

Page 1

1 (9:08 a.m.)
 2 MR. JOHN MACISAAC RESUMES STAND, PREVIOUSLY SWORN
 3 CHAIRMAN:
 4 Q. So before we start, I believe, Mr. MacDougall,
 5 sir, you have one matter you wish to address.
 6 MR. MACDOUGALL:
 7 Q. I do, Mr. Chair, thank you very much. Mr.
 8 MacIsaac wants to clarify one item that Mr.
 9 Dumaresque asked him to look into, and Ms.
 10 Gray, if we could pull up the tender document
 11 for the combustion turbine? For the record,
 12 that's found in the current record at GT-DD-
 13 NLH-011, Attachment 1, and Ms. Gray has gone
 14 to SP-1, which is the specification document
 15 within that tender document and Mr. Dumaresque
 16 had asked a question as to whether or not the
 17 tender document referred to new or used or new
 18 or unused and I would just ask Mr. MacIsaac if
 19 he could respond to that question.
 20 MR. MACISAAC:
 21 A. Yes. Consistent with my statement yesterday
 22 and in line with the second last sentence in
 23 the first paragraph here, it says "the
 24 equipment provided shall be new or unused"
 25 which is consistent with my testimony

Page 2

1 yesterday.
 2 MR. MACDOUGALL:
 3 Q. Thank you, Mr. MacIsaac. That was the only
 4 preliminary matter we had, Mr. Chair.
 5 CHAIRMAN:
 6 Q. So Mr. Dumaresque, I believe, sir, we're back
 7 to you.
 8 CROSS-EXAMINATION BY MR. DANNY DUMARESQUE (CONT'D)
 9 MR. DUMARESQUE:
 10 Q. Thank you, Mr. Chairman. And on that point, I
 11 don't know where we disagreed because I
 12 understood that Mr. MacIsaac stipulated that
 13 the tender was only asking for unused
 14 equipment and my point was that it was new and
 15 unused and that's obviously what it was.
 16 MR. MACISAAC:
 17 A. Right.
 18 MR. DUMARESQUE:
 19 Q. So maybe there was just a misunderstanding
 20 there.
 21 MR. MACISAAC:
 22 A. We just missed one another then.
 23 MR. DUMARESQUE:
 24 Q. Yeah, okay. Well, I want to continue with the
 25 tendering and this morning, I would like to

Page 3

1 start by going back to look at GT-DD-NLH-011,
 2 Attachment 1, page 17 of 172, and again IT6,
 3 the tender security, and then item one, of
 4 course it says "a tender bond issued by the
 5 surety company that is licensed to conduct
 6 business under the laws of Newfoundland,
 7 acceptable to the owner, in the form set out
 8 in Schedule A, tender submission" and either
 9 that "or B, a certified cheque drawn on a
 10 chartered bank payable to the owner; or an
 11 irrevocable letter of credit from a chartered
 12 bank substantially in the form set out in
 13 Schedule A."
 14 I would like to go to page 101 of 500 on
 15 the same -- no, sorry, it's GT-DD-NLH-001,
 16 page 101 of 500. Yes, so as you can see
 17 there, there is a cashier's cheque drawn on a
 18 US bank dated April the 18th, 2014 for 6.4
 19 million dollars. This, Mr. MacIsaac, would
 20 this be the cheque that accompanied the bid by
 21 ProEnergy?
 22 MR. MACISAAC:
 23 A. I didn't see the cheque, but I'm supposing
 24 that it is and I think I made it clear
 25 yesterday that the payment came in two pieces

