. O'BRIEN:** Okay.

All right, can we go to P-00806, please? Tab 16 of your book, Mr. Sturge.

So this is a slide deck we have from Nalcor's records called: Estimate Contingency Discussion, Prepared for LCP Gatekeeper, 3-Mar-2011. And I'm going to ask to go to page 5.

So, this is a graphic that we have seen previously and it – we've all heard the words –

no, page – oh, sorry, did I do that? Page 5. Thank you. Here we go.

So this says: Strategic Risk Exposure. We have it there from the Project Estimate and then there's an arrow out and it goes to Management Reserve (with Gatekeeper). So, we've all heard now about management reserve.

Mr. Sturge, when did you first hear about management reserve with respect to the Lower Churchill Project?

**MR. STURGE:** I would have heard the term quite some time ago, you know.

**MS. O'BRIEN:** Pardon?

**MR. STURGE:** I would have heard about that term quite some time back. Probably in this time frame, I would have heard the term.

**MS. O'BRIEN:** Okay.

When – but with respect to the Lower Churchill Project – I'm just going to go to –

**MR. STURGE:** So I think there's two pieces to that. The concept of management reserve – the concept of having one and having one I think was the distinction that I probably made, is that – I don't – I never did know we had one if we did have one.

**MS. O'BRIEN:** Okay, so just –

**MR. STURGE:** I think, yeah –

**MS. O'BRIEN:** Yeah, yeah, because I understood –

**MR. STURGE:** – maybe I confused you.

**MS. O'BRIEN:** You only heard about – that there being a management reserve for the Lower Churchill Project very recently, is that right?

**MR. STURGE:** Yeah, and I think there's some confusion around this, and you know, maybe I'm confused, so –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But that could be, too. But I – you know, there has been discussion around – and I think this is where the confusion is sort of at is that – and I see it as two different things, and they are related things, but one is you can have a management reserve, strategic reserve, whatever you call it, but having it and being able to fund it are, I think, are two related but separate things.

And I think where some of this confusion has come from is that, if you go back to DG2, in DG2 – so this concept of contingent equity was on the table, and the concept is that the province commits to the base equity. Anything beyond the base equity is contingent equity, and the province then provided a commitment to fund contingent equity. In DG2, we actually made an attempt to try to quantify contingent equity, and I think it was described in the DG2 package as 300 to 600 million, right?

By the time we got to DG3, there's no discussion about that (inaudible). So the – when I heard the 500 million, I think, in the Grant Thornton report, I had never heard the 500 million before.

But I think where the confusion is here is that people are probably thinking that because we have the province providing contingent equity, which covers any cost overrun for whatever reason, whether – it's not linked to strategic risk, it's – if your final forecast cost goes beyond your AFE or beyond the debt level, then you have to fund it with equity, and that's true. And maybe that concept is being muddled with the concept of, well, if we have a cost overrun in a strategic risk, then well, surely the province is going to fund it with contingent equity.

And I – and it's sort of related, but I never viewed that the contingent equity in itself was a strategic risk or management allowance.

**MS. O'BRIEN:** Okay.

And let's go – if we can go to – I'm gonna take you to your transcript now, Mr. Sturge. If we could go to P-00097? It's – this is the – I'll get Madam Clerk to bring up the first page, please.

**CLERK:** What one is that?

**MS. O'BRIEN:** P-00097. It's a larger document so it might take a second –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – to come up.

**MR. STURGE:** So I don't know if I answered your question or not but probably not.

**MS. O'BRIEN:** Well, I think maybe if – we'll go to the transcript, and we'll get –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – some clarification. So here I just want to note, on this slide here that's here now, we went from strategic risk exposure with a direct line over to management reserve with Gatekeeper.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So we've just looked at this presentation, and then I want to go to P-00097, please. Okay, and so P-00097, this is a Gate 2 Project Risk Analysis, and can we go to page 6, please? And I believe these are the documents we were speaking about in – when we were – when I was interviewing you, Mr. Sturge.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I was looking at some of the definitions here, Madam Clerk – there we go. I've got my mouse.

So I was talking about these definitions that are here in this Nalcor document, and management reserve, it says: "Approved capital budget held in reserve and controlled by Gatekeeper, which is used to provide a higher confidence ... level (i.e. comfort factor). It is often used by Gatekeeper as a mechanism to support scope additions in a project raised as part of the change management process which would not be covered by Estimate Contingency."

And then I'm gonna skip a little bit, "The Management Reserve is also used to handle the impact of strategic risk."

So this is the document that we were speaking about, do you recall that?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

So I said to you – and I'm at page 61 of your transcript: so just to – so here we have – and we have them in both these documents – definitions of management reserve.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So I'm just gonna let you take a look at the definition there, and what I'm looking for is to get your understanding of the management reserve. Mr. Sturge: I've heard the concept but wasn't aware we had one. Ms. O'Brien: Okay. Mr. Sturge: I've never – if we had a management reserve, it was news to me. I mean, I knew we would end up dealing with any overruns, but in terms of saying there's a reserve somewhere, I never heard of that concept.

**MR. STURGE:** Yeah, I –

**MS. O'BRIEN:** So that's what I was talking about there in my questioning –

**MR. STURGE:** And I would still agree with that, yes.

**MS. O'BRIEN:** Okay.

And you first heard – am I right – you first heard of this management reserve when the Grant Thornton report came out, is that –?

**MR. STURGE:** To see a quantified number of 500 million – I'd never seen that number before, no.

**MS. O'BRIEN:** Okay.

Well, when did you first hear that Nalcor had a management reserve related to the lower –?

**MR. STURGE:** When I read the Grant Thornton report.

**MS. O'BRIEN:** Okay.

So you're the CFO; you're the VP of finance; you're responsible for the – for enterprise risk. The chief risk officer reports right up to you, and

you didn't know about this concept before the Inquiry started?

**MR. STURGE:** I'd never heard it.

**MS. O'BRIEN:** You never heard of it?

**MR. STURGE:** I'd heard of the concept of you could deal with your management reserve, but the fact that we had established one and quantified it, that I wasn't aware of.

**MS. O'BRIEN:** And that it was – that's what was being –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – used on the Lower Churchill Project as – forms of funding, overruns and strategic risk, you didn't know about that?

**MR. STURGE:** And again, I knew that –

**MS. O'BRIEN:** Sorry, I just want to clarify –

**MR. STURGE:** I knew that –

**MS. O'BRIEN:** – you didn't know about that?

**MR. STURGE:** – if we had any cost overruns, whether their related to strategic risks or tactical risks, that they would be funded through continued equity. I mean, that was clear.

**MS. O'BRIEN:** Yes.

**MR. STURGE:** But the fact that somewhere there was a reserve that we had quantified and put aside, I'd never heard that.

**MS. O'BRIEN:** And that – and this concept that we just looked at on this slide, where it said, you know, strategic risk exposure, direct arrow to management reserve, you didn't know anything about that?

**MR. STURGE:** No, I – I mean, I've probably seen stuff like that before, that that's how you could deal with that. But I –

**MS. O'BRIEN:** No, but how you – Nalcor was dealing with it?

**MR. STURGE:** I – that I wasn’t aware of. I knew that that was one way that they talked about how that risk could be dealt with, but the fact that we had done it that way, I wasn’t aware.

**MS. O’BRIEN:** You weren’t aware?

**MR. STURGE:** No.

**MS. O’BRIEN:** No. Okay.

Did you have any understanding that the project team was treating, you know, tactical risk differently than it was treating what it was referring to as strategic risk?

**MR. STURGE:** Yeah, I’ve had some sense that they were making that distinction, ’cause some of the risks that we would have been managing as a finance team probably flowed into some of their strategic risks. Maybe things around commercial and financing and that, you know. So I knew that there was that distinction.

**MS. O’BRIEN:** Okay.

Can we please bring up now this P-00808? And this is actually an earlier version of this document we just looked at. Tab 18 for you, Mr. Sturge.

**MR. STURGE:** Yeah.

**MS. O’BRIEN:** And page 26.

So this is the Gate 2 Project Risk Analysis, so we’re at Decision Gate 2. And this – I’m just gonna roll back to the next page – the page before so we can get a sense. This is in a section entitled – it’s way up here – 8.5 Nalcor Recommendations. And then if we come down, there’s a – I’m gonna go right to the summary here, okay? On page 26.

So it says: “In summary, Decision Gate 2 economic modelling parameters utilized were P50 proxy / representative as indicated below:

“Estimate Contingency 15%;

“Strategic Risk Exposure 6%;

“Full Power Date June 2017.

**“It must be emphasized that these parameters were for Decision Gate 2 decision making purposes only, and prior to Project Sanction must be thoroughly reviewed and reassessed for suitability considering the design maturity of the Project as well as Nalcor’s risk appetite.**

**“Note:**

“During the negotiations of the Term Sheet with Emera, Senior Management elected to drop the Strategic Risk Exposure allowance of 6% from the overall capital cost recommendations for both the Muskrat Falls and Labrador-Island Transmission Link Projects in order to address Emera’s concern regarding its ability to sell the Strategic Risk concept to it’s the Nova Scotia regulator, the Nova Scotia Utility and Review Board.”

So I’m bringing you to this, obviously, Mr. Sturge, because I know you were – they are very involved in the Emera negotiations. So what information do you have on this topic?

**MR. STURGE:** So, on this one, I recall in my interview you put this to me. And I’ve read that somewhere before, it might have been in – I don’t know if it was in the Grant Thornton report, I read it somewhere and it just wasn’t ringing any bells. And when you asked me about it, I didn’t recall any specific discussion around strategic risk.

But it was bothering me that I – that you’d mentioned it and I couldn’t place it, so I – subsequent to that meeting, I did go back through my notes and I found a reference to an October 27, 2010, meeting that I brought to your attention.

**MS. O’BRIEN:** And we’ll bring that up now –

**MR. STURGE:** Yeah.

**MS. O’BRIEN:** – to help you. Tab 23 of your book, P-00834, please, and it’s – I think the note you’re going to want there is at page 3 of this exhibit.

**MR. STURGE:** Yeah, so these were my notes and just to put it into context, the third page or so, on the left-hand side of that page there’s a



discussion, it's called: Pricing for Nova Scotia Block A. And what was going on there is it was a discussion we were talking about this morning around what Emera would effectively see as their costs for block A. And –

**MS. O'BRIEN:** Block A being the Nova Scotia Block?

**MR. STURGE:** Yeah.

So I recall during that period in October we were doing a bunch of things with Emera to say, you know, if it was this, if we change this, and varying a bunch of factors to see what it would take to get the price in the acceptable range.

So this was a meeting of October 27. It was in Halifax. And you can see who was participating; there was a bunch of people on our side and ...

**MS. O'BRIEN:** And I'll just look at that. You have – it's actually on page 2, but I have here Nalcor –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – Ed Martin, Derrick Sturge, Gil Bennett, Wayne Chamberlain, and Rob Hull.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** And then –

**MR. STURGE:** Paul Humphries.

**MS. O'BRIEN:** Oh, sorry, Paul Humphries and Auburn Warren as well.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And then for Emera you have the names – you've only put last names, but Huskison, Muldoon –

**MR. STURGE:** Spurr.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And I think (inaudible) maybe?

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Maybe I got that wrong.

**MS. O'BRIEN:** So there was representatives from both, okay?

**MR. STURGE:** (Inaudible.)

And so we were having that discussion, obviously. And as I reviewed the notes, the second bullet there says: Chris talked about escalation and contingencies – so this would have been Chris Huskison. And then the next note I had there was: Discuss the need to be aligned in the capex estimate we're using, Nova Scotia and Newfoundland.

And then the related point on the top of the next column says: We need to focus on escalation and contingency to get the cost estimate reduced for Nova Scotia regulatory filing. So –

**UNIDENTIFIED MALE SPEAKER:**

Commissioner, can we go to page – thank you.

Thank you, yes, it's on page 3 now. Thank you.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay. Sorry.

**MR. STURGE:** So while that didn't refer specifically to strategic risk, I have reason to believe that it's probably the same issue you're talking about there.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And now having, you know, having been able to review your notes and – do these refresh your memory as to what was going on.

**MR. STURGE:** Yes, absolutely. Yeah. Yeah.

**MS. O'BRIEN:** So we just read the note that was in the QRA document there. Is that consistent with your memory of what happened with Emera?

**MR. STURGE:** Yeah, because there's another document somewhere related to this issue where we talked to this P75 and P50 thing. So I think it's the same issue, right?

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And so do you just want to tell us, tell the Commissioner, what your memory is?

**MR. STURGE:** So at that point I know we were – and that wasn't the only factor we were looking at. I think we were looking at operating costs and line losses and there were a number of factors we were looking at. And I don't have a really good recollection but I – when I saw the sheet – because there was a reconciliation somewhere, we went from a levelized cost of X and then we adjusted a bunch of factors to get to a new levelized cost.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I think maybe I – if you want me to bring up that document –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – I can. It is –

**MR. STURGE:** I think it was in a –

**MS. O'BRIEN:** It's in a – hang on now – sorry, I don't have my reference as handy as I'd like it, but I do have –

**MR. STURGE:** See if I can find it.

**MS. O'BRIEN:** – the document, P-00871. Look at tab 29, Mr. Sturge, is that what you're referring to?

**MR. STURGE:** I think that's the one, yeah. Yeah, that's it.

**MS. O'BRIEN:** Okay, so is this – this is also happening.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** This is happening on October 29.

**MR. STURGE:** Twenty-ninth, so it was in the (inaudible).

**MS. O'BRIEN:** So this – your notes – your meeting here was on October 27, so this is a couple of days later.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So if – yeah, please use this to –

**MR. STURGE:** So we had been – and, again, the objective we're trying to get here is what set of circumstances would put us in the acceptable range that Emera was – needed, if they believe they need it for the UARB process.

