

Hearing Transcript

**REFERENCE TO THE BOARD
RATE MITIGATION OPTIONS AND IMPACTS
MUSKRAT FALLS PROJECT**

October 9, 2019

PRESENT:

The Board:

Board Members

Darlene Whalen, Chair
Dwanda Newman, Vice-Chair
John O'Brien, Commissioner

Board Counsel / Staff

Maureen Greene, Q.C., Reference Counsel
Sara Kean, Assistant Board Secretary

Parties:

Nalcor Energy /

Newfoundland and Labrador Hydro

David Eaton, Q.C., Counsel – Nalcor
Geoff Young, Q.C., Counsel – NL Hydro

Newfoundland Power

Kelly Hopkins, Counsel
Liam O'Brien, Counsel

Consumer Advocate

Dennis Browne, Q.C. – Consumer Advocate
Stephen Fitzgerald, Counsel – Consumer Advocate

Island Industrial Customer Group

Paul Coxworthy, Counsel
Denis Fleming, Counsel

Witnesses:

Nalcor Energy / Newfoundland and Labrador Hydro

Power Advisory LLC Panel

John Dalton and Michael Killeavy

Panel 1

Jim Haynes, Executive Vice President, Nalcor
Jennifer Williams, President, Newfoundland and Labrador Hydro
Michael Roberts, Senior Vice President Corporate Services & CHRO, Nalcor
Greg Jones, Director, Nalcor Energy Marketing, Nalcor

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1 (9 a.m.)
 2 CHAIR:
 3 Q. Good morning, everybody. I don't think
 4 there's any preliminary matters, so we'll go
 5 right back to you, Mr. Fitzgerald, and you
 6 can carry on.
 7 MR. FITZGERALD:
 8 Q. Thank you, Madam Chair. Good morning,
 9 gentlemen.
 10 MR. DALTON:
 11 A. Good morning.
 12 MR. FITZGERALD:
 13 Q. Just to carry on from where we were
 14 yesterday, the starting position that you
 15 have is that Power Advisory is of the
 16 opinion that NEM's should remain unregulated
 17 and outside Hydro's regulated activities?
 18 MR. DALTON:
 19 A. That's correct.
 20 MR. FITZGERALD:
 21 Q. Right. So is that a general opinion or
 22 philosophy you have regarding the regulation
 23 of utilities generally, or is it from an
 24 opinion derived from a close review of NEM's
 25 in particular?

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1 MR. DALTON:
 2 A. From utilities generally. I mean, I think
 3 we're talking about an energy marketing
 4 organization, so I would say that generally
 5 for general marketing organizations that
 6 have hydro assets operating with a Crown
 7 utility, I think it's appropriate, and I
 8 think for those entities, that would be my
 9 natural predisposition. Obviously,
 10 yesterday I outlined some of the rationales
 11 for that. I can go through those again, but
 12 I'm not sure it's necessary, but if you
 13 would like me to, I certainly can.
 14 MR. FITZGERALD:
 15 Q. Briefly, if you would.
 16 MR. DALTON:
 17 A. Certainly. I think one thing that's very
 18 important is that this entity needs to be
 19 market facing. They need to be focused in
 20 terms of market opportunities. I think that
 21 the form of regulatory oversight, there can
 22 be, you know, different forms of regulatory
 23 oversights is what I want to kind of
 24 overstate the case here, but to the degree
 25 that regulatory oversight has some

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1 retrospective view in terms of trading
 2 activity, I think that that could
 3 potentially serve as a distraction from what
 4 should be their market focus. So I think
 5 that's a very important issue that needs to
 6 be considered. I mean, there are other
 7 issues that have been raised and it depends
 8 in terms of where within the organization
 9 it's going to be. There's a very real
 10 concern, which all Canadian trading entities
 11 have weighed in on, or many that I've spoken
 12 to, and that's potential for being subject
 13 to US taxation.
 14 MR. FITZGERALD:
 15 Q. Okay.
 16 MR. DALTON:
 17 A. So that's why you essentially want to
 18 financially ring fence it.
 19 MR. FITZGERALD:
 20 Q. Okay, sure. So I take it then that you
 21 haven't actually particularly examined NEM's
 22 operations?
 23 MR. DALTON:
 24 A. No. I think, as I indicated, what we've
 25 provided is kind of a top down analysis

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1 review in terms of best practices in North
 2 American electricity markets. So, no, we
 3 haven't been asked to provide an audit or
 4 evaluation of NEM's operations. We have
 5 some understanding in terms of the volumes
 6 that they're trading, and have a detailed
 7 understanding in terms of the markets that
 8 they're participating in and the skills they
 9 need.
 10 MR. FITZGERALD:
 11 Q. Okay, so you know the market that they're
 12 going into, but you haven't particularly
 13 examined the traders themselves or the
 14 individuals. Have you spoken with anyone at
 15 NEM's in particular?
 16 MR. DALTON:
 17 A. Yes, I have.
 18 MR. FITZGERALD:
 19 Q. Who would that be?
 20 MR. DALTON:
 21 A. Mr. Jones.
 22 MR. FITZGERALD:
 23 Q. Okay, and have you examined their trading
 24 processes?
 25 MR. DALTON:

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1 A. No, that was not a charge. We were never
 2 asked to kind of look at their trading
 3 processes. I'm not offering opinion in
 4 terms of their reasonableness. I'm offering
 5 opinion in terms of structurally where
 6 should they be within the organization, and
 7 I feel, based on the analysis that I've
 8 done, I provide an adequate foundation for
 9 offering an opinion, and it's based on my
 10 many years of experience, knowledge of the
 11 Canadian electricity markets, what other
 12 energy traders do and how they're
 13 structured.
 14 MR. FITZGERALD:
 15 Q. Okay, I appreciate that, but you wouldn't
 16 know whether Nalcor is currently operating –
 17 NEM's is currently operating efficiently or
 18 not? I think you just said that, you don't
 19 know.
 20 MR. DALTON:
 21 A. I wasn't asked to look at that.
 22 MR. FITZGERALD:
 23 Q. So you don't know?
 24 MR. DALTON:
 25 A. I don't know.

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1 MR. FITZGERALD:
 2 A. If I could ask you to turn to page 32 of
 3 Nalcor's Evidence, and this is the evidence
 4 that was filed on the 20th of September. If
 5 we could scroll down to line 22. Now I
 6 appreciate this isn't Power Advisory's
 7 evidence, but I'd just like you to comment
 8 on this sentence. It says, "NEM is
 9 currently subject to rigorous risk oversight
 10 to monitor NEM's compliance with its
 11 authorized Energy Marketing Risk Management
 12 Manual, which includes, among a broad range
 13 of topics, approved transaction types,
 14 limits of delegated authority, and credit
 15 limits". Do you know what they're referring
 16 to there when they talk about rigorous risk
 17 oversight?
 18 MR. DALTON:
 19 A. My understanding is only derived based on
 20 reading this sentence, so I really can't
 21 offer a lot of insights here. I mean, I do
 22 have some understanding in terms of that
 23 there is an Energy Marketing Risk Management
 24 Manual. I referenced that yesterday in terms
 25 of my testimony, but this isn't anything

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1 that I was asked to look at.
 2 MR. FITZGERALD:
 3 Q. Okay.
 4 MR. DALTON:
 5 A. Others would be able to better speak to
 6 this.
 7 MR. FITZGERALD:
 8 Q. Okay, thank you. If we can go to Slide 9 of
 9 your presentation, please. The third bullet
 10 there if you're with me, it says, "Energy
 11 trading is fast paced and requires detailed
 12 knowledge of energy markets and risk
 13 management practices". Now as I understand
 14 it, Emera used to provide marketing services
 15 to Nalcor up to 2015, and correct me if I'm
 16 wrong there, but is that –
 17 MR. DALTON:
 18 A. That's my understanding. I don't know the
 19 date in terms of when they stopped, but that
 20 is my understanding that they did provide
 21 those services.
 22 MR. FITZGERALD:
 23 Q. Would you be able to comment whether Emera
 24 would have the detailed knowledge of energy
 25 markets and risk management?

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1 MR. DALTON:
 2 A. Yes, I would expect that they would.
 3 Similar to Nalcor, they have a energy
 4 marketing affiliate, and I think that the
 5 benefit that Emera would have brought at
 6 that time was that was an established entity
 7 that had experience and knowledge in these
 8 markets, and my understanding, and Mr. Jones
 9 can speak to this better than I, but the
 10 strategy that Nalcor employed was to
 11 effectively begin to develop the capability
 12 when they had some volumes to trade, and it
 13 was essentially a deliberate learning
 14 process and a measured approach in terms of
 15 gaining the skills necessary to compete
 16 successfully in these markets.
 17 MR. FITZGERALD:
 18 Q. Yes, I think somewhere I read that there was
 19 a decision made by Nalcor to switch the
 20 marketing or to put it under an internal
 21 growth approach, meaning that they wanted to
 22 organically grow their marketing expertise.
 23 I take it that's –
 24 MR. DALTON:
 25 A. I can't comment on that. I really don't

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1 have any insights in terms of these
 2 decisions.
 3 MR. FITZGERALD:
 4 Q. When you spoke with Mr. Jones, did he talk
 5 to you at all about his experience with, or
 6 NEM's experience with Emera – sorry,
 7 Nalcor's experience with Emera?
 8 MR. DALTON:
 9 A. He did generally.
 10 MR. FITZGERALD:
 11 Q. And what was his comment?
 12 MR. DALTON:
 13 A. One of the comments he made was in some
 14 instances he looked at trades and questioned
 15 whether the trades were in Nalcor's best
 16 interest, and I think that's one of the
 17 conflicts that you potentially have when you
 18 outsource this service. Now you're working
 19 with a third party who might have a
 20 portfolio which includes other assets, and
 21 you have to wonder, you know, are all the
 22 trades that they're doing focused in terms
 23 of maximizing the margins you would realize
 24 from your portfolio.
 25 MR. FITZGERALD:

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1 Q. In your experience in the industry, is that
 2 something that utilities have to watch out
 3 for, that their outsourced contractors may
 4 not be providing the service that they've
 5 requested, or preferring others?
 6 MR. DALTON:
 7 A. Generally, and it's very difficult to do for
 8 an energy trading operation.
 9 MR. FITZGERALD:
 10 Q. So the utility can't police that, they can't
 11 ask for accountability from the trader?
 12 MR. DALTON:
 13 A. These trades happen on an hourly basis, and,
 14 you know, you really are not in a position,
 15 and this is one of the issues I have with
 16 trying to provide oversight in a real time
 17 basis of these operations. It's very hard
 18 to monitor them, and even when you
 19 outsource, based on the volume of
 20 transactions, you cannot realistically go
 21 back and ensure that in every instance those
 22 trades were done to maximize margins for
 23 your portfolio. It would be very difficult
 24 and very resource intensive. You'd
 25 essentially have to mirror the trading

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1 operations that you're outsourcing.
 2 MR. FITZGERALD:
 3 Q. So there's no ability when the dust settles,
 4 so to speak, after, say, a quarter of
 5 trading, whether the outsourced trader has
 6 made you money or not made you money?
 7 MR. DALTON:
 8 A. Obviously, you can determine whether they've
 9 made you money. The question is, have they
 10 made you as much money as they could have.
 11 I think that's the concern.
 12 MR. FITZGERALD:
 13 Q. I guess, and this goes back to our
 14 discussion yesterday regarding the different
 15 focuses of what's required for rate
 16 mitigation, and, of course, there's
 17 references about rate mitigation, and would
 18 you agree that outsourcing energy trading in
 19 the near term would result in cost savings
 20 for Nalcor?
 21 MR. DALTON:
 22 A. No.
 23 MR. FITZGERALD:
 24 Q. Why would you not?
 25 MR. DALTON:

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1 A. I don't have any basis for, and I don't
 2 think anyone has any basis for coming to
 3 such a conclusion. I think Liberty has
 4 indicated that they don't know what that
 5 cost would be and they're not sure if
 6 there's a market to provide that service.
 7 So I can't offer an opinion. My
 8 understanding is that one of the reasons why
 9 Nalcor elected to develop the capability
 10 internally rather than use Emera was that
 11 there were cost savings. So that to me
 12 suggests that Nalcor doing the service
 13 might, in fact, be lower cost than
 14 outsourcing.
 15 MR. FITZGERALD:
 16 Q. Sorry, you came to that conclusion how?
 17 MR. DALTON:
 18 A. My understanding, and I think that Mr. Jones
 19 will discuss this tomorrow, was that some
 20 analysis that Nalcor did indicated that they
 21 felt like they could provide the services
 22 that Emera was performing for them at a
 23 lower cost.
 24 MR. FITZGERALD:
 25 Q. In the short term or the longer term?

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1 MR. DALTON:
 2 A. He needs to speak to the specifics of that.
 3 I'm just speaking generally.
 4 MR. FITZGERALD:
 5 Q. If we could go to Slide 10, and this is the
 6 rationale that's presented or another one
 7 for having stand-alone trading entities, and
 8 one of the rationales set out there is, "To
 9 shield the parent from the risk of becoming
 10 a taxable entity in the US, and remove
 11 affiliates from exposure to risks from
 12 energy marketing activities". Wouldn't this
 13 same shielding effect be accomplished if a
 14 third party or Emera undertook the trading?
 15 MR. DALTON:
 16 A. It depends in terms of the commercial
 17 arrangements that are put in place. That's
 18 going to be a difficult negotiation in terms
 19 of who bears the risk here, and I think that
 20 some of the evidence that was provided by
 21 Liberty confirmed that they were of a
 22 similar perspective.
 23 MR. FITZGERALD:
 24 Q. I'm not sure I understood your answer,
 25 sorry. The risk that stand-alone NEM's

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1 would take on is different than the risk
 2 that Emera would take on if they were
 3 trading from a taxable entity perspective?
 4 MR. DALTON:
 5 A. From a taxable energy perspective, I'm
 6 sorry, yes, you're correct, that issue would
 7 presumably go away. I have to say I'm not a
 8 tax lawyer, so as a general practitioner,
 9 that's my view. I don't want to purport to
 10 be an expert in terms of US tax matters and
 11 they are complex.
 12 (9:15 a.m.)
 13 MR. FITZGERALD:
 14 Q. I appreciate that. I'm just trying to
 15 understand why it's been presented as the
 16 rationale. If the protection is not
 17 enhanced by Nalcor doing it themselves, then
 18 I'm just wondering why it's presented as a
 19 rationale? If I understood your answer
 20 correctly, there is no difference. The tax
 21 consequences of Emera doing it or NEM's
 22 doing it are the same, the shielding effect?
 23 MR. DALTON:
 24 A. What I'm talking about here is separating
 25 it. I'm not talking about contracting it

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1 out. I'm talking about why it is
 2 appropriate to have a separate entity
 3 provide this service. So there is another
 4 strategy and that's contracting out the
 5 service. This slide really is focused in
 6 terms of why it's appropriate to have a
 7 stand-alone entity trading operation.
 8 MR. FITZGERALD:
 9 A. I think I understand that. I guess, I was
 10 equating the outsourcing, you'd have the
 11 same effect, though, would you not?
 12 MR. DALTON:
 13 A. I think I answered that question to the best
 14 of my ability.
 15 MR. FITZGERALD:
 16 Q. Thank you. Besides the tax risk, are there
 17 other risks that you could identify?
 18 MR. DALTON:
 19 A. Yes, there's the underlying trading risk and
 20 that's the answer that I gave earlier, and I
 21 feel like there is a number of issues in
 22 terms of how that risk would be allocated
 23 between Nalcor, and to the degree you
 24 decided to outsource this service, to what
 25 degree the party that was securing the

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1 contract for these trading operations, to
 2 what degree would they bear some of these
 3 risks, and I think that at the end of the
 4 day you would want to get to the point where
 5 if they're making trades for you, that
 6 they're making those trades and they're
 7 bearing those risks. You're going to have
 8 to compensate them for that, and I think
 9 that that's another way in terms of which
 10 there could be value that's lost. When you
 11 transact, sometimes there's inefficiencies,
 12 and I think that this is a potential
 13 inefficiency that can seep into trying to
 14 structure such an arrangement.
 15 MR. FITZGERALD:
 16 Q. Sure. I guess, I'm trying to visualize the
 17 risk and who pays for the risk. If it's
 18 bargained away, you'll have to pay higher
 19 for the trading commission, if you will,
 20 because they're going to bear the risk. If
 21 a risk or trade goes south and NEM's is
 22 doing it and they bear all the risk, then
 23 who pays. I mean, it seems to be six or
 24 one, half dozen of the other. There is a
 25 risk. Who bears it; you would either pay

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1 upfront for the risk if it’s outsourced, or
 2 NEM’s would bear the risk and rate payers
 3 would pay it?
 4 MR. DALTON:
 5 A. Is there a question there? I’m not sure -
 6 MR. FITZGERALD:
 7 Q. I guess what I’m trying to understand is the
 8 rationale that you presented, that is that
 9 there are risks that arise by outsourcing?
 10 MR. DALTON:
 11 A. Yeah. Pardon me, but the focus here is not
 12 – this is just on a stand-alone entity. I
 13 wasn’t really talking about outsourcing.
 14 This slide is very focused in terms of why
 15 one would want to have a stand-alone entity.
 16 I wasn’t getting into the question in terms
 17 of outsourcing.
 18 MR. FITZGERALD:
 19 Q. Okay.
 20 MR. DALTON:
 21 A. I know we’ve had that discussion this
 22 morning, so I just feel like we need to be
 23 careful in terms of –
 24 MR. FITZGERALD:
 25 Q. Sure, understand. Let’s move on then to

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1 Slide 11, and here there’s a critique of
 2 Liberty. You say that “Liberty has
 3 underestimated NEM’s position as an
 4 exporter, and furthermore, Power Advisory
 5 believes that Liberty has inappropriately
 6 focused on energy volumes rather than
 7 margins and failed to recognize that highly
 8 flexible hydroelectric resources offer
 9 higher margins, given their ability to
 10 arbitrage energy prices”. Isn’t it true
 11 that in the case, though, of Muskrat Falls
 12 that there are very high transaction costs
 13 associated with getting this power to the
 14 North Eastern US?
 15 MR. DALTON:
 16 A. Are you talking about the transmission
 17 charges?
 18 MR. FITZGERALD:
 19 Q. Yeah.
 20 MR. DALTON:
 21 A. I don’t know if it’s appropriate to
 22 characterize them as high, but there are
 23 transmission charges that have to be paid.
 24 You know, it depends in terms of which
 25 transmission path you use. If you go

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1 through Maritime Link, they are presumably
 2 higher. One needs to recognize that Nalcor
 3 does have a transmission reservation through
 4 the Hydro Quebec system, and if it uses that
 5 path, those transmission costs have
 6 essentially been paid.
 7 MR. FITZGERALD:
 8 Q. We’ve heard evidence, I’m not sure if you’ve
 9 read the transcripts, but the export sales
 10 to be managed by NEM’s, the export price
 11 currently may be as low as 3.5 percent per
 12 megawatt hour. It’s going to be at that 3.5
 13 cents, sorry, per megawatt hour for a
 14 considerable period of time, and 1.2
 15 megawatts annually are earmarked by the
 16 Energy Access Agreement, and Synapse has
 17 strongly recommended as a rate mitigation
 18 measure, electrification, and it appears
 19 that they are suggesting that’s a preferred
 20 route to rate mitigation than exports. So
 21 in light of that information, in light of
 22 that evidence, should not Nalcor’s focus be
 23 on electrification rather than export sales,
 24 and if that’s the case, why do they need a
 25 marketing arm, why do we need, and why do

Page 20

1 they need right now, to organically grow a
 2 marketing arm?
 3 MR. DALTON:
 4 A. So a couple of questions there. First of
 5 all, in terms of electrification, I haven’t
 6 looked at that, but I can imagine that there
 7 would be value associated with
 8 electrification. That’s a long-term
 9 process. That’s going to take a while to
 10 happen. We’re talking about Muskrat Falls’
 11 volumes being relatively imminent and I feel
 12 like there needs to be capability in place
 13 to deliver those to market, and I’ve kind of
 14 outlined, and I can do it again, the
 15 rationale for why it’s appropriate to have
 16 NEM be the marketing entity for the volumes
 17 that Nalcor has available. I think that
 18 there’s a compelling case for that, and
 19 we’ve discussed a lot of that this morning.
 20 So I think one needs to recognize that first
 21 of all, electrification, if it is going to
 22 be successful, it’s going to take a while.
 23 I would also make the point that there are,
 24 recognizing that electrification for it to
 25 really have a meaningful impact in terms of

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1 what would be available for export markets
 2 within that time, there could be additional
 3 volumes that could be made available to the
 4 export markets. Mr. Marshall talked
 5 yesterday about runner replacements and
 6 indicated that that would be about 100
 7 megawatts. That's not an insignificant
 8 volume of energy, additional energy, that
 9 would be available in export markets. To
 10 some degree, Nalcor has a portfolio of
 11 future generation development investment
 12 options, which I would think, based on
 13 adequate market and appropriate market
 14 conditions, it could elect to develop with
 15 partnerships, as I've mentioned, and through
 16 a range of strategies which would hopefully
 17 be able to de-risk it from the province's
 18 perspective.
 19 MR. FITZGERALD:
 20 Q. Yeah, but again I think there's a departure
 21 there. You're now speaking of the future
 22 and we're speaking of the present and what
 23 can be done in the present to mitigate
 24 rates. You say it's going to take some time
 25 for electrification to take effect.

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1 Likewise, I understand, and correct me if
 2 I'm wrong, it's going to take a while for
 3 NEM's to develop their full potential as a
 4 marketing arm, and I did hear Mr. Marshall,
 5 I did hear about the partnerships, but we
 6 also heard last week from Liberty about the
 7 problems with generation, getting investors.
 8 I understand that in the states it's very
 9 difficult to get investors in future
 10 generation right now. So do we have the
 11 luxury to have a marketing arm set up in
 12 anticipation of future potentialities?
 13 MR. DALTON:
 14 A. The point I'm making about electrification
 15 is that it is not immediate. You know,
 16 electrification is not going to reduce load
 17 in 2019. It's not going to meaningfully
 18 reduce the load in 2020. It's going to take
 19 a while for electrification to have any
 20 implication. So, that's why I'm talking
 21 about the future development opportunities.
 22 I feel like you need to be looking at it in
 23 terms of a consistent timeframe.
 24 In terms of development opportunities
 25 in the US, I can certainly get into that and

Page 23

1 offer my opinion on that. We saw
 2 Massachusetts offer a contract for ten
 3 terawatt hours of energy. There's some
 4 recognition that if you're going to get the
 5 type of resources that you need to allow
 6 these northeast energy markets achieve their
 7 greenhouse gas mitigation targets that there
 8 is going to be a need for long term
 9 contracts to support the development of
 10 projects and to provide any necessary
 11 certainty to finance the required
 12 investment.
 13 MR. FITZGERALD:
 14 Q. Yes, well, and I suppose we could debate
 15 that, but I mean, you know, one of the
 16 things that Liberty had suggested was the
 17 problem with generation, of course, is that
 18 there is a carbon push, but there is also
 19 wind and solar that's scrimping in on the
 20 development of hydroelectric. So, you know,
 21 I guess there's – you know, there's a debate
 22 there.
 23 But what we see, I mean, I guess the
 24 empirical evidence is that the current price
 25 of electricity is 3.5 cents a kilowatt hour

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1 in northeastern United States. We have the
 2 evidence. It hasn't been controverted as
 3 far as I know yet that there's problems with
 4 generation investment in the States. So, we
 5 are – again, I'm repeating myself, but we
 6 are dealing with the present and the issue
 7 is whether in fact it is a smart investment
 8 or a good use of money to have a – to grow a
 9 separate marketing arm of Nalcor which is
 10 currently in crisis.
 11 MR. DALTON:
 12 A. There's so many questions there and I'd like
 13 to be able to respond to many of them.
 14 Maybe I can get some help from Mr. Killeavy
 15 in terms of what some of those questions
 16 were. I don't know the basis for the \$35,
 17 you know, that's been talked about. The
 18 day-ahead price and I saw New England last
 19 year, I think for the Mass hub market was
 20 \$49-50 based on something that I looked at.
 21 So, you know, there are challenges in
 22 terms of the market. The dire condition of
 23 the market, it's a market. You know, things
 24 change. We're seeing old units being
 25 retired. We're seeing, you know, an

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1 increasing interest. One of the themes
 2 you've heard from me in the last 24 hours is
 3 greenhouse gas emission reductions and how
 4 those are going to be achieved.
 5 Last Thursday, the New York independent
 6 system operator, the party that's
 7 responsible for planning the New York
 8 system, came out with a report suggesting
 9 that a price on carbon was the most
 10 efficient cost effective way and fastest way
 11 to achieve the State's very aggressive
 12 carbon reduction goals. Remember, they're a
 13 state that taking by 2040 to have
 14 essentially 100 percent carbon free
 15 electricity system. So, they're suggesting
 16 let's impute a social cost of carbon on
 17 generation in the market.
 18 So, quick analysis that we did,
 19 depending in terms of the generation type
 20 resource you're talking about, the price
 21 impact would be 15 to \$20 per megawatt hour,
 22 if New York were to implement such a policy.
 23 That's going to help in terms of supporting
 24 the type of clean energy investment that's
 25 available in this province.