Page 4

1 and if I didn't make myself sufficiently clear
 2 in that space, I apologize. But there's --
 3 and I should step back and provide a bit of
 4 context first. So the way it works is they
 5 come in with a guarantee of a surety that can
 6 be in a number of different forms and then
 7 they have -- and this is consistent with our
 8 process on all contracts -- up to 48 hours to
 9 deliver that surety. And inside of the 48
 10 hours, we had a combination of this certified
 11 cheque and cash in our bank that actually
 12 exceeded the required 9.9 million dollars. So
 13 we were in just over ten million dollars, so
 14 we had both the certified cheque and the cash
 15 in our bank account within the 48 hours. That
 16 exceeded the surety requirements and our
 17 purchasing group had given us an email that
 18 confirmed the same. So we can, inside of the
 19 undertaking, because you asked for an
 20 undertaking in this space, we'll also provide
 21 that email from our purchasing group that
 22 confirmed that the surety was in place, sir.
 23 MR. DUMARESQUE:
 24 Q. Yes. Well, as you said yesterday, if you
 25 didn't have that, the tender would have been

Page 5

1 rejected and of course, nothing in this
 2 previous answer and certainly in the tender
 3 document, the instructions and information to
 4 tenderers, specified that they had 48 hours
 5 after to deliver the tender security.
 6 Absolutely not, it was very clear.
 7 MR. MACISAAC:
 8 A. That's our standard process, sir.
 9 MR. DUMARESQUE:
 10 Q. And I've been in business nearly 20 years and
 11 bid on government contracts and you open the
 12 tender box and the first thing that's looked
 13 at is the tender security. Either you have it
 14 or you don't, and clearly, absolutely no doubt
 15 that on that day of April the 21st, there was
 16 no tender document showing a certified cheque
 17 on a Canadian bank for ten percent of that
 18 contract. It was only the 6.4 million US
 19 dollar cheque. At ten percent, it was
 20 somewhere around seven million dollars. Why
 21 wasn't the tender rejected?
 22 MR. MACISAAC:
 23 A. So we're going to disagree on process. So
 24 again, I don't mean to frustrate you by
 25 disagreeing, but our process is such that the

Page 6

1 respondent comes in, they confirm that they
 2 have surety and they have 48 hours to provide
 3 surety, and that is our standard process
 4 inside of all the contract work that we do.
 5 And that's standard process. And we had
 6 confirmation in writing back from our
 7 purchasing group that inside of that 48-hour
 8 timeframe that the surety was in fact in
 9 place.
 10 MR. DUMARESQUE:
 11 Q. Okay. Well, I certainly look forward to
 12 getting the results of that undertaking.
 13 MR. MACISAAC:
 14 A. Sure.
 15 MR. DUMARESQUE:
 16 Q. I would like to now go to the GT-CA-NLH-005
 17 and this is the one where it's more difficult
 18 to see, but for -- maybe to make it a little
 19 bit easier, you could blow it up and --
 20 because the only two columns that I'm going to
 21 be looking at is ProEnergy and the PW Power
 22 Systems.
 23 MR. MACISAAC:
 24 A. Okay.
 25 MR. DUMARESQUE:

Page 7

1 Q. Because as you know, the document on the
 2 contract shows that the Wood Group, for
 3 example, had no bid security, so obviously
 4 that would have been rejected.
 5 MR. MACISAAC:
 6 A. That's correct. They were disqualified on the
 7 basis that the tender security did not arrive
 8 within the 48 hours.
 9 MR. DUMARESQUE:
 10 Q. That's right, and then of course, you had the
 11 other bid for 143 million, which was obviously
 12 off the radar as opposed to the other one.
 13 So, could you describe to me what this
 14 document is, the two pages that we're now
 15 looking at?
 16 MR. MACISAAC:
 17 A. It's an initial summary checklist, if you
 18 will, of the key components of technical
 19 compliance that's used to do a binary
 20 filtering, either a one or a zero, of
 21 compliance to the request of specification
 22 that was tendered. And we use it to do an
 23 initial ranking, but also to determine
 24 compliance and where we have gaps, so that it
 25 then points us in the right place. We know