So we were looking at a number of factors there so it was O&M, line losses and then you see that reference of capex, P75 to P50. So that looks to be the same issue that was in my notes on the 27th. That probably is the same issue that got reflected in the March 11 document.

**MS. O'BRIEN:** Okay.

And I know you had said that there was a – you wanted to get the – in talking with you and preparing for today I understand there was a – you recall there being a need to get the price down for Nova Scotia Power from Muskrat Falls below \$125 or something like that?

**MR. STURGE:** Yes, so we were working to get in that range, yeah.

**MS. O'BRIEN:** Okay, so is this showing – this document showing –

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** You're starting off with a value of \$157 and you're looking at bringing down adjustments to get it below, you know, to get it down to \$122.97. Is that –?

**MR. STURGE:** That's what we were working on there, yeah. And as I look at that, like, it references P3 financing which was something that we'd been looking at back in 2010 that eventually fell away, but it would've been replaced by the federal loan guarantee, so ...

**MS. O'BRIEN:** Okay, so –

**MR. STURGE:** That was – and I'm not sure if this was the final landing place, but it was a step along the way to achieve that, yes.

**MS. O'BRIEN:** Okay, so the note that I brought you to in Exhibit P-00808 says: "During the negotiations of the Term Sheet with Emera, Senior Management elected to drop the Strategic Risk Exposure allowance of 6% from the overall capital cost recommendations for both the Muskrat Falls and Labrador-Island Transmission Link ... in order to address Emera's concern regarding its ability to sell the Strategic Risk concept to it's the Nova Scotia regulator ...."

So is that consistent with what your memory is?

**MR. STURGE:** My recollection – and it – my recollection is more around this P75 to P50 thing, which –

**MS. O'BRIEN:** So in other words, reducing it from a P75 number to a P50?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay, and –

**MR. STURGE:** Which is – because these charts here would've been charts we were working at the time. So I recall that more than I do a discussion on strategic risk, but I'm not saying that's not correct. It's just I recall the P75 to P50.

**MS. O'BRIEN:** So if you reduce from a P75 to a P50, you're taking out contingency, right?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah, which is what –

**MS. O'BRIEN:** And then it says all contingency set at 15 per cent. Do you know what the equals 3.2 per cent lower capex means?

**MR. STURGE:** I think that meant that the overall capex number went down by 3.82 per cent.

**MS. O'BRIEN:** By reducing the contingency.

**MR. STURGE:** I think that's what it means.

**MS. O'BRIEN:** And the idea here – and I – you know, please correct me if I'm not right, but my understanding from talking with you earlier is the idea here was you wanted to get – you didn't – the thought was the Nova Scotia regulator wouldn't approve this as the least-cost solution for Nova Scotia if they didn't get the price down below 125 or something like that?

**MR. STURGE:** Yeah, so we were working to that, but I think probably along the way here is as we sort of tested back and forth, sort of make sure that the assumptions we're using are correct – is that I think Emera was using P50 or planning to use P50. And then as we talked through that, it probably would've (inaudible) that, well, you're using P75 so ...

And I think because we're doing this whole 80-20 thing, my recollection is that it was going to be hard for us to have an estimate with a different level of certainty that Emera had.

**MS. O'BRIEN:** And we know that Emera did use a P50 number, but they also presented much higher confidence level numbers to the UARB.

**MR. STURGE:** Right.

**MS. O'BRIEN:** And the UARB ultimately –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – approved a variance –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – using a higher confidence –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – in other words, –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – more contingency. Is that consistent with your –

**MR. STURGE:** I –

**MS. O'BRIEN:** – memory?

**MR. STURGE:** – seem to read that in – recall reading that in the UARB report, yeah.

**MS. O'BRIEN:** Okay. And this idea of taking out strategic risk though –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – because, you know, that's the idea, you were going to not have any strategic risk in your capital cost estimate. Is that ...?

**MR. STURGE:** I assume that's what – how that manifested itself, yes.

**MS. O'BRIEN:** Okay. Any, I mean, the obvious, you know, here is –

**MR. STURGE:** Mm-hmm.

**MS. O'BRIEN:** – when we're talking about whether we're calling risks –

**MR. STURGE:** Mm-hmm.

**MS. O'BRIEN:** – strategic or we're calling them tactical –

**MR. STURGE:** Mm-hmm.

**MS. O'BRIEN:** – some of these risks you know are gonna happen. That fair to say? You know some of them are gonna happen.

**MR. STURGE:** Probably likely, yeah. Probably likely.

**MS. O'BRIEN:** Very likely. Some of these risks –

**MR. STURGE:** Yeah, probably likely.

**MS. O'BRIEN:** – are gonna materialize. Pardon?

**MR. STURGE:** I would say that's fair that some of those would happen, yeah.

**MS. O'BRIEN:** And you just don't know which – exactly which ones. And you don't know how bad – you know, how much it's gonna cost you. Fair assessment?

**MR. STURGE:** Would say so, yeah.

**MS. O'BRIEN:** Okay. So these are risks you know, you're able to identify them, you know there's a likelihood some of them are gonna materialize –

**MR. STURGE:** Are you thinking of strategic or just in general?

**MS. O'BRIEN:** I think – is there any –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – difference between strategic and tactical?

**MR. STURGE:** Probably not, no.

**MS. O'BRIEN:** Yeah, I don't see a difference.

**MR. STURGE:** Different type of risk, but it's the same outcome.

**MS. O'BRIEN:** Right. And if you're looking into the future and the future's not known, right? Fair to say? Sorry, –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – you can't nod your head, you have to answer.

**MR. STURGE:** Yeah, it is fair, yes, yes.

**MS. O'BRIEN:** Okay. So – but the idea that some of these risks, you know, you know some of them are going to come to fruition and they're gonna cost you something. Yes?

**MR. STURGE:** Yes, I would agree, yes.

**MS. O'BRIEN:** Okay. And if here we're saying – 'cause the deal with Emera is that we were going to – we were going to – if there was any risk, any cost overruns above the DG3 estimate, we were gonna eat alone. In other words, they – Nova Scotia wasn't – Emera was not sharing in that risk of those overruns, right?

**MR. STURGE:** Right.

**MS. O'BRIEN:** Right. We – this province was gonna have to take all that risk, right?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Once you did your 80-20 at sanction, yes.

**MS. O'BRIEN:** Once you did your 80-20 at sanction. And we know that if Nova Scotia's – they had overruns.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** There was some sharing of the risk, and we've had evidence, but it was some sharing.

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay. So, I mean, the – any – did it occur to you here if we're saying, look, we're gonna keep our number low in order to sell this to the UARB to get this approved, any concern that we were taking on, you know, risks we – more money we knew was gonna have to be spent because in all likelihood some of those risks were going to materialize and we were taking all that risk ourselves? Like, do you recall any discussion, any conversation, any –

**MR. STURGE:** I don't.

**MS. O'BRIEN:** – concern about that at the time?

**MR. STURGE:** I don't recall that discussion. I'm not saying it didn't happen, could just be I wasn't – you know, 'cause at the term sheet time, the focus was on the principal of 80-20. And I think this work was taking place to see were there a number of factors here that – what were the moving pieces that could ultimately get to that range? And in terms of getting to that range, it wasn't going to be decided until the UARB finding was actually made. But I think this was sort of exploring what – you know, was there even a set of conditions that could ultimately get us there.

So, the negotiations itself really weren't around the capital cost. This was just trying to get a position of where it's at. Because the negotiation then turned to what's the principle? And the principle became 80-20. But it wasn't talking

about what were the numbers that went into the 80-20.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** That was to be of further discussion, obviously.

**MS. O'BRIEN:** Can we go back to P-00097, Madam Clerk, and on page 26.

So, this document that we just looked at there was the second revision, sorry, the first revision of this document. Now I'm going to go back to the second. So, yeah, page –

**MR. STURGE:** And I'm not even sure I would have seen that document back then anyway.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But just – I don't know if that makes a difference or not.

**MS. O'BRIEN:** Okay, and that's fine, and given the fact that you didn't know anything about management reserve, I suppose that's not surprising that you didn't see it at the time. Fair to say? Because that's the document I was questioning you about –

**MR. STURGE:** Fair enough.

**MS. O'BRIEN:** – when you said you hadn't heard of the concept.

Okay, so but here we're going to the next version of this document, what becomes the final document and these notes about the 6 per cent is gone, the notes about Emera are gone. And it says: "In summary, following Nalcor executive recommendation, Decision Gate 2 economic modelling parameters utilized were P50 proxy / representative as indicated below: Estimate Contingency 15%; Strategic risk Exposure Nil; Full Power Date June 2017." And then this same paragraph that we have to revisit the numbers is there.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Do you have, and you might not, but do you have any knowledge of why that

document was changed to remove the reference to Emera?

**MR. STURGE:** I can only assume it related to some of this discussion. I –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** It would appear that it seems to be when that discussion was taking place. I –

**MS. O'BRIEN:** And we know that in the board – the package certainly that went to the board at DG2 –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – there was talk about this, you know, I think it was 300 to 600 –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – million and –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – contingent equity that was deemed necessary and advisable for the province. Were you aware of that number at DG2?

**MR. STURGE:** Yes, yes.

**MS. O'BRIEN:** Okay. Do you know if anyone in government was aware of that number –

**MR. STURGE:** Oh, yes.

**MS. O'BRIEN:** – at DG2?

**MR. STURGE:** Yes, absolutely, yeah.

**MS. O'BRIEN:** Okay. So who would've been aware of it in government and how do you know?

**MR. STURGE:** I know Finance would have been because it was discussed in the meetings that we would have had in Toronto with the banks that I talked about on September 13, 14, 2010.

**MS. O'BRIEN:** Okay. So who would have been present, specifically?

**MR. STURGE:** Terry Paddon would have been there.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But I think it – I think that package went broader than that. I think others would have seen that as well.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So when government made their announcement at DG2 that this was a \$5 billion project, you know that at least one member of government, Terry Paddon, knew that on top of that 5 billion, it was going to be an expected contingent of –

**MR. STURGE:** No, I think, though, the only distinction I would make there, and this was the point I was talking about earlier, this distinction between identifying a contingency to go in the estimate and then how you fund the estimate, and what we were trying to do there is we were trying to say to the province is that you're going to cover the base equity and on top of that you're going to cover contingent equity. And I think there was discussion underway of well, how much would that be? And I think that that was an attempt to try to put some bounds around that contingent equity it might look like.

We ultimately came off that because, ultimately, it became not what the lenders were really looking for. It's not contingent equity. They wanted to ensure that somebody would be there with the last dollar of equity to ensure the project got completed. So, it became trying to put bounds around the contingent equity. Once we got past DG2 it just wasn't what – really what lenders wanted. They wanted somebody to say, whatever that last dollar of equity is, I'm going to be there with it.

**MS. O'BRIEN:** Right. And that they had –

**MR. STURGE:** So we dropped the concept of quantifying it.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** But let's talk about DG2 and I'm really looking at it from –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – the public's perspective –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – of what was announced at the time, right?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So at that time the announcement was \$5 billion, right?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And we know now that that had some amount in it for tactical risk.

**MR. STURGE:** Yes. Yeah.

**MS. O'BRIEN:** And in terms of strategic risk, it had nothing in it, zero dollars, but there was an assessment, from what I'm hearing from you and it's consistent with some of the documents we've –

**MR. STURGE:** Mmm.

**MS. O'BRIEN:** – seen, that there was an assessment that look, there may be another 3 to \$600 million that would be needed from the province.

**MR. STURGE:** In terms of – 'cause I think the discussion then was around for projects being financed that try to put a cap around or to try to quantify that contingent equity, what would that range be? And my understanding is it was suggested that 3 to 600 million might be an appropriate range to ask for on contingent equity, but I – and maybe I was wrong, but I never ever linked that to the contingency of the project.

**MS. O'BRIEN:** Okay. But it was – what you're saying, you were making an estimate of what additional overruns – money you might need to have to cover additional overruns.

**MR. STURGE:** Effectively, that's what it was, yeah.

**MS. O'BRIEN:** Right.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So the government – you're saying, you know, Terry Paddon, at least, had this information that there was another 300 to 600 million expected, you know, the money that would – funding would have to be there to cover potential overruns. That was your best estimate at the time. Is that reasonable to put it that way?

**MR. STURGE:** Yeah, and that's described that way, I think, in the DG2 package actually.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** I'm pretty certain it is.

**MS. O'BRIEN:** And you're, you know, you're confident that at least Mr. Paddon was aware of that?

**MR. STURGE:** Pretty certain he would be, yeah.

**MS. O'BRIEN:** Okay.

And let's look at P – I'm gonna move to DG3 now; P-00130 please. I don't believe this is in your book –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – it will come up on your screen. And I'm gonna – this is the similar type document that was done for DG3, it's the one we just looked at. I'm gonna ask to go to page 18.

**MR. STURGE:** I'm pretty certain I wouldn't have seen this one before either.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Yeah.

**THE COMMISSIONER:** I'm –

**MR. STURGE:** This is DG3 –

**THE COMMISSIONER:** I'm sorry, did you say you would've or you didn't?

**MR. STURGE:** I don't – I'm pretty certain I hadn't seen this document –

**THE COMMISSIONER:** Okay.

**MR. STURGE:** – not until I – it was put in front of me.

**MS. O'BRIEN:** So this is the similar type of risk assessment document that we looked at for DG2. This is the one for DG3, and I'm just gonna read here, it says – this is called Schedule Risk Exposure.