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1 The New York State Energy Research
 2 Development Authority, NYSEERDA, who's the
 3 contract counterparty in that market,
 4 typically offers parties long-term
 5 contracts, 20-year contracts to support
 6 their generation investment and they're
 7 using this to essentially move the market to
 8 clean energy.
 9 (9:30 a.m.)
 10 In terms of wind and solar, they're a
 11 great, you know, valuable resource. But you
 12 can't achieve 100 percent carbon free
 13 electricity system just with wind and solar.
 14 Now that's why Massachusetts elected to
 15 procure ten megawatt – or excuse me, ten
 16 terawatt hours of hydroelectricity. Because
 17 they want it essentially as baseload
 18 resource that would help them achieve their
 19 greenhouse gas emission goals. I think it's
 20 reasonable to assume that New York might
 21 ultimately look for something similar.
 22 MR. FITZGERALD:
 23 Q. Thanks. I guess, you know, I'm not sure if
 24 you filed anything to that effect, but we're
 25 going to be – or I guess the Board has

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1 before them the evidence of Liberty and they
 2 have weighed in on the issue of future
 3 generation. You know, and I guess the
 4 overarching issue here is we get the sense –
 5 and again, we spoke about this yesterday
 6 that Power Advisory use Nalcor as a
 7 potential future developer of
 8 hydroelectricity and with that comes the
 9 necessity for marketing arms, et cetera.
 10 I guess where we – our point of
 11 departure, I guess, is that we have evidence
 12 that indicates that – well, firstly, we know
 13 there's no money left from rate payers to do
 14 any development and it looks like the
 15 experts say that generation is not likely to
 16 occur in hydroelectricity in any event.
 17 MR. DALTON:
 18 A. Well, I have to say I'm of a different
 19 opinion with respect to that last point. I
 20 hail from Boston. I worked for NYSEERDA and
 21 hopefully I'm a credible witness in terms of
 22 being able to provide some expertise in
 23 terms of the New England market and the New
 24 York market. These are my backyards. I
 25 spoke yesterday in terms of the clients that

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1 I've advised, looking at export
 2 opportunities from Atlantic Canada to these
 3 markets. I won't repeat that. This is –
 4 you know, this is much of what I do and I
 5 work with the buyers and I work with the
 6 sellers and it provides me with an informed
 7 opinion.
 8 Your previous question, there were two
 9 there, was, you know, the value of NEM
 10 today. I think that a case can be made, and
 11 I think it's a compelling case, that based
 12 on the need to trade three and a half
 13 terawatt hours of energy and the additional
 14 value that you're going to get from having
 15 NEM acting in the best interest of
 16 Newfoundland and Labrador customers that
 17 that's going to, you know, justify having
 18 NEM as a separate entity.
 19 I'm not convinced that there's a case
 20 that outsourcing this function is going to
 21 result in a lower cost and I think that
 22 there are, you know, very real issues
 23 associated with potential conflicts and
 24 ensuring that any party that you outsource
 25 this service to is always acting in your

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1 best interest.
 2 MR. FITZGERALD:
 3 Q. I appreciate that, your evidence. I'm not
 4 disparaging your credibility, sir. I'm just
 5 – you've indicated that it's your opinion
 6 that having NEM adds value and there is
 7 potential conflicts if there's a third party
 8 trades. Our issue is that none of that has
 9 been quantified. We don't – if there's
 10 added value, it would be difficult to
 11 measure if we don't have any benchmarks.
 12 So, that's – you know, you say it's adding
 13 value. I don't see any number.
 14 MR. DALTON:
 15 A. I don't see a question there for me. Is
 16 there a question there for me?
 17 MR. FITZGERALD:
 18 Q. Yeah. Can you identify in a term or in any
 19 kind of metric that we can measure the added
 20 value that NEM provides?
 21 MR. DALTON:
 22 A. This stuff is – you know, it's hard to put
 23 dollars to it, you know, and it's frankly
 24 much the same issue that you'd get to in
 25 terms of providing regulatory oversight

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1 associated with NEM. You know, it's
 2 difficult to, you know, evaluate this in
 3 terms of what's the incremental revenue
 4 going to be from different situations. You
 5 know, we're talking about my experience in
 6 the industry and it's my opinion. I haven't
 7 done any analysis. I think that it's
 8 something that's difficult to put dollars
 9 to.
 10 MR. FITZGERALD:
 11 Q. Thank you. Just turning now briefly to
 12 slide 19 and just a couple of questions
 13 really on these. The bottom bullet there,
 14 you say "benchmarking exercise without
 15 deeper consideration of executive
 16 organizational effectiveness or the
 17 underlying differences between utilities" –
 18 and this comment here stood out, you said
 19 "we have not observed the use of such
 20 benchmarking in reorganizations or
 21 specifically in regulatory proceedings
 22 concerning utility rate structures." So,
 23 can you explain that? You're not suggesting
 24 that you haven't seen benchmarking? It's
 25 just the type of benchmarking that Liberty

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1 employed, is that -
 2 MR. KILLEAVY:
 3 A. Yeah, I mean, I'll take this one. I mean,
 4 I've used benchmarking in reorganizations
 5 and in organizational design. It's a useful
 6 tool. Again, my scope was to provide
 7 comments on the Liberty report, which that's
 8 the starting point for me, and that's really
 9 all I saw in that report was it was
 10 basically a benchmarking exercise. I see
 11 later on they've clarified that they have
 12 looked at the mandate and other factors.
 13 That wasn't evident to me in the actual
 14 report that I reviewed.
 15 MR. FITZGERALD:
 16 Q. Okay. Thank you. Those are all my
 17 questions. Thank you.
 18 CHAIR:
 19 Q. Thank you, Mr. Fitzgerald. Mr. Coxworthy.
 20 MR. COXWORTHY:
 21 Q. Yes, thank you, Madame Chair, Commissioners.
 22 Good morning, gentlemen. My name is Paul
 23 Coxworthy.
 24 MR. DALTON:
 25 A. Good morning.

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1 MR. KILLEAVY:
 2 A. Good morning.
 3 MR. COXWORTHY:
 4 Q. I'm counsel for the Island Industrial
 5 Customer Group. I'd like to start off
 6 following up with some questions that were
 7 asked by the Consumer Advocate with respect
 8 to Nalcor Energy Marketing and the marketing
 9 function, and perhaps we could turn back to
 10 slide 11 of the Power Advisory presentation.
 11 In the last bullet on that slide is
 12 that "Power Advisory was unable to find
 13 precedent in Canada for a utility with a
 14 portfolio the size of Nalcor's that
 15 contracts out this core capability." When
 16 you say "portfolio the size of Nalcor's" are
 17 you including in that the potential of Gull
 18 Island and the potential to market Churchill
 19 Falls power in 2041 or are you only meaning
 20 by that the currently available portfolio
 21 for sale out of the province?
 22 MR. DALTON:
 23 A. Currently available when you include the
 24 volumes that would be available from Muskrat
 25 Falls.

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1 MR. COXWORTHY:
 2 Q. So, you're not including Gull Island or what
 3 power may be available after 2041 from
 4 Churchill Falls?
 5 MR. DALTON:
 6 A. No.
 7 MR. COXWORTHY:
 8 Q. And I understand one of the recommendations
 9 of Liberty in this regard is not necessarily
 10 to do away with having within the core
 11 capability of Nalcor a marketing division,
 12 but to look at the market, to look at what
 13 is available out there in terms of other
 14 organizations that could be contracted to
 15 provide these marketing services.
 16 My understanding of Liberty's
 17 recommendation is why not task Nalcor with
 18 having a look at that, not a request for
 19 proposals, but some sort of formal level of
 20 inquiry of the market that can be
 21 documented, that can be reported on back to
 22 this Board. What reason can you give why
 23 Nalcor oughtn't to do that?
 24 MR. DALTON:
 25 A. I feel like that was much of the discussion

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1 that I previously had.
 2 MR. KILLEAVY:
 3 A. Yeah.
 4 MR. DALTON:
 5 A. As indicated here, it's a core capability.
 6 There is, you know, important value in terms
 7 of, you know, coordination within Nalcor.
 8 We're talking about the energy that's going
 9 to be traded is going to be from two
 10 generation resources that are on the save
 11 river system. So, there's going to be some
 12 complexity associated with that. You're
 13 going to have to have a, you know, good
 14 understanding in terms of, you know, the
 15 dispatch of those. What's that going to
 16 mean for available energy?
 17 And I think as well, there's, you know,
 18 important knowledge that Nalcor will realize
 19 from having an energy marketing entity and
 20 there's a certain, you know, nimbleness in
 21 terms of being able to participate in the
 22 market.
 23 You know, one thing is that
 24 transmission can become available and
 25 transmission is very important in terms of

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1 securing value in markets, and having a
 2 marketing entity would allow them to, if
 3 there's some transmission that becomes
 4 available, to be able to value that and make
 5 decisions in real time that yeah, there's
 6 real value in terms of contracting for that
 7 and helping us to enhance the value that we
 8 can deliver for customers.
 9 MR. COXWORTHY:
 10 Q. And is it your evidence that that type of
 11 experience couldn't be gained by Nalcor
 12 through its interactions with a third party
 13 contractor providing these marketing
 14 services?
 15 MR. DALTON:
 16 A. Well, obviously the integration issue is one
 17 which argues for there being an entity
 18 within Nalcor, Nalcor Energy Marketing, you
 19 know, and when I'm talking about
 20 integration-
 21 MR. COXWORTHY:
 22 Q. Can you explain what you mean by the
 23 integration issue?
 24 MR. DALTON:
 25 A. The integration, you know, the fact that

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1 water management is critical in terms of
 2 affecting the energy that you have available
 3 for trade.
 4 MR. COXWORTHY:
 5 Q. So, is it the water management issue that's
 6 driving the need for Nalcor to have
 7 marketing as a core capability?
 8 MR. DALTON:
 9 A. No, I think I've outlined a number of
 10 different things.
 11 MR. COXWORTHY:
 12 Q. Well, with respect, I understood that it was
 13 with respect to coordination of two
 14 different power sources, the recall power
 15 that's available from Churchill Falls I
 16 would understand and the Muskrat – the
 17 surplus Muskrat Falls power, to the extent
 18 that that's surplus to the island's needs.
 19 The link there, of course, is the water
 20 management issue. Yes, there are other
 21 issues as well, but is that the only reason
 22 why you can't take this out to third party
 23 contracting is the need to coordinate?
 24 MR. DALTON:
 25 A. No. I've also talked about the issue

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1 associated with potential conflicts of
 2 interest, ensuring that this third party is
 3 always trading to maximize the margins that
 4 are realized from trades and not giving any
 5 consideration to other positions that they
 6 might have. I think that that’s – you know,
 7 that’s a critical issue as well.
 8 MR. COXWORTHY:
 9 Q. Do other utilities in the United States use
 10 third party contracting for their marketing
 11 services?
 12 MR. DALTON:
 13 A. I’m sure there are some. I think that -
 14 MR. COXWORTHY:
 15 Q. You’re not familiar with them? You’re not
 16 familiar with the third parties providing
 17 these marketing services?
 18 MR. DALTON:
 19 A. I’m sure there are some. I’d say that for
 20 hydroelectric utilities, it is not common.
 21 MR. COXWORTHY:
 22 Q. In Canada or in the United States?
 23 MR. DALTON:
 24 A. In Canada and the United States.
 25 MR. COXWORTHY:

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1 Q. Thank you. I’d like to move on to another
 2 line of questioning. If we could go to page
 3 four of your report, which is at Appendix 1
 4 of Hydro’s evidence that was filed on
 5 September 19th. And at page four – again,
 6 this would be of the Appendix 1 report. I
 7 don’t think we’re there, quite there yet.
 8 Page 4 of 87. Yes, thank you. If we could
 9 scroll down to just above the heading
 10 “Assessing Nalcor’s Organizational
 11 Structure”.
 12 And I just want to read a line there in
 13 the paragraph above. “Figure 1 reviews the
 14 degree of regulation across Canada by
 15 province. As indicated, Hydro is currently
 16 relatively heavily regulated with Power
 17 Supply effectively unregulated, similar,
 18 albeit with less oversight to generators and
 19 retailers in Alberta.”
 20 And now, if we could turn to the next
 21 page, which has Figure 1. Thank you. And I
 22 wanted to ask you some questions about how
 23 you went about preparing this Figure 1,
 24 which is intended to depict the scope of
 25 regulatory oversight by province in Canada.

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1 Is the information that you used to plot out
 2 this scope, is it based on the North America
 3 Utility Summaries that are found at Appendix
 4 A to your report or to Hydro’s evidence?
 5 MR. DALTON:
 6 A. Generally, yes.
 7 MR. COXWORTHY:
 8 Q. What other information, other than the
 9 information in Appendix A, did you bring to
 10 bear?
 11 MR. DALTON:
 12 A. Basically our market knowledge. I mean, the
 13 intent here for this figure was
 14 illustrative, to try to graphically show it.
 15 It’s not – it’s by no means quantitative.
 16 You know, it’s a qualitative assessment.
 17 MR. COXWORTHY:
 18 Q. But it is a ranking, isn’t it? Even if we
 19 can’t put a number on it. You don’t have
 20 one to ten, but you certainly have arrows
 21 that go more regulation and less regulation
 22 and you’re plotting these different
 23 utilities, these different jurisdictions at
 24 different places along that line.
 25 MR. DALTON:

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1 A. Yeah. I feel like a ranking suggests that
 2 there’s greater, you know, quantitative
 3 analysis that underlies this than really is
 4 here. It’s more we’re trying to make a
 5 point in terms of –
 6 (9:45 a.m.)
 7 MR. KILLEAVY:
 8 A. It’s a qualitative assessment.
 9 MR. DALTON:
 10 A. Yes.
 11 MR. COXWORTHY:
 12 Q. So, if you brought other information to bear
 13 other than what’s in the Appendix A
 14 summaries in plotting this, you say your
 15 market knowledge. So, your knowledge of
 16 what’s going on in these individual
 17 provinces?
 18 MR. DALTON:
 19 A. Yes.
 20 MR. COXWORTHY:
 21 Q. And is that information consistent with
 22 what’s in the Appendix A summaries or did
 23 you go to the Appendix summaries and say
 24 “gee, that’s not quite the way we think it
 25 works in that province” and we’re going to -

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1 MR. DALTON:
 2 A. I believe it is. I believe it is.
 3 MR. COXWORTHY:
 4 Q. Okay, thank you. Just – I’m not going to
 5 ask you to do this for every jurisdiction
 6 here, but I just want to go through the
 7 exercise if we can of your explaining how
 8 you positioned Quebec in relation to
 9 generation, transmission and retail, in
 10 terms of whether they’re at the less
 11 regulation end of the spectrum or the more
 12 regulation of the spectrum. And again, I’m
 13 not going to take you through every
 14 jurisdiction, but I think I would find it
 15 useful and I hope the Board would find it
 16 useful to understand, you know, why is
 17 Quebec positioned in respect of different
 18 functions in different places on this.
 19 MR. DALTON:
 20 A. Sure. So, in terms of the generation, to
 21 start at the top, so we’d be speaking about
 22 Hydro Quebec production and they are quite
 23 unregulated. The one thing, one element of
 24 regulation that caused me to move them
 25 towards more regulation was the heritage

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1 contract. Essentially the obligation that
 2 they have to provide 165 terawatt hours of
 3 energy to their customers at a set price,
 4 which escalates over time. So, it’s what we
 5 refer to as regulation by contract for that
 6 volume of energy. Outside that, they’ve
 7 got, you know, quite a bit of flexibility.
 8 So, that’s why this is illustrative. If it
 9 doesn’t capture that complexity, where do
 10 you put them on that? That’s just – I used
 11 my judgment and said, okay, they’re not like
 12 a generator in Alberta that’s, you know,
 13 participating in the market. They’re not
 14 like Newfoundland and Labrador Power Supply,
 15 I mean, so -
 16 MR. COXWORTHY:
 17 Q. No, so that would explain, correct me if I’m
 18 wrong, why Quebec at the transmission
 19 distribution retail portion of its functions
 20 is towards the more regulation end, the
 21 heritage contract?
 22 MR. DALTON:
 23 A. No, it’s basically -- the transmission,
 24 distribution and retail, so those would be
 25 more the – so, it would be Hydro Quebec

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1 Trans Energy and Hydro Quebec Distribution.
 2 So, Hydro Quebec Trans Energy obviously is
 3 the transmission entity, subject to
 4 regulation, and essentially, you know, cost
 5 of service regulation. And then Hydro
 6 Quebec Distribution, similar, you know,
 7 subject to regulation.
 8 MR. COXWORTHY:
 9 Q. I think that’s my misunderstanding then of
 10 your evidence. The heritage contract then
 11 affects your weighting of Quebec in relation
 12 to the generation function?
 13 MR. DALTON:
 14 A. Yes, yes.
 15 MR. COXWORTHY:
 16 Q. Okay. Thank you. Sorry about my confusion
 17 there. So, is there any other difference
 18 between the level of regulation between the
 19 current Nalcor Power Supply, which you have
 20 at the very I’m going to say extreme of your
 21 figure in terms of regulation – any
 22 difference between Nalcor Power Supply and
 23 Hydro Quebec Production other than the
 24 heritage contract that would explain why
 25 Nalcor Power Supply is considered by you to

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1 be that much more or less regulated?
 2 MR. DALTON:
 3 A. I think that’s pretty much what comes to
 4 mind. I think that one of the issues I have
 5 with this, and where it’s very much
 6 illustrative, is I could have stacked the
 7 Power Supply above Alberta, but maybe move
 8 it a little further to the left to the less
 9 regulation side, but it just wasn’t worth,
 10 you know, -- and I think that’s probably a
 11 more accurate representation of where it
 12 belongs. But I think that the heritage
 13 contract was, you know, the one thing that
 14 caused me to move Hydro Quebec Production
 15 closer to the more regulation side.
 16 MR. COXWORTHY:
 17 Q. In your opinion, is the current level of
 18 regulatory oversight that Hydro-Quebec in
 19 all its functions has? Does it impair its
 20 marketing activities? Is it a good or bad
 21 model for Newfoundland Power and Nalcor to
 22 look to in that regard?
 23 MR. DALTON:
 24 A. So, you’re talking about the regulatory
 25 oversight of Hydro-Quebec production?

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1 MR. COXWORTHY:
 2 Q. Yes, has it impaired its marketing, the
 3 level of regulatory oversight?
 4 MR. DALTON:
 5 A. Not to my knowledge.
 6 MR. COXWORTHY:
 7 Q. Yes. And has it impaired their ability to
 8 pursue new developments? Have you seen any
 9 evidence of Hydro-Quebec’s level of
 10 regulatory oversight?
 11 MR. DALTON:
 12 A. No, I think that the real driver in terms of
 13 Hydro-Quebec’s success with respect to
 14 developments is their balance sheet. Right?
 15 That’s –
 16 MR. COXWORTHY:
 17 Q. Which you build up over a period of years?
 18 Is that fair? You don’t end up—wake up one
 19 day and have the type of balance sheet that
 20 Hydro-Quebec has, do you?
 21 MR. DALTON:
 22 A. That’s correct.
 23 MR. COXWORTHY:
 24 Q. Yes. And Nalcor and Hydro is well away from
 25 being in that type of position?

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1 MR. DALTON:
 2 A. That’s right. And I take it that that’s why
 3 whenever I talk about development
 4 opportunities, I try to stress the fact that
 5 there’s a way to development projects in a
 6 way that you’re not putting customers at
 7 risk or necessarily the province at risk.
 8 MR. COXWORTHY:
 9 Q. Staying for the moment with Appendix A to
 10 your report, the North America Utilities
 11 Summaries, who prepared the summaries? Did
 12 Power Advisory prepare them? Were they
 13 prepared by Nalcor/Hydro for you?
 14 MR. DALTON:
 15 A. We prepared them.
 16 MR. COXWORTHY:
 17 Q. Okay. And apart from the Nalcor/Hydro
 18 information, which I presume Nalcor and
 19 Hydro just provided to you directly, did you
 20 independently obtain or confirm all the
 21 information on those summaries?
 22 MR. DALTON:
 23 A. Yes.
 24 MR. COXWORTHY:
 25 Q. If we can turn then to page 41 and 42 of

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1 Appendix A. And I guess, starting with
 2 page, I’m sorry, with page 40 and the first
 3 block there of Nalcor’s operations. And
 4 Nalcor’s operations are currently divided
 5 between Power Development and Power Supply,
 6 and then, of course, there’s also Hydro and
 7 Offshore Development, but there is that
 8 distinction now under the current structure
 9 between Power Development and Power Supply,
 10 is there not?
 11 MR. DALTON:
 12 A. Yes.
 13 MR. COXWORTHY:
 14 Q. And can you provide any insight on whether
 15 you think that distinction does or does not
 16 impair the ability of Hydro to market its
 17 power? Is there anything about maintaining
 18 that type of distinction that would cause
 19 you to think that’s going to impair Nalcor’s
 20 ability to market surplus power?
 21 MR. DALTON:
 22 A. No, it’s frankly not something that I’ve—
 23 it’s the first time I’ve considered it, but
 24 –
 25 MR. COXWORTHY:

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1 Q. Yes. And you have said that you didn’t
 2 drill down and it wasn’t your scope to drill
 3 down and look at levels of FTEs and who is
 4 doing exactly what within the organization.
 5 I mean, I’m paraphrasing maybe too broadly,
 6 but is that fair for me to say?
 7 MR. DALTON:
 8 A. That’s fair.
 9 MR. COXWORTHY:
 10 Q. You did not do that sort of thing?
 11 MR. DALTON:
 12 A. Yes, yeah.
 13 MR. COXWORTHY:
 14 Q. Drilling down. But if we look then at page
 15 41, and this is the Organizational Structure
 16 Insights, and the first bullet is there.
 17 And you’ll see that these two components,
 18 Power Supply and Power Development, they
 19 have their own separate executive vice-
 20 presidents. It doesn’t say it, but I think
 21 it’s reasonable to presume they probably
 22 have their own separate sets of employees.
 23 Perhaps there’s some overlap between the
 24 organizations and I’ll certainly allow for
 25 that, but two distinct organizations within

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1 Hydro that exist now to carry out those two
 2 distinct functions. Would maintaining that
 3 structure impair Nalcor’s ability to pursue
 4 future power developments, whether that’s
 5 Gull Island or opportunities that might be
 6 there in relation to Churchill Falls that
 7 Mr. Marshall spoke to yesterday?
 8 MR. DALTON:
 9 A. I don’t think it would impair it. It might
 10 not be the optimal structure moving forward
 11 in terms of recognizing cost considerations,
 12 but I’m not sure your question was regarding
 13 whether it would impair ability –
 14 MR. COXWORTHY:
 15 Q. Oh, you’re right. I certainly wasn’t asking
 16 about optimal administrative costs.
 17 MR. DALTON:
 18 A. Yeah.
 19 MR. COXWORTHY:
 20 Q. I was asking about whether it would impair
 21 the functions.
 22 MR. DALTON:
 23 A. Yeah.
 24 MR. COXWORTHY:
 25 Q. The Nalcor mandate. If we could turn to—I

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1 apologize here. I should have the page
 2 reference at my fingertips, but it’s in the
 3 evidence of—yes, I’m sorry. It’s at page 7
 4 of the Nalcor/Hydro Evidence. So, not your
 5 report. And if we could scroll up a bit,
 6 yes. The Power Development and the Power
 7 Supply bullets there which describe the—
 8 currently, the different functions in
 9 relation to those two divisions of Nalcor.
 10 And I wanted to look at the Power Supply and
 11 you’ll see that included under Power Supply
 12 is the marketing and commercial activities.
 13 Is there anything about marketing and
 14 commercial activities that indicate that
 15 they need to be nested in the Power Supply
 16 Division? It’s one thing to have marketing
 17 as a Nalcor capability, but does that
 18 function need to be nested in with the other
 19 functions that are listed there for Power
 20 Supply?
 21 MR. DALTON:
 22 A. Well, we did discuss earlier the
 23 operational—the desire to have knowledge in
 24 terms of system operations, waterflows. So,
 25 recognizing –

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1 MR. COXWORTHY:
 2 Q. And why couldn’t that information be shared
 3 even if marketing was not within the Power
 4 Supply Division, but was nested in another
 5 division of Nalcor?
 6 MR. DALTON:
 7 A. It could be shared. You know, the question
 8 is, are you going to lose anything in terms
 9 of that sharing? You know, is there some
 10 potential inefficiency there? We didn’t get
 11 to that, you know, and I’m not—so, I can’t
 12 offer an opinion in terms of what’s the cost
 13 there.
 14 MR. COXWORTHY:
 15 Q. Apart from the costs of that, the cost of
 16 putting someone—people in a different
 17 building or a different reporting and maybe
 18 having more employees or more executives for
 19 that, is there any other impairment to the
 20 marketing function of having the marketing
 21 function nested in an organization or apart
 22 of, sorry, Nalcor, other than the Power
 23 Supply as it’s currently constituted?
 24 MR. DALTON:
 25 A. I think it depends in terms of where within

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1 the organization you’re talking about, you
 2 know.
 3 MR. COXWORTHY:
 4 Q. Well, let’s say it still would be in an
 5 unregulated division. I’m not suggesting—if
 6 it was its own stand-alone division for
 7 example?
 8 MR. DALTON:
 9 A. So, we’re not talking about costs?
 10 MR. COXWORTHY:
 11 Q. No.
 12 MR. DALTON:
 13 A. We’re just talking about –
 14 MR. COXWORTHY:
 15 Q. No, I’m not talking about, you know, what
 16 additional—whatever increment of additional
 17 costs there might be. Just in terms of
 18 impairing Nalcor’s mandate.
 19 MR. DALTON:
 20 A. I can’t see any issue with that.
 21 MR. COXWORTHY:
 22 Q. Is there any need in terms of pursuing
 23 Nalcor’s mandates in terms of maximizing
 24 benefits from marketing, selling surplus
 25 power out of the province or in looking at,

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1 assessing new developments? Is there any
 2 need for whatever division of Nalcor’s
 3 that’s responsible for those function to
 4 also be responsible for making the decisions
 5 about what should be the ongoing operation
 6 and maintenance expenses to be spent on
 7 Muskrat Falls assets, Labrador Island Link
 8 assets, Labrador Transmission assets? Does
 9 the marketing and the new development
 10 function require that there be close liaison
 11 between that and decisions on an ongoing
 12 basis, future decisions, but how much needs
 13 to be spent annually to sustain the MFP LIL
 14 and LTA assets?
 15 (10:00 a.m.)
 16 MR. DALTON:
 17 A. I think we’re starting to get kind of
 18 further afield from what we were asked—what
 19 I was asked to look at.
 20 MR. COXWORTHY:
 21 Q. Fair enough. If you say that’s not a
 22 question that you considered and you can’t
 23 answer that –
 24 MR. DALTON:
 25 A. Yeah.