Page 8

1 who's first, who's second and who's third type
 2 of thing from the outset, but then in addition
 3 to that, points to go back and clarify.
 4 (9:15 a.m.)
 5 MR. DUMARESQUE:
 6 Q. Right, okay. Well, I'd like to look at this
 7 document and as we go through it, certainly I
 8 will look at where there's a difference in the
 9 point system that's been allocated to
 10 ProEnergy and to PW Power Systems, but I
 11 suppose just to make sure that we all
 12 understand here, PW Power Systems, are you
 13 aware what they bid in, what kind of equipment
 14 that they bid on that day?
 15 MR. MACISAAC:
 16 A. Pratt and Whitney?
 17 MR. DUMARESQUE:
 18 Q. PW, yeah.
 19 MR. MACISAAC:
 20 A. Yeah. So they had mobile packs, four units,
 21 in at a price of 115.2 million with a combined
 22 or consolidated output in its nominal rating
 23 of 100 megawatts, sir.
 24 MR. DUMARESQUE:
 25 Q. Yes, so two things there then maybe you could

Page 9	Page 11
<p>1 confirm. Would this be new equipment or 2 unused equipment? 3 MR. MACISAAC: 4 A. New units, sir. 5 MR. DUMARESQUE: 6 Q. Yes, new units and with the manufacturer's 7 warranty? 8 MR. MACISAAC: 9 A. Yes, sir. 10 MR. DUMARESQUE: 11 Q. And also nominal meaning, I guess, as you 12 explained yesterday, 100 megawatts nominal 13 with different ambient temperatures, basically 14 cooler temperatures like we have here would 15 probably generate maybe 110 megawatts. Would 16 that be a fair conclusion? 17 MR. MACISAAC: 18 A. There were all identified as being nominal 19 ratings. 20 MR. DUMARESQUE: 21 Q. Yeah. 22 MR. MACISAAC: 23 A. So that same logic applies to the unit that we 24 purchased. It's nominal rating is 123.5. 25 MR. DUMARESQUE:</p>	<p>1 come from? Was this something that you 2 applied -- we never bought many combustion 3 turbines. I guess we did maybe two or three 4 in the history of Hydro. But where would you 5 have gotten this type of matrix or whatever 6 you classify it as, the technical evaluation? 7 Where would that have come from? Would this 8 be a made-in-Hydro document or would this have 9 come from some other place that design these 10 types of evaluations, technical evaluations? 11 MR. MACISAAC: 12 A. It's an in-house document, sir. 13 MR. DUMARESQUE: 14 Q. It's an in-house document? 15 MR. MACISAAC: 16 A. That's correct. 17 MR. DUMARESQUE: 18 Q. Okay. So if you look at SP-2, which is just 19 the first of the tender submissions which has 20 a weighting of 12, you look at the number two 21 and then it says that -- no, sorry, number 22 five. I did have a note by number two, but I 23 won't bother because they got equal rating 24 anyway. But number five, the plant start-up 25 time, that is an important piece of</p>
<p>1 Q. That's right, and the units, the unit that we 2 bought from ProEnergy had a nominal rating of 3 113 megawatts? Is that correct? 4 MR. MACISAAC: 5 A. No, sir, of 123.5 6 MR. DUMARESQUE: 7 Q. A nominal 123.5? 8 MR. MACISAAC: 9 A. An ISO nominal rating of 123.5 10 MR. DUMARESQUE: 11 Q. That's not what they advertised obviously, but 12 I'll take your answer. And at this point in 13 time, since we're onto that issue, how many 14 times since we started up the new CT has it 15 reached that level or exceeded it? We would 16 expect to have probably exceeded it? 17 MR. MACISAAC: 18 A. Yes, we have exceeded it. 19 MR. DUMARESQUE: 20 Q. To what level? 21 MR. MACISAAC: 22 A. Up around 135, sir. 23 MR. DUMARESQUE: 24 Q. Okay. And so when you did up this assessment 25 then, of course, was this -- where did this</p>	<p>1 information. On the ProEnergy bid, you gave 2 them the score of one on the basis that the 3 start-up time would be 21 minutes. The PW 4 Power System got zero and it's noted that it 5 couldn't find reference to start-up time. Now 6 we've had various -- we've had testimony here 7 in previous days relating to the start-time. 8 Can you confirm that indeed the plant start-up 9 time for this new generator is indeed 21 10 minutes? 11 MR. MACISAAC: 12 A. I'd say that's what's inside the technical 13 specification of how the unit is intended to 14 start. 15 MR. DUMARESQUE: 16 Q. We have had other testimony, and I certainly 17 haven't got the ability to show it here, but 18 are you -- now after seeing the unit perform - 19 MR. MACISAAC: 20 A. Okay. 21 MR. DUMARESQUE: 22 Q. - more about the technical, but as seeing the 23 unit perform and having heard the testimony 24 before, isn't it in fact true that the start- 25 up time is closer to 45 minutes than it is to</p>