I'm gonna go just below here it says: "With consideration of the potential cost to mitigate the contributory risks as well as the residual risk exposure, the total financial exposure remains within the \$300 to" – \$500 [sp \$600] – "million exposure identified at DG2; presently an expected value is approximately \$500 million. For the LCP, this Management Reserve would be funded by Contingent Equity from the Shareholder."

Okay, so this is – you had –

**MR. STURGE:** Yeah, so that's where, obviously, it came from. Yeah.

**MS. O'BRIEN:** Okay. And so – and I just want to make sure your evidence is clear. When this project was sanctioned, you did not know anything about \$500 million?

**MR. STURGE:** I'd never heard of it.

**MS. O'BRIEN:** Okay. And to your – and you didn't know anything about a management reserve?

**MR. STURGE:** Heard of the concept, but I didn't know we had one.

**MS. O'BRIEN:** Okay, or that it was being used –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – on the Lower Churchill Project – didn't know, right? Okay.

And the fact that this was an expected funding as contingent equity from the shareholder, you knew that – I understand you say –

**MR. STURGE:** Oh yeah.

**MS. O'BRIEN:** – we knew the shareholder was –

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** – if we had cost overruns –

**MR. STURGE:** Absolutely.

**MS. O'BRIEN:** – it was going to the shareholder.

**MR. STURGE:** Yeah. Yeah, that's right.

**MS. O'BRIEN:** Do you know if anyone in government had this information? This 500 million –

**MR. STURGE:** The 500 – no, I've – because there's been, obviously, a lot of discussion around the 500 and I've sort of, you know – and I struggle with it because I don't recall ever hearing it at board meetings. I don't recall it. And that's why I'm starting to feel a bit dumb on this. Like how could I not have heard of this thing? But I just – I cannot recall hearing the 500 million.

**MS. O'BRIEN:** Okay, so while you can say you were satisfied government knew about the 300 to 600 million at DG2, you can't say the same for 500 million at DG3, is that a fair summary?

**MR. STURGE:** I can't say they didn't know, but I don't ever recall being in a meeting where that would've been discussed. Now, that doesn't mean it wasn't discussed elsewhere, but I was not –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And again, I still see it as different things, you know, so the 300 to 600 and the 500.

**MS. O'BRIEN:** Okay, how do you see them as different?



**MR. STURGE:** One being just an estimate of contingent equity, and the other – in the other case we said there’s still contingent equity with this 500, we just haven’t quantified it. It could be a billion, it could be a billion and a half. I mean, there was no limit put on it. So –

**MS. O’BRIEN:** Sorry, I’m not – but I –

**MR. STURGE:** You know, so –

**MS. O’BRIEN:** – they saying the estimate here it was 500 million for –

**MR. STURGE:** Right, so –

**MS. O’BRIEN:** – the strategic risk.

**MR. STURGE:** So in this case, it looks like they’ve described this management reserve as 500 million, right? Because what I’m saying is our contingent equity that the province would’ve been on the hook for was whatever that last dollar needed to be to –

**MS. O’BRIEN:** Or needs to be.

**MR. STURGE:** – make the project. Needs to be, right.

So I don’t see this link – I’m not saying that, like, the 500 could lead to a need for contingent equity, but in itself is not the same thing, I don’t think.

**MS. O’BRIEN:** I wanna – you know, this obviously raises some questions because, you know, these are documents that – these documents were being produced by people working within the project. And you’ve already said that what your role was with respect to the project was different from your role with other areas of Nalcor’s business. And I wanna get to a – dig a little deeper, Mr. Sturge, on – into your knowledge of the capex. So the capital expense estimate that was being used for the Lower Churchill Project. And I understand it was not as deep as I might’ve expected it to be.

And I’m gonna bring you to some of your notes, okay, to assist you with this. If you go to tab 31 of your book, please – it’s P-00877.

**THE COMMISSIONER:** Actually, tab 33, I think.

**MS. O’BRIEN:** Yes, thank you, Commissioner. I wrote it down wrong.

**MR. STURGE:** Oh, yeah. Okay, yeah.

**MS. O’BRIEN:** Yeah, P-00877, tab 33. And these are notes of yours from August 8, 2012, is that right?

**MR. STURGE:** That’s correct, yes.

**MS. O’BRIEN:** Okay.

And there’s a note here – you say: Ed, update – your writing is hard to read.

**MR. STURGE:** Yeah. So the – on the right – left-hand side it looks like this was a meeting that Ed would’ve been updating me on with Forestell, and that would’ve been, I think, Dave Forestell in – I think maybe in the prime minister’s office at the time. May be related to the loan guarantee.

**MS. O’BRIEN:** Okay.

**MR. STURGE:** I think.

**MS. O’BRIEN:** And the point I was going to – but feel free to refer to anything else –

**MR. STURGE:** Yeah.

**MS. O’BRIEN:** – that’s helpful – is the note you have up here at the top of this column here –

**MR. STURGE:** Yeah.

**MS. O’BRIEN:** – LCP capex. Can you read that out and then explain to us what was going on?

**MR. STURGE:** So the note I had written there was: “LCP Capex – very strange process – I (and most of the finance team) have still yet to see the DG3 Capex in any level of detail – appears that Ed” – and the – “Project Team are keeping them close.”

**MS. O’BRIEN:** Okay.

And another one –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – if we could just go now to tab – I'm going to take you to tab 31, 'cause it's a little bit later than this. It's October 2012 and this is an email – P-00875, please, Madam Clerk.

So this is an email chain – similar subject – between you and Auburn Warren. And at the bottom of the email chain – I'll let Madam Clerk run through it – but it's Auburn Warren to you; subject is Gong show –

**MR. STURGE:** You gotta know Auburn, I guess.

**MS. O'BRIEN:** I do actually.

“... Hearing rumours around dinner table - Harrington and Rob - that an announcement is expected in next few days about what we've been working” – on – “the past # months ... Classic! Kept in the dark ...”

So then you write back and say: “Flg?”

And he says: “yepp... supposed to be an announcement in next day or two...”

And you said: “Really? Ed mentioned capex and MHI on Wed. Shouldn't be surprised though!”

Auburn says: “I was absolutely gobsmacked when I was chatting with Rob as I had a quick chat with Ed and SH yesterday late afternoon about progress... oh well no need to keep us in the loop... probably better not to have anyone who could point out the flaws in what is being 'agreed to'...” In quotes.

And then you wrote back and said: “Crazy. Are you in Beantown this week?”

**MR. STURGE:** Yeah. He went (inaudible) –

**MS. O'BRIEN:** So I have had some discussion with Mr. Warren. And I do understand he was in Boston at the time, hence the reference to Beantown, and I understand him to say – or he did say, that SH would've been shareholder. And I don't know if that would be consistent with your understanding or not.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Oh, it is. Okay. So we've got your notes here. We have an email that's on the same topic. Can you please address these?

**MR. STURGE:** Well, you know, I think – I'm trying to put it into some kind of context without being too alarmist.

You know, I think through the whole process – and I think this is probably what Auburn was reacting to here – a little bit – was, you know, there's times where decisions get made at different levels and you're catching up, you're out of the loop. And, yeah, it happened at times. And I'll expect – I think in fact what happened here is – what he was referring to is probably what I referred to – is I think, I think, just looking at the timing here, is it was probably what I referenced is that, I think, there was a press conference on October 30, 2012, to roll out the capital cost, and I think maybe MHI and, I think, Ed and the premier. So I think that was the correct – but I guess, sort of, the overall issue is what you're talking about.

Yeah, I mean, there were times – it's a big project, it's a complicated organization, I'd say there were times that we were out of loop, you know, whether it was purposely or not it's hard to know, but I don't – I have no reason to believe that it was purposely but –

**MS. O'BRIEN:** Well, you referred to it as a strange process. I mean, those are your words –

**MR. STURGE:** Yeah in my note – yeah it was.

**MS. O'BRIEN:** – from your notes. Not just strange.

**MR. STURGE:** It was, because –

**MS. O'BRIEN:** Very strange process.

**MR. STURGE:** – what was happening at that time, this was just before sanction, is I recall that we knew the 6.2 billion, but at that point, we still hadn't seen any detail on the 6.2 billion. So we knew – I think we'd seen some of these reconciliations where we went from 5 billion to 6.2 in these water-flow charts, but I don't think at that point we still had seen any detail, and I

think there was probably a level of concern at that point that we were starting to advance with Canada, and we still hadn't brought Canada into the tent in terms of the increase in the number.

**MS. O'BRIEN:** But it's not just Canada, it's the VP finance.

**MR. STURGE:** Yeah. And I mean, I – you know, I can't say it's right. It's just –

**MS. O'BRIEN:** But that was the fact at the time?

**MR. STURGE:** And it was probably my frustration with it at the time. Clearly it was; I wrote it there, but –

**MS. O'BRIEN:** Yeah, at the time, you weren't being – I mean, I want to make sure I'm being fair –

**MR. STURGE:** Yeah –

**MS. O'BRIEN:** – to you here, but –

**MR. STURGE:** – I know.

**MS. O'BRIEN:** – but is it – you know, the summary here is it that you weren't being kept – you were the VP finance, the CFO; you weren't being kept up to date on the capital estimate.

**MR. STURGE:** Yeah, I –

**MS. O'BRIEN:** You –

**MR. STURGE:** – think that's – as a general rule, I think if there's one area that I felt probably that – 'cause there were a lot of things that we had a very open discussion on, you know, and – but capital was one that always seemed to have a – and I talked about it in my interview and had a little bit of a – a very tight group on it, and it tended to be – in my mind it was – it tended to be sort of the CEO, project team that were having those discussions.

**MS. O'BRIEN:** Okay.

And so –

**MR. STURGE:** And we'd often find – I mean, we obviously would find out, because it had to

go in the models, but it would be close to the end of that discussion before we would see data, you know?

**MS. O'BRIEN:** Okay.

So you were being kept out of the loop and you found that frustrating, fair to –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – say? Yes.

And you also found it to be very strange that you wouldn't be kept in the loop given your position? Sorry?

**MR. STURGE:** Yes, yes.

**MS. O'BRIEN:** Okay.

And again, when we're talking about the – you know, we're talking about the capital – we're talking about the estimate here. We're looking at things like is strategic risk included or not, right?

**MR. STURGE:** Yes, yeah.

**MS. O'BRIEN:** We're looking at things like what's that first scheduled – what's the schedule date being used? How realistic is the schedule that's being used to –

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Right.

So this idea that we've had plenty of evidence on about it being a P1 schedule, were you aware that the estimate was being generated using a P1 schedule?

**MR. STURGE:** I hadn't heard of P1 until you put it in front of me in my interview.

**MS. O'BRIEN:** Okay.

So those are the kind of – that's the kind of information that was not being shared with you?

**MR. STURGE:** That's correct.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** And I'm not saying that it wasn't the proper discussion taking place on it, because I know there was discussion taking place on it. And there was discussions between CEO, project team, and I'm sure Westney and others were weighing into that. So it's not that there was no one with any expertise in it, 'cause that's not true.

**MS. O'BRIEN:** But you weren't?

**MR. STURGE:** All I can say is I wasn't in it.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Now, whether I could have brought anything additional, I don't know if I could have or not. That's not my expertise. But it was an important variable.

**MS. O'BRIEN:** Okay. Now, you – I understand that you were a member of what was called the Lower Churchill executive committee.

**MR. STURGE:** That's correct, yeah.

**MS. O'BRIEN:** So just – what did that group do?

**MR. STURGE:** So the executive committee was formed – and I can't quite recall the date. I'm thinking like 2011 or '12. It was before sanction. And it was a group that consisted of – I would have been on it, Gilbert would have – Gilbert would have chaired it I think – and Paul Harrington would have attended. Would have been a number of other functional people across the organization, too.

And it really didn't become a decision-making body for Lower Churchill. I don't think it ever really was intended to be. But it was more of a group that would – because the Lower Churchill, as it started to evolve, was starting to touch things in other business units, and this was meant to be a bit of an information-sharing – which I think it did a good job on, and trying to reconcile issues – maybe if there was an issue between Lower Churchill and Hydro that needed to be talked through.

And so it was – you know, it served that purpose. But I never saw it as a decision-making body. And things like capital costs I don't recall

ever being there, you know. But it had a purpose, but it wasn't for those types of decisions.

**MS. O'BRIEN:** So it was for sharing information, but it wasn't information about details of the capital cost?

**MR. STURGE:** No.

**MS. O'BRIEN:** And it wasn't information about the schedule?

**MR. STURGE:** No.

**MS. O'BRIEN:** Okay. So what types of information would it be?

**MR. STURGE:** It's not to say that after all those decisions were made that it may not have come there, but it was sort of a – it wasn't a group that was inputting into the decision making of those factors. Put it that way.

**MS. O'BRIEN:** Did anything of real substance go to the executive committee? The Lower Churchill –?

**MR. STURGE:** I would say nothing of real substance. I mean, there was useful information there that kept people abreast of activities happening, but I don't think there was any ever really juicy topics there, you know?

**MS. O'BRIEN:** Okay. Any key decisions made there?

**MR. STURGE:** Key – I don't think there was any key decisions there, no.

**MS. O'BRIEN:** Any key decisions discussed?

**MR. STURGE:** Not that I recall. Like, if you take capital as an example, I don't ever recall a discussion of capital. At least not before decision – key decisions were made on capital. It may have been after the fact.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** You know, but ...