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1 MR. COXWORTHY:
 2 Q. - then I would accept that, if that is your
 3 answer?
 4 MR. DALTON:
 5 A. Yes. That is my answer, yes.
 6 MR. COXWORTHY:
 7 Q. Okay, thank you.
 8 MR. DALTON:
 9 A. Thank you.
 10 MR. COXWORTHY:
 11 Q. Could we turn to page 20 of the Power
 12 Advisory Report? And under Section 4.2 and
 13 I just wanted to highlight a sentence there.
 14 “Regulated and non-regulated utility
 15 operations are typically separated,” and
 16 then you give an example of that on the next
 17 page, page 21 of Hydro-Quebec Innovation.
 18 Are you equating Hydro-Quebec Innovation
 19 with the Power Development and/or Power
 20 Supply Divisions of Nalcor in that
 21 paragraph?
 22 MR. DALTON:
 23 A. Well, I do say this is similar to Nalcor’s
 24 non-regulated power development activities.
 25 MR. COXWORTHY:

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1 Q. Sure, and you’re saying –
 2 MR. DALTON:
 3 A. So, yeah, I guess I am.
 4 MR. COXWORTHY:
 5 Q. And you’re saying, “Having a division such
 6 as Innovation or Power Development and Power
 7 Supply ensures that this capability,” et
 8 cetera. So, that seems to me that you’re
 9 saying they’re pretty similar?
 10 MR. DALTON:
 11 A. Yes.
 12 MR. COXWORTHY:
 13 Q. If we could turn then to pages 51 and 52 of
 14 the Appendix A, sir. It’s 52 of page—of 87.
 15 Sorry, 51 of 87. And I guess, looking at
 16 this summary, I was trying to figure out
 17 where and how Innovation fits in into the
 18 grand scheme of things at Hydro-Quebec. Of
 19 course, the—on page 51, there’s a profile,
 20 four major divisions, production. And I
 21 think in your Scope of Regulation, Figure 1,
 22 that we looked at before, it wasn’t HQ
 23 Renovation that you had in there under
 24 generation. I thought we were talking about
 25 HQ Production. So, what’s the difference

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1 between HQ Innovation and HQ Production in
 2 terms of what we’re talking about here which
 3 is the functions of Power Development and
 4 Power Supply in Nalcor?
 5 MR. DALTON:
 6 A. It’s my understanding that HQ Production is
 7 essentially the generator and HQ Innovation
 8 essentially is the constructor.
 9 MR. COXWORTHY:
 10 Q. So, they maintain that distinction?
 11 MR. DALTON:
 12 A. Yes.
 13 MR. COXWORTHY:
 14 Q. And that would be a similar distinction
 15 between, correct me if you think I’m wrong,
 16 Power Development on the one side, HQ
 17 Innovation, and Power Supply on the other
 18 side, HQ Production? Is that a fair –
 19 MR. DALTON:
 20 A. I think generally similar. I have to say I
 21 didn’t spend as much time in terms of
 22 looking at all the activities and functions
 23 within Power Supply and Power Development.
 24 So, it’s--you know, I need to kind of
 25 qualify it in terms of, yes, generally I

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1 think that's—they align that way.

2 MR. COXWORTHY:

3 Q. And on the same page, page 51, in terms of

4 the Primary Legislative and Policy Direction

5 that's given to Hydro-Quebec and in

6 particular Hydro-Quebec Production, and

7 you've already adverted to this, I think. I

8 think the information in there with respect

9 to the \$27.90 megawatt-hour, that that's the

10 heritage pool or heritage contract that

11 you're referring to earlier?

12 MR. DALTON:

13 A. Yes, it is.

14 MR. COXWORTHY:

15 Q. Is that correct?

16 MR. DALTON:

17 A. Yes, it is.

18 MR. COXWORTHY:

19 Q. And there is no such equivalent in

20 Newfoundland and Labrador in relation to

21 Nalcor or Hydro, is there?

22 MR. DALTON:

23 A. That's correct.

24 MR. COXWORTHY:

25 Q. And I think that was the reason why you

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1 weighted, page 2, production as being at the

2 less regulated end?

3 MR. DALTON:

4 A. That's correct.

5 MR. COXWORTHY:

6 Q. Yes. It's because there's that—that is a

7 consumer protection, isn't it, that heritage

8 pool?

9 MR. DALTON:

10 A. Yes, it is.

11 MR. COXWORTHY:

12 Q. Yes. And that indicates perhaps that less

13 regulation is appropriate when there's other

14 consumer protection available?

15 MR. DALTON:

16 A. Yeah, it would in general, but I think in

17 terms of Hydro-Quebec Production, it's not

18 clear in that instance. I think that there

19 was a deliberate decision by Quebec to

20 establish the heritage rate and essentially

21 guarantee customers the benefits of these

22 heritage resources.

23 MR. COXWORTHY:

24 Q. And nothing similar was done in relation to

25 Muskrat Falls and existing generation versus

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1 the new generation. That wasn't done here,

2 you know. You know, I don't think that's a

3 difficult question to ask, I think, or

4 answer? Simply -

5 MR. DALTON:

6 A. That's right. That's right.

7 MR. COXWORTHY:

8 Q. So, that's a very significant difference,

9 wouldn't you agree, between the need for

10 regulatory oversight of Hydro-Quebec from a

11 consumer protection point of view and the

12 need for regulatory oversight of Nalcor and

13 Hydro from a consumer protection point of

14 view?

15 MR. DALTON:

16 A. Well, I think that from Quebec Consumers'

17 perspective, yes, it's what drives the lack

18 of need for kind of any regulatory oversight

19 of Hydro-Quebec Production's future

20 investment decisions. I think that one

21 point that I've made today was my

22 expectation is that going forward, that any

23 new resource development in the province in

24 the foreseeable future would be export-

25 market focused. And given that it's export-

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1 market focused and the costs of which are

2 not appropriately borne by customers, that

3 it's appropriate that that be treated on an

4 unregulated basis.

5 MR. COXWORTHY:

6 Q. If the costs are not being borne by

7 customers?

8 MR. DALTON:

9 A. If the costs are not being borne by

10 customers.

11 MR. COXWORTHY:

12 Q. And before we leave the Primary Legislative

13 Policy Direction block there, in that same

14 first paragraph, it's not just the heritage

15 pool that's in place to protect or insulate

16 customers from risk. There's also, if you

17 continue at the end of that, "For volumes

18 beyond the heritage pool, HQ Production

19 competes with other suppliers to supply HQ

20 Distribution ensuring that Quebec costumers

21 are shielded from the risks of new Hydro

22 projects." So, it's not just that HQ

23 Production is unregulated that protects and

24 shields them from these risks. It's also

25 the fact that HQ Distribution, the ultimate

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1 supplier to the customer, can always go to
 2 another supplier, another generator if HQ
 3 Production’s prices get too high?
 4 MR. DALTON:
 5 A. Right, right.
 6 MR. COXWORTHY:
 7 Q. And isn’t that a very important difference
 8 between -
 9 MR. DALTON:
 10 A. It is.
 11 MR. COXWORTHY:
 12 Q. - between the need for regulatory oversight
 13 in Quebec and the need for regulatory
 14 oversight in this province?
 15 MR. DALTON:
 16 A. Right, and I think I would make the same
 17 response that you just heard from me, and I
 18 hate to repeat myself, but I feel like it
 19 warrants it, is that I’m not—I’m suggesting
 20 that why there isn’t need for regulation for
 21 Power Supply going forward is the fact that
 22 I don’t expect that in the foreseeable
 23 future that there are going to be generation
 24 investments that are going to be required to
 25 serve customers, that these generation

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1 investments are going to be built to allow
 2 participation in export markets, and
 3 therefore, customers should not be bearing
 4 the costs of these projects. So, there’s
 5 not a need in that instance for regulatory
 6 oversight.
 7 MR. COXWORTHY:
 8 Q. Thank you, gentleman. I have no further
 9 questions.
 10 MR. DALTON:
 11 A. Thank you.
 12 CHAIR:
 13 Q. Thank you, Mr. Coxworthy. Go ahead, Ms.
 14 Greene.
 15 GREENE, Q.C.:
 16 Q. Okay. Good morning.
 17 MR. DALTON:
 18 A. Good morning.
 19 MR. KILLEAVY:
 20 A. Good morning.
 21 GREENE, Q.C.:
 22 Q. Okay. I wanted to begin by talking a little
 23 bit about the scope of work you were asked
 24 to do by Nalcor. We can go to your—either
 25 your presentation or your report, but as I

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1 understand it, you were engaged to do a
 2 jurisdictional scan, I believe you called
 3 it, of regulatory practices in Canada? Was
 4 that a part of your mandate from Nalcor? If
 5 we -
 6 MR. DALTON:
 7 A. Yes, a jurisdictional scan of regulatory
 8 practices and organizational structures, and
 9 I think the real focus was kind of
 10 organizational structures and how, you know,
 11 market influences, regulatory oversight, how
 12 those were all linked and how they might
 13 drive and influence different organizational
 14 structures.
 15 GREENE, Q.C.:
 16 Q. And the second major part of your retention
 17 was to critique or respond to Liberty’s
 18 report? Is that correct?
 19 MR. DALTON:
 20 A. That’s right. We were asked after the
 21 report was released in early September to
 22 comment on it.
 23 GREENE, Q.C.:
 24 Q. Okay. In response to a question yesterday
 25 from Mr. O’Brien, you indicated that you

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1 were retained in May of this year. Is that
 2 correct?
 3 MR. DALTON:
 4 A. That’s correct.
 5 GREENE, Q.C.:
 6 Q. And who made the initial contact with you
 7 from Nalcor?
 8 MR. DALTON:
 9 A. Rob Hull.
 10 GREENE, Q.C.:
 11 Q. And in terms of your ongoing contact with
 12 Nalcor, who would have been that primary
 13 contact during the scope of your work?
 14 MR. DALTON:
 15 A. It was generally Rob Hull, and then he went
 16 on leave, and after that, it was Mike
 17 Roberts.
 18 GREENE, Q.C.:
 19 Q. Okay. So, when you were asked to do this
 20 work, can you tell us how you went about
 21 doing it? You’ve described it as a top-down
 22 review, I—as I understand from your report
 23 and from your presentation, and what exactly
 24 does that mean?
 25 MR. DALTON:

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1 A. So, we essentially provided a review of the
 2 different jurisdictions and that's--the
 3 summary of that review is found in Appendix
 4 A of our report. So, it was, you know,
 5 looking at: What are the different
 6 structures of utilities? What's the scope
 7 of regulation? What are the various policy
 8 drivers in those markets? If it would be
 9 helpful, it might make sense to turn to that
 10 appendix and we could, you know—that
 11 outlines the, you know, key information that
 12 we reviewed.
 13 GREENE, Q.C.:
 14 Q. And that you provide it to Nalcor. So, it
 15 was –
 16 MR. DALTON:
 17 A. That's correct.
 18 GREENE, Q.C.:
 19 Q. So, it was a review of structures that
 20 existed, other utilities based upon your
 21 research and your knowledge of the market?
 22 Is that correct?
 23 MR. DALTON:
 24 A. That's correct.
 25 GREENE, Q.C.:

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1 Q. How many people at Nalcor would you have
 2 talked to, to understand the functions that
 3 each area performs?
 4 MR. DALTON:
 5 A. Oh, for Nalcor?
 6 GREENE, Q.C.:
 7 Q. Yes.
 8 MR. DALTON:
 9 A. I think what happened was we took a first
 10 cut in terms of trying to review
 11 Newfoundland and Labrador and Hydro and
 12 Nalcor, and then there were edits that were
 13 offered. So –
 14 GREENE, Q.C.:
 15 Q. I'm sorry, I didn't hear the last part.
 16 There was –
 17 MR. DALTON:
 18 A. So, we took a first cut at it and then there
 19 were some corrections that were made in
 20 terms of to better explain the organization.
 21 GREENE, Q.C.:
 22 Q. Corrections that would have been suggested
 23 by Nalcor?
 24 MR. DALTON:
 25 A. Yes.

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1 GREENE, Q.C.:
 2 Q. By Mr. Roberts?
 3 MR. DALTON:
 4 A. Yes. No, Mr. Hull.
 5 GREENE, Q.C.:
 6 Q. Mr. Hull. So, did you actually go in and
 7 talk to the various people in the various
 8 areas to understand the functions that they
 9 perform and how they interrelate with other
 10 areas of either Hydro or Nalcor?
 11 MR. DALTON:
 12 A. We didn't get to that level of detail.
 13 Essentially the review that we did of
 14 Newfoundland and Labrador was consistent and
 15 Nalcor was consistent that we performed of
 16 every other market.
 17 GREENE, Q.C.:
 18 Q. Okay.
 19 MR. DALTON:
 20 A. It was kind of a desk-top study.
 21 Occasionally, we'd make phone calls and do
 22 interviews so that what we did for
 23 Newfoundland and Labrador was very similar
 24 to what we did for other Canadian provinces
 25 and other US utilities that we reviewed.

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1 GREENE, Q.C.:
 2 Q. So, would it be a fair assessment to say it
 3 was a very high-level review of structures
 4 as they exist?
 5 MR. DALTON:
 6 A. I think that's fair.
 7 GREENE, Q.C.:
 8 Q. Okay. I'm sure you've read the Liberty
 9 Report and their evidence here. Is that
 10 correct?
 11 MR. DALTON:
 12 A. Yes, I have.
 13 GREENE, Q.C.:
 14 Q. Okay. And as you understand the work that
 15 Liberty did, you do understand that they
 16 spent significant time with the various
 17 executive, the managers and directors at
 18 Nalcor and Hydro to review the specific
 19 functions that they do, the areas of
 20 responsibility, the number of FTEs in each
 21 area and how they interrelate and interact
 22 with one another? Would you understand that
 23 from their evidence and their report?
 24 (10:15 a.m.)
 25 MR. DALTON:

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1 A. I do generally. I mean, as I indicated in
 2 our presentation, we took very different
 3 approaches.
 4 GREENE, Q.C.:
 5 Q. Were you ever asked by Hydro to provide your
 6 opinion as to the optimum structure?
 7 MR. DALTON:
 8 A. No.
 9 GREENE, Q.C.:
 10 Q. Would it be a fair assessment to say that
 11 you were retained to defend the current
 12 structure?
 13 MR. DALTON:
 14 Q. No, I don't think that that's the case. I
 15 think we were asked to evaluate the
 16 reasonableness of the structure and we
 17 offered our opinion in terms of the
 18 reasonableness of the structure.
 19 GREENE, Q.C.:
 20 Q. Did you make any suggestions to Nalcor for
 21 any changes or tweaks in the structure?
 22 MR. DALTON:
 23 A. No, we never got to that point. We weren't
 24 asked to kind of propose changes; we were
 25 asked to—essentially it was a very high

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1 level analysis in terms of does this
 2 structure appear to be appropriate in terms
 3 of delivering on Nalcor's mandate, drawing
 4 upon the insights that we gain from the
 5 jurisdictional scan.
 6 GREENE, Q.C.:
 7 Q. Okay. You also stated in your evidence
 8 yesterday that when you did your work, you
 9 didn't consider costs, is that correct?
 10 MR. DALTON:
 11 A. No, we were not focussed in terms of rate
 12 impacts or cost mitigation. We were
 13 focussed more in terms of does the structure
 14 overall appear to be reasonable and
 15 appropriate for the mandate.
 16 GREENE, Q.C.:
 17 Q. One of your criticisms in your report and
 18 again we can go to it if you'd like me to
 19 take you to the direct quote, was that
 20 Liberty focussed on costs only and didn't
 21 properly take into account the mandate or
 22 the mission of Nalcor, would you agree that
 23 that is what one could take from reading
 24 your report?
 25 MR. DALTON:

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1 A. We did make that comment, yes.
 2 GREENE, Q.C.:
 3 Q. Okay. After reading the evidence of Liberty
 4 here at this hearing, and again I can take
 5 you to it if you would like to refer to the
 6 transcript, but you have read the
 7 transcript, I assume, have you?
 8 MR. DALTON:
 9 A. I have.
 10 GREENE, Q.C.:
 11 Q. You understand Liberty's evidence to be that
 12 they not only did consider costs, but they
 13 actually looked at what would be an
 14 efficient effective structure with the
 15 ability of Nalcor to perform its mandate?
 16 And if you like, we can go to the
 17 transcript, you can go to the transcript,
 18 October 3rd, page 71.
 19 MR. DALTON:
 20 A. That would help.
 21 GREENE, Q.C.:
 22 Q. So it's October 3rd, page 71. And it is
 23 small on the screen. And the question was
 24 on the previous page, so I guess we should
 25 look at the question first on the bottom of

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1 page 70. "And the question was essentially,
 2 the next issue that I wanted"—I'm reading
 3 from the transcript, "that I wanted to ask
 4 you about also comes from Nalcor's
 5 submission on September 20th and Power
 6 Advisory on page 7, I believe that your
 7 approach, your mandate to the board which
 8 was to look at cost savings opportunities
 9 was your underlying mandate which influenced
 10 your views about the organizational
 11 structure, how would you respond to that
 12 criticism?" And I'll allow you to read
 13 through lines 1 to 11, and actually this
 14 came up several times in the transcript and
 15 I can take you to some others if—this may
 16 well do it. So from Liberty's evidence
 17 there, and as I said if there's others, we
 18 can also go to, where their evidence is that
 19 based on their knowledge of both Hydro and
 20 Nalcor over their engagement here in the
 21 Province for the last number of years, as
 22 well as the very detailed work that they did
 23 in assessing the functions that are
 24 performed at Hydro and Nalcor, that their
 25 recommendations would in fact provide for an

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1 efficient effective structure that would
 2 allow both Nalcor and Hydro to perform their
 3 functions. Having heard that evidence, are
 4 you still of the view that Liberty did not
 5 take into account the mandate of Nalcor and
 6 Hydro?
 7 MR. DALTON:
 8 A. Well, I guess one thing that it caused me to
 9 pause when I was reviewing the evidence,
 10 their evidence in this transcript, at one
 11 point I believe testimony was given and I
 12 believe that's on page 66, which indicates
 13 that the energy development aspect of Nalcor
 14 is a barrier to producing the operational
 15 savings identified. So they're suggesting
 16 that once thing that we've emphasized is
 17 important, needs to be considered, was this
 18 energy development aspect of Nalcor, and
 19 that they're suggesting that yes, there is a
 20 conflict in terms of maintaining that
 21 capability, which is one of our core points
 22 is there's a conflict between maintaining
 23 that capability and achieving the cost
 24 reductions that they're proposing.
 25 GREENE, Q.C.:

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1 Q. Okay. Now, we can go to another quote where
 2 they recognize that Power Development can
 3 exist within Nalcor. One of their concerns
 4 is that Nalcor Power Supply also has
 5 responsibility for operating and maintaining
 6 the critical infrastructure of Muskrat
 7 Falls, generation and transmission, that's
 8 responsible for providing a critical source
 9 of supply for Newfoundland. In your
 10 experience, is that normal to mix the
 11 operations of critical assets that serve
 12 Domestic customers in with the development
 13 arm?
 14 MR. DALTON:
 15 A. I think that the Nalcor folks would be
 16 better able to answer this because I'm not
 17 convinced that they would view Power Supply
 18 as just being the development arm. I think
 19 that they would view it more holistically in
 20 terms of having operational aspects with
 21 respect to these facilities, as well as
 22 having development responsibilities for
 23 future resources, and I'm not expert in
 24 terms of, as I've indicated, I haven't
 25 spent, you know, tonnes of time trying to

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1 fully understand these organizations. But I
 2 think that they might suggest that that's a
 3 better characterization of future power
 4 supply.
 5 GREENE, Q.C.:
 6 Q. And in terms of your experience with other
 7 regulatory frameworks, would you expect to
 8 see the operations of assets used to serve
 9 customers in with, what I would call a
 10 business development?
 11 MR. DALTON:
 12 A. Well you could do that as, basically, an
 13 efficiency strategy as a way to reduce
 14 overlap and I think that's one of the ideas
 15 here is that you wouldn't need power
 16 development going forward, but you would
 17 want to potentially maintain some power
 18 development capabilities and that those
 19 would best be housed within Power Supply.
 20 But you're getting to the point where you're
 21 asking me to insert my understanding and
 22 some of the judgments that were made by
 23 Nalcor, so I just need to be careful in
 24 terms of how far I go.
 25 GREENE, Q.C.:

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1 Q. I would like your opinion as to whether you
 2 have seen that in other regulatory
 3 frameworks?
 4 MR. KILLEAVY:
 5 A. Can you repeat the question, please?
 6 GREENE, Q.C.:
 7 Q. You say your not familiar with the actual
 8 functions that Nalcor Power Supply and Hydro
 9 do at the detail level, but Nalcor Power
 10 Supply has responsibility for operating and
 11 maintaining generation and transmission
 12 assets that are used to serve customers or
 13 will be used to serve customers here in the
 14 Province. My question was in other
 15 regulatory frameworks that you have looked
 16 at, do you see the responsibility for
 17 operating those types of assets in as part,
 18 intermixed, intermingled, core
 19 responsibility of a business development
 20 section or separate division of a utility.
 21 And if so, what utility?
 22 MR. DALTON:
 23 A. I think it probably isn't as uncommon, I
 24 think that there are other utilities and it
 25 might be in these other utilities the issue

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1 you would have was that those functions
 2 would be regulated, you know, but I think
 3 that elsewhere you're more likely to see
 4 that within the generation arm of the
 5 utility, there is effectively, you know, a
 6 comingling of some of the operating aspects,
 7 as well as some of the development aspects.
 8 GREENE, Q.C.:
 9 Q. And that's with respect to the production, I
 10 was talking about future generation
 11 development, the mandate that you said is so
 12 important and needs to be considered.
 13 MR. DALTON;
 14 A. Yes, and I'm thinking even for these other
 15 entities, you know, probably some of their
 16 development capability resides within kind
 17 of, it's very common structure to organize
 18 utilities on a functional basis, so you
 19 would have the generation business, the
 20 transmission business, the distribution
 21 business and within generation you would
 22 have the operating side, you'd have the
 23 development side.
 24 GREENE, Q.C.:
 25 Q. But at this point there's none that readily

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1 come to mind. One of the concerns with
 2 respect to your mandate or to Nalcor's
 3 mandate was the concern that Liberty didn't
 4 properly evaluate the organizational
 5 capabilities and the skills that would be
 6 required for the future resource development
 7 mandate, is that correct?
 8 MR. DALTON:
 9 A. Can you point out where we said that?
 10 GREENE, Q.C.:
 11 Q. Yes, that part of it was losing, in your
 12 report, on slide 14, for example. No, I
 13 have the wrong slide number. It was where
 14 you had said Liberty hadn't appropriate
 15 valued the importance of maintaining
 16 organizational capability to deliver the
 17 resource mandate. Do you recall saying
 18 that? I don't have the right reference
 19 here, it's in your presentation as well.
 20 MR. DALTON:
 21 A. It is, yes.
 22 GREENE, Q.C.:
 23 Q. And I guess when I read your report and your
 24 presentation, I wondered how do you do that
 25 valuation? How would the Board take into

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1 account the appropriate way to value what
 2 you say Liberty didn't properly take into
 3 account, the need to maintain the
 4 organization capability to deliver on the
 5 resource mandate?
 6 MR. DALTON:
 7 A. Sure, it's probably going to be a subjective
 8 assessment and I think you would want to
 9 weigh some of the evidence that I have given
 10 regarding the realness of the development
 11 opportunities that exist out there. So you
 12 would want to recognize Nalcor needs to, you
 13 know, provide more explicit guidance with
 14 respect to the full portfolio of development
 15 opportunities that are out there, but
 16 there's the, what I review as relatively low
 17 hanging fruit associated with the runner
 18 replacement which Mr. Marshall discussed
 19 yesterday which would produce, as he
 20 indicated, about a hundred megawatts. My
 21 understanding there is also the ability to
 22 develop additional units, generating unit at
 23 Churchill Falls to expand its capacity
 24 there. Those are relatively easy low cost
 25 options that are available and then there

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1 are, you know, there are other more
 2 difficult, more challenging longer term, so
 3 I think you need to kind of weigh the
 4 opportunity that the development of these
 5 resources would represent, recognizing, you
 6 know, how compelling do you think the market
 7 opportunity is and I have tried to make a
 8 case and I won't repeat it because I think
 9 that I've hopefully made it satisfactory,
 10 that there are parties out there, New York
 11 State most likely, Massachusetts which has
 12 in the past offered long-term contracts
 13 which can effectively financially support or
 14 underpin the development of these types of
 15 resources, and do so in a way that will make
 16 these development opportunities real. So
 17 you have to kind of consider that verses
 18 what's the cost associated with maintaining
 19 the capability and I think that that's
 20 something I can't offer an opinion on.
 21 (10:30 a.m.)
 22 GREENE, Q.C.:
 23 Q. So I take from your answer that it would be
 24 a subjective evaluation?
 25 MR. DALTON:

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1 A. One could try and put numbers on it. The
 2 issue is you would have to assign
 3 probabilities and that's difficult.
 4 GREENE, Q.C.:
 5 Q. And that's something you didn't do in your –
 6 MR. DALTON:
 7 A. It isn't something that I did. It's my
 8 sense in terms of the value of the dollar
 9 savings when compared to the overall
 10 significance of these development
 11 opportunities. I ended up believing that it
 12 would be not in customers and rate payers
 13 and taxpayers' interest to lose this
 14 development capability within Nalcor.
 15 GREENE, Q.C.:
 16 Q. And as we have already heard, Liberty didn't
 17 suggest that it be lost but that it would be
 18 another part of Nalcor, you agree that that
 19 is Liberty's evidence?
 20 MR. DALTON:
 21 A. I mean, I'll let—I assume their evidence
 22 speak to its own, I mean, they did say the
 23 energy development aspect of Nalcor is a
 24 barrier to producing the operational savings
 25 identified, suggest there's a conflict and

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1 that's why I'm saying you need to weigh
 2 these two.
 3 GREENE, Q.C.:
 4 Q. Okay, can we go to page 7 of your report,
 5 please? And about two thirds of the way
 6 down the last paragraph there is a sentence
 7 that says, "There is a separate question
 8 regarding whether Liberty's proposed
 9 organizational design can achieve the
 10 estimated FTE reductions without impairing
 11 service quality or organizational capability
 12 and effectiveness." And then you go on to
 13 say that "The close alignment of the
 14 structure with other electricity operations
 15 that we review would suggest that Liberty's
 16 proposed FTE reductions present a risk of
 17 reduced organizational effectiveness." So
 18 that statement again, based on your answer
 19 to my previous questions, that statement
 20 there is based on your high level
 21 assessment. I understood from your earlier
 22 answers you did not look in detail at
 23 specific reductions that Liberty were
 24 proposing.
 25 MR. DALTON:

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1 A. That's right, it was a high level
 2 assessment.
 3 GREENE, Q.C.:
 4 Q. So you don't know if any of the reductions
 5 that Liberty is suggesting is in either the
 6 business development area or at the
 7 managerial level or at the operations of the
 8 plant level, do you?
 9 MR. KILLEAVY:
 10 A. I couldn't quite hear the first part of your
 11 question, where these reductions would be
 12 made or –
 13 GREENE, Q.C.:
 14 Q. I was asking essentially for the support for
 15 that statement, given that you had not
 16 reviewed the specific reductions Liberty was
 17 proposing to understand how they would
 18 affect the future functioning.
 19 MR. KILLEAVY:
 20 A. That's not something that we actually looked
 21 at. It was beyond our scope, so the answer
 22 would be no.
 23 GREENE, Q.C.:
 24 Q. Okay, and you understand that Liberty is
 25 proposing approximately 113 FTE reductions,

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1 is that your understanding?
 2 MR. KILLEAVY:
 3 A. I believe that's in their evidence, yes.
 4 GREENE, Q.C.:
 5 Q. And you would further understand that's
 6 approximately seven percent of the overall
 7 FTE complement at Nalcor/Hydro?
 8 MR. KILLEAVY:
 9 A. I don't recall the specific number.
 10 GREENE, Q.C.:
 11 Q. Can we take it, subject to check, that it is
 12 seven percent?
 13 MR. KILLEAVY:
 14 A. Sure, subject to check.
 15 GREENE, Q.C.:
 16 Q. Are you familiar with restructuring in the
 17 electrical utility industry where there
 18 would be reductions in the range of five to
 19 ten percent? Liberty's evidence is that
 20 that is not uncommon.
 21 MR. KILLEAVY:
 22 A. I would say based on my experience, having
 23 been through a couple of them, yes, that's
 24 correct.
 25 GREENE, Q.C.:

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1 Q. And you are aware that Hydro itself
 2 underwent a ten percent reduction in its
 3 workforce in about the year 2000?
 4 MR. KILLEAVY:
 5 A. That I don't know.
 6 GREENE, Q.C.:
 7 Q. Are you aware that Newfoundland Power has
 8 undergone significant changes in reductions
 9 in its workforce over the period of time
 10 without impairment of their functioning
 11 either utility?
 12 MR. KILLEAVY:
 13 A. Again, I'm not aware of that.
 14 GREENE, Q.C.:
 15 Q. Okay. Are you aware that Manitoba recently
 16 went through a 15 percent reduction in its
 17 workforce and a 30 percent reduction in its
 18 executive structure? It's actually in your
 19 appendix.
 20 MR. KILLEAVY:
 21 A. Yeah, I believe that's correct, yes.
 22 GREENE, Q.C.:
 23 Q. It's in page 61 of your –
 24 MR. KILLEAVY:
 25 A. Yes.