Page 13

1 21?
 2 MR. MACISAAC:
 3 A. I don't believe so, sir. I mean, I spent a
 4 significant amount of time at site while we
 5 were commissioning the unit and we were
 6 cautious in early days and for us to start the
 7 unit inside of a timeframe that looks like 20
 8 minutes or under 20 minutes is normal.
 9 MR. DUMARESQUE:
 10 Q. Okay. Maybe you could give -- provide the
 11 information in an undertaking then to provide
 12 us with the documented start-up time for this
 13 plant? Would you mind providing us with that
 14 information?
 15 MR. MACISAAC:
 16 A. We agree.
 17 MS. GLYNN:
 18 Q. Noted on the record.
 19 MR. DUMARESQUE:
 20 Q. Yes. Now when it comes to the -- I'm just
 21 trying to picture how this grading was done
 22 and so, you know, was somebody -- could you
 23 describe, you know, who was doing this and
 24 what kind of environment they were in? I
 25 mean, were they inside of a room by themselves

Page 14

1 and they just had this piece of information,
 2 document here and this piece of information
 3 here and they just looked through it and did -
 4 - is that the kind of environment?
 5 MR. MACISAAC:
 6 A. There's a peer review step that goes into this
 7 as well. So the discipline leads -- so this
 8 is done by our project team first.
 9 MR. DUMARESQUE:
 10 Q. Right.
 11 MR. MACISAAC:
 12 A. And they go through and they do a first pass
 13 through all of the documents and discuss what
 14 we have from each of the respondents. Let me
 15 back up. I want to start by saying that our
 16 good fortune was that we were dealing with
 17 four very good companies from the outset, four
 18 very good companies, and we got four very good
 19 responses.
 20 MR. DUMARESQUE:
 21 Q. Well, three really, because one was dismissed,
 22 right.
 23 MR. MACISAAC:
 24 A. One was dismissed, but it was a good response.
 25 There was some limitations around it, but

Page 15

1 otherwise it was a good response. So, we had
 2 four good companies right out of the gate,
 3 which is a really good place to start. And
 4 unfortunately, we had to disqualify one of
 5 them for tender security. We then have three
 6 good offers and we go down through all of the
 7 offers over the course of an extended period
 8 of time. Because we combed through them in a
 9 lot of detail with the project team that's
 10 dedicated to doing this. So to your point,
 11 they're inside a room and that's all they're
 12 doing is going through and doing the initial
 13 rating.
 14 We then bring discipline leads to come
 15 and do, and I think I used the terminology
 16 before, a bit of a peer review or a sanity
 17 check. I think before I said sobriety check
 18 and I should have said sanity check. But, do
 19 a bit of a sanity check on the initial scoring
 20 that has been done by the project team. So
 21 there's a bit of a cold-eyes review by senior
 22 managers who run the mechanical group, the
 23 electrical group, the transmission group, and
 24 they come in and go through that binary
 25 thinking, a one or a zero, in terms of the

Page 16

1 responses that we've got, the completeness of
 2 them and if there's any big gaps inside of the
 3 responses.
 4 MR. DUMARESQUE:
 5 Q. Okay. But the document we have here then is
 6 the product of the process, the full process?
 7 MR. MACISAAC:
 8 A. It is, sir.
 9 MR. DUMARESQUE:
 10 Q. Okay. So what I'm wondering about is in this
 11 situation here, I mean we got 100-115 million
 12 dollars on the line, right.
 13 MR. MACISAAC:
 14 A. That's correct.
 15 MR. DUMARESQUE:
 16 Q. And then you say you couldn't find reference
 17 to the start-up time, but you knew they would
 18 start, so wouldn't somebody check with the
 19 other company with brand new units, the latest
 20 technology, full manufacturers warranty, and
 21 ask them "well, can you identify what the
 22 start time is?" Would somebody -- wouldn't
 23 that be a prudent to do or a fair thing to do,
 24 just ask them if you could tell me whether
 25 they can start in ten minutes or ten hours or