**MS. O'BRIEN:** Okay.

The P50 confidence level that was being used, at least for the tactical risk portion, were you aware that that –

**MR. STURGE:** I was aware of –

**MS. O'BRIEN:** – was being used?

**MR. STURGE:** – P50, yes.

**MS. O'BRIEN:** Okay.

And did you have any – we've had lots of evidence on people about what's the right confidence level on which to sanction a project of this size. Did you have any – did you – what are your opinions on that?

**MR. STURGE:** I wasn't in any of the discussions around what it should be. And in some regard, you know, I don't know if I – if my expertise is – lends itself to saying that this should be P50 or P75 or not.

You know, in some regards, you got to take comfort in the fact that you've got a team who presumably know these things. Our CEO is well versed in these things and they did have good advisors on this stuff. So you would think that that should be sufficient.

So I wasn't consulted on it, and had I been, not sure I could have added much to what they would have already had in the mix, but ...

**MS. O'BRIEN:** Okay.

So – and the fact that you weren't consulted – I mean, one of the – some of the evidence we've had here from Bent Flyvbjerg, and there's – it's you know, canvassed in the Grant Thornton report, is the idea that you – when you're looking at sanctioning a project, particularly when – I mean this was a project that was over half of all the – this was a major project for Nalcor Energy. It's not like it was one of a big portfolio, number of projects.

So the thought that was put forward, certainly, by Bent Flyvbjerg, is that you want to have a high confidence in your numbers, so you want to have a lot of contingency there, a high P-factor when you're making a sanction decision for a – you know, a major project like that.

You're – had you had any experience or relevant – any further thoughts on that?

**MR. STURGE:** No. I mean, I can't say your point is wrong in that getting a solid estimate would have been critical. My expectation is the discussions that Ed was having with the project team was – because he would have been of the same mindset. He wouldn't have had no reason to have a different set of thoughts.

So, you know – so while I wasn't involved in it, I would have taken some comfort in the fact that Ed was well versed in that area, the project team was well versed in that area and I saw no reason why they would have any incentive to not do the right thing.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** You know?

**MS. O'BRIEN:** But I think this is really about what your role is –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – as the CFO. Again, you know, the chief risk – enterprise risk is on your plate. That's one of the things you're responsible for.

**MR. STURGE:** Yeah, I mean –

**MS. O'BRIEN:** So is it not unusual that they would not have at least come and got your thoughts on what kind of confidence level they should be using?

**MR. STURGE:** It might be, yes. I mean – and I'm sure you'll find organizations where that might be the normal process.

I think had they engaged me, I probably would have asked some of the same questions that they were asking and probably would have been convinced that P50 was fine, I don't know. I really – I shouldn't say that because I don't know, but, you know, I'm sure the data they would've put in front of me was the data that they would've put in front of Ed.

**MS. O'BRIEN:** Okay. What if one of the key consultants, the risk consultants, had

recommended a P75? If you had that information, would that influence you?

**MR. STURGE:** I would think so.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** I would think, yes.

**MS. O'BRIEN:** Okay, did you ever – were you ever advised that the key risk consultant had recommended P75?

**MR. STURGE:** I wasn't aware of that.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Are you saying that is the case?

**MS. O'BRIEN:** Yes, we will –

**MR. STURGE:** Oh.

**MS. O'BRIEN:** Well, the evidence is not – has not come – I certainly don't put forward propositions like that if I don't have a reasonable expectation –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – that that's the evidence that's going to come out. But until the evidence is in, it's not –

**MR. STURGE:** No, because I heard the P1 thing, I just hadn't heard that so ...

**MS. O'BRIEN:** Yeah. Okay.

On this level of the P1 and the schedule – and this was a question I put to you in the interview – do you know if any financial – you were doing the financial models and that's what Investment Evaluation was doing.

**MR. STURGE:** Yeah. Yeah.

**MS. O'BRIEN:** And I understand that there was a – certainly to the CPW analysis that was being done, the expected first power date was an important input. And is it fair to say that that would also be an input that had to be used in the financial models?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Because I guess, you know, the interest during construction – there's many things that could affect –

**MR. STURGE:** Absolutely, yes.

**MS. O'BRIEN:** Right. And is it fair to say that, you know, the longer the construction period goes until you get first power, generally your costs go up?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

Do you know if there was ever any financial modelling done around other first power dates other than the June 2017 date?

**MR. STURGE:** Not that I recall, no. No.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** Because any of the modelling we would've done would've been around the most recently approved capex and schedule.

**MS. O'BRIEN:** And would you just have taken the schedule date from the project team?

**MR. STURGE:** Yeah, so typically what would happen is a decision would be made as to, you know – with – like, with Ed and the project team as to what the capital cost is. And then that would subsequently follow up with the project team then providing us with a cash flow profile by year, because that was obviously important, the spend profile of when you're spending it. And that's how that would typically play out.

**MS. O'BRIEN:** Okay, so you only did the date – any – do you recall looking at how robust is this first power date we're being given?

**MR. STURGE:** I don't recall that discussion, no.

**MS. O'BRIEN:** Okay.

We have had a fair bit of evidence already on the board of directors. And I know that you came from your background – I think maybe it

was with Deloitte. You've done a fair bit of work in corporate governance, is that right?

**MR. STURGE:** Correct.

**MS. O'BRIEN:** And Tom – we've heard from at least four members of the board. Tom Clift was there and he did say that he had worked with you in looking at some of the board governance areas. I'm not gonna go through this with you in a great deal of detail, but I would like to hear from you on it

**MR. STURGE:** Sure.

**MS. O'BRIEN:** – given your expertise.

And the first topic is with respect to board member selection criteria. And so we have ample documents, we've covered it at length here, that the board was seeking additional members with experience and expertise in a variety of areas that they did not feel were represented on the board as it was, and they were looking for people with, you know, international perspectives with megaproject experience, various other things.

Did you consider the board to be under-represented in certain areas of expertise?

**MR. STURGE:** I think yes. I mean – and again, as I think I mentioned earlier, I don't think – I don't – my own personal view is I don't think that contributed to – 'cause I think the board members we had there did a good job, but I think clearly the board was too small and probably didn't have a broad enough range of skills. And I think the board recognized that. So I don't think that they would be – they would disagree with that.

**MS. O'BRIEN:** No, it's consistent with the evidence they've given. From your perspective, how important is it to have all the identified and – as needed skill sets present on the board? How important is that for good governance?

**MR. STURGE:** I think it's very important.

**MS. O'BRIEN:** Okay. And here's a quote. I'm quoting from you – from your transcript – but it was a sort of a succinct –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – statement on the topic, and I'm going to read it to you and just to confirm whether you'd still agree with it. And I don't think this is going to be particularly –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – contentious for you. You – I – you said: We all know that boards are an oversight. And it's difficult as a board member to catapult yourself into any organization for once a month and expect to be an expert. So that's not the reality, right? But you've got to have enough people on it who've got depth of experience that they could see, you know, they could weed out what's BS and what's true and if we're missing a focus on a key area. And that's what, really, the board is. It's a sounding board. It's a reasonableness check on management. And – but you've gotta have some depth of experience in different areas, you know.

Is that a fair statement from you?

**MR. STURGE:** Sounds pretty good, actually.

**MS. O'BRIEN:** Okay. Well that's why I read it out. I thought it was a good....

Okay. What about compensation. You know, how – I'd like to get your thoughts on how does compensation link to getting the right people on the boards.

**MR. STURGE:** Yeah. I – you know, I don't think that – and you gotta be careful on compensation 'cause you don't want people on the board just because they can get a good paycheque from it. You know, that's not the right mix either. So I don't think that was ever the case. But I think, you know, if you're gonna recruit people in those areas, I think you gotta be able to pay a fair compensation to them. And – because, you know, people with those skill sets are not, you know, a dime a dozen. They're specific skill sets, they got other things to do, and come to that, you know.

And we've been lucky in that we've been able to draw on people that are either successful business folks in the province, or people outside the province who have some connection and are

willing to do this. But, you know, that's not a – I don't think – a sustainable model.

I think you need – and I used to do some work for the board on this. I used to bring stuff forward and it always hit me strange that even smaller local Crown entities – and you don't have to look too far – and I think I got these right, but I think entities like Marine Atlantic, Port Authority, the Airport Authority, you know, all publicly funded entities, and none of the complexity we have, but I'm pretty certain all of those pay directors something. You're not gonna get rich off it, but it's a recognition. But to get the sort of skill set you just listed, I can't see how you really do it without addressing the compensation issue.

**MS. O'BRIEN:** And did you ever raise that issue up the line? Did you raise it with the CEO, did you raise it with anyone –

**MR. STURGE:** I used to –

**MS. O'BRIEN:** – of the shareholders?

**MR. STURGE:** – 'cause I used to have a fair bit of dealings with the governance committee, and I remember bringing it on multiple occasions. I used to do a summary of director compensation; I used to bring it to the board. And in often cases, that triggered some of the further discussions the board was having.

One I remember in particular was a more recent one. We did a – we engaged Knightsbridge in 20 – late 2014 to do a piece of work that looked at, sort of, the skills matrix and compensation survey. And I think that report was tabled in March 2015, and might have been discussed when the board was here, I suspect.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** But – it seems like an easy issue to address, but I think it's an important one.

**MS. O'BRIEN:** Okay, thank you.

Commissioner, now might be a good time for the break?

**THE COMMISSIONER:** Okay – yeah, we'll take our 10-minute break now, at this stage

**MS. O'BRIEN:** Thank you.

**CLERK:** All rise.

### Recess

**CLERK:** Please be seated.

**THE COMMISSIONER:** Ms. O'Brien?

**MS. O'BRIEN:** Thank you, Commissioner.

The next exhibit I'd like you to go to is tab 17 of your book, Mr. Sturge – P-00807, Madam Clerk. And this is just a document I just wanna do a little bit of housekeeping on – 17. So this is not a Nalcor document at all, this is a government document and it's actually a direction note – Departments of Finance and Natural Resources. Could you go to page 2 please, Madam Clerk?

And the date of this agreement, or this – sorry, this note – is May 9, 2011, and it's only a small point I wanted to confirm with you, Mr. Sturge. If you could go to the bottom of this page 2, please – the bottom of page 2. No, of the exhibit – okay.

'Cause you had talked about how you retained PwC as your financial advisors. And this note says, "In terms of due diligence procedures already applied, Nalcor has completed the following:" and then it says, "Retention of PricewaterhouseCoopers ("PWC") to provide independent analysis." Is that accurate?

**MR. STURGE:** I guess it's independent in that it's independent thinking to us, but it's not independent in the context – I'm sorry.

**MS. O'BRIEN:** That's all right.

**MR. STURGE:** It's independent in that it's independent thinking from Nalcor, but it's not, for example, the same as a Navigant report or credit rating report. It doesn't have that level of independence because they're just another resource to us.

**MS. O'BRIEN:** Advising you.



**MR. STURGE:** So – yeah, advisor – yeah.

**MS. O'BRIEN:** So they weren't doing like a due diligence review –

**MR. STURGE:** No, it wasn't –

**MS. O'BRIEN:** – of your work, they were advising you as you went along.

**MR. STURGE:** No, it wasn't intended in that context.

**MS. O'BRIEN:** Okay – yeah, I just wanted to clarify that. Thank you.

Now, I'd like to go to P-00264. This is not going to be – I don't believe –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – in your package, or at least I don't have a note here. And can we go to the bottom of page 6, please?

So I'm gonna – this is, again, about PricewaterhouseCoopers here, PwC, and I want to give some context around this exhibit. Commissioner, we are going to be hearing more about this exhibit next week. This is a presentation which was prepared by various consultants who worked on the project. Jason Kean will be testifying next week, and he was the primary author of this document, so just to give it that context.

So it does say here: "PricewaterhouseCoopers (PwC) were engaged in early 2008 by NLH to advise on the project financing activities under the umbrella of non-recourse project financing terms. As discussions and dialogue commenced with PwC on exactly what was required to achieve non-recourse project financing, a comprehensive list of pre-requisites was identified. At its core were power sales arrangements, secure market access, clear and stable regulatory environment, and a demonstration that the development would be able to "stand on its own two feet" From a financing perspective PwC also made it clear that financing would require a fully functional owner's project management team and supply and construction contracts with large, creditworthy international contractors. It was

their strong recommendation that contract packages be structured as large as possible, with NLH looking to transfer as much risk to the contractor as possible via lump sum compensation terms."

And it's really that last sentence I wanted to put to you, Mr. Sturge, because this is – it will come up in other evidence, but this idea that it was a strong recommendation from PwC that the contract packages be structured as large as possible.

**MR. STURGE:** Yep.

**MS. O'BRIEN:** Obviously you were working with PwC as – closer or as close as anyone at Nalcor.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Is that consistent with your memory?

**MR. STURGE:** Yeah, I think the issue they were getting at is that the more contracts you have, the smaller contracts, so that the more contracts, it creates more interfaces. Interfaces create risk, and so it's about sort of finding that sweet spot, I guess, where you got, you know, maybe not just one contractor, but you got the right number, that you got good coverage and you minimize the interfaces, I think is what PwC were trying to get at, right?

**MS. O'BRIEN:** Okay, and I asked you if you knew the source of this information, and I know you spent some time looking for what the source might be. Do you believe you found what the source was?

**MR. STURGE:** I do, yeah.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** There's actually an error, I just noticed, on the previous page. It said PwC were appointed in early 2008.

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** It should be 2007. I just noticed that as I read it.

**MS. O'BRIEN:** Oh, thank you.

So let's go – 'cause the words here –

**MR. STURGE:** Yep.

**MS. O'BRIEN:** – is that it was a strong recommendation that packages be as large as possible, and I just want to look at the document that – I believe this is the one you identified for us. It's at tab 25 for you; P-5 – sorry, P-00853, and we'll just go to the first page to identify the document.