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1 GREENE, Q.C.:
 2 Q. So given that information and the facts you
 3 haven't reviewed in detail of proposed
 4 reductions and how they would affect Hydro,
 5 do you still stand by your statement that it
 6 would be a risk of reduced—to the
 7 corporation?
 8 MR. KILLEAVY:
 9 A. Well I think it would depend on specifically
 10 what is reduced and what goes away.
 11 GREENE, Q.C.:
 12 Q. And you haven't looked at what the proposal
 13 is?
 14 MR. KILLEAVY:
 15 A. Not specifically, it wasn't in our scope of
 16 work.
 17 MR. DALTON:
 18 A. And we're talking about a risk.
 19 MR. KILLEAVY:
 20 A. It's a risk, not a given.
 21 GREENE, Q.C.:
 22 Q. I think I've already asked you this
 23 question, but in a different way, you
 24 mentioned that Liberty, in your view, didn't
 25 properly consider the resource development

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1 mandate. In your review, do you have any
 2 recommendations or opinions how that could
 3 be accommodated in alternative ways to what
 4 Nalcor has done? Put it another way, if you
 5 were coming in to advise Nalcor, what are
 6 the alternatives that you would recommend be
 7 considered if they had asked you for your
 8 opinion when they were restructuring in
 9 2016?
 10 MR. KILLEAVY:
 11 A. That's kind of a hypothetical question. I
 12 mean, I really don't know that I can answer
 13 that.
 14 MR. DALTON:
 15 A. It's a difficult question, it's one that
 16 requires some, you know, deliberate thought
 17 and I think it's an appropriate question but
 18 it wasn't one that we were asked to answer.
 19 GREENE, Q.C.:
 20 Q. Okay, and there's nothing you can offer to
 21 the Board at this point?
 22 MR. KILLEAVY:
 23 A. Not at this point in time, no.
 24 MR. DALTON:
 25 A. No.

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1 GREENE, Q.C.:
 2 Q. Turning to the executive structure and your
 3 report on the executive structure that was
 4 attached as an appendix, Mr. Killeavy I
 5 understand from what you said earlier today
 6 that having reviewed Liberty's evidence,
 7 one, would it be correct to say you
 8 understand they didn't approach the review
 9 of the executive structure based on the
 10 benchmarking exercise?
 11 MR. KILLEAVY:
 12 A. That's their evidence.
 13 GREENE, Q.C.:
 14 Q. And that it was done as a sanity check or a
 15 reality check after they had done their very
 16 detailed analysis?
 17 MR. KILLEAVY:
 18 A. That's in their evidence.
 19 GREENE, Q.C.:
 20 Q. I understand then from the fact that you
 21 have read the transcript, you also
 22 understand that they use the term
 23 "executive" and "officer" interchangeably?
 24 MR. KILLEAVY:
 25 A. I believe that's correct.

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1 GREENE, Q.C.:

2 Q. Turning now to another area which is the

3 nature of what is regulated and what is

4 unregulated. When you looked at the

5 utilities in your regulatory jurisdictional

6 scan, you accepted that unregulated were

7 those that were either unregulated because

8 of the market such as where there is

9 generation and there is competition and

10 there is no regulation, is that part of what

11 you looked at as unregulated, Mr. Dalton?

12 And the other part would be because by

13 legislation or by government policy

14 direction it is said to be unregulated.

15 MR. DALTON:

16 A. That's right.

17 GREENE, Q.C.:

18 Q. Okay, but I understand then that there were

19 two factors you looked at, one was what's

20 normal or what's going on in the marketplace

21 from where there was competition, and

22 another where, as here, there's a government

23 direction that something be unregulated, is

24 that correct?

25 MR. DALTON:

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1 A. That's correct.

2 GREENE, Q.C.:

3 Q. If we could go to your report at page 31?

4 And also in talking about regulation you

5 have added an additional consideration which

6 I wanted to read with you, read here, and

7 you also stated it in your presentation and

8 in your evidence yesterday, "Liberty fails

9 to acknowledge in Canada where Crown

10 corporations are the predominant suppliers

11 of electricity the degree of regulatory

12 oversight varies. With Provincial ownership

13 there is reduced rationale for regulatory

14 oversight, recognizing that there are costs

15 for such regulatory oversight"—and I don't

16 need to carry on, but the point being that

17 because we have Crown corporations, we have

18 less regulatory oversight in Canada, is that

19 what I'm to take from that paragraph?

20 MR. DALTON:

21 A. I think it says the degree of regulatory

22 oversight varies, so we see in different

23 markets, you know, B.C. you know has moved

24 to probably more regulation of B.C. Hydro.

25 In Ontario we see greater reliance on

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1 performance based regulation which I would

2 view as lighter handed regulation. So

3 that's, you know, Crowns where the degree of

4 regulatory oversight varies.

5 GREENE, Q.C.:

6 Q. And actually it might be helpful here if we

7 did go to your Figure 1 on Page 5 that you

8 just—so on this chart, the Crown

9 corporations that we would see would be

10 Newfoundland towards the extreme right and

11 then New Brunswick and the Quebec and then

12 B.C., and we have some in Ontario and

13 Quebec. When you prepared this figure, was

14 it before or after the recent changes with

15 respect to B.C.?

16 MR. DALTON:

17 A. It was after.

18 GREENE, Q.C.:

19 Q. Okay, so when I look at those charts,

20 because you also have on the chart non-Crown

21 corporations, I wanted to understand your

22 point. So in New Brunswick, New Brunswick

23 in more recent times went to full

24 regulation, is that correct, Mr. Dalton?

25 MR. DALTON:

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1 A. Did you say "full regulation"?

2 GREENE, Q.C.:

3 Q. Yes. Or rates in their capital -

4 MR. DALTON:

5 A. Yeah, so it's basically cost of service, you

6 know, rate based traditional regulation,

7 yes.

8 GREENE, Q.C.:

9 Q. And do you—that would have been in more

10 recent times.

11 MR. DALTON:

12 A. Yes.

13 GREENE, Q.C.:

14 Q. In Newfoundland, Newfoundland Hydro was

15 unregulated until 1996, that's correct,

16 isn't it? The electrical power control -

17 MR. DALTON:

18 A. That sounds correct, I knew that five years

19 ago or four years about, but, yes.

20 GREENE, Q.C.:

21 Q. Okay, so at that point in time it was a

22 government policy decision, legislation was

23 passed to make Hydro fully regulated in

24 terms of rates and its capital investments,

25 is that correct?

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1 MR. DALTON:
 2 A. That’s my general understanding.
 3 GREENE, Q.C.:
 4 Q. Okay. In British Columbia, are you familiar
 5 with what has happened in British Columbia?
 6 MR. DALTON:
 7 A. Generally as is conveyed in our appendix,
 8 yes.
 9 GREENE, Q.C.:
 10 Q. Okay, so can you please tell us what
 11 recently happened in this year?
 12 MR. DALTON:
 13 A. The government review, there’s been
 14 different governments and different views in
 15 terms of what was the appropriate level of
 16 regulatory oversight over B.C. Hydro and the
 17 current government is of the view that
 18 additional regulatory oversight is
 19 appropriate for B.C. Hydro, so they had a
 20 number of areas where essentially direction
 21 had been given to constrain the regulatory
 22 oversight over capital investment, for
 23 example, and the government has decided to
 24 subject those areas to greater regulatory
 25 oversight. You know, I think that one needs

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1 to recognize that, you know, different
 2 governments are of different views in terms
 3 of the appropriateness of regulation, and I
 4 think that the pendulum has swung back to
 5 B.C. to greater regulatory oversight.
 6 (10:45 a.m.)
 7 GREENE, Q.C.:
 8 Q. And in fact their rates and their capital
 9 projects will have to be approved in the
 10 future, is that correct?
 11 MR. DALTON:
 12 A. That’s correct. I mean interestingly B.C.
 13 is in a similar situation as Newfoundland
 14 and Labrador, you know, with the development
 15 of the Site c Hydro Electric Project,
 16 customer requirements are going to be
 17 addressed for a long period of time and Site
 18 C was essentially developed or there wasn’t
 19 formal regulatory oversight of Site C. When
 20 it was initially sanctioned, it was based on
 21 government directive to B.C. Hydro.
 22 GREENE, Q.C.:
 23 Q. So a similar situation to what’s here in
 24 Newfoundland at the current time, is that
 25 correct?

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1 MR. DALTON:
 2 A. That’s correct.
 3 GREENE, Q.C.:
 4 Q. And the response of the government there was
 5 to move to greater regulator oversight, is
 6 that correct?
 7 MR. DALTON:
 8 A. That’s correct. I think that the one point
 9 to make is that one needs to distinguish,
 10 you know, what B.C. has available for, you
 11 know, future development opportunities
 12 verses what Newfoundland and Labrador has
 13 for future development opportunities. So I
 14 think that’s one thing that causes me to
 15 differentiate the two circumstances. B.C.
 16 is very focussed in terms of finishing Site
 17 C. I don’t think it’s scheduled to go into
 18 service until 2024, so there is still lots
 19 of effort and lots of dollars still to be
 20 spent in terms of finalizing that, and I
 21 think that B.C. doesn’t have the same, based
 22 on my view of that market and knowledge of
 23 that market, doesn’t have the same portfolio
 24 of generation development opportunities
 25 available to it as Newfoundland and Labrador

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1 does.
 2 GREENE, Q.C.:
 3 Q. Yes, but one of the responses taken in B.C.
 4 to a very similar situation here was to go
 5 to more oversight; in fact, in the press
 6 release where they announced it, I thought
 7 it was very apropos for the situation here.
 8 “Step one in fixing this problem is to take
 9 the politics out of decisions around B.C.
 10 Hydro. The problems we’re seeing today are
 11 the result of 16 years of political choices
 12 by the previous government. The best way to
 13 keep B.C. Hydro on the right financial path,
 14 while protecting the interests of customers,
 15 is to enhance BCUC’s independent oversight
 16 of the Crown corporation as we move
 17 forward.” You can almost change B.C. to
 18 Newfoundland and it could be, at least it
 19 would be a solution the Newfoundland
 20 government should consider.
 21 MR. DALTON:
 22 A. I think that, once again, that the point of
 23 differentiate I’m talking about are the
 24 power supply as an entity that would be
 25 available to develop the province’s resource

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1 potential and participate in export markets
 2 and to do so in a fashion that wouldn't
 3 require customers to pay for the cost of
 4 these facilities. These facilities would
 5 need to be developed either on a market
 6 basis or through long-term contracts with
 7 willing buyers.
 8 GREENE, Q.C.:
 9 Q. And that's your opinion as to how future
 10 development should be. With respect to the
 11 operating and maintenance costs for the
 12 Lower Churchill Project, those costs are to
 13 be paid by current rate payers, not by
 14 future customers or by other developments.
 15 Based on what your opinion is, do you
 16 believe that those costs should be
 17 regulated? Their costs are borne by the
 18 customers.
 19 MR. DALTON:
 20 A. So as I said yesterday, I believe, I feel
 21 like when costs are borne by customers, it's
 22 appropriate that there be some form of
 23 regulatory oversight; everything else
 24 remaining equal. I recognize that there's
 25 questions regarding what's the appropriate

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1 form of regulatory oversight for such costs,
 2 but I recognize that in Newfoundland and
 3 Labrador for Muskrat Falls there are two
 4 constraints in terms of that regulatory
 5 oversight and I think that those are
 6 meaningful constraints that need to be
 7 considered.
 8 GREENE, Q.C.:
 9 Q. But from a regulatory perspective, you would
 10 agree there should be some form, normally
 11 there would be a form of independent review
 12 before costs are passed on to the customer.
 13 MR. DALTON:
 14 A. Normally, but obviously here that wasn't
 15 possible to enable the financing of Muskrat
 16 Falls.
 17 GREENE, Q.C.:
 18 Q. But again, forward looking, how do we move
 19 forward from here, your recommendation being
 20 a normal regulatory environment that there
 21 should be some sort of oversight?
 22 MR. DALTON:
 23 A. Well, if you say moving forward, are we
 24 talking about future investments that are
 25 paid for by customers? Because my

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1 understanding is the issue of regulatory
 2 oversight of the Muskrat Falls operation and
 3 maintenance expenses is effectively
 4 constrained by the legislation that's in
 5 place in the financing arrangements.
 6 GREENE, Q.C.:
 7 Q. Yes, and I'm asking you if that weren't
 8 there and if there's the opportunity for
 9 that to be changed by a government policy
 10 direction, do you think it's appropriate to
 11 do it that there be insight? We recognize
 12 there is a current restriction and I'm
 13 asking you as we move forward and if there
 14 is the opportunity to change through policy
 15 direction of the government, is it
 16 appropriate that there be independent
 17 oversight of future operating and
 18 maintenance and capital costs associated
 19 with the Lower Churchill Project. What's
 20 done is done, but let's talk about the
 21 future.
 22 MR. DALTON:
 23 A. Okay, and assuming that the issues
 24 associated with the financing arrangement
 25 could be addressed and that wasn't a

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1 constraint.
 2 GREENE, Q.C.:
 3 Q. Yes, so putting aside those –
 4 MR. DALTON:
 5 A. So in terms of operating expenses, I would
 6 that that yes, it would be appropriate that
 7 there be some form of regulatory oversight.
 8 I'm not sure that it would be in our
 9 traditional cost of service regulation, it
 10 could be more of a light handed PBR type
 11 framework which would be less intrusive.
 12 With respect to the capital, I feel like the
 13 need for capital oversight for a Crown
 14 utility is very different than the need for
 15 oversight of capital investment for an
 16 investor owned utility, recognizing that
 17 investor owned utilities make their money
 18 based on the return they get from invested
 19 capital. It's a very different situation
 20 for a Crown utility, so—and one other issue
 21 I'm aware of is the threshold for reviewing
 22 capital investment in Newfoundland and
 23 Labrador is very low and I feel like that's
 24 an issue which causes me to hesitate to
 25 subject every investment that's over

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1 \$50,000.00 to regulatory oversight.
 2 GREENE, Q.C.:
 3 Q. Again, subject to the review of the cap
 4 which has been in place for many, many years
 5 and when there's an overhaul of the
 6 legislation, perhaps they'll increase the
 7 limit, but you would agree, though, that if
 8 customers pay for it, it would normally be
 9 subject to view and in other jurisdictions
 10 the regulator also looks at the capital of
 11 Crown corporations, as we just saw from
 12 looking at your Figure 1 there and went
 13 through some of the Crown corporations.
 14 MR. DALTON:
 15 A. It varies in terms of there's kind of set,
 16 in terms of the regulatory oversight of
 17 capital.
 18 GREENE, Q.C.:
 19 Q. But in Newfoundland and New Brunswick and in
 20 B.C., they're going to be reviewing capital
 21 of Crown corporations.
 22 MR. DALTON:
 23 A. That's correct.
 24 GREENE, Q.C.:
 25 Q. So when we come back to regulation and

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1 review that you've expressed, there's less
 2 regulatory oversight for Crown corporations.
 3 Based on our review of the changes, the
 4 trend seems to be almost going towards more
 5 regulatory oversight of Crown corporations,
 6 as opposed to less. We saw a change came in
 7 Newfoundland in the late 1990s, it came even
 8 much later, I forget exactly when in New
 9 Brunswick, but it was well past 2000 and now
 10 we have B.C., so the trend seems to be going
 11 towards more oversight, not less.
 12 MR. DALTON:
 13 A. I think Ontario would probably be –
 14 MR. KILLEAVY:
 15 A. One exception.
 16 MR. DALTON:
 17 A. Moving in a different direction.
 18 GREENE, Q.C.:
 19 Q. And I was going to say, Ontario is a totally
 20 different environment, isn't it?
 21 MR. KILLEAVY:
 22 A. Completely.
 23 MR. DALTON:
 24 A. Well I think Ontario is moving towards a
 25 lighter form of regulation, so they started

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1 out with, you know, cost of service and
 2 they're now deciding that –
 3 MR. KILLEAVY:
 4 A. And the regulated utility competes with non
 5 regulated as well, which is a big factor as
 6 well.
 7 GREENE, Q.C.:
 8 Q. So it's a totally different market, as I
 9 say.
 10 MR. KILLEAVY:
 11 A. Completely.
 12 GREENE, Q.C.:
 13 Q. Yes, okay. I don't know, I'm moving towards
 14 another area, if this is an appropriate time
 15 to break.
 16 CHAIR:
 17 Q. Well it might be, yes. Thank you.
 18 (RECESS – 11:00 A.M.)
 19 (RECONVENED – 11:30 A.M.)
 20 CHAIR:
 21 Q. Carry on, Ms. Greene.
 22 GREENE, Q.C.:
 23 Q. Thank you. I have one final area of
 24 questions and it's to do with Nalcor Energy
 25 Marketing a number of my questions have

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1 already been addressed by Mr. Coxworthy and
 2 by Mr. Fitzgerald and probably everybody
 3 will be happy that my questions have been
 4 reduced and I only do have a few at this
 5 point. I first wanted to go to Slide 9 in
 6 your presentation. In your third bullet on
 7 the page, you mention that energy trading is
 8 fast pace and requires detailed knowledge of
 9 the markets, and as I understood your report
 10 and your evidence today, one of your
 11 concerns with moving to more oversight of
 12 Nalcor Energy Marketing was a concern about
 13 a chill put on the energy practices and the
 14 energy trading if there is oversight.
 15 Again, you have already testified you've
 16 read Liberty's evidence or the transcript,
 17 so you are aware that Liberty was not
 18 recommending prior approval for energy
 19 trading, it would be after the event, so
 20 does that influence in any way your view of
 21 what Liberty was saying with respect to the
 22 regulation for Nalcor Energy Marketing?
 23 MR. DALTON:
 24 A. It really doesn't. I think as I indicated
 25 yesterday, I do understand that they aren't

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1 talking about, that their overview would be
 2 retrospective and the area where I commented
 3 yesterday was the notion of there being
 4 tremendous benefits, which I think was the
 5 language which was used from oversight of
 6 these type of energy trading operations and
 7 I made the differentiation between where
 8 there could be significant benefits would be
 9 where there is an energy audit or a fuel
 10 management audit, where there is fuel costs
 11 passed through. And I did look in terms of
 12 some of the evidence that, where Liberty had
 13 talked about what their oversight of NEM
 14 could be and they suggested that, I think
 15 the language was that it could consist of
 16 evaluating cost and looking at the revenues
 17 expected as a result of these operations.
 18 And I think that's an accurate
 19 representation in terms of what they
 20 suggest. So as Mr. Jones knows better than
 21 I, but my understanding is the costs here, a
 22 vast majority of which are personnel, energy
 23 traders, people who are highly skilled. So
 24 there's a question in terms of the numbers
 25 and there's a question in terms of how many,

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1 how much do you pay them. There's no easy
 2 way to benchmark what you should be paying
 3 an energy trader who lives in St. John's and
 4 is trading for Nalcor. One could look at
 5 Toronto, I'm sure they would be paid much
 6 more, or one could look to Houston, they'd
 7 be paid even more. These are kind of
 8 different locations where you often see more
 9 energy traders. So it's a difficult
 10 exercise in terms of evaluating the cost of
 11 this operation. There's a question, okay,
 12 you know, are they being paid too much?
 13 Well, if you elect to pay them less, these
 14 are highly skilled individuals who can very
 15 easily move to Houston, move to Toronto,
 16 move somewhere else to another trading
 17 operation at potentially significant costs
 18 to the province. Then there's a question of
 19 how many do you need? You know, what's the
 20 incremental value of additional trader?
 21 Well there you could potentially do some
 22 benchmarking there, but I feel like the
 23 overall costs that we're talking about here
 24 and the value that, you know, it's very
 25 difficult to kind of provide an assessment

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1 of salaries, staffing levels, you probably
 2 could have a little better assessment of it,
 3 and then looking at the revenue side of the
 4 operation, that's a really difficult one to
 5 evaluate. So that's some of the issues I
 6 have in terms of the type of regulatory
 7 oversight that Liberty is proposing.
 8 GREENE, Q.C.:
 9 Q. So your first concern for the assessment
 10 after the event not requiring approval prior
 11 to transactions, which Liberty was not
 12 recommending, is it would be difficult for
 13 the Board, as I understood your answer,
 14 because it would be difficult for the Board
 15 to access the costs and to evaluate the
 16 costs and the value that those costs
 17 produces, so your concern would be the
 18 difficulty in doing it?
 19 MR. DALTON:
 20 A. That's one concern. I mean, I also
 21 indicated as well, you know, which you've
 22 referenced earlier was the desire to have
 23 these focused in terms of these individuals
 24 which is the standard practice to have them
 25 focussed on the market and focussed in terms

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1 of doing trades because they're going to be
 2 profitable trades, as opposed to being at
 3 all concerned with any form of regulatory
 4 oversight and someone's potential perception
 5 of a trade and inability to understand the
 6 underlying risks and the value that might be
 7 realized from that trade.
 8 GREENE, Q.C.:
 9 Q. So first, based on your response, one is
 10 your concern about the difficulty in
 11 evaluating for the Board's ability to
 12 evaluate the costs and the benefits, and the
 13 other was the chill it might have on the
 14 people doing the trading because they would
 15 be reviewed after the event, if there is to
 16 be an audit, it might affect how they trade,
 17 was a concern you expressed earlier. I call
 18 it the "chill effect".
 19 MR. DALTON:
 20 A. Yeah, I see what you mean. I'm not sure I
 21 would use "chill" as the appropriate term,
 22 but I think it's more focussed. I think you
 23 want these individuals focussed in terms of
 24 margins, not retrospective looks by a
 25 regulator and it's just for the Canadian

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1 utilities that I'm aware of with Hydro
 2 portfolios that do a lot of export trading,
 3 I'm just not aware of this level of
 4 regulatory oversight.
 5 GREENE, Q.C.:
 6 Q. Now Liberty's evidence is that if Liberty,
 7 the company, has engaged in a number of
 8 these types of audits for various
 9 jurisdictions here in Canada, in Nova Scotia
 10 and in various jurisdictions in the US, so
 11 that they have actually done the evaluation
 12 of the costs and the benefits that come. Do
 13 you have any personal knowledge yourself
 14 that would point out where there are
 15 differences that cannot be accommodated
 16 where Liberty has actually done that work?
 17 MR. DALTON:
 18 A. So I have looked at some of Liberty's work
 19 and seen reference to their work and my
 20 knowledge, they can correct me if I'm wrong,
 21 but those were typically utilities that had
 22 fuel adjustment clauses and that they were
 23 doing audits of fuel procurement practices
 24 as opposed to Hydro electric utility where
 25 the form of audit or oversight would be