Page 17

1 what is it?
 2 MR. MACISAAC:
 3 A. Sorry, I'm going to back up for a second,
 4 because we have a process in this space and
 5 again, I don't want to frustrate you, and I
 6 want to make sure that we keep the focus on
 7 track. We're dealing with Pratt and Whitney
 8 Power Systems and an offer from ProEnergy,
 9 right. Both are offering good kit and we know
 10 that from the outset. The response from
 11 ProEnergy was more complete than the one from
 12 Pratt and Whitney Power Systems. The
 13 differential from the outset was 15 percent on
 14 price and 23 and a half percent by capacity.
 15 So, we, after doing the primary filtration,
 16 primary ranking, would have spent more of our
 17 time ensuring completeness of the offer from
 18 ProEnergy without question. So our attention
 19 inside of that is to go and look at the most
 20 complete offer first, and in this case again
 21 it's 15 percent lower and it's 23 and a half
 22 percent more capacity, and that is where we
 23 spent the majority of our time first is to
 24 determine compliance and completeness of that
 25 offer, sir.

Page 18

1 MR. DUMARESQUE:
 2 Q. Okay. But can you answer my question, please.
 3 Wouldn't it have been appropriate for somebody
 4 in that due diligence process and scrubbing
 5 and cleaning to pick up the phone and ask the
 6 PW Power Systems, "what is the start-up time
 7 on your machine?"
 8 MR. MACISAAC:
 9 A. I hear you. So, I don't know if we did or we
 10 didn't have that conversation and I'll check
 11 for you, if you like, sir.
 12 MR. DUMARESQUE:
 13 Q. I would appreciate it if you would.
 14 MR. MACISAAC:
 15 A. Okay.
 16 MR. DUMARESQUE:
 17 Q. Okay. And let's go down to -
 18 MR. KENNEDY:
 19 Q. Is that undertaking?
 20 MR. DUMARESQUE:
 21 Q. That's an undertaking again.
 22 MS. GLYNN:
 23 Q. Noted on the record.
 24 MR. DUMARESQUE:
 25 Q. Number eight in the same SP-2, "warranty

Page 19

1 details and terms". You gave a rating of one
 2 from ProEnergy and you also give a rating of
 3 one on the PW Power Systems. You say 24
 4 months with qualification. Now so just to be
 5 clear, at the close of the tender on April
 6 21st, you didn't have 24 months. Is that
 7 correct?
 8 MR. MACISAAC:
 9 A. I don't believe that's correct, sir. I think
 10 consistent with what you see here in front of
 11 you that they both responded that they would
 12 provide 24 months. That's what I read here.
 13 MR. DUMARESQUE:
 14 Q. Well, my reading -- again, I don't want to go
 15 to the specific section, but my understanding
 16 is it was 12 months and they only get an
 17 extension of 12 months on the condition that
 18 they become the operator or have some kind of
 19 an extra arrangement or something, which you
 20 negotiated after.
 21 MR. MACISAAC:
 22 A. That's why it says with qualification, sir.
 23 MR. DUMARESQUE:
 24 Q. Yeah. And similar to the -
 25 (9:30 a.m.)