**MR. STURGE:** Yeah, so it's a document that PwC would've prepared working with the project team, specifically to procurement issues, yeah.

**MS. O'BRIEN:** Okay, and so this is the one –

**MR. STURGE:** 2008.

**MS. O'BRIEN:** – so this is where you believe this came from.

Page 8, please, paragraph 36.

And this was a draft document.

**MR. STURGE:** It looks like it yes, yeah.

**MS. O'BRIEN:** Okay, so do you just want to read out paragraph 36 for us, please?

**MR. STURGE:** Yeah, so 36 says: "Secondly, the Owner should design packages for tender to achieve appropriate risk transfer within a sensible scope that minimises interfaces."

Keep reading?

**MS. O'BRIEN:** If that's what you were pointing to, so that's fine. But is that – I mean, that is – I'll put it to you that's a little bit different than a strong recommendation that contract packages be as large as possible.

**MR. STURGE:** Yeah, I mean, I don't think that in itself, taken on its own, is necessarily saying that's a strong recommendation, but I think it's pointing to the issue of minimizing interfaces. But, you know, whether there's somewhere else

it was stronger, I don't know, but that's all I could put my hands on.

**MS. O'BRIEN:** Okay, and we'll get to talk to Mr. Kean and others about that, but because you'd worked with PwC, I just wanted to get your information on it. Okay.

Can we go to P-00874, please? Tab 30 of your book, Mr. Sturge.

Now, this is another page from one of these papers that were prepared by a number of consultants who worked very closely on the project: Jason Kean, Paul Harrington, there's other names. And I just – there's a concept that they brought up in their paper that I really wanted to ask you about, and it's here, and there before you on the screen.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I'm just going to read out parts of it. It says: "Provisions within the FLG1 Agreement required that equity for any forecasted cost overruns be set aside by the Province in a pre-funded equity escrow account (i.e. COREA provision ...)" and cites the section of the FLG. "Interpretation of this provision meant that overly conservative forecasts would result in the Province having to put more of its limited revenue aside (i.e. in escrow) to fund such potential over-runs, or it would in breach of FLG covenants. All funds placed in escrow for potential use at a later time would deprive the Province of current funds required to fund other Provincial programs."

"In an effort not" to "be too punitive, Canada agreed that such forecasts would represent known, firm costs, such as awarded contracts and settled claims, and not be speculative in nature by factoring in such elements as opening bid prices or submitted, unattested claims. By doing this, the amounts of funds the Province would have to place in escrow would be reduced, thus aiding their ability to maintain other Provincial programs in this period of reduced oil royalty revenues."

And if we can just go to the next page, and this is a section called: Net Consequences. I'm not going to read it all out, but I'm going to read a substantial bit: "Project cost forecasts made

public were to reflect known cost over-runs, while future cost risks and trends were characterized as under study and subject to future confirmation and reporting.

“The net result was that public cost forecasts were not risk-adjusted cost forecasts that considered the potential exposure of potential risk items. This led to repeated cost updates and a view that costs were not in control.

“The Province’s weakened fiscal situation contributed to the reluctance to communicate early to the public that cost over-runs had occurred, rather as illustrated in Figure 10, there was an extended lag between when Final Forecast Cost ... updates were available and when such information was approved to be shared with the public.”

So the reason I’m putting this to you, Mr. Sturge, is obviously you were very involved with the FLG, the COREA account, which we’ve heard about. And, you know, just to summarize, this suggests that, look, this was an agreement between Canada and the province that we didn’t – you know, we – until a cost really firmed up and we knew exactly what it was, we didn’t have to put in our estimate; therefore, we would keep the amount of money we had to put into the COREA down.

Was that a concept that was familiar to you?

**MR. STURGE:** Yeah, I think what’s described here is, you know, like most things, there’s some truth and maybe a little bit stretched, when I read it. Because I think the issue here was that – my expectation is that forecasts were being set and we understood that that could have an impact on the province, but that wasn’t the driver. That was never our driver.

I think what this is getting at – and when I read this, it didn’t feel right to me. And I tested it with Jim Meaney, who’s the GM finance for Lower Churchill, who would be the guy dealing with Canada and all of these issues, and I think where there’s the truth in it is that – my understanding is that late 2015, maybe 2016, when all this uncertainty was taking place with Astaldi, there was an understanding reached between Nalcor’s legal counsel and Canada’s legal counsel as to how the Astaldi issue would

be addressed and that was dealt with. So that was a common understanding reached, but that was the extent of it.

And there may have been some desire, prior to that, for certain folks to maybe want this to be the case, but that never was the case.

**MS. O’BRIEN:** Okay.

**MR. STURGE:** And Jim was very clear with me, was that this was only an exception made for the Astaldi issue in late ’15-’16.

**MS. O’BRIEN:** Okay, and I just want to bring you – I’m going to go to page 102, I believe, of your transcript, ’cause I put this to you –

**MR. STURGE:** Yeah.

**MS. O’BRIEN:** – when I interviewed you. I think probably the best place for me to start is at ...

**MR. STURGE:** Yeah, I’m not disagreeing with that –

**MS. O’BRIEN:** You expressed some surprise about this when you first read it.

**MR. STURGE:** Yes. Yes, absolutely.

**MS. O’BRIEN:** When you first read this, you were surprised about it.

**MR. STURGE:** Yeah, yeah.

**MS. O’BRIEN:** And you said – these are your words on page 102: One of the hypothesis they – because they interviewed a bunch of people – one of the hypothesis – and I think you’re talking about your interview with Grant Thornton, maybe?

**MR. STURGE:** No, Ernst & Young, actually.

**MS. O’BRIEN:** Ernst & Young, right. Sorry, Ernst & Young.

They point in front of us was, well, you incentive – you got an incentive here not to report capital cost increases, and I was sort of, essentially, no, why would – but maybe they got that from someone. Wasn’t from me. And I –

when I saw that train of thought, I was thinking, jeez, I never actually thought anybody was thinking that way.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So that wasn't your understanding of (inaudible).

**MR. STURGE:** It was foreign to me, yeah. And the only place – and I got complete trust in Jim's view on this because he's the guy talking to Canada, and there was that one exception for Astaldi in – that's there.

**MS. O'BRIEN:** Okay, thank you.

One of the items that have come up is the different between this cost-of-service pricing and PPA pricing.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And because of your background, your position within the company, I just want to put something to you, and that's about, you know, how we really fund these things.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So, the evidence we've had to date is that when they – there was a decision made to fund the Muskrat Falls and the LTA using a Power Purchase Agreement type pricing arrangement.

**MR. STURGE:** Yes, that's correct.

**MS. O'BRIEN:** Were you involved in that decision?

**MR. STURGE:** Yes, yeah.

**MS. O'BRIEN:** Okay, so good. You're probably a good person to answer the question.

So I understand the Power – the PPA, what it really does, to put it simply, is because when you do a major capital project like a hydroelectric generation station, you have really high costs at the beginning, but the operating costs over time are, you know, relatively low.

**MR. STURGE:** Yeah, right, yes.

**MS. O'BRIEN:** So if you were doing it on a traditional cost-of-service type pricing, you'd have a – in the early years, you'd have really high cost of electricity and in the later years you'd have a much lower cost of electricity.

**MR. STURGE:** Yeah, that's correct and the LIL profile sort of demonstrates that in some regard.

**MS. O'BRIEN:** Yeah. And so the idea is basically you kind of – under the PPA, you sort of levelize that over time. And so future ratepayers are paying for those capital costs that, you know, at a rate commensurate with what the early days ratepayers are paying.

**MR. STURGE:** Yeah, essentially. Yeah, essentially.

**MS. O'BRIEN:** Generally, okay.

And the – here's the concept that I wanted to put you because it's something that has been raised with us. It's that when you're looking at, you know, a 50-year period out and you're relying on forecasts that are going out really extended periods of time. There's been lots of people commenting here about, you know, how reasonable or reliable a 50-year fuel forecast is, for example. And someone – you know, it's been suggested to us that one of the benefits of a cost of service – of course, any forecast is more reliable in the early years. When you're forecasting out, you got a much better chance of seeing the nearing future than you do the 50-year-away future.

**MR. STURGE:** Yeah. Yeah.

**MS. O'BRIEN:** And the idea that when you do a cost of service, you're putting all your costs and expenses into years when you really have the clearest picture of your risk. And one of the downsides of doing this PPA approach is that you're pushing a lot of your costs down the road where the future is much less certain and you don't know how good things can be, but you don't know how bad things can be down the road either.

Can you give us – or have some comment on that –

**MR. STURGE:** Yeah, so –

**MS. O'BRIEN:** – and was that considered?

**MR. STURGE:** So a little bit of context of why we got where we did. So we knew that LIL was gonna be treated as a normal cost-of-service profile. So, as you essentially described, your depreciation and interest is higher in the earlier years and it decreases over time. And I guess we could've done the same thing with Muskrat, and what we would've had then is we would've had two pieces of the project with very high cost in the early years, escalating over time.

And to sort of balance the impact of rate on this is we said we're gonna leave LIL on a cost-of-service basis; Muskrat we would do on this PPA basis. So the impact on the customer over time is not impacted by it, but it does make the rate level more manageable in the earlier years and, granted, it is higher in the later years.

**MS. O'BRIEN:** When you're more – in a more – in terms of forecasting period, more risk.

**MR. STURGE:** Yeah. The only thing I will say, though, is that if you look at sort of – and it does, I mean, it ramps up pretty rapidly in late years. But the only thing about it is what's making that ramp up is just the return on the equity. So then whether that is too much or too little, that's really totally at the prerogative of the shareholder at that point because you still have to cover your cash costs right through. You can't defer those. So you're really pushing out the return to the shareholder. So –

**MS. O'BRIEN:** Because by that time your debt is more paid down, you have more flexibility there from the shareholder's perspective.

**MR. STURGE:** Yeah, and the shareholder can do what they will on that.

So it's not that – I think – I don't think we're pushing risk out. I think – 'cause it's the same CPW through that period. It was really nothing more than to try to make this – because if you look at Muskrat and the profile as we designed it earlier at five terawatt hours, customers using, I

think, two initially, and you'd be making the customer pay the whole thing up front. So it was trying to mitigate the impact of that by essentially flipping that curve the other direction such that you started low and went high, and when you put that together with LIL, you had some chance of having some level of balance. I'm not saying it's perfect, but it sort of mitigated – one mitigated the other.

**MS. O'BRIEN:** Thank you.

Going back now, I'm going to go back to the Emera deal, tab 34 in your book; P-00878, Madam Clerk.

Coming back to this 80-20.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So I think there was a comment in your note, and I wanted to get some further explanation – comment in your notes I wanted to get some further explanation on. So this is a note you are making as a Muskrat Falls Cabinet briefing on April 23, 2012.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And there is a note there. You have "Premier" – and this would be Premier Dunderdale at the time.

**MR. STURGE:** Yes.

**MS. O'BRIEN:** "Premier – no way coming off 80/20." And so we're well past the term sheet at this point. We're April 2012.

What was going on there at this time?

**MR. STURGE:** I've looked – because I looked at that last night, and I can't recall what that discussion was. It was obviously some discussion of the 80-20 concept. I have no recollection of what was going on there.

**MS. O'BRIEN:** So you don't have any memory of any discussion –

**MR. STURGE:** I have no recollection of this.

**MS. O'BRIEN:** – of moving off that as we got –?

**MR. STURGE:** Clearly, there had to be some point raised and the premier seems to have said, regardless of discussion, we're not moving off 80-20, so – but I don't know what the discussion was. 'Cause if you look at the topics here, at that point we were providing – one of the items here, item iv, we were doing an update on the Emera agreements, and recollection, just looking at the date, April 23, that's about when we finalized the agreements and sent them back to the respective teams for due diligence, I think. So we were effectively done at that point.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So I – but I just can't place what that – 'cause it hit me last night when I looked at it: This looks strange.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** I can't ...

**MS. O'BRIEN:** I gotta come back to the excess energy agreement, because I did ask you about this this morning.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I'm not sure I really have enough of an answer –

**MR. STURGE:** Okay.

**MS. O'BRIEN:** – to make – you know, to feel confident that I understand what we – what the win-win is.

**MR. STURGE:** Okay.

**MS. O'BRIEN:** So I understand you clearly to be saying that I'm going to accept that the FLG – getting the FLG was a win. I mean, that was a benefit for this province, okay? But I understand you to be saying that there's other wins to the excess energy agreement, other benefits to that agreement to this province other than just the benefit of the FLG.

**MR. STURGE:** Right.

**MS. O'BRIEN:** Am I right in that?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay. And that would be wins that we would have now that we've signed that agreement – benefits we'd have now that we've signed that agreement that we didn't have before we signed that agreement?

**MR. STURGE:** That's correct, yes.

**MS. O'BRIEN:** Okay. And how many benefits are we talking about here?

**MR. STURGE:** I only see the one benefit, and it's the – we've negotiated a framework to get a price that I believe is better than our alternative, which is going to market with the price – with the product.

**MS. O'BRIEN:** You mean going to the hub?

**MR. STURGE:** Going in to New England.

**MS. O'BRIEN:** But why couldn't – this is where I'm sticking –

**MR. STURGE:** Mm-hmm.

**MS. O'BRIEN:** – because why – I'm getting hung up, I should say – because why would we not still – without that energy access – the excess energy agreement –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – why could we not still enter into a negotiation with Emera to sell energy without having –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – to go down to the hub if we –

**MR. STURGE:** So on that point –

**MS. O'BRIEN:** – had it and they wanted it?

**MR. STURGE:** Yeah, you're correct. We could have done that. And in actual fact, the agreements provide for – at any point, if we've got energy available, we could have entered into a discussion with Emera and sold extra power. So we could – you're absolutely right on that.