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1 different and that –
 2 GREENE, Q.C.:
 3 Q. And in terms of the work that you review,
 4 would that have been in Nova Scotia where
 5 they did do fuel adjustment work, audit
 6 work? Did you consider work they have done
 7 in the United States?
 8 MR. DALTON:
 9 A. I have reviewed some of the work that
 10 they've done in the United States, yes.
 11 GREENE, Q.C.:
 12 Q. And you're really not in a position to –
 13 MR. DALTON:
 14 A. I can't speak to their total portfolio of
 15 experience, but it was just my understanding
 16 and it's not appropriate for me to say
 17 what's the full universe of their
 18 experience.
 19 GREENE, Q.C.:
 20 Q. So their evidence would be that they have
 21 actually engaged in that type of evaluation
 22 for various regulators. The second comment
 23 that I would like you to have your opinion
 24 on is wouldn't a regulatory board normally
 25 be in a situation of having to assess what

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1 costs are, which often can be very complex
 2 in terms of, for example, even with respect
 3 to Hydro, it has not, it may not always be
 4 easiest to determine what a very high paid
 5 executive should receive. In Ontario, they
 6 may receive higher than compensation here.
 7 We heard from Mr. Marshall yesterday about
 8 the difficulties of recruitment and the
 9 underpaid executives at Nalcor. So a board
 10 must take all of that into account when
 11 they're assessing the salary and
 12 compensation packages that are put forward
 13 for approval. So why would it be any
 14 different to be able to evaluate the costs
 15 of energy trading, as opposed to any other
 16 function in the utility?
 17 MR. DALTON:
 18 A. I do think it's harder. I take your point
 19 that it is something that is done. I was
 20 trying to differentiate it in suggesting
 21 that the skillset is more unique and the
 22 locational aspects are something else that
 23 makes it more difficult to benchmark.
 24 GREENE, Q.C.:
 25 Q. The second area of concern is for

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1 simplicity, I'll call it my "chill effect"
 2 is that after the event it's always, because
 3 you may be looked at after the event that
 4 influences your current behaviour, and I
 5 have to ask you, what's wrong with that? If
 6 you know you're going to have to justify
 7 your behaviour to an independent third
 8 party, isn't it actually a good thing, it
 9 influences behaviour? If I know I have to
 10 explain a decision, it may influence that I
 11 may think carefully about all the factors in
 12 advance, even when I am developing my risk
 13 manual, which I'll come to in a moment, Risk
 14 Management Manual for Nalcor Energy
 15 Marketing. You knew you had to come here
 16 today to give evidence, to be questioned on
 17 it.
 18 MR. DALTON:
 19 A. Sure.
 20 GREENE, Q.C.:
 21 Q. Did that influence how you wrote your report
 22 or did your work?
 23 MR. DALTON:
 24 A. No, I think that in general transparency is
 25 a good thing. I think in terms of, for

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1 something that is commercially sensitive as
 2 this, that that represents some challenges
 3 that need to be weighed. I realize there
 4 are confidentiality protections that can be
 5 put in place, but I think all this is some
 6 thing that needs to be considered, and then
 7 I get back to the point of, you know, the
 8 Canadian utilities that have the big
 9 portfolios that are successful don't have
 10 this form of regulatory oversight, and you
 11 know, we see in B.C. the government who was
 12 looking at this and Powerex plays an
 13 important role in terms of generating
 14 revenues for the benefit of customers,
 15 elected to not subject Powerex to the type
 16 of regulatory oversight that's being
 17 suggested here.
 18 GREENE, Q.C.:
 19 Q. With respect to, you've also mentioned that
 20 NEM has, Nalcor Energy Marketing, has a Risk
 21 Management Manual and there is oversight by
 22 the board of directors of Nalcor and that
 23 transparency should give enough comfort,
 24 again I'm paraphrasing, so if I haven't
 25 gotten your point exactly, but I wanted you

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1 to comment on that.
 2 MR. DALTON:
 3 A. Yeah, that's pretty standard practice for
 4 commercial entities that there is framework
 5 put in place. The Risk Management Manual
 6 would be a good example of that which would
 7 outline the appropriate procedures,
 8 practices, criteria. Obviously Mr. Jones
 9 can speak to it, to the manual in much more
 10 detail and the protections that are in
 11 place, my understanding is at just a very
 12 high level.
 13 GREENE, Q.C.:
 14 Q. And again in a normal utility environment
 15 there would be manuals in place, whether
 16 it's operating guidelines for how you
 17 operate the system, how you respond to an
 18 emergency, how you do investments, so the
 19 regulator also reviews those manuals, even
 20 though the board of directors and the
 21 executive may have as well, so again, why
 22 should transparency and accepting the fact
 23 that it's overviewed by the board of
 24 directors be any different for Nalcor Energy
 25 Marketing than any other part of Hydro or

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1 Nalcor? Well, Nalcor is not regulated, but
 2 any other part of Hydro.
 3 MR. DALTON:
 4 A. It comes back to it isn't consistent with
 5 the practice that I see elsewhere, that
 6 it's, you know, subjective –
 7 GREENE, Q.C.:
 8 Q. In Canada.
 9 MR. DALTON:
 10 A. Yeah, to regulatory oversight.
 11 GREENE, Q.C.:
 12 Q. Okay, those are all the questions I have.
 13 Thank you, Chair, and thank you, panel.
 14 CHAIR:
 15 Q. Thank you, Ms. Greene. Mr. Eaton, do you
 16 have any type of follow-up?
 17 EATON, Q.C.:
 18 Q. I just have one point to clarify. There was
 19 a question addressed about the comingling in
 20 various utilities of development and
 21 operation and I just wonder whether there's
 22 anything in your report that might address
 23 that and other utilities where that might
 24 happen?
 25 MR. KILLEAVY:

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1 A. Mr. Eaton, I had a look at the report during
 2 the break and I think there were three
 3 Canadian Crown corporations that have
 4 operations and development comingled. One
 5 would be Manitoba Hydro; the other would be
 6 Ontario Power Generation, and then Hydro
 7 Quebec.
 8 EATON, Q.C.:
 9 Q. That's all that I have.
 10 CHAIR:
 11 Q. And I have no questions, so I guess that
 12 means we're finished with this panel. Thank
 13 you very much gentlemen. I guess the
 14 suggestion would be we'll take a quick break
 15 and you can get set up.
 16 (RECESS – 11:47 A.M.)
 17 (RECONVENED – 11:55 A.M.)
 18 CHAIR:
 19 Q. Welcome panel. I'll turn it over to Mr.
 20 Eaton to introduce the panel.
 21 EATON, Q.C.:
 22 Q. Thank you, Madam Chair. The next session is
 23 going to be a series of three presentations.
 24 The first by Mr. Mike Roberts who is the
 25 Senior Vice President of Corporate Services

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1 and Chief Human Resources Officer at Nalcor
 2 and he will be speaking on organizational
 3 effectiveness. The second will be a joint
 4 presentation by Jennifer Williams who is the
 5 President of Newfoundland and Labrador
 6 Hydro, and Jim Haynes, the Vice President of
 7 Power Supply; and the third will be a
 8 presentation on Nalcor Energy Marketing by
 9 Greg Jones, who is the Director of NEM. So
 10 start with Mr. Roberts, Mr. Roberts, perhaps
 11 you can just sort of tell us a little bit
 12 about your background. You're the Senior
 13 Vice President of Corporate Services, how
 14 long have you held that position?
 15 MR. ROBERTS:
 16 A. So I moved into that role around the time
 17 that Stan arrived in 2016.
 18 EATON, Q.C.:
 19 Q. Okay, and prior to that, what was your work
 20 experience?
 21 MR. ROBERTS:
 22 A. Well to start out, I guess, specifically
 23 with Nalcor, I joined the organization in
 24 2007 as manager then of Human Resources and
 25 Organizational Effectiveness, and around

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1 2010, I assumed additional accountability
 2 for labour relations. In 2014, I took on my
 3 first executive role with the company as
 4 then the Vice President of Human Resources
 5 and Organizational Effectiveness. I believe
 6 I appeared here at the Board in 2015 and
 7 from there, as I said, when Stan arrived in
 8 2016 my job evolved to this.
 9 EATON, Q.C.:
 10 Q. And prior to joining Nalcor, any industry
 11 experience?
 12 MR. ROBERTS:
 13 A. Yes, so roughly half of my experience now
 14 has been with this organization. Prior to
 15 that, the other half was out in the private
 16 sector. I worked for the subsidiary of
 17 Alliant, and a telecommunications company
 18 here, Xwave, IT company, for a good period
 19 of that time and I also worked for a global
 20 call centre that was based here in St.
 21 John's but with operations all around the
 22 globe.
 23 EATON, Q.C.:
 24 Q. All right, maybe we can move on to your
 25 presentation, if you can.

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1 MR. ROBERTS:
 2 A. Sure. I'd like to start by thanking the
 3 Board for this opportunity, of course, and
 4 I'd also like to thank the Board staff for
 5 all of its cooperation and collaboration and
 6 focus throughout this entire process that's
 7 culminating here, I guess, and special
 8 thanks as well to their consultants, Liberty
 9 and Mr. Antonuk who is here today. I found
 10 them very easy to deal with, really a
 11 pleasure to deal with. They were sensitive
 12 and appreciative to other priorities we had
 13 going on, this being one of the most
 14 important, obviously, but even in the
 15 responses and the time they allowed us to
 16 respond to the data, given that they had a
 17 challenge ahead of them with tight
 18 timelines, I thought they were very
 19 appreciative of that. And I also felt
 20 invigorated, you know, from a thought
 21 perspective in terms of they really
 22 challenged their thinking through this
 23 process, so I'd just like to acknowledge
 24 them as well. And I'll also say that I
 25 think we largely agree with a lot of their

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1 findings, especially on the financial
 2 mitigation options, which really will
 3 constitute, I think, in the grand scheme of
 4 things, you know, ninety plus percent of the
 5 solution here in terms of rate management.
 6 I also agree with them on their findings
 7 about Newfoundland and Labrador Hydro
 8 maintaining the asset base that we have and
 9 operating that asset base and you'll see
 10 through this presentation, which is where
 11 all this is leading, we also largely agree
 12 in terms of finding efficiencies and finding
 13 reductions wherever we can as an
 14 organization because we know every penny
 15 counts, and so that's what we're going to
 16 focus on.
 17 Stan presented already a lot of this
 18 material, took probably a 30,000 foot view
 19 of it. It's gotten lots of discussion to
 20 date, no doubt, so I'll try to bring it down
 21 a level to maybe a 10,000 foot level, if I
 22 can characterize it that way, in terms of
 23 providing a bit more detail and then, of
 24 course, happy to answer questions when we
 25 get to that point.

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1 So the objective, as I've kind of
 2 alluded to, is we want to make sure that we
 3 fully share what the objectives were when we
 4 did reorganize the company in 2016 and
 5 having appreciation for the direction that
 6 was being provided by Mr. Marshall at the
 7 time. And I can still recall his first full
 8 day in the office. When he came in, it was
 9 about 8:05, when his executive assistant
 10 came looking for me and said Mr. Marshall
 11 was looking for me. And I still remember
 12 should I grab a note pad and a pen or my
 13 coat and keys, I wasn't sure what he would
 14 be wanting from me that quickly, but just
 15 testament to actually his focus on the
 16 structure of the company. He had time to
 17 think about what his mandate was and what
 18 his objectives were and right away he put
 19 his mind to how the organization should be
 20 structured and engaged me in a dialogue and
 21 we've had a lot of dialogue on that topic
 22 right from the outside, right through to
 23 current day, so it's a continuous focus that
 24 we discuss.
 25 I'd also like to make sure through this

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1 presentation that we provide additional
 2 context in terms of our focus around rate
 3 mitigation and that we, as I said, agree
 4 with Liberty in terms of there's a
 5 possibility to have FTE reductions and we've
 6 been planning for them for some time now and
 7 I want to put more evidence forward, I
 8 guess, in terms of our plan around that and
 9 trying to achieve that, so that too was some
 10 thing that Mr. Marshall brought a lot of
 11 focus to in his early days is that with all
 12 the other priorities we talk about, rate
 13 mitigation has always been on the forefront
 14 of our minds.
 15 So the topics I'll discuss, Nalcor's
 16 mandate, it's been discussed a lot but I
 17 want to reinforce the organization's purpose
 18 which drives our organizational structure
 19 and that we're, I think, all aligned on that
 20 point. I know it has been said, but I
 21 thought in the context of this presentation
 22 it would be good to repeat it, as well as
 23 the objectives, again, the priorities that
 24 Mr. Marshall set out for us when he arrived
 25 remain. He provided at that time a very

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1 clear direction, not just on how the
 2 structure would look, but how to achieve it
 3 and so I'll talk a little bit about the
 4 direction that he gave us and I can tell you
 5 it was with a view of balancing what those
 6 priorities should be and with a focus on
 7 costs.
 8 The fourth would be, again, the company
 9 wanted to focus on finding efficiencies and
 10 as I've said a couple of times now, we're
 11 largely aligned with Liberty in terms of
 12 finding reductions and efficiencies. I
 13 think where we diverge and maybe this is no
 14 surprise, you know, I think anybody who
 15 looks at this can look at it in different
 16 ways, but where we diverge, I think, is in
 17 the path and in the timing and in perhaps
 18 some of the numbers for certain. And in the
 19 fifth thing I'll discuss is sort of, you
 20 know, in consideration of all of that we
 21 think about how do we carefully manage our
 22 way through this transition because we are
 23 going through significant changes in
 24 organization, not to be underestimated by no
 25 means and I don't see a steady state in the

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1 next couple of years, I think it will take a
 2 while to achieve that desired outcome. So
 3 again, Nalcor's mandate, the purpose of the
 4 organization, must be supported through the
 5 organization's operating model and I don't
 6 think anybody to date has disagreed with
 7 that. Mr. Marshall made that point; I
 8 believe Power Advisory made that point; and
 9 I believe Liberty made that point. I'd also
 10 say that I think that I would agree that
 11 Liberty did take a wholesome view of what
 12 our mandate was. Perhaps where we differ is
 13 where we're placing the level of emphasis,
 14 so I don't necessarily agree that they
 15 didn't understand that, I just think that
 16 the place of emphasis may have been swayed
 17 one way or the other, although I can't speak
 18 on their behalf, I can just speak on our
 19 behalf as to how we're placing emphasis on
 20 the different priorities that we have, but
 21 it's worth repeating. You know, our
 22 mandate, obviously, guides our strategy and
 23 the decisions that we make. It's also
 24 something that helps facilitate our desire
 25 to have our relationships with our customers

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1 and different stakeholders, including the
 2 PUB, of course, and to bring stability to
 3 the organization, you know, a clear envision
 4 and understanding of what we're trying to
 5 achieve I think motivates people to try to
 6 achieve that objective, so we've been doing
 7 a lot over the last couple of years since
 8 Mr. Marshall's arrival to really try to
 9 paint that picture as to what today looks
 10 like, but also what the future looks like so
 11 that everybody is sort of rowing in the same
 12 direction.
 13 As far as priorities, these have been
 14 covered. I will say that, you know, again
 15 it's worth repeating, this was all done with
 16 cost and rate management in mind right from
 17 day one, so it's always been a point of
 18 discussion.
 19 On the first one, obviously we've been
 20 striving to bring stability to the
 21 organization and specially the Lower
 22 Churchill Project, and we're not there yet.
 23 Again, Mr. Marshall gave evidence to that
 24 again yesterday in terms of some of the
 25 challenges that still like ahead and then

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1 the commissioning of all of these major
 2 assets into our asset base is no small task.
 3 So I think we will be, most of us feel it
 4 will be two or three years working through
 5 those challenges, but I'm confident we will.
 6 The second point there being ensuring
 7 that we are ready for that integration of
 8 the new assets, that we're staffed
 9 appropriately for the period of time that's
 10 going to be less than steady state as we
 11 break in the new assets, but not overly
 12 staffed, again, cost management has to
 13 factor in. So I know that Hydro continues
 14 to challenge Power Supply, so Jennifer
 15 continues to challenge Jim in terms of what
 16 costs they would be looking at to bring
 17 forward in terms of the staffing model with
 18 a focus on a strong balance between how we
 19 operate or how we staff it in the early
 20 days, with a view to reliability, of course,
 21 and then as we get more confident in the
 22 assets, then we would look to have a leaner
 23 staffing model going forward and so that's
 24 always been the focus and approach.
 25 Thirdly, you know, making sure that

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1 Hydro is well positioned to deliver on its
 2 mandate, which the Board is very familiar
 3 with and to continue, as I said, to
 4 challenge Power Supply in terms of its
 5 operations and investments because right now
 6 it knows that it has to come before this
 7 Board and justify those, in their minds,
 8 that they're getting the right costs passed
 9 on to them. And I know that Jennifer on the
 10 team and speaking a little bit on her behalf
 11 now, but I'm sure she will reiterate this,
 12 is very focussed on improving and building
 13 on the relationship with the regulator.
 14 So specifically we'll get a little bit
 15 into new territory here now in terms of what
 16 direction was provided by Mr. Marshall when
 17 he arrived, so as I said, we had many
 18 meetings and discussions as to how to put
 19 the structure in place and, you know, he
 20 gave very clear direction once we had landed
 21 on the structure that we have, as to what—
 22 how we should operate inside of that. So,
 23 you know, he wanted to first ensure that we
 24 had a line of business focus. He said it
 25 again yesterday, Hydro is a very different

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1 business than Power Supply and Power Supply
 2 is very different than the Lower Churchill
 3 Project. Energy Marketing is yet different
 4 again, so we have multiple business, varying
 5 mandates, some consistent with each other,
 6 some different, but they're all different in
 7 their own right and require attention in
 8 their own right. That said, while he
 9 recognized the need to be focussed on each
 10 of those lines of business, he also wanted
 11 to ensure that we didn't become a silo and
 12 he preaches collaboration, so he still
 13 expects us to talk to one another, work with
 14 one another, challenge one another in the
 15 structure that we have. So it was never
 16 meant to be divisive for sure; it was meant
 17 to be focussed and collaborative.
 18 The other thing he was clear on and
 19 this seems to be a point of confusion
 20 perhaps through this process is that he
 21 instructed us to be efficient and make sure
 22 we were optimizing costs as we did this, and
 23 it was stressed by Stan that because rate
 24 management, rate mitigation is the focal
 25 point since the time he arrived, you know,

<p style="text-align: right;">Page 129</p> <p>1 we couldn't make things worse. The 2 structure, the core business had to be 3 organized and managed in a way that was 4 always viewing costs as a top priority, like 5 recognizing the pressures we were under as a 6 company in general because of the cost 7 escalations on the project. I think every 8 part of government, including the rest of 9 Nalcor outside of the project felt the same 10 way in terms of trying to squeeze every 11 penny out of our operating costs where we 12 could, so we were very focussed on that. So 13 he gave very clear direction that as we went 14 forward to set up Power Supply, that we 15 would not introduce duplication. So I 16 think, for example, if you were to take 17 Newfoundland Power and Newfoundland Hydro as 18 we were looking at through this whole 19 process and combining them, I think 20 naturally because two self-sustaining 21 businesses that have been operating for a 22 long time, if they were put together, I 23 think you could find efficiencies and we 24 obviously came to the same conclusion as 25 Liberty that those few efficiencies that</p>	<p style="text-align: right;">Page 131</p> <p>1 final point, I guess, on this particular 2 slide is that Mr. Marshall has been clear in 3 our discussions around this, that he put 4 this structure in place not just with a view 5 of today, but it was a view of how we 6 transition out of this and have a structure 7 that's supportive of what our mandate would 8 be going forward. He's used the Power 9 Supply structure, I think, with that vision 10 in mind, that if we continue to, and I think 11 we have to as a province, try to find a way 12 to harness the natural resources that we're 13 fortunate enough to have for the benefit of 14 all the people in this province, then I 15 would say that would be a focus that would 16 come with Power Supply in the future. A few 17 of the other important considerations that I 18 think we probably haven't spent a lot of 19 time talking about to date before these 20 hearings is some of the structural 21 considerations that have to be thought about 22 when you are doing restructuring. So again 23 when we're organizing the business, we 24 thought about the breadth and the depth of 25 the activities that this organization is</p>
<p style="text-align: right;">Page 130</p> <p>1 might have been achieved through that 2 process would have offsets to them that 3 would be, that would more than offset them, 4 but also introduce a lot of risk. I think 5 the difference here in terms of how Power 6 Supply was set up initially, and how we've 7 operated to date, is that it was never its 8 own sustaining utility that we took and 9 acquired and put together with Hydro in this 10 particular case. We built the Power Supply 11 utility with the view of making sure we 12 didn't create duplication. So every time we 13 looked in terms of establishing this, 14 whether it was looking at supply chain, 15 looking at IT services, something as simple 16 as payroll, we knew that if the other entity 17 needed to duplicate jobs to provide the same 18 level of service, we wouldn't do that. We'd 19 make sure that it was sufficient. So as 20 much as we were trying to make them 21 autonomous and work in an isolated way in 22 terms of especially the regulated business, 23 there were times when we do have a shared 24 services model because it just made sense. 25 It was the most efficient way to do it. The</p>	<p style="text-align: right;">Page 132</p> <p>1 involved in, and I just sort of alluded to 2 it. We have Hydro that's involved in the 3 generation, transmission, distribution, and 4 customer service for the province. We have 5 really two distinct multi-billion dollar 6 projects like Mr. Marshall described them in 7 terms of a generation project and a 8 transmission project, and each has their own 9 different challenges. The energy marketing 10 activities, we continue to manage oil and 11 gas assets, and these are complex operations 12 and inside them there's a lot of complex 13 commercial agreements (phonetic) either 14 inside the company between companies, or 15 outside with some of our business partners. 16 We've also introduced now with these new 17 assets a number of different safety and 18 environmental aspects that have to be 19 managed. We also considered the governance 20 framework and the partnerships that we have. 21 So we have ten plus legal entities inside 22 the company, all with associated Boards of 23 Directors. All have to be managed. There's 24 important stakeholders in all this. We have 25 large partners like Hydro-Quebec and Emera</p>

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1 that we work with. Then, of course, the
 2 external stakeholder requirements, and I
 3 think everybody would agree right now
 4 they're probably as high as they've ever
 5 been. We have, obviously, always had, or
 6 for a long time have had a regulatory
 7 stakeholder. We have the partners I just
 8 mentioned with new agreements and old in
 9 terms of Emera and HQ. We have interest by
 10 the government in terms of federally and
 11 provincially. We have oversight committees.
 12 The auditor general has been in for three
 13 years now. We've had the inquiry and we
 14 have many new indigenous groups who we have
 15 relationships and partners with. So there's
 16 a lot to think about and there's a lot of
 17 responsibilities that come with all those
 18 different structural considerations. Then
 19 we get into sort of some of the job design
 20 considerations when we think about
 21 organizational effectiveness. These are
 22 just things that we put our mind to as we
 23 develop the structures or build on to the
 24 ones that we have. So spans and control
 25 have been talked about, making sure that we

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1 feel that those spans and control are
 2 manageable by the people who have them, and
 3 there is as much art as there is science in
 4 that. Different people have different
 5 capabilities and capacity for managing. The
 6 job responsibilities that are assigned to
 7 people, the same thing, some can take more,
 8 some not so much, and you have to balance
 9 that and make sure it's the right fit for
 10 the people. The output of that is once you
 11 decide that and you work within the
 12 structure you have and the people you have,
 13 or if you have to add people, you do, and
 14 then you start to think about, okay, now how
 15 do you organize all of that. We've
 16 instituted different levels inside the
 17 organization. We just did a recent review of
 18 that actually in 2018 to validate what we
 19 had, and actually reduced some of the levels
 20 in our system, put some more common titles
 21 in place, if you will, and I think that's
 22 something that people should have a sense
 23 for is that once we assign the scope of the
 24 work that the person had and gave them the
 25 responsibilities that we felt that they

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1 could succeed in, then we had the third
 2 parties come in and evaluate that job and
 3 tell us how we should pay, and basically
 4 that was the result, and the output of that
 5 would be what will we call it in terms of
 6 whether it would be a director or vice
 7 president or a senior vice president or
 8 manager, and so forth. Location is also a
 9 consideration. You could look on paper and
 10 suggest that supervisor on the frontlines
 11 maybe could supervise ten people. Well, if
 12 five of them are in Roddickton and the other
 13 five are in St. Anthony, that sometimes
 14 proves to be a challenge and it's widely
 15 known that we have a very large geographical
 16 footprint in the province, spanning all
 17 nooks and crannies of the province. So that
 18 has to be factored in when you're designing
 19 the job responsibilities. Workload is
 20 always an important consideration, again how
 21 much time people have, how many hours that
 22 they're working. We try to study our
 23 overtime numbers in terms of people who are
 24 eligible for overtime to see if we're
 25 staffed appropriately, that we're not

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1 driving up unnecessary cost for overtime as
 2 opposed to hiring more people. At the same
 3 time, I know a lot of people who don't
 4 qualify for overtime, but working, and we're
 5 trying to always keep our eyes to that, and
 6 again there's a lot of art as much as
 7 science. Some of that stuff we can't track,
 8 but you see how many vehicles are still in
 9 the parking lot late in the evenings and on
 10 weekends.
 11 (12:15 p.m.)
 12 So we have to be mindful of how much we put
 13 on people. Then the last thing I will speak
 14 to in terms of things we thought about was
 15 workforce planning and succession planning.
 16 So again you're always looking at your
 17 workforce and your demographics. We're
 18 anywhere from 8 to 10 percent of the people
 19 that could retire today if they chose to.
 20 You have to be ready for that if they
 21 elected to do so, but it also presents
 22 opportunities. Every time we have a person
 23 retire from the organization, we look at
 24 what they were doing, we decide if there's a
 25 different way of doing it, and if there is a

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1 different way of doing it, or is there
 2 another need somewhere else inside the
 3 company and if there was, then we'd finally
 4 be able to hire into that role, and if there
 5 wasn't another need, then we have a chance
 6 to reduce that. All of those things go
 7 through what we call our gaiting in process
 8 whereby it goes right to Jennifer, right to
 9 Jim or myself if it's on my team where – you
 10 know, the hiring manager needs to make a
 11 business case whether to fill that job for
 12 every position. Even if it seems like a no-
 13 brainer they're still brought forward. So
 14 as I've said, we continue to strive for
 15 efficiencies. Nalcor agrees with Liberty
 16 that there are FTE reductions that are
 17 achievable, and we can achieve the
 18 shareholder's target of 20 million in
 19 organizational change through efficiency.
 20 They've asked us to find a way to do that. I
 21 believe we're developing the path towards
 22 that and I'm here to say today that that is
 23 our objective. We've been saying that all
 24 along. We meet with them on a semi-regular
 25 basis. We provide our FTE counts on a

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1 quarterly basis to our Department of Natural
 2 Resources, and we're focused on that. We're
 3 focused on achieving that number, but I will
 4 say that the timing of that and when we
 5 reduce is paramount in this situation. As
 6 I said, we're not a steady state. We're
 7 going through a significant transition with
 8 the Muskrat Falls construction and getting
 9 to a reliable state. So we must be mindful
 10 and thoughtful in terms of when and how, and
 11 so again I would say that I think Liberty
 12 has taken a bit more of an aggressive
 13 approach in the early years towards the
 14 later years, and we probably take more of an
 15 aggressive approach in the later years than
 16 the early years, but we're not that far
 17 apart in terms of how we get some
 18 efficiencies and savings. So I'd say the 20
 19 million in savings, one important point I'd
 20 say we might differentiate on that needs to
 21 be raised for complete transparency is that
 22 for us to attain that goal that has been set
 23 for us, and that we set for ourselves, is
 24 contingent upon the repurposing of the
 25 Holyrood thermal generating plant. We know

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1 that that is pending a reliability and
 2 resource adequacy study, and we're very
 3 sensitive to that process, so we're not
 4 assuming anything. The plan that I will
 5 present today in a few minutes in terms of
 6 our resource reductions, you know, it has to
 7 remain flexible and nimble. It's a plan.
 8 Those change every time a big decision is
 9 made that could influence it. If we were to
 10 maintain Holyrood, obviously, that would
 11 influence it. If we were to delay its
 12 repurposing, that would influence it in
 13 terms of timing, but if we stay on course,
 14 obviously, that's the key and opportunity
 15 and was always sort of the division that
 16 when we started out this project, we had to
 17 bring on new resources to help us in this
 18 transition, but essentially at the end of
 19 the day we'd have a new asset base with
 20 people assigned to it, and an old aging
 21 asset that we would repurpose and have
 22 significantly less people. I think I've
 23 kind of covered this point, but it is about
 24 managing the transition and the risks, and
 25 I'm not for one minute suggesting that

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1 anybody here is wanting us to incur more
 2 risk or advocating that. I think we just
 3 have a cautious view to it in terms of
 4 what's on people's plate today. As I said
 5 before, we just want to manage our way
 6 thoughtfully and carefully through this
 7 process. So the staffing trends and
 8 outlook, I'll take you through the slide a
 9 little bit. On the left hand side
 10 represents the number of employees and down
 11 along the bottom obviously are the years,
 12 calendar years. The blue line represents
 13 our FTE count, and not to be confused with
 14 the number of people we have, and put a fine
 15 point on that, if you have two people
 16 working half the time, that's equivalent to
 17 one FTE. So in 2016 through 2018, these are
 18 actual FTE head count. Then for 2019
 19 through to 2022, these are what we're
 20 forecasting. As you can see from this, we
 21 are aspiring to get back towards where we
 22 were in 2016, going from what we expect to
 23 land at is in terms of 1,654 this year back
 24 down to 1,492 in 2022. To take it a step
 25 further, all these processes bring value and

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1 this certainly has, and it's given us every
 2 chance to think critically about how we run
 3 our businesses, be challenged by different
 4 points of view from others, the Board, and
 5 Liberty, and for that reason we continue to
 6 look for efficiencies that we maybe wouldn't
 7 have otherwise, or maybe we would have, but
 8 maybe not so quickly. In any event, I think
 9 that we're incentivized to try to find a way
 10 to get back down to 1,463, find another 20
 11 or 30 FTE's if we can to get right back to
 12 where we've been aiming to get. So if we
 13 achieve this plan, this will net us in the
 14 vicinity of 15 to 20 million in cost
 15 savings. In summary, rate mitigation and
 16 cost management is and will remain a top
 17 priority for Nalcor and Hydro. It has to
 18 be. It's at the top of the mind for all of
 19 us every day. The organizational structure
 20 must be such that it supports the long term
 21 objectives of the company, but also the
 22 short term priorities that we have. We
 23 should not and cannot underestimate the
 24 significant challenges that we still face.
 25 When we first reorganized in 2016 when Mr.

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1 Marshall arrived, I was a bit apprehensive
 2 myself, to be honest with you, that with
 3 everything that was going on at the time,
 4 and it's fair to characterize the
 5 organization as being one in crisis, the
 6 thought then of reshaping and reorganizing
 7 the company and putting that on us as well
 8 on top of everything else, I thought was
 9 very risky and a very daunting task, and my
 10 early recommendation to him probably would
 11 have not to, but as he very clearly pointed
 12 out, it was riskier not to in his view in
 13 terms of finding a way to bring stability to
 14 the organization, get it on a path to
 15 stability. So his view was in order to meet
 16 those four major priorities he had outlined,
 17 those objectives, we had to, we had to
 18 change. The same goes for now. Those
 19 changes are really starting to take hold. I
 20 see it every day. I think Jennifer and Jim
 21 will elaborate on that in terms of how we're
 22 growing into this structure, and anybody
 23 who's familiar with this, you know, when you
 24 shake up an organization the way we did, it
 25 takes time to adapt to it and to work

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1 effectively inside of it, and I believe that
 2 we're on a path and getting better and
 3 better every day. If we did a reshuffle
 4 again, we'd set ourselves back at a key and
 5 critical time, and I think that that
 6 introduces risk again, and I'll be saying
 7 the same things. This time I'm not so sure
 8 that I see the value that would come with it
 9 in terms of introducing that risk. I'll
 10 conclude by saying that Nalcor is committed
 11 to delivering on the target of the 20
 12 million in organizational change through
 13 efficiency, and we just have a different
 14 plan to get there. Thank you.
 15 EATON, Q.C.:
 16 Q. Thank you, Mr. Roberts. We'll move to the
 17 next one now, sustainable cost management,
 18 and as I indicated, this is going to be a
 19 joint presentation. I'll just go through
 20 some material first. I'll start with Ms.
 21 Williams. As the President of Newfoundland
 22 and Labrador Hydro, can you tell us a little
 23 bit about your position and your background?
 24 MS. WILLIAMS:
 25 A. Sure. I was appointed into the position in

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1 February of this year. Prior to that, I was
 2 in the position of Vice President,
 3 Production for Hydro since August of 2016,
 4 and for that period when I was Vice
 5 President, I was reporting directly to Mr.
 6 Haynes. So he and I have been certainly
 7 working together for a period now. Prior to
 8 that time, I held the role of General
 9 Manager of Hydro Production, which would
 10 have been accountable for really the
 11 hydraulic generation assets on the island
 12 for Hydro, and prior to that, I was the
 13 Manager of Regulatory Engineering, which
 14 would have had a fairly heavy liaison role
 15 between Hydro and the Board, mostly the
 16 Board staff. I started with Hydro in 2014
 17 in the fall, just about five years ago right
 18 now, and prior to that, I was with the
 19 International Airport Authority here locally
 20 as the Manager of Infrastructure, and my
 21 accountability was really looking after the
 22 various assets on the airport property,
 23 which would have been mechanical, electrical
 24 type accountability. Prior to that, I
 25 worked with Newfoundland Power from 1998 up

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1 to 2011, and would have had accountability
 2 and responsibility at various times for
 3 generation assets, as well as some of the
 4 poles and the waters. I left as a
 5 Superintendent level.
 6 EATON, Q.C.:
 7 Q. Thank you. Mr. Haynes, we've heard a bit
 8 about you already from Mr. Marshall.
 9 MR. HAYNES:
 10 A. Yes, I heard that. Good morning, Madam
 11 Chair, and Commissioners. We're here to
 12 help and share our experiences and so on
 13 wherever we can help in this process. I
 14 started on a permanent basis with
 15 Newfoundland Hydro in 1977, which is 43
 16 years ago, which has been a while. I worked
 17 in most areas of hydro. I also spent ten
 18 years with Churchill Falls Labrador
 19 Corporation, which was a great experience,
 20 by the way. I'd also like to say I worked
 21 with a lot of people in Hydro and later
 22 Nalcor, who basically worked hard for the
 23 mandate of both Hydro and Nalcor, and I
 24 appreciate the mentorship of all those
 25 people. Some of those are in the room

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1 today. My work experience with Hydro and
 2 CF(L)Co include engineering design,
 3 construction, specifically Holyrood Unit
 4 Number 3. I was out there for a couple of
 5 years. I worked for a number of years in
 6 system planning on the transmission side
 7 doing technical and economic studies, many
 8 of which actually came before this Board for
 9 approval one way or another. With respect
 10 to Churchill Falls, I went there as the
 11 Manager of Operations and when I left in
 12 1999, I was the General Manager. When I
 13 came back to St. John's, I was doing a few
 14 odd jobs here and there. I eventually moved
 15 into an executive position, I think, in
 16 2001, and I retired in 2013. I came back in
 17 mid 2017, and in February of this year moved
 18 to the Executive VP of Power Supply. I have
 19 appeared before the Board at several
 20 hearings over the years between Capital and
 21 GRA's, and I'm happy to be back to help in
 22 any way I can.
 23 EATON, Q.C.:
 24 Q. Okay. I'm going to turn it over to you, and
 25 I think there's some introductory comments

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1 first. If you would bring up the first
 2 slide.
 3 MS. WILLIAMS:
 4 A. As Mr. Eaton mentioned, Mr. Haynes and I are
 5 going to be presenting jointly today. I
 6 will note that as we participated through
 7 the process with Board staff, with Liberty,
 8 with Synapse, as well as the other parties
 9 present, our aim has certainly been to
 10 provide a fair and balanced assessment of
 11 the scenarios that were before us, and with
 12 regards to the questions that were posed to
 13 us. There were many options examined
 14 through this exchange of information, as
 15 well as informative and constructive
 16 dialogue. As you've already heard from Mr.
 17 Marshall respecting his view on the required
 18 organizational structure for this time and
 19 provincial mandate, Mr. Haynes and I felt it
 20 important to present on how the structure is
 21 functioning today with respect to ensuring
 22 cost management. We know that effective and
 23 sustainable cost management contributes to
 24 rate mitigation. Through the evidence
 25 submitted thus far, we have aimed to

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1 demonstrate our efforts to date and discuss
 2 opportunities for the future as they relate
 3 to cost management. So therefore, our
 4 presentation is titled "Sustainable Cost
 5 Management". We want any efforts undertaken
 6 or initiatives implemented to be enduring.
 7 This requires thoughtful deliberation on the
 8 decisions being made and consideration of
 9 the ability to maintain those savings on a
 10 long-term basis that does not compromise our
 11 obligation to provide service to customers.
 12 MR. HAYNES:
 13 A. So I thought I would just take a minute to
 14 go over kind of what we do between Power
 15 Supply and Hydro, so Hydro basically
 16 effectively looks after all the currently
 17 regulated assets that the Board already
 18 oversees and there are some unregulated
 19 activities within Hydro, specifically sales
 20 to the mining companies in Labrador West
 21 which the energy sales are unregulated but
 22 there is a transmission component obviously
 23 overseen by the Board.
 24 (12:30 p.m.)
 25 So Power Supply look after, you know,

Page 149	<p>1 the non regulated assets of Nalcor and these</p> <p>2 include CF(L)Co and I just thought I'd</p> <p>3 explain a little bit what that is for the</p> <p>4 benefit of people who may not know because</p> <p>5 it has not been a subject of any regulatory</p> <p>6 review. So Churchill is a 5428 megawatt</p> <p>7 plant in West Central Labrador and basically</p> <p>8 capable of generating about 34 terawatt</p> <p>9 hours a year, most of which is sold under a</p> <p>10 long-term contract to Hydro Quebec; however,</p> <p>11 CF(L)Co does sell to Newfoundland Hydro two</p> <p>12 different contract amounts. They sell the</p> <p>13 recapture amount which is 300 megawatts and</p> <p>14 roughly 2.3 terawatt hours a year that is</p> <p>15 used basically right now in Labrador. They</p> <p>16 also sell to Newfoundland Hydro the TwinCo</p> <p>17 block which basically started once the Twin</p> <p>18 Falls contract expired with CF(L)Co and that</p> <p>19 basically is 225 megawatts and roughly 1.9</p> <p>20 terawatt hours a year and that amount of</p> <p>21 energy which is basically all sold to</p> <p>22 Newfoundland Hydro, is basically primarily</p> <p>23 for Labrador use. There is excess recall</p> <p>24 sold through, right now through Quebec, some</p> <p>25 of which was delivered to the Island over</p>	Page 151	<p>1 with those two lines is a major new</p> <p>2 substation in Soldier's Pond which is the</p> <p>3 biggest AC station in the province—I'm</p> <p>4 sorry, it's the biggest AC station on the</p> <p>5 Island connected system. The only bigger</p> <p>6 station we have is Churchill Falls, so</p> <p>7 that's a major station which was</p> <p>8 commissioned in later 2018 and which has</p> <p>9 been functioning pretty well since then, but</p> <p>10 it's new, the challenges of DC components,</p> <p>11 as I already mentioned.</p> <p>12 And the second last aspect was Muskrat</p> <p>13 Falls generation, which is a 824 megawatt</p> <p>14 plant and that was primarily, you know,</p> <p>15 intended to replace Holyrood as being a</p> <p>16 long-term source of renewable energy to the</p> <p>17 Island and the plan, as Mike mentioned, was</p> <p>18 to basically shut down Holyrood after a</p> <p>19 period of time when we were over the burning</p> <p>20 in period or the breaking in period which is</p> <p>21 obviously to be seen, so while we're a</p> <p>22 little bit reserved on, you know, the</p> <p>23 process whereby we curtail those assets.</p> <p>24 The last thing that Power Supply look</p> <p>25 after is a small Hydro plant in North</p>
Page 150	<p>1 the Labrador Island Link last year or early</p> <p>2 this year, I should say. So that's the</p> <p>3 CF(L)Co part, as well we also, NEM reports</p> <p>4 up through Power Supply and Greg will speak</p> <p>5 to that shortly.</p> <p>6 It's also the Labrador transmission</p> <p>7 assets, these are the two 315 kV lines and</p> <p>8 stations which connect the new Muskrat Falls</p> <p>9 generating facility with Churchill Falls and</p> <p>10 is a part of the system to allow, for the</p> <p>11 exchange of energy to flow back and forth</p> <p>12 and just makes the system operate better and</p> <p>13 more efficiently so we can, you know,</p> <p>14 obviously you need to have the waters to</p> <p>15 make water management work and that goal was</p> <p>16 to optimize the river.</p> <p>17 The other major component is the</p> <p>18 Labrador Island Link which is the HVDC line</p> <p>19 from Muskrat Falls to Soldier's Pond, that's</p> <p>20 roughly 1100 kilometer line and it's a DC</p> <p>21 line which is new technology for us and</p> <p>22 which we are and Mr. Marshall mentioned</p> <p>23 yesterday we are having some concerns with</p> <p>24 the software, but it is, you know, it is</p> <p>25 progressing, but very slowly. Associated</p>	Page 152	<p>1 Western Labrador called Menihek. Menihek is</p> <p>2 not connected to the Interconnected system</p> <p>3 in Labrador, it's a stand-alone isolated</p> <p>4 system. It was built by IOC, Iron Ore</p> <p>5 Company of Canada in the early '50s and was</p> <p>6 primarily to serve the mining load is</p> <p>7 Schefferville and the mines closed down in,</p> <p>8 I think the early '80s. IOC continued to</p> <p>9 maintain the plant and when the water lease</p> <p>10 expired, we entered into negotiations with</p> <p>11 IOC and we eventually bought the plant for I</p> <p>12 believe one dollar, actually, and we entered</p> <p>13 a contract with Hydro Quebec to provide</p> <p>14 power to Schefferville and the indigenous</p> <p>15 communities close to Schefferville. That</p> <p>16 particular plant is fully funded and paid</p> <p>17 for by Hydro Quebec. You may have heard</p> <p>18 recently, there was an announcement that</p> <p>19 there would be a connection to that plant to</p> <p>20 the new TATA Mine, which would be, you know,</p> <p>21 that contract is yet to be negotiated, but</p> <p>22 they would also use that power and that is a</p> <p>23 Newfoundland load, but it's a mining load</p> <p>24 and it's also considered to be an</p> <p>25 unregulated load. The plant is 18 megawatts</p>

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1 and roughly, I think 100 to 140 gigawatt
 2 hours a year capability, depending on
 3 hydrology, of which right now the Quebec
 4 component is probably less than 50 gigawatt
 5 hours a year. So, it's an excess energy
 6 which can be made available to TATA Mines.
 7 With respect to Hydro and Power Supply,
 8 we are collaborating quite a bit with
 9 respect to – obviously we're cooperating
 10 with this review as is warranted and as
 11 being an important undertaking, from our
 12 perspective. But we are collaborating quite
 13 a bit and focused on sustainable cost
 14 management, also with respect to
 15 reliability. We obviously don't want
 16 reliability to falter, you know, and there
 17 is always a balance between reliable supply
 18 and cost, and you know, we want to get to
 19 that sweet spot, if you will, whereby it's a
 20 reasonable number that assures reasonable
 21 reliability at a reasonable cost. We don't
 22 want to gold plate things and we really
 23 don't want to duplicate a lot of effort
 24 here, and we've made strides to do that.
 25 So, if I move over to the next slide.

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1 So, I just want to talk about some of the
 2 collaboration that we have done. You know,
 3 I'm going to repeat myself a little bit.
 4 First and foremost, we're all focused
 5 on safety of our employees, contractors and
 6 the general public. That is a given and I
 7 don't think we'll ever slack off on that
 8 part, and sometimes there's a price, but you
 9 know, we want to have a safe environment for
 10 our employees and the public and our
 11 contractors.
 12 With respect to reliability to the
 13 customers and cost control, there are many
 14 areas of shared services already. Power
 15 Supply did not go out and create a whole new
 16 company from the point of view of self-
 17 supporting in that sense. We share services
 18 with Nalcor. We use their IT resources. We
 19 look at the – we use their financial
 20 services, investment evaluation, treasury,
 21 insurance, legal, human resources. So, we
 22 have not duplicated that and didn't see the
 23 need to for what we were doing for Power
 24 Supply.
 25 We also use services of Hydro where it

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1 makes sense to do so. So, we use Hydro's
 2 supply chain department. So, all our
 3 purchases will flow through there. There's
 4 a bit of a transition now as we move from
 5 the LCP construction side into the normal
 6 O&M future. So, there's some movement of
 7 all that there, and we also look at that as
 8 an opportunity to, you know, combine
 9 purchases and make sure that we're packaging
 10 things up so we get the best value for the
 11 dollar and obviously there's an allocation
 12 of costs to which goes where, but that'll
 13 look after itself from that perspective.
 14 Drafting department, we have decided
 15 that we do not need to establish a draft
 16 department for Power Supply. We will
 17 piggyback onto the drafting department of
 18 Hydro and use their drawing management
 19 system, which is critical from the point of
 20 view of retrieval of drawings and keeping
 21 things up to date. So, we're not
 22 reinventing the wheel there or going out and
 23 creating something new.
 24 We also, on the operation and
 25 technology, and by that I mean all the

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1 electronics and cyber security things that
 2 everybody worries about these days. We will
 3 collaborate and work with Newfoundland Hydro
 4 who already have taken on that role for
 5 Nalcor. And we will work within that group.
 6 We'll establish, you know, a steering
 7 committee or participation and make sure
 8 that everybody's interests are looked after
 9 and it is a cyber issue of software.
 10 Mr. Marshall mentioned software on the
 11 LIL. Software is kind of a pretty pervasive
 12 thing these days and, you know, you see it
 13 on the 737 Max. You see it on the LIL.
 14 It's a concern for everybody and you have to
 15 keep it update and you have to keep it
 16 secure from hackers and we do get lots of
 17 attempted hacking each and every day, which
 18 is a separate issue. So, we are all in the
 19 same place there.
 20 Network services again on
 21 communications we're not establishing. Even
 22 though the LIL owns the fibre link between,
 23 you know, Muskrat and Churchill and between
 24 Churchill and Muskrat and Soldier's Pond and
 25 Muskrat to Churchill, you know, we have some

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1 resources to work on those things. But from
 2 an overall network services point of view,
 3 we plan to use Hydro for most of that, where
 4 it makes sense, you know. And obviously
 5 there's a lot of geography between here and
 6 Churchill, but we're doing that – from my
 7 perspective, we're doing it in the most cost
 8 effective way.
 9 The other area where we would continue
 10 to use Hydro is that if we were looking at
 11 some of the development opportunities, like
 12 from the point of view of any future
 13 generation or future projects that may bring
 14 value to the Province as a whole that would
 15 be outside of what Hydro needs from a
 16 regulatory point of view.
 17 We will also need to use their
 18 transmission planning department. So we're
 19 not recreating that particular group. We
 20 would actually pay for those services in
 21 primarily the transmission planning who do
 22 all the technical studies on the systems,
 23 whether they're interconnected or isolated
 24 or whatever. They do that. They are the
 25 brains in that particular operation and we

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1 don't see a need to recreate that. We will
 2 work with them to provide the reports that
 3 we need to do other things.
 4 The other thing I just want to
 5 reinforce is on the other core things that
 6 we do, whether they're on engineering
 7 standards or asset management, cyber and
 8 security oversight, we will do those in
 9 conjunction with Hydro.
 10 So we will have, right now, the VP of
 11 Engineering Power Supply and a VP of
 12 Engineering in Hydro collaborate and work
 13 together on asset management principles so
 14 that we have the same fundamental basis and
 15 a shared understanding of what that means
 16 and what is the best from a utility
 17 perspective, so we're not out there going in
 18 different directions. There is a group in
 19 Hydro Engineering who have a few more people
 20 dedicated to that and basically, we will
 21 provide input back there and express our
 22 views and come to a collaborative, you know,
 23 point where everybody is content and that we
 24 are doing it right and most effective thing
 25 from all customers, whether they're

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1 regulated or unregulated.
 2 So, you know, when you go back to the
 3 foundational things from the point of view
 4 of utilities, we're not different. We will
 5 share our resources. We will share – we'll
 6 collaborate on these different standards,
 7 engineering standards which reinforce that.
 8 We're not duplicating everything we do.
 9 What we have, we don't think we have much
 10 duplication from that perspective at all.
 11 On the operating side, it's slightly
 12 different, but the principles are not
 13 different.
 14 With respect to future opportunities
 15 from Power Supply, you know, right now, most
 16 of my worries are not with respect to –
 17 there's lots of worries, and I will say that
 18 my 66-year-old brain does hurt sometimes.
 19 I'll say that. Not to repeat Monty Python,
 20 I think who had a 50th anniversary last
 21 weekend, but they brought that up.
 22 And the things that keep me awake are
 23 not so much the day-to-day things that are
 24 on the go in Churchill Falls and things like
 25 that. There's lots of issues there.