**MS. O'BRIEN:** Okay. So there's no additional benefit? No new win?

**MR. STURGE:** No. The only difference now though is that we've got a process that could give us that. So we could have got there, but there's no guarantee we would have got there.

**MS. O'BRIEN:** Okay. But there's still no guarantee they're gonna buy the power?

**MR. STURGE:** No, but if they do, at least we know now there's a process. And I think when I described this before is that I don't know if this is a massive win, but I think if you look at the EAA, it's certainly not a negative for us.

**MS. O'BRIEN:** Okay. But let's just –

**MR. STURGE:** You know? It's not like we're giving them something really they didn't have before. We always had the ability to negotiate this. All this does now is provide a –

**MS. O'BRIEN:** A framework.

**MR. STURGE:** – a framework.

**MS. O'BRIEN:** Okay. So we –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – could still be doing the same thing we could have done without the agreement; now we've got a formalized framework to work with?

**MR. STURGE:** Yes.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** We could have got to the same place, yes.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** We could have.

**MS. O'BRIEN:** But I'm seeing that there are at least two losses or drawbacks from this agreement for our province. And, again, I understand the FLG was an important piece. But the two – and I want to see if you agree that these are drawbacks for our province, these put us in a less good place than we were prior to signing this agreement. I just want to get –

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** – your thoughts on them, okay?

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** And I'm going back to P-00876. This is the –

**MR. STURGE:** Morrison.

**MS. O'BRIEN:** – Morrison Park review. And I'm gonna go back to them again. I'm on page 16. So the first one that they say look, this is a benefit for Nova Scotia and a detriment to Newfoundland is that Nalcor is going to be disclosing to Emera its expectations about power availability through its forecasts – that's going to be to Emera's benefit – and then I take it from that that would be to Nalcor's – you know, it would be a downside for Nalcor. Do you agree with that?

**MR. STURGE:** I don't really see – I see that it gives Emera some clarity. I don't see any downside for us, though, because it's pretty well-known what power we put into the market, how much. So I don't see any – because this is power that we would be otherwise putting into the market.

**MS. O'BRIEN:** Okay.

**MR. STURGE:** So the market really could care less about our volumes. It's just – we go to the market on a given day with a volume and that impacts the market. So I don't see that – maybe Paul can correct it – but I don't see that as being a negative.

**MS. O'BRIEN:** Okay, let me put it this way: do you – does Nalcor – we know Nalcor's very concerned about its commercially sensitive information.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** Okay. Is – your forecast for power availability, is this a document that Nalcor typically makes public?

**MR. STURGE:** Well, if you think through the fact that Hydro's regulated and all the flow of documentation, I don't think the amount of

power that we have to sell is commercially sensitive.

**MS. O'BRIEN:** The information that you're now giving Emera –

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** – under this agreement, are you making it available to the public at large?

**MR. STURGE:** I don't know if we are or not. I don't see any reason we wouldn't, though, you know? It's not – I mean, it's pretty well-known if you look at Hydro – 'cause this is Hydro and Muskrat Falls' generating fleets – if you look at those plants, it's pretty known what we can generate and the actual capacity of those plants and what we're selling, so it's not hard to conclude that we have the ability to sell some additional power.

**MS. O'BRIEN:** So are you saying Emera negotiated to get information from Nalcor that was already public?

**MR. STURGE:** On the amount of power, I don't –

**MS. O'BRIEN:** I mean, I'm just –

**MR. STURGE:** I may be wrong, but I don't – I really don't see that as a real bit of confidential information.

**MS. O'BRIEN:** Well, Morrison Park said this was to NSPI's – which is an Emera subsidiary – benefit.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** That it was – them getting the forecast is its benefit. So is this information that you – Nalcor makes available to everybody?

**MR. STURGE:** I can't say it is or isn't. I really don't know, but I – you know, I mean, 'cause what's happening here is they're putting out a call for an amount of power, and we respond to it. So – so okay, so we respond to it and the market knows that we have X available, but if our alternative here is to go to the open market –

**MS. O'BRIEN:** No, but that's not really your –

**MR. STURGE:** – that really doesn't matter.

**MS. O'BRIEN:** I really wanna focus on – like I'm really – I am legitimately –

**MR. STURGE:** Yeah, okay.

**MS. O'BRIEN:** – trying to get the evidence out so we can understand this issue.

**MR. STURGE:** Yeah.

**MS. O'BRIEN:** So, are – you are saying you don't know whether the information that Emera negotiated to get here as part of the excess energy agreement was already publicly available information.

**MR. STURGE:** I can't say – 'cause it's sort of operational stuff – I really can't say if it is or not.

**MS. O'BRIEN:** Okay –

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** – fair enough.

**MR. STURGE:** (Inaudible.)

**MS. O'BRIEN:** Who would be able to tell us that? Would Mr. Humphries be able to tell us that?

**MR. STURGE:** He might. It's more of a question that sort of revolves around our energy marketing –

**MS. O'BRIEN:** Okay.

**MR. STURGE:** – business, you know.

**MS. O'BRIEN:** So just assume, for the – just assume for the moment that Morrison Park is right – this is a benefit for Emera and that, if it weren't for this agreement, they wouldn't have this commercially sensitive or, you know, confidential information. Okay? Just assume that that's the case –

**MR. STURGE:** Fair enough, yeah.

**MS. O'BRIEN:** – that Nalcor doesn't put it out publicly.



**MR. STURGE:** Fair enough.

**MS. O'BRIEN:** Can you see – if that's the case – can you see, then, that that's a benefit for Emera and a detriment for Nalcor? Would you agree with me there?

**MR. STURGE:** No, because if you look at it from that – like, so, then you gotta think, sure, how would it be a detriment for Nalcor?

**MS. O'BRIEN:** Well, just the fact that you're giving someone commercially sensitive – or confidential – information, who you're about to go to a negotiation which – and you otherwise wouldn't, if it wasn't for this agreement.

**MR. STURGE:** But I guess in terms of – you know, if you're gonna sit down with somebody on a commercial negotiation, I mean, you want them to know that you've got power available. So telling the market that we have power available –

**MS. O'BRIEN:** How much power you have available.

**MR. STURGE:** – how much is available –

**MS. O'BRIEN:** Well, that could be a key difference, though –

**MR. STURGE:** I don't –

**MS. O'BRIEN:** – isn't it?

**MR. STURGE:** – really see that as a –

**MS. O'BRIEN:** Power available versus how much power available – couldn't that be a really key difference?

**MR. STURGE:** You know, I think – any – if you're gonna sit down with any party and have a discussion, the first thing you're gonna talk about – like, for example, when we sat down with Emera and the term sheet, I mean, the first clear discussion we had is, you know, here's the project, here's the output, here's our needs and here's, sort of, the discussion space we're in in terms of power availability.

So, I don't –

**MS. O'BRIEN:** You're not gonna – you don't agree with my –

**MR. STURGE:** I don't –

**MS. O'BRIEN:** – proposition?

**MR. STURGE:** – see that as being a negative; I really don't, but I –

**MS. O'BRIEN:** Okay, so you think that –

**MR. STURGE:** – but the fact that an –

**THE COMMISSIONER:** Let me just paint a little scenario here 'cause I'm really having – struggling with this myself.

So let's assume you have a customer. And you go to – and this – whether it's energy or whatever it is – you have a customer. And you have goods to sell. And you have – the customer knows you have goods to sell; they don't know how many you have to sell. So you might decide your price based upon the fact that you only have a limited amount to sell. You might decide your price upon the fact that you might have a lot to sell.

**MR. STURGE:** Yeah.

**THE COMMISSIONER:** So wouldn't you see a customer – because that's what Emera would be – having information from Nalcor as to what its available power is – I mean, there's a reason why Nalcor got this. So they must see it as a need. And until I hear somebody tell me that it would be publicly disclosed information, then I would really have to scratch my ears. But until somebody tells me that, that tells me that that's information that a customer has that would normally not have.

**MR. STURGE:** But I think the difference here is that – in that our alternative here is to market, right? So the market – the broader market really doesn't care how much power we have. We're gonna bring it to market –

**THE COMMISSIONER:** Right, but you might have – anyway –

**MR. STURGE:** You know.

**THE COMMISSIONER:** You might have other deals out there – longer term deals on certain amounts of power –

**MR. STURGE:** Yeah.

**THE COMMISSIONER:** – whatever the scenario is. So, you know, I just think you need to think about it in a global aspect of the fact that you're telling your customer exactly what it is you have to sell. And I think there's – from everything I've seen in the energy market so far, with confidential information or whatever, I cannot believe that that is information that would normally be disclosed to your customers. But I could be wrong, and we'll see – and we might find out from Mr. Humphries or somebody else.

**MR. STURGE:** The other thing about this piece, so that it is a little bit different, is that it's not a – it will vary significantly over time because it's the difference between our firm and average, so water levels is gonna vary significantly –

**MS. O'BRIEN:** Yeah.

**MR. STURGE:** – and reservoir –

**THE COMMISSIONER:** Yeah, I understand that piece.

**MR. STURGE:** So it's a lot of variables that go into it, it's not like it's a fixed amount that we're going to put out there forever. It could –

**THE COMMISSIONER:** Alright, and it may –

**MR. STURGE:** – vary with time.

**THE COMMISSIONER:** And it may not amount to a large amount of money at the end of the day in any event.

**MS. O'BRIEN:** Yeah.

**THE COMMISSIONER:** So I understand that too, so.

**MS. O'BRIEN:** And the other one – I just wanted for completeness – the other one that I'm seeing is certainly – Morrison Park has identified as a, you know, as a benefit to Emera.

And then – thus a cost to Nalcor is that – and they underline this one on page 17 of their report, “Regardless of the amount of energy requested by NSPI in its solicitation, Nalcor has made the critical commitment that it will not contract its surplus energy to any other potential buyer on a multiyear basis.”

Is this restriction of – would you agree with me that's a restriction of freedom? We've limited some options here.

**MR. STURGE:** That one probably is a better question for Paul Humphries, because it does get into how we operate the system, and the only reason I'm hedging on this one is that my understanding is a lot of this energy does play in this difference between firm and average space.

And if that's the case, then maybe that's not power that we could be committing at a long-term basis in any case. So that's the only reason I'm – it does get into how we operate the system then, so it would be a better question for him, I think.

**MS. O'BRIEN:** Okay, all right. So finally, I'd like to take you to page – tab 35, Exhibit P-00879. And there's another note in your notes that I wanted to ask you about, and this is notes you've made meeting with the premier, December 10, 2012. And I understand it's in the premier's office. Ed Martin's there. You're there. Government Minister Marshall is there. Robert Thompson is there. It looks like Skinner – would that be Shawn Skinner?

**MR. STURGE:** It looks like Skinner.

**MS. O'BRIEN:** Shawn Skinner.

**MR. STURGE:** Probably Charles Bown.

**MS. O'BRIEN:** Charles Bown. Okay. Premier Dunderdale and is that Brian Taylor?

**MR. STURGE:** Brian Taylor.

**MS. O'BRIEN:** And that was her chief of staff?

**MR. STURGE:** Yes, it was. Yes.

**MS. O'BRIEN:** Okay. And there's a – look right before Premier Dunderdale there's like a P, O –. Do you know what that –?

**MR. STURGE:** I think that – I would've meant that to be premier's office.

**MS. O'BRIEN:** Premier's office. Okay. So these are who are there and you can review your note, but the line that I'm very – what I want to get more detail on is at the top of the next column. I think it reads: really hitting me –

**MR. T. WILLIAMS:** Excuse me, Mr. Commissioner, I was just wondering – we've identified one of the parties as Minister Skinner. Is that correct? Did I hear that correctly?

**MS. O'BRIEN:** That's what I understood.

**MR. STURGE:** I believe that that (inaudible.) –

**MR. T. WILLIAMS:** And could that be a representative from the Department of Finance?

**MS. O'BRIEN:** Okay. I'm getting a lot of nods from the room –

**MR. T. WILLIAMS:** I just want to make – clarify that, that – whether or not that is Minister Skinner or, I believe is it Judy?

**UNIDENTIFIED MALE SPEAKER:** Laurie.

**MR. T. WILLIAMS:** Laurie. Yes, that's it. I'm sorry.

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MS. O'BRIEN:** Do you recall Mr. Sturge who that is?

**MR. STURGE:** When I saw it I was thinking it was Minister Skinner but now that Mr. Williams raises that – I'm trying to think. It could be 'cause Minister Marshall was there so I – you might be right. I –

**MS. O'BRIEN:** Okay and we'll probably get further clarity around that.

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MS. O'BRIEN:** So if Shawn Skinner wasn't in Government at that point –

**MR. STURGE:** Okay, so –

**MS. O'BRIEN:** –can we take it as a safe that it's not him. It's Laurie Skinner. And I apologize. I certainly didn't mean to mislead.

Okay. The really – can you read the sentence that you've written there on the top of the next column please?

**MR. STURGE:** So this one is a doozy. So this was around the sanction agreement – this discussion here.

**MS. O'BRIEN:** And this is right before sanction. I mean, this is December 10, 2012

**MR. STURGE:** So my comment as I wrote it at the time: “really hitting me how little some of the political folks know about the deal.” So.

**MS. O'BRIEN:** So what led you to write that?

**MR. STURGE:** Well, you know I think – and I don't exactly know but just to put it into context what was going on here – is we had sanction on December 5, right? So this was December 10 – this was five days later. I think in the intervening period we had been in a series of meetings with Emera and working through the sanction agreement. This was – it looked like to be sort of a checkpoint back with the Premier and Brian Taylor had actually been in those meetings with us. And clearly there was something going off the rails there of what we thought, or what the premier thought was the way it was playing out and I made that comment.