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1 There's lots of things resolving, but you
 2 know, there are people working at that. You
 3 know, getting to steady state with respect
 4 to the new assets is a concern, and I do
 5 think that we have the opportunity to
 6 streamline a bit later on, but we can't
 7 start off, you know, with a deck half
 8 stacked.
 9 We have to start off where we're
 10 comfortable and we have to look at
 11 opportunities as we move along in any way
 12 that we can actually streamline costs,
 13 whether they're labour or non-labour costs,
 14 and we've taken that to the hilt. We've
 15 already cutback some of the things that we
 16 started off thinking that we would need,
 17 particularly from, you know, the 100 and
 18 whatever million dollars. We've already
 19 trimmed that back and we will continue to
 20 modify that and look for savings wherever we
 21 can. But we're not there yet.
 22 The other thing I wanted to mention,
 23 just to bring it into context, is in
 24 December of this year, the 4th will be the
 25 48th anniversary of first power at Churchill

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1 Falls. So, Churchill Falls, as I mentioned
 2 earlier is a 5400 megawatt facility. It's
 3 unique. It's world-classed and I had ten
 4 great years there, loved every minute of
 5 working on those assets and with the people.
 6 But it is getting to be 50 years old and we
 7 are – we have started a concerted
 8 reinvestment effort to ensure those assets
 9 are going to be well suited to 2041 when the
 10 contracts with Hydro Quebec expire and that
 11 there's a whole new world in front of us
 12 where .2 cents obviously will not the rate,
 13 the selling price. It'll be more market
 14 based, from my perspective. And we want
 15 those assets to be ready to take that
 16 challenge in 2041.
 17 So, we are spending, I think, in excess
 18 of 60 million, I think, 65 or 66 million
 19 dollars a year we're spending on those
 20 assets now on an annual basis. We have, you
 21 know, done work to the powerhouse. We are
 22 actually reviewing our plan right now
 23 because it's a bit stale. We're revising
 24 the costs and revising the prioritization of
 25 that. But I don't expect that's going to

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1 drop. I think we'll still continue to spend
 2 about 60 to 65 million dollars a year,
 3 basically renewing those 50-year-old assets
 4 and, you know, Hydro has experienced that we
 5 have Bay d'Espoir 50 years old. There are a
 6 few things catching up. So, we all, both
 7 Hydro and Nalcor, need to be ahead of that.
 8 You know, years ago, CF(L)Co.'s budget
 9 might have been six to seven million
 10 dollars, and you know, we're ten times that,
 11 and it requires a fair bit of work and
 12 oversight to make that happen.
 13 Menihkek itself that plant was built, as
 14 I mentioned, in 1954. In the next five
 15 years, we're anticipating I think it's about
 16 40 million dollar capital investment. It's
 17 a bit lumpy. It's down and up depending
 18 what we're doing. But that plant is also
 19 under renewal. However that is work that we
 20 manage; that we tender and execute, but
 21 basically it's all recovered from Hydro
 22 Quebec, you know, and there are some
 23 provisions to sharing some costs with any
 24 off-taker that is used in the province, as
 25 long – but it's pretty minimal – as long as

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1 it's not a firm, and we're not – you know,
 2 Hydro Quebec, to Hydro Quebec, they're a
 3 priority customer. Any other sales to mines
 4 will be more of a secondary as available
 5 nature. But there's lots of energy
 6 available. As I said, that plan is under
 7 review.
 8 But overall, the capital plan of Power
 9 Supply is in the 70 to 80 million dollars a
 10 year. It's not just something that we can
 11 do off the corner of a desk. We need a
 12 dedicated and focused effort to make that
 13 happen and to deliver to our customers via
 14 Hydro or Hydro Quebec or whomever. But we
 15 will seek to streamline that and reduce our
 16 labour over time.
 17 But on the new assets, I think we just
 18 need to be a little bit cautious before we
 19 start, you know, trimming that down too far.
 20 We need to have some operating experience on
 21 LIL. You know, the synchronized condensers
 22 are new. They should be simple, but they
 23 have had a few problems which we're working
 24 through with a different part of GE Power,
 25 as opposed to GE Grid, but they've taken

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1 ownership of that and is working towards it.
 2 I'm going to mention that – before I
 3 turn it back to Jennifer, I'd already
 4 mentioned the capital program and the O&M
 5 budget between CF(L)Co and NEM, and I'm not
 6 talking about the total budget, but just on
 7 a salary and labour side, is roughly 70
 8 million dollars a year in total, and we're –
 9 but I would go back to my perspective is I
 10 came from Hydro, that regulatory perspective
 11 and least cost perspective. Even my ten
 12 years in Churchill Falls, that was still the
 13 way we tried to operate.
 14 (12:45 p.m.)
 15 We may not have had Public Utilities
 16 Board oversight, but from the point of view
 17 of the principles that you (unintelligible)
 18 the utility, it is a least cost, you know,
 19 and a least cost approach and I take that to
 20 the table and I challenge my people under
 21 capital budget and operating costs on a
 22 regular basis as to, you know, is that the
 23 cheapest way to do it long term. I don't
 24 mean short term, because we need to look,
 25 you know, 10, 15, 20 years down the road and

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1 you know, spending a bunch of capital money
 2 that will save a bunch of other O&M is the
 3 right decision as long as it's baked and
 4 analysed and all the risks and puts and
 5 takes are reviewed; that this is the least
 6 cost approach. And Mike mentioned that
 7 Jennifer challenges – we challenge each
 8 other on that there.
 9 And when I came into Power Supply, not
 10 building silos, but I'm trying to build
 11 bridges between Hydro and the project
 12 delivery team in Lower Churchill, just to
 13 make sure we get to go – we get these assets
 14 in service and we get them operating
 15 reliably. So, I was going to turn it back
 16 to Jennifer now.
 17 MS. WILLIAMS:
 18 A. Okay. I would just note that certainly we
 19 agree with Liberty, as our evidence would
 20 have indicated, that in considering the
 21 opportunities to contribute to rate
 22 mitigation with regards to saving costs on
 23 the system, we agree that the appropriate
 24 path to secure those cost savings is through
 25 pursued efficiencies within the current

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1 Hydro structure. And as part of our
 2 evidence, we put forward a plan to pursue
 3 efficiencies and are committed to the two
 4 million dollars in cost savings as we have
 5 indicated.
 6 We have started some of those savings
 7 opportunities obviously. I think PUB-Nalcor
 8 218 was when we started on some of the items
 9 that we've communicated, but there is
 10 additional efforts that we are taking. In
 11 that RFI in particular, I'll just highlight
 12 a few of the things that we noted.
 13 When I moved into this role and Mr.
 14 Haynes moved over into the VP role that he's
 15 currently in, we did a small change at the
 16 executive level and director level. So, we
 17 actually removed a VP and a director from
 18 our senior ranks. So, that was a step
 19 forward in some of the costings which will
 20 be sustained.
 21 We have, over the last couple of years,
 22 I call it improved our oversight and
 23 management of overtime occurrence and
 24 reporting and we're able to, over the last
 25 couple of years, reduced gross overtime by

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1 30 percent incurred. We've implemented a
 2 new attendance management program that has
 3 reduced, in the first full year of
 4 operation, the number of sick days taken per
 5 employee by ten percent.
 6 And another initiative that we're using
 7 is the recognition of Corner Brook Pulp and
 8 Paper's capacity assistants in some of our
 9 spinning reserves. So that has materially
 10 contributed to reduced costs on our gas
 11 turbine assets.
 12 So that's some, an example of some of
 13 the things that we've undertaken already
 14 with regards to removing costs from the
 15 system within Hydro. These types of things
 16 certainly build on the culture that we've
 17 been implementing over the last couple of
 18 years as well, with regards to innovation
 19 and productivity.
 20 We would have been before the Board in
 21 our last General Rate Application talking
 22 about an initiative that we're really trying
 23 to at the grassroots level, really trying to
 24 build a culture with the employees to
 25 identify opportunities for cost savings and

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1 trying to implement those as much as
 2 possible. So, it's not just five or ten
 3 people that we're asking to come up with
 4 ideas for cost savings. We're asking for
 5 all our employees to come up with cost
 6 savings. We are really trying to build that
 7 culture within the organization.
 8 So those larger initiatives I just
 9 mentioned are really complimentary to – and
 10 I guess, in addition to those smaller
 11 innovational productivity initiatives that I
 12 just mentioned. So, that's really what
 13 we've already started.
 14 However, in particular, I will
 15 highlight a few other items here now, just
 16 let me flick my slide, of items that we have
 17 in our plan that we're going to report more
 18 to the Board on next year.
 19 The Operations work management and
 20 execution aspect that we want to make some
 21 steps forward on. We're seeking to
 22 centralize our planning and scheduling
 23 function to enable more efficient work
 24 execution, more robust planning practices
 25 and enhanced accountability of these

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1 practices. If you consider the various
 2 geographic areas that we work, we currently
 3 have planning and scheduling functions
 4 individually in all those geographic
 5 regions. Liberty has spoken to us about
 6 that as an observation in the past. They
 7 don't believe it's the most efficient. We
 8 have been looking at that ourselves as well
 9 and we have committed to changing that
 10 process.
 11 It will take a couple of years for us
 12 to execute the work and to start to see
 13 those efficiencies associated with
 14 centralizing that planning. It doesn't
 15 necessarily mean we will have everybody
 16 moving into Hydro Place, but it is really
 17 effectively a significant change in
 18 reporting structure, as well as
 19 standardization of the processes that we use
 20 and improved metrics to understand how we're
 21 functioning and therefore then we have
 22 improved metrics, we'll be able to better
 23 manage and execute the work.
 24 Considering operational technology
 25 advances that we want to accelerate within

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1 the organization, we believe there's a great
 2 opportunity for Hydro to advance the uptake
 3 on technology within the utility sector. We
 4 probably had a slower rate of adoption than
 5 say some of our utility counterparts and we
 6 believe that there's ways for us to
 7 implement technology to get costs out of the
 8 system.
 9 We want to implement technologies that
 10 are not necessarily reliability
 11 advancements, but more just absolute cost
 12 reduction. We have not utilized mobile
 13 technology, for example, very much to date.
 14 So that would be an example of an area that
 15 we think that we can certainly utilize and
 16 it will help us get costs out of where we
 17 currently are.
 18 Regarding the Exploits operations, we
 19 are committing, as was in our evidence, to a
 20 multi-year review of the assets and how we
 21 operate to remove two and a half million
 22 dollars annually, as suggested by Liberty.
 23 It's important to note that I think Liberty
 24 did reference it a couple of times in their
 25 report. I think at one point they hoped we

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1 could achieve it over three years. Our
 2 commitment is it would take we think three
 3 to five years.
 4 There is an application that we want to
 5 bring before the Board, working with the
 6 shareholder, for Hydro to purchase these
 7 assets. As some parties would know, the
 8 revenue that Exploits operates under is a
 9 four cent per kilowatt hour PPA. It has
 10 been the amount of funding that we have had
 11 access to for both capital and operating and
 12 so, that approach will change if we have the
 13 assets, you know, come into Hydro under the
 14 regulated purview of the Board and then we
 15 would be working with the Board to implement
 16 the appropriate investments to ensure we can
 17 indeed get those costs out. So, we're
 18 hoping that we can get that application,
 19 subject to our own Board of Directors'
 20 approval and working with the shareholder,
 21 hopefully before Christmas.
 22 With regard to the capital planning, as
 23 is noted on the slide, in light of the rate
 24 pressures that are certainly facing
 25 customers in the province, Hydro, over the

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1 last two capital budget planning cycles, has
 2 looked at where we can be a little more
 3 aggressive in taking capital – planned
 4 capital expenditures out of our five-year
 5 forecast. And if we go back two years in
 6 the capital budget cycle and compare it to
 7 the current capital budget that we've put on
 8 the record for this current cycle, on a
 9 five-year basis, we've reduced the total
 10 capital five-year spend by 250 million.
 11 We don't want to go too far and that
 12 does feel fairly significant and we'll
 13 certainly be monitoring the exact outcome
 14 from a reliability perspective. So, but
 15 we've recognized it and we've already taken
 16 action toward that and we're going to make
 17 sure that we do our best to implement just
 18 the right amount of capital.
 19 Regarding contracting procurement, Mr.
 20 Haynes mentioned it and Ms. Hutchens might
 21 speak to it as well, but our evidence also
 22 noted it, that we recognize that there is
 23 certainly potential benefits in joint
 24 purchasing power.
 25 We are availing of least cost

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1 opportunities through the Provincial
 2 Government procurement and purchasing
 3 program, as well as internal consolidated
 4 procurement, and we are open to exploring
 5 opportunities with Newfoundland Power to
 6 determine which, if any, activities may be
 7 of benefit to customers from a joint
 8 procurement perspective.
 9 And the last note there under the plan
 10 is the executive of a human resource
 11 management plan. Over the next – within
 12 this year, Mr. Roberts mentioned it and I'll
 13 just use an example. Within Hydro, I think
 14 in 2019, eight percent of employees are
 15 eligible to retire. That is not to suggest
 16 that eight percent of the people are all
 17 going to say they want to retire. And it
 18 also doesn't mean to suggest that we would
 19 think it's appropriate or prudent to have
 20 eight percent of people retire from the
 21 organization.
 22 However, it does give us an indication
 23 of the opportunity of the ability to avail
 24 of attrition, as a way to remove FTEs from
 25 the system on a very thoughtful, methodical

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1 process, especially as we work through over
 2 the next couple of years the kinds of
 3 programs that I mentioned, the work
 4 management and execution centralizing, as
 5 well as the operational technology advances.
 6 These types of, you know, very targeted
 7 initiatives, in addition to knowing we do
 8 have employees that are approaching that
 9 retirement age, we believe will give us the
 10 opportunity to contribute to FTE reductions
 11 that will also contribute to the two million
 12 dollar savings that we've committed to.
 13 So, these are really the broad strokes
 14 of the commitments that we've made. Also in
 15 our evidence was a commitment to report to
 16 the Board on how that plan is working out
 17 and exactly the steps that we've made and we
 18 intent to, late spring, early summer of next
 19 year, provide an update -- and to the other
 20 parties certainly, and update on how we're
 21 doing with the further development of this
 22 plan. And I will change to the next slide.
 23 The next two slides discuss two joint
 24 operating committees. They are – one is
 25 related to the Muskrat Falls plant in

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1 particular and the other is related to the
 2 LIL, the Maritime Link and the LTA.
 3 On this first slide, you'll see it's
 4 about the Muskrat Falls plant, and you know,
 5 I think this is a way under the current
 6 structure of how we're working, again with
 7 the vision that Mr. Marshall spoke about,
 8 why we're structured where we are today.
 9 What this committee here in particular
 10 does is it does provide for some visibility
 11 and transparency that Hydro is going to get
 12 and that we can certainly then share with
 13 the Board, you know, how we're providing for
 14 that approval and that oversight of costs
 15 that are indeed being incurred. Again, this
 16 is for the Muskrat Falls plant.
 17 On this committee, it's a committee of
 18 four members. Hydro has allocated its two
 19 members and Jim, Mr. Haynes will have his
 20 two members. And the intention is not for
 21 these four people to be the only people that
 22 would ever review the operating capital
 23 budgets as noted, the maintenance plans,
 24 long-term maintenance plan. Behind those
 25 four people will be others who will assist

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1 with review and documentation of the kinds
 2 of questions and sort of the reviews that
 3 we've taken.
 4 So, the timing of this committee,
 5 according to the PPA, is really it's getting
 6 underway right now. The first step of the
 7 committee is to develop the documentation
 8 requirements and to come to agreement on
 9 exactly how we're going to set up a review
 10 process and what documents do we want to
 11 have so that we can then share that with the
 12 Board at a future time.
 13 MR. HAYNES:
 14 A. If I could just step in there?
 15 MS. WILLIAMS:
 16 A. Yeah.
 17 MR. HAYNES:
 18 A. Just on that one there on, you know, the
 19 documentation. I think we need to recognize
 20 that the amount of rigour putting into
 21 Public Utilities Board applications for
 22 capital, for instance, is probably more
 23 robust than what goes into Power Supply
 24 right now, what has been historically there.
 25 But I've already had discussions with the

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1 Engineering VP and it is recognized there
 2 needs to be more, and I'm come from that
 3 culture of regulated review whereby these
 4 things need to be rationalized and
 5 justified. It's not a – you know, it's down
 6 to must have from a reliability safety point
 7 of view, is there a needs to have and then
 8 there's a want. Now they have to be
 9 prioritized.
 10 So that discussion has already started
 11 and I fully agree that we need to – you
 12 know, it may not be to the level that gets,
 13 you know, to a full and intervenor review,
 14 but from the point of view of the
 15 documentation, rationalization,
 16 justification, it will have to go through
 17 levels of approval within Nalcor and then
 18 eventually coming back up to the committee
 19 to look at and they should be, you know,
 20 fairly robust and obvious that they need to
 21 be done for safety, reliability or future
 22 costs savings because there's a capital
 23 investment required.
 24 So, we're on the same on that there.
 25 There's no argument or issue that we need –

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1 you know, those things need to be pretty
 2 stand-alone justifications, if you will.
 3 Sorry.
 4 MS. WILLIAMS:
 5 A. No, that's good. Actually it's a good point
 6 because I think I had intended to say that I
 7 was going to speak for Power Supply, but you
 8 spoke for yourself, so that's great. And I
 9 mean, I know that Jim is very respectful of
 10 the kinds of questions that we get asked
 11 here in front of the regulator to help
 12 justify the costs that we're receiving. I
 13 think that's the benefit of Jim having been
 14 so recently in Hydro and moved into Power
 15 Supply, as he knows what it feels like to
 16 have to have these questions asked and he's
 17 supportive of Hydro's desire to develop the
 18 appropriate documentation that shows we
 19 indeed did go through an appropriate review
 20 of the costs that are coming for the plant.
 21 On the next slide, it is a bit of a
 22 different committee because it actually
 23 brings the Maritime Link and Emera into the
 24 committee. It's a six-person committee.
 25 Hydro is currently one of the six. There's

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1 three Power Supply and two Emera
 2 representatives. It doesn't have the same,
 3 I'll call it, approval authority, again
 4 because the committee is quite different,
 5 with Emera as a part of the group.
 6 However, as Emera and Nalcor are
 7 working together in reviewing each other's
 8 notes that you can see there, the O&M
 9 activities, the O&M standards, the plans,
 10 the annual maintenance plans, sorry, the
 11 capital budget, other items, Hydro is going
 12 to be a part of the committee. So, we'll
 13 have ability to review and participate in
 14 review of those – of the costs and the plans
 15 that are going in there and will have the
 16 opportunity to influence O&M.
 17 (1:00 p.m.)
 18 And a bit further to what Mr. Haynes
 19 just mentioned, the people who are working
 20 on the projects and the costs that are being
 21 reviewed under the previous committee will
 22 be the same people and the same culture that
 23 he's building under the LIL and LTA that
 24 would go in here. So, even though Hydro
 25 doesn't have the authority to approve under

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1 this committee, it's the same people and the
 2 same processes and procedures that I expect
 3 that they will be adopting for the assets
 4 they also manage.
 5 And that concludes, I guess, what Jim
 6 and I wanted to discuss with regards to the
 7 sustainable cost management.
 8 EATON, Q.C.:
 9 Q. Okay. I believe that we can finish the next
 10 one before 1:30. If we're a few minutes – I
 11 trust we'll have a few minutes forgiveness
 12 if necessary. So, I'm just going to ask Mr.
 13 Jones now to give us a little bit of his
 14 background. You've been involved with NEM
 15 for how long now?
 16 MR. JONES:
 17 A. Since its inception in 2009.
 18 EATON, Q.C.:
 19 Q. And what was your background in the area
 20 before then?
 21 MR. JONES:
 22 A. I started with Newfoundland and Labrador
 23 Hydro upon graduation from Engineering in
 24 1986. So, I am what you'd call a lifer, not
 25 quite as long as Jim, but 33 years is a long

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1 time in a corporation. I started off in the
 2 distribution and planning role with the
 3 generation planning, business development
 4 activities.
 5 So, I've had my hands in some of the
 6 recent – or the developments over the last
 7 30 years, so, Granite Canal approval, the
 8 wind projects. I managed the acquisition of
 9 both wind projects here in the Province and
 10 I moved in the business development role,
 11 part of that was also moving onto and
 12 addressing what has become Nalcor Energy
 13 Marketing.
 14 GREENE, Q.C.:
 15 Q. Excuse me, Mr. Jones, could you speak up?
 16 The transcriber is having difficulty hearing
 17 you.
 18 MR. JONES:
 19 A. How's that? Better? Okay. And then in
 20 2009, when we made the – or we completed the
 21 exercise to manage the recapture a little
 22 bit differently, that's when I had a bit of
 23 a dual role, business development and energy
 24 marketing, and then in 2015 when the
 25 transition to Nalcor Energy Marketing, what

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1 has become Nalcor Energy Marketing was
 2 complete, that's when my focus turned 100
 3 percent to energy marketing.
 4 EATON, Q.C.:
 5 Q. Okay. Tell us about Nalcor Energy
 6 Marketing.
 7 MR. JONES:
 8 A. Nalcor Energy Marketing. So, privileged to
 9 be here to talk about, I guess, one of the
 10 topics that's probably the newest to the
 11 commission here and to most of the players
 12 here in the Province.
 13 So, what I'll do, I'd like to go
 14 through a little bit of a review on the
 15 evolution of the marketing business, so
 16 basically how we came to be where we are
 17 right now, give a little bit of background
 18 and some background as to what Nalcor Energy
 19 Marketing does on a day-to-day basis and the
 20 assets that we manage today and into the
 21 future. We'll talk about also the security
 22 supply and asset optimization and what we've
 23 dubbed as the framework for the Hydro
 24 marketing collaboration. And finally to
 25 summarize it.

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1 So, if we look at the evolution of the
 2 energy marketing business, the evolution
 3 timeline really started in 2008. So, in
 4 going back a number of years before that,
 5 from 1998 to 2008 recapture in Labrador or
 6 the full amount of recapture was recalled by
 7 Newfoundland and Labrador Hydro. Recapture
 8 was used by consumers in Labrador and what
 9 was remaining was sold under term contracts
 10 to Hydro Quebec.
 11 There were a number of renewals of that
 12 contract and then in 2008 when the then
 13 current contract was up for renewal or up
 14 for – it was expiring in early 2009, we were
 15 charged with evaluating what is the best way
 16 to get the greatest amount of value from
 17 that surplus recapture product.
 18 So, at that time, in late 2008 into
 19 early 2009, we conducted a review of
 20 alternatives for surplus recapture energy.
 21 I won't get into all of the details around
 22 that, but ultimately, what we did, what we
 23 ended up doing was we decided that the best
 24 opportunity that gave us greatest value was
 25 to take the marketing – or take marketing

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1 control ourselves.
 2 As part of that exercise, we conducted
 3 a market solicitation for energy trading
 4 services. So, we interviewed and evaluated
 5 a number of large and small energy marketing
 6 companies around the continent, and
 7 ultimately we selected Emera Energy Services
 8 as the service provider. So that started in
 9 April of 2009.
 10 Later that year, we initiated a
 11 strategic review of our long-term trading
 12 options. At that time, of course, there was
 13 some contemplation of further development on
 14 the Lower Churchill Project or on the Lower
 15 Churchill River and with that in mind, we
 16 said let's take a step back and then do a
 17 strategic evaluation of what is the best way
 18 to manage these surpluses in the Province.
 19 And in the next couple of slides, I'll get
 20 into what that strategic review actually
 21 entailed. But in early 2011, we concluded
 22 that with a new development on the Lower
 23 Churchill, the internal growth, what would
 24 become NEM was the preferred alternative to
 25 provide the greatest value to the

Page 185	<p>1 corporation and upon completing that</p> <p>2 assessment, we then turned our mind to</p> <p>3 creating an implementation plan that would</p> <p>4 see us execute upon that decision.</p> <p>5 But we did not pull the trigger on</p> <p>6 moving that way until we had sanction,</p> <p>7 project sanction in late 2012. So, when the</p> <p>8 Muskrat Falls Project was sanctioned in</p> <p>9 2012, we then took a step back and we went</p> <p>10 back and re-evaluated our strategic analysis</p> <p>11 that we had done a couple of years earlier</p> <p>12 to ensure that the decisions and the</p> <p>13 conclusions that came out of that assessment</p> <p>14 were still valid. We concluded that they</p> <p>15 were valid and then it was at that time that</p> <p>16 we started the implementation plan for</p> <p>17 Nalcor Energy Marketing and that</p> <p>18 implementation took over two years to</p> <p>19 conclude to bring us to what eventually</p> <p>20 became Nalcor Energy Marketing.</p> <p>21 The corporation was completed in 2014.</p> <p>22 A big part of what had to happen in those</p> <p>23 two years was the establishment of all of</p> <p>24 the facilities, the recruitment of staff,</p> <p>25 the setting up of the appropriate work</p>	Page 187	<p>1 desk. So, those people would run on shift</p> <p>2 work managing the real-time activities. In</p> <p>3 addition to that, we have traders, analysts,</p> <p>4 computer IT folks, regulatory and compliance</p> <p>5 manager and myself.</p> <p>6 EATON, Q.C.:</p> <p>7 Q. Okay.</p> <p>8 MR. JONES:</p> <p>9 A. And in addition to that, of course, there's</p> <p>10 some other shared services with Nalcor, from</p> <p>11 a risk management oversight perspective and</p> <p>12 from a contract settlement basis, paying our</p> <p>13 bills and receiving our incomes.</p> <p>14 So, if we now turn our attention to the</p> <p>15 strategic review that we completed back</p> <p>16 then, but we were operating under that</p> <p>17 contract with Emera and we considered a</p> <p>18 number of alternatives. First was did we</p> <p>19 continue with Emera? Do we seek another</p> <p>20 agency type of arrangement? Is there a</p> <p>21 joint venture available to us? Could we</p> <p>22 acquire a marketing company? Do we grow</p> <p>23 organically, internal growth, what has</p> <p>24 become NEM, or do we even cease marketing</p> <p>25 and trading activities altogether and try to</p>
Page 186	<p>1 processes and frameworks, risk management</p> <p>2 not the least of which, which I'll talk</p> <p>3 about a little bit further.</p> <p>4 And then in April of 2015, we concluded</p> <p>5 the contract with Emera and Nalcor Energy</p> <p>6 Marketing basically started our full service</p> <p>7 internal corporation and that's a 24-hour-a-</p> <p>8 day operation. So, the lights on the fifth</p> <p>9 floor corner of the Hydro building do not go</p> <p>10 out. It's 24 hours a day, 365 days a year.</p> <p>11 EATON, Q.C.:</p> <p>12 Q. How many people would be there?</p> <p>13 MR. JONES:</p> <p>14 A. There would be -</p> <p>15 EATON, Q.C.:</p> <p>16 Q. Not at a time, but overall within NEM.</p> <p>17 MR. JONES:</p> <p>18 A. Overall within NEM, we have 25 full-time</p> <p>19 equivalents.</p> <p>20 EATON, Q.C.:</p> <p>21 Q. And how are they split up within the</p> <p>22 organization?</p> <p>23 MR. JONES:</p> <p>24 A. So, we would have – there are eight real-</p> <p>25 time energy traders that operate the 24-hour</p>	Page 188	<p>1 revert back to a border sale, for lack of a</p> <p>2 better word, with a counterpart in maybe a</p> <p>3 Hydro Quebec or somebody else.</p> <p>4 We engaged experts in energy marketing,</p> <p>5 financial risk management, market access in</p> <p>6 both the United States and in Canada,</p> <p>7 organizational structure and tax planning to</p> <p>8 assist in the strategic assessment. In</p> <p>9 completing the assessment, we had a number</p> <p>10 of decision criteria obviously. These</p> <p>11 decision criteria included our experience</p> <p>12 under the then current Emera marketing</p> <p>13 contract.</p> <p>14 We wanted to make sure we had the</p> <p>15 ability to maximize our portfolio of value,</p> <p>16 the ability to expand our market access.</p> <p>17 Obviously risk management efficiency is</p> <p>18 critical to any trading organization.</p> <p>19 What's the ability to manage and support</p> <p>20 portfolio expansion into the future?</p> <p>21 Availability of key resources is obviously a</p> <p>22 critical consideration in developing any</p> <p>23 organization, and finally cost effectiveness</p> <p>24 of the organization.</p> <p>25 The internal growth model was chosen</p>

<p style="text-align: right;">Page 189</p> <p>1 because on the whole, it presented the 2 greatest overall strategic value to Nalcor. 3 Not only that, it also offered approximately 4 25 percent lower overhead costs as compared 5 to continuing with the contracted model that 6 we were living in at that time. And the 7 decision to move forward, as I mentioned 8 earlier, was linked to a significant 9 expansion of a portfolio and that 10 significant expansion occurred with the 11 sanction of the Muskrat Falls Project. 12 I had mentioned that risk management 13 obviously is critical and is a key 14 requirement of any trading organization is 15 to have that comprehensive risk management 16 toolset. We engaged a number of experts. 17 KPMG was one of our key expert, subject 18 matter experts on risk management, was a key 19 contributor to the development of the risk 20 manual. And the risk manual establishes 21 that risk management framework that's 22 inherent in them. So, any trading 23 organization has inherent risks and they 24 have to be managed obviously. The marketing 25 manual is founded in industry best practices</p>	<p style="text-align: right;">Page 191</p> <p>1 Those are the roles and responsibilities 2 that extend from the Board of Directors of 3 the corporation right down to the traders 4 and the analysts that are doing their day- 5 to-day activities. 6 Talks about approved transaction types 7 and delegation of authority. So, when we 8 say approved transaction types that says 9 what we are allowed to do from a trading 10 perspective, but it also says what we are 11 not allowed to do. So, for example, 12 basically the energy marketing activities 13 are all physically backed. So, we have to 14 have something physical behind it, whether 15 it's energy or transmission. We are not 16 permitted to transact on a purely 17 speculative basis. So, we cannot go out and 18 buy energy on the spot or on spec and buy 19 transmission on spec. We have to either own 20 one or the other. So, that's just an 21 example of the types of transactions that 22 are allowed and some that are disallowed. 23 Of course, financial risk management is 24 key to any commodity business. So, 25 commodity risk, foreign exchange, credit</p>
<p style="text-align: right;">Page 190</p> <p>1 and Nalcor's enterprise risk management 2 framework that is overseen by Nalcor's Board 3 of Directors. 4 Our day-to-day trading activities and 5 compliance with established risk parameters 6 are overseen and reported by Nalcor's 7 Treasury and Risk Management Department. 8 That is a daily activity. We have obviously 9 computer IT systems, computer systems that 10 track our transactions and will report any 11 violations. If a trader goes outside of 12 their bounds or any activity is outside of 13 the bounds of that risk manual, the system 14 will identify it and on top of that, to make 15 sure that we don't just rely 100 percent on 16 technology, we also have an individual that 17 is dedicated 100 percent of overseeing the 18 day-to-day trading activities to ensure 19 compliance with our risk guidance. 20 Some of the topics that are included in 21 that risk manual – so, the risk manual is 22 very comprehensive. It describes the 23 oversight framework and the structure of the 24 risk manual itself. Talks about the risk 25 management roles and responsibilities.</p>	<p style="text-align: right;">Page 192</p> <p>1 risk, transmission congestion risk. So, 2 transmission congestion, that's basically 3 you have a four-lane highway that cuts down 4 to a two-lane highway and the cars – there's 5 a tie. So, how do we manage that congestion 6 point, that point of congestion and ensure 7 that we still achieve appropriate value for 8 what we're delivering to the market? 9 From an operational risk management 10 program, it's trading and scheduling risk, 11 so the real time day-to-day activities of 12 actually entering trades into the systems 13 and executing on those trades. Production 14 risks, information systems risks, 15 confirmation and settlement, dispute 16 resolution and human resource risk as well. 17 We also have a regulatory risk 18 management program, including the compliance 19 framework. They talk about the electricity 20 industry being deregulated, you know, as 21 part of the efforts of the United States. 22 It's really been re-regulated and it 23 probably has more regulation now than it 24 ever had before and it's a full-time job to 25 ensure compliance with the various</p>

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1 regulatory obligations in the various
 2 markets in which we participate.
 3 Portfolio Management and Expansion.
 4 So, how do we manage expansion? So, there's
 5 a very strict framework as to how additional
 6 products and additional trade activities can
 7 be authorized within the organization.
 8 Performance Reporting. Obviously, we need
 9 to report on our performance on a day-to-day
 10 basis, and finally, Management of Change.
 11 So, as the manual—it was developed, but it
 12 is a living document and it goes through
 13 continuous change and it's reviewed at least
 14 once a year.
 15 (1:15 p.m.)
 16 So, now I'd like to get into a little
 17 bit of a background and the assets that NEM
 18 is currently managing today. And the
 19 background, I'm going back to school and
 20 going to do a little Energy Marketing 101.
 21 So, at the core, energy is traded on a
 22 megawatt hour or megawatts per one hours.
 23 It's priced in dollars per megawatt hour.
 24 Folks might be more comfortable with cents
 25 per kilowatt hour. Five cents a kilowatt

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1 hour is \$50 a megawatt hour. Capacity.
 2 Both generation and transmission capacity is
 3 traded and is traded in megawatt quantities.
 4 I've got the example here of dollars per
 5 megawatt month, but it could be a dollar per
 6 megawatt year, month, week, day, hour,
 7 depends on what you're buying and selling at
 8 the particular time. Ancillary services,
 9 voltage and frequency support, operating
 10 reserves, et cetera, and others in the
 11 electricity business, obviously renewable
 12 energy, certificates and greenhouse gas
 13 credits are becoming ever more predominant
 14 in the industry and we are positioned to
 15 trade those as well. So, when we talk about
 16 electricity markets, so those are the things
 17 that we trade in the markets. When we talk
 18 about electricity markets, there are really
 19 two broad types of markets. One is the
 20 clearing or the spot market. So, that's—
 21 picture a trading floor in New York or on
 22 Bay Street. It's the same thing. It's
 23 mostly technology driven, a bunch of folks
 24 sitting behind, you know, platforms in which
 25 trades are entered and cleared. There are--

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1 in these clearing markets, there are what we
 2 call day-ahead transactions and real-time
 3 transactions. Day-ahead transactions. So,
 4 early this morning, we would have committed
 5 our supplies, our deliveries that would end
 6 up in New York, for example, starting at
 7 midnight tonight and running for 24 hours a
 8 day for tomorrow. In real time, that's—it's
 9 not really real time. It's actually about
 10 90 minutes or 60 minutes before the hour of
 11 energy flow. The price is then set in the
 12 clearing markets through what's called a
 13 reverse auction where generator bids are
 14 cleared against load bids. And what happens
 15 there is—I'll do a very simple example.
 16 Let's say there's a thousand megawatts of
 17 load that has to be met. The first
 18 generator that clears that market is the
 19 generator that bids the lowest. So, if a
 20 wind-producer came in at 50 megawatts for
 21 zero dollars per megawatt hour, that would
 22 clear the market first. And then, the next
 23 one, and the next one, and the next higher
 24 bid would go up. The last generator that
 25 clears the market, so when generation and

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1 load are exactly the same, whatever price
 2 was bid in by that last generator, everybody
 3 that cleared the market receives that price.
 4 So, the wind generator that would have bid
 5 zero dollars, if the market cleared at a gas
 6 generator at \$50 a megawatt hour, then the
 7 wind generator actually receives \$50 per
 8 megawatt hour for that block of energy, that
 9 it bid into it. And while it's—while the
 10 prices are actually set each hour, most of
 11 the jurisdictions clear this market every
 12 five minutes, and what we—the hourly pricing
 13 that we see is the average of all the five-
 14 minute clears that we've been—the traders
 15 will call them ticks, five-minute ticks,
 16 acronym--or jargon. So, examples of these
 17 clearing markets would be the New York
 18 Independent System Operator, the Independent
 19 System Operator in New England and the
 20 Independent System Operator for Ontario. In
 21 addition to those clearing markets which
 22 again are largely platform based, you have
 23 contract markets. So, this is your classic
 24 trader. You put your two traders on either
 25 end of a phonenumber and they're, "I've got X

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1 to sell at Y price. Do you”—“Are you a
 2 buyer?” So, basically, the prices are
 3 determined through a mutually-agreed
 4 bilateral contract. What complicates things
 5 is you can also have bilateral contractors
 6 in clearing markets which is quite common,
 7 although not all that prevalent, but the—so,
 8 for example, in Massachusetts, for example,
 9 or ISO New England, it’s a clearing market,
 10 but as you would have heard Power Advisory
 11 talking about earlier, Massachusetts went
 12 out and sought a one-thousand megawatt
 13 contract with Hydro-Quebec for a contract.
 14 So, those contracts clear and they’re all
 15 cleared through the Independent System
 16 Operators in New England itself. So,
 17 examples of contract markets, pure contract
 18 markets, would be Quebec, New Brunswick,
 19 Nova Scotia and PEI. So, then, when we get
 20 into this next slide, it’s talking about
 21 what are the markets and what is it that NEM
 22 participates in? So, in Canada, we are—we
 23 have authorizations and permits to operate
 24 in Newfoundland and Labrador, Quebec,
 25 Ontario, New Brunswick and Nova Scotia. In

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1 the United States, we have permits to
 2 operate in New York and all six New England
 3 states. Other significant permits that
 4 Nalcor Energy Marketing has, we have the
 5 National Energy Board Export Permit. That’s
 6 a permit that allows us to export energy out
 7 of Canada into the United States. We have
 8 the Department of Energy Export Permit which
 9 allows us to bring energy from the United
 10 States into Canada. So, that’s a US permit.
 11 And finally, we have the Federal Energy
 12 Regulatory Commission Market Base Rate
 13 Authority or MBR. And this is a permit that
 14 we have to have in order to sell at market
 15 base rates. So, basically, we had to
 16 demonstrate that we did not have undue
 17 market influence in the markets in which we
 18 are participating, so that we wouldn’t skew
 19 the marketplace itself. On top of that, we
 20 have numerous trading agreements. These are
 21 industry standard enabling agreements. So,
 22 as you can picture most bilateral contracts
 23 are very long, drawn-out contracts with, you
 24 know, settlement, you know, dispute
 25 resolution mechanisms, who you pay, et

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1 cetera, et cetera. That’s what we would
 2 call the boiler plate. We have—we enter
 3 into enabling agreements with the various
 4 counterparties that set out all of these
 5 boiler plate terms, and then when a trade is
 6 struck, then the trade is over a recorded
 7 phoneline or on a platform. When the trade
 8 is actually entered into the system with a
 9 counterparty, then it’s governed by that
 10 enabling agreement. So, the traders that do
 11 the day-to-day trading, they enter the trade
 12 either on a platform or over the phone.
 13 It’s all recorded and then it all—the
 14 settlement of that contract rolls back into
 15 these enabling agreements. So, turning next
 16 to the electricity assets for extra-
 17 provincial trades. So, what is it that NEM
 18 is managing on a day-to-day basis? From a
 19 capacity energy perspective, we’re managing
 20 Hydro’s surplus energy including recapture.
 21 Muskrat Falls’ residual energy when it comes
 22 up in a year or so. Combined, that’s about
 23 three and a half terawatt hours of energy
 24 each year and we would have the capacity to
 25 offer to the markets, but of course, that

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1 subject to the outcome of Hydro’s
 2 Reliability and Resource Adequacy Study.
 3 Turning next to transmission. Through
 4 Quebec we manage the 265-megawatt Firm
 5 Transmission Reservation, 500 megawatts over
 6 the Maritime Link in both directions. We
 7 have 330 megawatts of transmission capacity
 8 that flow through Nova Scotia. There’s 260
 9 megawatts of transmission capacity through
 10 New Brunswick for the seven summer months of
 11 the year. In New England we have 300
 12 megawatts of congestion rights. So, these—
 13 so basically, these rights give us the
 14 ability to have priority when there’s a tie
 15 in the bidding process and the market
 16 clearing, and we see congestion on the
 17 interface. These congestion rights give us
 18 the priority and the ability to flow our
 19 energy so we actually meet the market and we
 20 deliver our energy to market. In addition
 21 to that, we have the Bayside capacity call.
 22 Bayside is a 270-megawatt combined cycle
 23 combustion turbine located in Saint John,
 24 New Brunswick. We have up to 250 megawatts
 25 of capacity backup assistance to support our

<p style="text-align: right;">Page 201</p> <p>1 transactions into New England if we desire 2 to use that. We're managing Hydro's, 3 Newfoundland and Labrador Hydro Electric 4 reservoir capacity. That's the combined 5 reservoir capacity of Muskrat, all of the 6 Island assets as well as Churchill Falls, 7 renewable attributes and greenhouse gas 8 credits of course. And what the future 9 brings, who knows? Maybe it's Gull Island. 10 Maybe it's something different. I don't 11 know, but we're positioned for that into the 12 future. Incidentally, just to go back to 13 Mr. Easton's question there earlier on, the 14 number of FTEs, so right now, we manage 15 roughly about a terawatt hour and a half of 16 energy, surplus energy, recapture energy out 17 of Labrador. When we grow to three and a 18 half terawatt hours of energy, we are not 19 changing the complement at all. So, the 20 business right now is mature and sufficient 21 to manage the quantities of energy that will 22 come with Muskrat Falls. So, there's no 23 additional growth in the marketing business 24 contemplated at this time. So, from a total 25 export volume perspective, and I went back</p>	<p style="text-align: right;">Page 203</p> <p>1 have really two guiding principles for 2 collaboration. First and foremost is 3 security of supply, and the way that we 4 thought best to illustrate and to exemplify 5 how that security of supply obligation is 6 being managed. We drew a few statements out 7 of the interim contracts that we have right 8 now. So, this is out of the NEM NLH Interim 9 PPA which we've been operating under for 10 over a year now. So, the first definition 11 there is NLH committees. Basically, that's 12 Newfoundland and Labrador Hydro's domestic 13 load. The next statement there, "NEM and 14 NLH agree that the operations of the NLH 15 facilities and imports from external markets 16 shall be coordinated, and that those 17 generation facilities shall be dispatched in 18 the manner that ensures that NLH commitments 19 and any other obligations that NLH are 20 satisfied and paramount." And it talks 21 about how we manage the facilities and 22 imports to meet the commitments. The 23 secondary principle for collaboration is 24 resource optimization. So, in addition to 25 securing supply, once that security of</p>
<p style="text-align: right;">Page 202</p> <p>1 to the National Energy Board's 2018 2 statistics on exports. Following the 3 completion of Muskrat Falls, and if we 4 exclude any contractual commitments to 5 Hydro-Quebec and to Emera, Nalcor will sit 6 as the fifth-largest Canadian exporter out 7 of a field of more than 50 exporters in the 8 country. With the Gull Island development, 9 Nalcor Energy is ranked number 2 and of 10 course following Churchill Falls, the 11 contract expiring in 2041, Nalcor is the 12 single largest exporter in Canada by far. 13 There will be nobody even close. So, the 14 next—now, I'd like to turn attention to 15 Security of Supply and Asset Optimization. 16 So, this section really provides a summary 17 of how Newfoundland and Labrador Hydro and 18 Nalcor Energy Marketing are today and will 19 be into the future. "First of all, ensuring 20 a security of supply for domestic load 21 remains paramount in all decisions." And 22 how we will be working together to maximize 23 value creation opportunities that arise due 24 to the connection of the Island system with 25 the broader North American grid. And we</p>	<p style="text-align: right;">Page 204</p> <p>1 supply, domestic supply obligation has been 2 met, the next goal is the designing, and the 3 design of operations is to return maximum 4 value to the province from the operations of 5 these electricity assets. Optimizing the 6 short-to-medium-term generation options, 7 that occurs when we manage our hydro 8 generation to first of all minimize spill, 9 minimize thermal production, maximize export 10 volumes at times of higher prices and 11 maximize the value of storage through 12 ponding activities. And combining our 13 pooling generating sources and reservoirs 14 provides the best opportunity to maximize 15 the value of resources that are currently 16 held in different legal entities. 17 Obviously, we'd never ever want to see a 18 situation in which, for example, 19 Newfoundland and Labrador Hydro and Power 20 Supply would be competing against each 21 other, as if Muskrat and Hydro are competing 22 against each other. The only winner there 23 is the customer on the other side. So, 24 we'll give up value. And I'd just like to 25 build on the third sub-bullet there. It</p>

<p style="text-align: right;">Page 205</p> <p>1 talks about maximizing export volumes at 2 times of higher prices. This unique to a 3 hydro electric industry with large storage. 4 So, we are not a—we don't have to be a 5 price-taker, unlike a wind project or a run- 6 of-river hydro project that basically 7 generates when the resource is there. Large 8 scale storage gives us the ability to time 9 the market and store energy when it makes 10 sense to hold it back when prices are down 11 and ship it out when prices are high. And 12 this next slide is re setting up. It's a 13 bit of a setup and these next slides that 14 talk—really talking about water management 15 and the collaboration and the integration of 16 the Hydro and Nalcor assets to maximize 17 value. So, I think it's probably worthy of 18 actually reading out these here, and these 19 are also from the Hydro NEM Interim PPA. 20 So, production planning is basically water 21 management. So, "Performance of Production 22 Planning. NEM shall at all times perform 23 production planning in a manner that 24 satisfies NLH's forecasted energy capacity 25 and system requirements. Planning</p>	<p style="text-align: right;">Page 207</p> <p>1 So, when we look at this need to bring 2 all of the various entities together to 3 maximize value to secure our security of 4 supply, we set up our operations for optimal 5 results. And from an energy demand and 6 supply perspective, the focus of our various 7 operating entities are as follows. So, 8 Hydro, the Resource and Production Planning 9 Department is a primarily focused on 10 ensuring Hydro fulfills its mandate of 11 reliable service consistent with least-cost 12 operations. It has to view the customer 13 requirements, both short and long term, 14 respond to the demands that are place on its 15 assets, and is always aware of, obviously, 16 the—all aspects of its operation. Churchill 17 Falls and Muskrat are primarily concerned 18 with plant operations and maintenance and 19 meeting their contractual contract 20 commitments, not the least of which, of 21 course, will be contractual commitments to 22 Newfoundland and Labrador Hydro. And NEM is 23 the face to extra-provincial markets and is 24 primarily concerned with managing water 25 resources and compliance with established</p>
<p style="text-align: right;">Page 206</p> <p>1 Guidelines." So, "Hydro shall provide the 2 technical rules that govern production 3 planning to ensure that the security of 4 supply for purposes of supplying NL native 5 load is at all times maintained at 6 acceptable levels in accordance with good 7 utility practice." So, these are the 8 Production Planning Guidelines. "And they 9 may be revised from time to time by Hydro. 10 NEM shall provide each production plan to 11 NLH upon the completion of same in a timely 12 manner. NLH shall approve or reject such a 13 plan based on compliance with the Production 14 and Planning Guidelines," and then tell us 15 where we've erred. So, let's be perfectly 16 clear as the individual accountable for 17 running the Energy Marketing business, there 18 is no dispute, there is no lack of clarity 19 in my mind as to the obligations that we 20 have to have and we have to deliver upon. 21 First and foremost is security of supply and 22 Hydro—and we'll talk about how Hydro 23 actually exercises its oversight over that 24 obligation in the next couple of slides. 25 (1:30 p.m.)</p>	<p style="text-align: right;">Page 208</p> <p>1 reliability criteria. So, it's the stuff we 2 just talked about in these Production 3 Planning Guidelines. And then, value 4 creation. And NEM responds to market 5 signals in both domestic and extra- 6 provincial markets because you need to have 7 a view to both to be able to maximize the 8 value. Each of these entities have a very 9 clear focus on driving excellence in their 10 respective business. So, there's no 11 confusion as to who is doing what. So, now 12 we get to water management and production 13 scheduling in particular. To be effective 14 in that role, the folks that are doing that 15 function must have an intimate knowledge and 16 understanding of the factors that place 17 demands on all of the production assets, 18 domestic load, weather, unit maintenance, et 19 cetera, and an intimate knowledge and 20 understanding of all factors that are 21 influencing the external markets. So, wind 22 in Ontario is just as important as the price 23 of gas in New England and those are the 24 factors that we weigh each and every hour 25 when we're making our decisions as to which</p>

Page 209	<p>1 markets we're targeting. And operational 2 integration is at the core of success in 3 optimizing production assets. So, as asset- 4 owners, Hydro, Churchill Falls and Muskrat 5 Falls maintain full control and 6 accountability over each of their assets. 7 Hydro and the Newfoundland and Labrador 8 System Operator maintains full 9 accountability for ensuring security of 10 supply to domestic customers, and to meet 11 these requirements, in light of increasing 12 market activity due to the new 13 interconnections that we have and increasing 14 surpluses, all of our marketing strategies 15 are designed to ensure that asset integrity 16 and security of domestic supply remain 17 paramount in all decisions. So, NEM is 18 charged with optimizing the operation and 19 maximizing the value of provincial surpluses 20 while at all times operating within the 21 Production Planning Guidelines. And just 22 for clarity, when we say "Production 23 Planning Guidelines," these are not, "Oh, 24 you should do this." These are "must- 25 haves." So, there's no dispute as to</p>	Page 211	<p>1 including any contract commitments to Hydro 2 Quebec or to Emera and we're not including 3 the Labrador Industrial which are outside of 4 the regular purview. But all of the 5 generation that's available, as much as a 6 third of that will be going to external 7 markets. It could be more in a wet year; it 8 could be less in a dry year. 9 So, that's one of the other things that 10 we have to manage when we're managing our 11 water. We have to manage the variability of 12 our inflows; that can be as much as a swing 13 of a terawatt hour one way or the other 14 around our average. So, in practice, 15 Hydro's oversight of NEM's activities is 16 largely achieved through weekly water 17 management meetings between Hydro and NEM. 18 In these meetings, production plans for the 19 upcoming week are discussed and approved and 20 operating instructions are then issued to 21 the system operator and to the NEM front 22 office. 23 So, in summary--I promise this is the 24 last slide. The decision to proceed with 25 the internal growth model which is what has</p>
Page 210	<p>1 whether we must abide by the guidelines. It 2 is a given. So, NEM is the group within 3 Nalcor that has a view to do--to these 4 discretionary purchase and sales that drive 5 value from extra-provincial market activity. 6 And the reason I put "discretionary" there is 7 that Newfoundland and Labrador Hydro serves 8 the load of its customers when the customer 9 turns a switch on. There is no discretion; 10 there is no decision to be made. That load 11 is supplied, end of story. When we're 12 marketing to customers outside the province, 13 we are making decisions as to whether we're 14 going to serve that load now or are going to 15 wait for a better price load to serve at 16 some point in the future. Following the 17 completion of Muskrat Falls and the 18 associated transmission facilities during 19 average water year, we forecast it at as 20 much as one third of available provincial 21 generation production will go to serve extra 22 Provincial markets. So, that's the 23 generation that is generally available to 24 meet customers' demands here in the 25 Province. So, in this statistic we're not</p>	Page 212	<p>1 become NEM is founded upon a comprehensive 2 strategic and cost analysis. The internal 3 growth model offers 25 percent lower 4 overhead costs compared to the contracted 5 solution that we had experienced for a 6 number of years. WE have more than 10 years 7 trading experience and following Muskrat's 8 completion will be one of the larger 9 Canadian exporters certainly in the top ten 10 percentile. We operate on a comprehensive 11 risk management and oversight framework 12 that's modelled on industry best practices. 13 And Hydro and NEM are working together 14 collaboratively to create maximum value from 15 our external market activities while always 16 ensuring security of domestic supply. 17 We operate under a framework for 18 collaboration that provides clear lines for 19 decision making and accountability 20 oversight. We've already returned 21 significant values to Hydro and its 22 customers and to Nalcor and to the 23 discussion talking about future 24 opportunities, NEM is the entity within 25 Nalcor that has the market knowledge to</p>

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1 support these future initiatives. And with
 2 that, I say thank you.
 3 EATON, Q.C.:
 4 Q. I got two questions, very quickly. Number
 5 one, what is NEM’s budget, annual budget?
 6 MR. JONES:
 7 A. Between five and six million dollars total.
 8 GREENE, Q.C.:
 9 Q. What was that number?
 10 MR. JONES:
 11 A. Between five and six million dollars total
 12 and that includes all chargings from all
 13 aspects of the organization. That’s the
 14 fully loaded costs.
 15 EATON, Q.C.:
 16 Q. The second question is, if you were to
 17 contract out trading, how many of the
 18 existing NEM personnel would be needed to
 19 manage the water, co-ordinate with the
 20 external trader?
 21 MR. JONES:
 22 A. So that was a question that was put to us, I
 23 believe in CA 233, it might have been. I
 24 think in that scenario we would have assumed
 25 that Hydro would not be willing to let its

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1 value to rate payers to realize. Thank you
 2 very much.
 3 Upon conclusion at 1:39 p.m.
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1 water management activities go to an entity
 2 outside of the group of companies. So,
 3 that’s four FTEs that would have to remain
 4 within the organization or within—four FTEs
 5 that we could not contract out. In addition
 6 to that I believe the number was seven or
 7 eight other individuals that would be
 8 responsible for payment, still need to do
 9 risk oversight and we still need to manage
 10 that contract.
 11 EATON, Q.C.:
 12 Q. Those are the questions that I have. That’s
 13 it.
 14 CHAIR:
 15 Q. So, Mr. Browne, I guess when we come back in
 16 in the morning, we’ll go right to you.
 17 Thank you. Have a good afternoon.
 18 BROWNE, Q.C.:
 19 Q. Yes, thank you and if they can put
 20 information to the numbers that they’re
 21 given. I think they may have given us some
 22 already, we’ll have a look tonight, in
 23 reference to costs and costs of operating.
 24 We all have an open mind on NEMs (phonetic)
 25 of what we’d like to see, if it’s of any

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CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of Reference to the Board, Rate Mitigation Options and Impacts, Muskrat Falls Project, heard on the 9th day of October, 2019 before the Newfoundland and Labrador Board of Commissioners of Public Utilities, 120 Torbay Road, St. John’s, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John’s, Newfoundland and Labrador this 9th day of October, 2019

Judy Moss

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