I guess it is what it is, you know. This was sort of what I felt at the time. I'm not even who – I'm not even sure who I was thinking about at that point.

**MS. O'BRIEN:** Would have been the people in the room that you were –?

**MR. STURGE:** That I'm not sure because, you know, it was – reference here to Nova Scotia. So I don't really know. But there's clearly something going on there that caused me to write that.

**MS. O'BRIEN:** Are you suggesting that – when you said: really hitting me how little some of the political folks know about the deal – that you were referring to political folks in Nova Scotia?

**MR. STURGE:** I can't say it was or not. You know, I – 'cause there was just so many things mentioned here.

**MS. O'BRIEN:** Now, Mr. Sturge, does that make sense really? I mean you're sitting there in a meeting in our – with people in our premier's office, a number of people in our government, and you'd be making that note about Nova Scotia?

**MR. STURGE:** Yeah. And I know what you're saying as you read it through. But the only thing causing me to doubt that is that this was something about Nova Scotia backing off, too. So – but it probably related to Newfoundland, but I just couldn't categorically say without ...

**MS. O'BRIEN:** Was anyone from Nova Scotia in the room?

**MR. STURGE:** No, no, no.

**MS. O'BRIEN:** Okay. And that's when you wrote the note?

**MR. STURGE:** That's when – I wrote it in the room, yeah.

**MS. O'BRIEN:** Okay. Thank you. Those are all my questions.

**THE COMMISSIONER:** All right. Province of Newfoundland and Labrador?

**MR. RALPH:** No questions.

**THE COMMISSIONER:** Concerned Citizens Coalition?

**MR. BUDDEN:** Good day, Mr. Sturge.

**MR. STURGE:** Good day.

**MR. BUDDEN:** Good day, Mr. Sturge.

**MR. STURGE:** Good day.

**MR. BUDDEN:** As you know, my name is Geoff Budden, and I represent the Concerned Citizens Coalition, which is a group of individuals who for a number of years have been critics of the Muskrat Falls Inquiry. You probably know who some of them are. You probably would have encountered them in meetings and so forth.

**MR. STURGE:** Yes, yes. I know who you represent, yes.

**MR. BUDDEN:** Yes. Mr. Vardy for instance. Mr. (inaudible) –

**MR. STURGE:** Yes. I've known Mr. Vardy for many years.

**MR. BUDDEN:** Yes. You – perhaps, just briefly, you can say again what your professional designation or designations are?

**MR. STURGE:** I'm a – well, professional designations. I've got a chartered accountant designation and a CMA and – which are all now rolled up into CPA.

**MR. BUDDEN:** CPA. Okay. So that includes being a chartered accountant?

**MR. STURGE:** Yeah.

**MR. BUDDEN:** Okay. Prior to being hired at Nalcor, did you have a business or professional – business or social relationship with anybody who was at the time on the board of directors? Anybody in senior management or Mr. Williams? Danny Williams.

**MR. STURGE:** I – my – I knew Mr. Williams from 1997 to '99. I was on the St. John's Maple Leafs's board of directors. He was the vice-chair at the time. That was my only social contact with Mr. Williams. Mr. Martin I had met a couple of times when I was the CFO of Voisey's Bay Nickel and he was the CFO position of Hibernia, and that was more just project coordination stuff.

I'm trying to think about the board. The board – I would have met Gerry Shortall back in the '80s just through CA profession stuff, but nothing more than that.

**MR. BUDDEN:** Sure.

**MR. STURGE:** Tom Clift I would have met, because I'm pretty certain Tom was on the board of the St. John's Maple Leafs as well, I think that's when I met him. And I may have known him a little bit through university, because I taught at that business school for a while part-time.

**MR. BUDDEN:** Sure.

**MR. STURGE:** Trying to think anyone else. I don't think anyone else.

**MR. BUDDEN:** Okay.

Were you – it's perhaps a difficult question; you may or may not know –

**MR. STURGE:** Yeah.

**MR. BUDDEN:** – but do you believe that you were recruited to this, that they were specifically looking for you?

**MR. STURGE:** No, I don't think so at all. In my understanding, what happened here is – I believe this position was advertised originally, like, in September 2005. And I didn't apply for it. I was settled away – what I was doing. I believe they went through a process of interviewing, and they clearly didn't get a candidate. And I don't know if that means they didn't find the right candidate or the right candidate didn't accept. I'm not certain.

And I do know that they restarted the process after Christmas, which is when I was contacted by –

**MR. BUDDEN:** Sure.

**MR. STURGE:** – Knightsbridge.

**MR. BUDDEN:** Okay.

Well, that's a fair bit of information.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** As the CFO, would you regularly attend meetings of the board of directors, occasionally do so or never do so –

**MR. STURGE:** I would attend –

**MR. BUDDEN:** – of Nalcor?

**MR. STURGE:** – most board of directors meetings. And if you go through them, you'll see I hadn't attended them all. There may be occasionally a meeting that I might be out of town, or could be one that is about a specific topic that may not involve me, but generally I did attend, yes.

**MR. BUDDEN:** Okay. And how about the meetings of the various associated and subsidiary companies? Ultimately Hydro, Muskrat Falls Corporation –

**MR. STURGE:** I would have attended a lot of those, but not all of them, like (inaudible) I – for a period I did attend Hydro, but on some of the subsidiary boards, I would sort of split those duties up with some of the other finance folks to – more of a – you know, help them develop and have board experience. But – so I wasn't at all of those but Nalcor mostly, yes.

**MR. BUDDEN:** Sure.

And what was your, I guess, your relationship to the Audit Committee? Okay, just to backup a bit, do I understand that Mr. Shortall – Gerry Shortall –

**MR. STURGE:** Yup.

**MR. BUDDEN:** – would have chaired that committee?

**MR. STURGE:** He did, yes, for –

**MR. BUDDEN:** Throughout the –

**MR. STURGE:** – 2016.

**MR. BUDDEN:** Throughout the time from you came on to – into this position, through at least sanction, he would have been chair?

**MR. STURGE:** That's correct, that's correct.

**MR. BUDDEN:** Okay. So he would have been well known to you, and you say you would have known him even from years before?

**MR. STURGE:** I knew him many years ago, and he moved to Toronto, and I hadn't seen Gerry 'til 2006 when I came back.

**MR. BUDDEN:** Okay.

But from then forward you would have known him well and –

**MR. STURGE:** I would have –

**MR. BUDDEN:** – (inaudible) regularly –?

**MR. STURGE:** – seen – yeah, 'cause I would have been the primary contact with the Audit Committee that he would have seen, yes.

**MR. BUDDEN:** Okay. What would that involve, being the primary contact?

**MR. STURGE:** So if you look at the Audit Committee – I mean, the primary things the Audit Committee does – there's two or three buckets – but it's review of annual quarterly financial statements for Nalcor and subsidiaries; it's review of – it's a relationship with the internal auditor, which, for most of that period, didn't have anything to do with me – that he had – 'cause the internal auditor reports directly to the Audit Committee.

**MR. BUDDEN:** That's right – that's in –

**MR. STURGE:** Yeah.

**MR. BUDDEN:** – Exhibit 00793, I –

**MR. STURGE:** Yes.

**MR. BUDDEN:** – believe, yes.

**MR. STURGE:** Yeah, yeah.

So he would have had that relationship with the internal auditor and would have met independently with the internal auditor. It's the relationship with the external auditor, so a key part of that committee would've been annual engagements with the internal auditor – external auditor, I'm sorry – reviewing the annual audit plan in terms of areas of focus, materiality fees, those types of things. It would have been around selection of key accounting policies that needed some discussion at the board level.

I'm trying to think what else.

Financial risk management. So we had a financial risk management policy that our group administered, and it focused largely around our hedging program of oil prices, US dollar exposures, electricity prices, so that piece would have been in the Audit Committee mandate.

**MR. BUDDEN:** Financial risk management?

**MR. STURGE:** Yeah.

**MR. BUDDEN:** Yes.

**MR. STURGE:** It was in – within the bounds of that policy, yeah.

**MR. BUDDEN:** Sure.

And this is sort of an aside, but you spoke of Nalcor's attempts – I think you had some expression about a cheese – piece of cheese in the hole or something – you know, as a part of –

**MR. STURGE:** Yeah.

**MR. BUDDEN:** – the broader scheme of trying to develop the Lower Churchill, various options for sale of power was looked at.

**MR. STURGE:** Yeah. That's correct.

**MR. BUDDEN:** And one of those was selling power to potential operators of a smelter – aluminum smelter – in Labrador, presumably.

**MR. STURGE:** That's correct, yes.

**MR. BUDDEN:** And as I understand correctly – or if I understand that correctly – that fell apart because they were looking for really, really cheap power and Nalcor wasn't prepared to go there.

**MR. STURGE:** Yeah. Well, it was the cost of the power but also the volume, because the aluminum smelters were looking for anywhere from 600 megawatts, and even that was becoming small. It was starting to move closer to 1,000 megawatts.

**MR. BUDDEN:** Okay.

Can you recall what kind of prices were being discussed, how far apart the parties were?

**MR. STURGE:** I can't right now – I mean, we were – you know, and again, this was in the – so if you look at – this was Gull, right? So if you look at Gull versus Muskrat, in general, at the busbar, I think Gull was generally about two-thirds of the Muskrat Falls busbar cost.

**MR. BUDDEN:** Mm-hmm.

**MR. STURGE:** So –

**MR. BUDDEN:** Okay.

**MR. STURGE:** So, you know, but –

**MR. BUDDEN:** So Nalcor concluded they could not sell power – it would not make economic sense to sell power to an aluminum smelter at the prices that were being offered by the smelters?

**MR. STURGE:** Yeah.

**MR. BUDDEN:** Okay.

When you – in 2008, 2009, I understand, you were –

**MR. STURGE:** Not as a core anchor customer. I think that's an important point.

**MR. BUDDEN:** Yes.

**MR. STURGE:** Because if –

**MR. BUDDEN:** Yeah.

**MR. STURGE:** – you're looking for the anchor tenant, the anchor tenant had to be more than just covering your bare minimum cost. It had to be more than that.

**MR. BUDDEN:** Sure. There had to be some attraction –

**MR. STURGE:** Yeah.

**MR. BUDDEN:** – to bother it.

**MR. STURGE:** Yeah, yeah.

**MR. BUDDEN:** Yeah. And it just wasn't attractive for Nalcor's perspective.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** The – with respect to the attempts to market power to Ontario and New Brunswick and PEI and Rhode Island, I believe, other cheese-in-the-hole circumstances in 2008, 2009, 2010.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** What kind of – why did those break down? Why did those talks break down?

**MR. STURGE:** Yeah, so there's different reasons for those. So, I mean, I think that the Hydro-Québec transmission applications were really the linchpin of the whole thing because if you couldn't get through Quebec, you really couldn't get to Ontario, you couldn't get to New York. I mean, that – so that was really – all of these discussions that we were having in external markets were really contingent on being able to get to the markets.

So, you know, we continued this discussion of talking to, you know – and one I forgot to mention this morning is I've done a lot of work with a company called TDI, which was – had a brilliant concept to put a submarine cable in the Hudson River from Quebec right up into the New York City harbour and get to the – some of the best markets, but – and it was a good concept, but we couldn't really be a party to that unless we could get to the Quebec border – Quebec-New York border to join on there.

**MR. BUDDEN:** Okay.

So did those talks actually get to the points of – the point of dollars and cents, or did they simply break down because the Quebec thing was just an insurmountable obstacle?

**MR. STURGE:** Well, you know, I mean we were moving all – and I can't speak to Ontario because Gilbert was working that one – whatever was going on in Ontario, I didn't have any involvement there – to the extent, I was looking at the New York one and, you know, we were looking at it seriously from the perspective of – there's two issues: first of all, can we get

through Quebec and get there and even if we could is it still the right deal. And one of the issues there is, you know, there's a – electricity pricing is not like oil where there's a global price, it's all regional, and even within a state there's different prices.

So, for example, our – we can get into upstate New York and get a price but that price is not nearly as attractive as the price we could get into New York City or Long Island somewhere. So you're always looking at this concept I just talked about of TDI. It was a good idea, but it's a cost – the additional cost to do that – is it worth it for the additional value you get.

So we're doing – we were doing that sort of analysis to see if it made sense for us. But I think once we clearly got to the point that we couldn't get through Quebec, whether it made sense or not, was sort of irrelevant at that point.

**MR. BUDDEN:** Okay.

Perhaps we can call up Exhibit 00793 for a moment? That's one of the corporate structure charts that we looked at earlier.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** I just want to confirm something.

**THE COMMISSIONER:** Tab 1.

**MR. BUDDEN:** Page 1, yes, and tab 1, yeah.

**MR. STURGE:** Okay.

**MR. BUDDEN:** So, if I understand correctly, is that a – P. Mooney, is that a Mr. or a Ms. Mooney?

**MR. STURGE:** That is Pat Mooney, who I think was in that role in an interim bases, yeah.

**MR. BUDDEN:** Okay, so – and that would be a Mr. Mooney or a Ms. Mooney?

**MR. STURGE:** Mister, yeah.

**MR. BUDDEN:** So, Mr. Mooney, I understand correctly, would report directly to Ed Martin?

**MR. STURGE:** That is correct, yeah.

**MR. BUDDEN:** Not through you?

**MR. STURGE:** No, and even his reporting to Ed would've been on an administrative basis. His direct, solid line reporting – even though it doesn't show it here – is through the audit committee.

**MR. BUDDEN:** Okay, and is that a standard model for corporate governance?

**MR. STURGE:** It is. It's to keep internal audit as independent as it can be, given that it's in the entity. And, for example, when Stan came in and – Stan Marshall joined in 2016 – he changed that structure a bit, in that he collapsed some of these folks and he now has internal audit reporting to me. But in that role, all I'm really doing is approving time sheets and performance reviews. The direct relationship is still right through the audit committee.

**MR. BUDDEN:** Okay, so –

**MR. STURGE:** Yeah.

**MR. BUDDEN:** – it's not unusual for the CFO to be out of the loop, so to speak, on an internal audit?

**MR. STURGE:** No, and it – you know, there's lots of different models. Some people do it because much of what internal audit could be auditing could be finance stuff.

**MR. BUDDEN:** Okay.

**MR. STURGE:** So, you know, there's different perspectives on that.

**MR. BUDDEN:** Sure.

Moving on, I'd like to move onto another topic. With respect to estimates, if I understand correctly from your transcript from your evidence this morning, you personally were not involved in any way in the putting together of the capital cost estimates?

**MR. STURGE:** That's correct.

**MR. BUDDEN:** Okay.



**MR. STURGE:** That's correct.

**MR. BUDDEN:** Was anybody on your team so involved?

**MR. STURGE:** No.

**MR. BUDDEN:** Okay, so that was totally outside –

**MR. STURGE:** Totally outside.

**MR. BUDDEN:** – of your office.

**MR. STURGE:** Totally outside.

**MR. BUDDEN:** Okay, is that, in your experience, a usual model within corporate governance?

**MR. STURGE:** Yeah, you know, and it's hard to say – generalize – the only other real experience I would have on that is when I was the CFO on the Voisey's Bay nickel project. And I know we had a separate project team, sort of not unlike what we have here, and the project team was accountable for the estimate and those types of things, and I had little, if any, involvement in that. So it's pretty one analogy, but I'm sure for that one you could probably find another one where it might be a different scenario, you know, so ...

**MR. BUDDEN:** Okay. So you're dealing with Emera. You've, obviously through these years, would've dealt with individuals in similar position to yours. And would, I guess from your broader experience, from your broader knowledge, did, at the time, you find it unusual that you were essentially, and your office was marginalized in the estimate process?

**MR. STURGE:** Yeah. I don't think, you know, I don't think in terms – I don't think I would ever have had any expectation that I'd be involved in creating the estimate 'cause, frankly, if the company was asking me to do that then they've got bigger problems, you know. 'Cause that's not my expertise.

**MR. BUDDEN:** Yeah.

**MR. STURGE:** You know, just 'cause you're an accountant and you deal with dollars, I don't

think that gives me any specific expertise in developing estimates. I mean, that's a specific skill set that some folks have. So I don't think I would have ever had any expectation that I should be the person –

**MR. BUDDEN:** Okay.

**MR. STURGE:** – developing the estimate.

**MR. BUDDEN:** Do you not find it odd though – do you not find it odd that the skills that you speak of, which are – they're present in your office, you know, these accounting skills – well, to put it another way, was there like a duplicate office of some sort within the estimating project process that you know of?

**MR. STURGE:** No, I think if you look at sort of the core of the cost estimating, the skill set is more of an engineering skill, but, you know, there's folks in that process who would have maybe financial skills but maybe people who have spent their life working in construction-type environments, you know. So it's a different skill set. I don't think any of the folks that I would've had in my shop had any – I know they didn't have any expertise in cost estimating.

**MR. BUDDEN:** Okay. Are you aware of anybody in the project team who would have had any expertise in cost estimations with respect to hydroelectric projects?

**MR. STURGE:** I think there's two sides of that answer. I think, in terms of the project team themselves, I think the one that comes to mind would – I think Ron Power's got a fair bit of experience. But, I, you know, my perspective is that's why – and, you know, I remember when SNC was recruited. That was one of the real benefits is that they had deep hydroelectric experience. So ...

**MR. BUDDEN:** So that's your understanding.

**MR. STURGE:** To me that was the offset and the balance. And they brought that skill set really.

**MR. BUDDEN:** So there was somebody in-house, meaning – being Ron Power – who – and what was Ron Power's background?

**MR. STURGE:** I can't recall totally, but I know he spent his life in the utility business and was involved in a bunch of project development. I think some of them might have been for Hydro, but I think some of them were out of the country as well. So ...

**MR. BUDDEN:** Okay.

How confident are you in that? You're, sort of, saying, I think, and you're being very general.

**MR. STURGE:** I can't speak to his background. I'm sure Mr. Harrington probably could, but I just generally know that Ron did have some hydroelectric experience.

**MR. BUDDEN:** Okay, and you also understood that SNC-Lavalin were being brought in because they had that specific skill set.

**MR. STURGE:** Absolutely. That was one of the selling points – I understood to be – for SNC-Lavalin – was their experience in hydro projects.

**MR. BUDDEN:** Okay.

But all of that took place outside of your office, so does it follow that you had few, if any, dealings with the SNC-Lavalin estimation team – estimating team?

**MR. STURGE:** I've never met anyone on the SNC team, so I – but that – I don't find that strange. You know, I mean, I'd have no reason to talk to the SNC – you know, these folks are in the detail of quantities and volumes and pricing – it's not much – I'd have no reason to have that interaction.

**MR. BUDDEN:** Okay.

If, as CFO, you had become aware of something that you found concerning or problematic within that, you know, the estimation process – the capital cost process – what could you or would you have done? To whom would you have brought your concerns?

**MR. STURGE:** Well, if there was something that totally felt un-right – not correct to me – that I learned, then I guess I'd have to have a chat with Ed on it, you know, I mean.

**MR. BUDDEN:** With Ed or with Gerry Shortall; which of them?

**MR. STURGE:** I think it would be with Ed, because, you know, Gerry was – the audit committee wasn't involved in any cost-estimating stuff, either – that was, you know, that wasn't their space.

So I think if there's anything that was ever brought to my attention that didn't feel right – that space – it would be – Ed would be the one I'd have to have a discussion with.

**MR. BUDDEN:** Okay, if you had an issue concerning – something that you saw concerning risk management, to whom would you bring those concerns?

**MR. STURGE:** I suppose, you know, in terms of any of my – I mean, I reported to Ed, so any issues I had they would have to go to Ed – would have – couldn't go to anyone else, really, you know. I suppose that you could go to someone directly, but I don't think in that case you would. I think you'd – you know, so it's a bit of a hypothetical, but I –

**MR. BUDDEN:** Well, we may get more specific –

**MR. STURGE:** Yeah, okay –

**MR. BUDDEN:** – in a few minutes, but –

**MR. STURGE:** – yeah.

**MR. BUDDEN:** – as a general hypothetical, you would go to Ed Martin, not to Gerry Shortall, if you had concerns about the integrity of the risk-management process.

**MR. STURGE:** When you say the risk management, are you thinking more about the project –

**MR. BUDDEN:** I am –

**MR. STURGE:** – specific type things?

**MR. BUDDEN:** – thinking of the project (inaudible), yes.

**MR. STURGE:** Yeah, I don't think that's a discussion you'd have – I'd have with Gerry, because the audit committee wasn't – their scope was, sort of, more limited to financial statements, financial risk. I don't think they were providing any broader oversight there. And plus, you know – just, sort of, protocol perspective – for me to run to the audit committee with something I'm concerned about and not having told the CEO – it doesn't feel right either, you know, so – just don't think –

**MR. BUDDEN:** Okay.

**MR. STURGE:** – I don't think you'd do that.

**MR. BUDDEN:** Could we call up exhibit – you wouldn't have this in front of you but I do have a couple of questions about it – Exhibit 00206. We've seen this before with other witnesses.

**MR. STURGE:** Okay.

Yep.

**MR. BUDDEN:** Do you recognize this document or this type of document?

**MR. STURGE:** I do, I know exactly what it is.

**MR. BUDDEN:** Tell us.

**MR. STURGE:** It's a document that was used – we used to do, I'd say from the 2007-2010 period, I would say probably twice a year we'd go off-site with Premier Williams, Minister Dunderdale, some folks in the premier's office, deputies of Natural Resources and so on. We'd go off-site, spend the whole day doing an update on Lower Churchill and I'm pretty certain this was one of those updates.

**MR. BUDDEN:** Okay. Did you keep notes from those meetings?

**MR. STURGE:** I possibly do have from that meeting, possibly do.

**MR. BUDDEN:** Okay.

**MR. STURGE:** But I can't say for certain, but I'm sure somebody can – can check that.

**MR. BUDDEN:** Okay.

Could we –

**MR. STURGE:** But I would have been at that meeting, because I was at all those off-sites.

**MR. BUDDEN:** Okay.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** Could we scroll down to page 17.

And firstly, ignore for a moment the handwriting – we'll get back to that –

**MR. STURGE:** Mm.

**MR. BUDDEN:** – but can you tell me, and I sort of dropped you right into the middle of a document, but you seem pretty familiar with this – can you tell us what this is?

**MR. STURGE:** So this looks like it would be a listing of a bunch of assumptions that related to a whole host of things. Some are around the cost estimate. Some are around, like, the loan guarantee. There's some things around estimates, around GHG assumptions, some are financing assumptions. So it seems like a whole host of various assumptions that are used throughout some of the work in here.

**MR. BUDDEN:** Having to do with the Lower Churchill Project.

**MR. STURGE:** Yes, yes, Lower – yes, yeah.

**MR. BUDDEN:** Under general – what did you understand firstly by general assumptions for all cases? What does that mean to you, Mr. Sturge?

**MR. STURGE:** Well, I guess you'd have to look at sort of what's in this document and the types of scenarios being looked at in here, right.

**MR. BUDDEN:** Okay. And that would appear to be general assumptions for all of those scenarios, just on the plain meaning of that – I would suggest.

**MR. STURGE:** I would take it for that – unless there was an assumption here that wasn't relevant to a scenario – I don't know if –

**MR. BUDDEN:** Okay.

**MR. STURGE:** – that’s the case, but.

**MR. BUDDEN:** The very first point is “P75 capital cost estimates.” Do you, having seen this document, does that refresh you around any discussion around P – capital cost estimates at this stage of the project?

**MR. STURGE:** It does a little bit because if you go back to the discussion with Ms. O’Brien earlier around the Emera change – and again this is April 2010.

**MR. BUDDEN:** Yes.

**MR. STURGE:** And that discussion with Emera was taking place in October 2010. So this is the same P75 and at that point it was showing an impact of moving from P75 to P50, so it seems to be consistent.

**MR. BUDDEN:** And by “impact” you mean the financial impact?

**MR. STURGE:** Impact in that case on the price, yes. Yeah.

**MR. BUDDEN:** Okay.

**MR. STURGE:** Yeah.

**MR. BUDDEN:** And the obvious conclusion being that if you move from P75 to P50 the price would go up. The capital cost price –

**MR. STURGE:** No, Price would – the electricity – the effective price that Emera would pay would actually go down –

**MR. BUDDEN:** Okay.

**MR. STURGE:** – would be P50, yeah.

**MR. BUDDEN:** Okay. In a more general sense what would be the impact – what was your understanding of the impact of moving from a P75 to a P50?

**MR. STURGE:** Generally, I think, my understanding would be that the higher P-factor you go to the higher you’re cost probably is.

**MR. BUDDEN:** And the flip side is the lower the P-factor the lower the cost – capital cost.

**MR. STURGE:** Yeah, I think, yeah, unless somebody (inaudible). I could be wrong on that ’cause it’s not my expertise.

**MR. BUDDEN:** Okay.

**MR. STURGE:** It’s generally my understanding.

**MR. BUDDEN:** Okay.

We see handwritten notes there; perhaps you could just read them directly to the right of that P75 cap cost estimates. Just read the –

**MR. STURGE:** The note seems to say – it’s not my note, again, so: “more stress placed on the project cost – very conservative approach.”

**MR. BUDDEN:** Okay.

And I realize this was eight and a half years ago, but your memory seems good in other ways. Do those notes refresh your memory at all as to the nature of a discussion, perhaps, around P-factors, statements, P (inaudible) –?

**MR. STURGE:** No, it really doesn’t because again, at that point, a lot of these things I would’ve been driving; I wasn’t driving the P-factor discussion. So it wouldn’t – it’s not, you know, it doesn’t resonate to me as, say, a comment on some of the other things could resonate to me, you know.

**MR. BUDDEN:** Sure.

**MR. STURGE:** So I’m – once I saw this and I saw the others, I was piecing it together in my own mind, but I can’t provide any more context than what’s written there.

**MR. BUDDEN:** Okay.

Mr. Justice, I was about to move on to another area. I don’t know if – it is just past 4:30.

**THE COMMISSIONER:** No, that’s fine. We sat late yesterday, so I don’t intend to do that today. It’s Halloween as well and some people have children. So we will adjourn now.

From what I understand, tomorrow we have a witness who's going to be testifying via video link and I understand there's a – there may be a slight issue with some scheduling. So in order to try to help out on that I'm wondering if we could start tomorrow morning at 9 o'clock, instead of 9:30, because I suspect there's going to be some more cross-examination here. And if we could start at 9 then we will be able to get to Mr. Lemay and hopefully resolve that schedule issue he might have, because I'm holding him to the schedule, to be quite honest, but I'm trying to be understanding as well.

So we will start tomorrow morning at 9 o'clock.

**MR. BUDDEN:** Thank you.

**THE COMMISSIONER:** Okay.

**CLERK:** All rise.

This Commission of Inquiry is concluded for the day.