Page 20

1 MR. MACISAAC:
 2 A. I want to back up for a second and just add
 3 some more in that space. That regardless of
 4 who we would have partnered with in the
 5 provision of this unit, given the complexity
 6 of the unit and the fact that it would be new
 7 to our own people, we deemed it prudent to
 8 ensure that we had an engagement that went
 9 beyond the point of purchase. So that was
 10 always our intention was to engage whoever was
 11 successful and they all offer it, is to ensure
 12 that we had that technical oversight inside of
 13 the first two years. It had been pre-
 14 discussed and agreed internally.
 15 MR. DUMARESQUE:
 16 Q. Okay. And as I said earlier, where we -- it
 17 might be a moot point to you, but again, the
 18 PW Power Systems brand new equipment came with
 19 a 24-month manufacturer's warranty versus the
 20 warranty that came with ProEnergy. Is that
 21 correct?
 22 MR. MACISAAC:
 23 A. Both responses satisfied our request in that
 24 space with respect to warranty.
 25 MR. DUMARESQUE:

Page 21

1 Q. Just interesting on the point there yesterday,
 2 you said that a manufacturer's warranty starts
 3 not with the birth of the machine but the
 4 start up, the in service.
 5 MR. MACISAAC:
 6 A. It's the date it goes into service typically.
 7 MR. DUMARESQUE:
 8 Q. The date it goes into service.
 9 MR. MACISAAC:
 10 A. It's like when you drive a car off a car lot.
 11 MR. DUMARESQUE:
 12 Q. Right.
 13 MR. MACISAAC:
 14 A. Your warranty starts the day you drive it off
 15 the lot.
 16 MR. DUMARESQUE:
 17 Q. Right. So why doesn't this machine have a
 18 manufacturer's warranty? She only started the
 19 21st of January.
 20 MR. MACISAAC:
 21 A. From our perspective, we have the warranty
 22 that we need and it satisfies what was called
 23 for in the specification.
 24 MR. DUMARESQUE:
 25 Q. Yes, absolutely, I agree with that, but you do

Page 22

1 not have the manufacturer's warranty.
 2 MR. MACISAAC:
 3 A. We have the warranty that we need, sir.
 4 MR. DUMARESQUE:
 5 Q. Okay. Let's go to SP-4, number two, building
 6 enclosure complete ASAP after December 7th
 7 required. And before we get into that one, I
 8 would just like to also at this point deal
 9 with the fact that when this tender was put
 10 out and on April the 21st when the tenders
 11 were accepted, they were subject to the
 12 condition that the units would be in service
 13 on December the 6th. Is that correct?
 14 MR. MACISAAC:
 15 A. I'll speak to it again, but I explained
 16 yesterday that we were providing a stretch
 17 target in that space to the market from the
 18 outset and we knew what we had in front of us
 19 and in our first biweekly update to the PUB,
 20 the first or the second, we had made it very
 21 clear that, including our commissioning, the
 22 delivery of the plant was intended for the
 23 last week of December.
 24 MR. DUMARESQUE:
 25 Q. Could you please give me an undertaking,

Page 23

1 provide in an undertaking written
 2 documentation of this stretch period? Because
 3 this tender was very specific.
 4 MR. MACISAAC:
 5 A. Yes.
 6 MR. DUMARESQUE:
 7 Q. That you had to have an in-service date of
 8 December the 6th, and did ProEnergy have an
 9 in-service date of December the 6th?
 10 MR. MACISAAC:
 11 A. They did not, sir.
 12 MR. DUMARESQUE:
 13 Q. What date did they have on their contract?
 14 MR. MACISAAC:
 15 A. No, no, on the contract it was clear.
 16 MR. DUMARESQUE:
 17 Q. It was clear what?
 18 MR. MACISAAC:
 19 A. The intent was to have it in service for
 20 December 7th. The hand over to us -
 21 MR. DUMARESQUE:
 22 Q. So the date that they had -
 23 MR. MACISAAC:
 24 A. The hand over to us.
 25 MR. DUMARESQUE:

Page 24

1 Q. The date that they guaranteed by signing the
 2 99.8 million dollar contract was December the
 3 7th, 2014?
 4 MR. MACISAAC:
 5 A. Um-hm.
 6 MR. DUMARESQUE:
 7 Q. Is that correct?
 8 MR. MACISAAC:
 9 A. Sir, I'm going to restate that we're agreeing
 10 in terms of what's in the contract, and I'm
 11 trying to provide context in that we knew how
 12 long it was going to take. ProEnergy had said
 13 to us it was going to be eight months from
 14 award because they've done a lot of this work
 15 and we were insisting on December and they
 16 said "you can insist on it". So, the other
 17 side of the coin is for us to walk away and
 18 say nobody could reach it because the others,
 19 quite frankly, said they would achieve it as
 20 well. Right, so you have to look at what you
 21 have and the reality or the practicality of
 22 the responses. They're not going to exclude
 23 themselves by saying they won't deliver it on
 24 that date either.
 25 MR. DUMARESQUE:

Page 25

1 Q. So the bid that was in there then from PW
2 Power Systems, did they guarantee a in-service
3 date?
4 MR. MACISAAC:
5 A. The in-service date or the building?
6 MR. DUMARESQUE:
7 Q. What did you say?
8 MR. MACISAAC:
9 A. I said the in-service date, sir -
10 MR. DUMARESQUE:
11 Q. Yes.
12 MR. MACISAAC:
13 A. - or the building? Because we were just
14 talking about the building.
15 MR. DUMARESQUE:
16 Q. No, no, I know. I said before we go to the
17 building side, the in-service date as a
18 condition of the contract of 115 million
19 dollars, did they indicate to you that they
20 would be able to provide this unit at a
21 certain time?
22 MR. MACISAAC:
23 A. I'll have to double check the date that they
24 gave us.
25 MR. DUMARESQUE:

Page 26

1 Q. You will have it confirmed that it was
2 December the 5th that the company, PW Power
3 Systems confirmed they would be able to put
4 their brand new units with two years
5 manufacturer's warranty in place by December
6 the 5th.
7 MR. MACISAAC:
8 A. Okay. Well, we'll look for you, sir.
9 MR. DUMARESQUE:
10 Q. Yes, thank you very much on that one.
11 MS. GLYNN:
12 Q. Excuse me, because there was two undertakings
13 there. One was about the stretch target, and
14 I'm not sure again -
15 MS. PENNELL:
16 Q. We got it.
17 MS. GLYNN:
18 Q. Okay, so Hydro is clear on what needs to be
19 provided for that.
20 MR. MACISAAC:
21 A. Yes.
22 MS. GLYNN:
23 Q. And the second undertaking is to check for the
24 in-service date for the PW -
25 MR. DUMARESQUE:

Page 27

1 Q. Power Systems. Yeah, thank you.
2 MR. MACISAAC:
3 A. And I want to be clear that the way we
4 characterized it was hand over to us because
5 we still had our own work to do in terms of it
6 going into service.
7 MR. DUMARESQUE:
8 Q. But so how would you classify expressing to
9 the marketplace, people coming to put 10-12
10 million dollars on the table as a deposit, how
11 would you classify your culture, I guess, for
12 want of a better word, that you specified the
13 in-service date of December the 7th when you
14 really didn't mean it?
15 MR. MACISAAC:
16 A. How would I specify or -
17 MR. DUMARESQUE:
18 Q. How would you -
19 MR. MACISAAC:
20 A. Characterize?
21 MR. DUMARESQUE:
22 Q. How would you characterize that? Do you think
23 that you mislead the marketplace, for example?
24 MR. MACISAAC:
25 A. I don't believe so, sir. I think we -

Page 28

1 MR. DUMARESQUE:
2 Q. Where in this evidence, where in this
3 contract, where in ever in the real world
4 would you say "I want this machine" and you
5 told the Public Utilities Board in an
6 application on April the 7th, "you give us the
7 decision by the end of this month or we're not
8 going to have the unit in place for our peak
9 period of December of 2014". You put the gun
10 to the Public Utilities Board because you had
11 to have the unit in place and in service and
12 that's why you went out and said we're going
13 to pay this money, 100 million dollars plus,
14 for December the 7th. And now you're telling
15 me that you had a stretched time of weeks that
16 you knew starting off that when you told the
17 Public Utilities Board that you wanted it in
18 by December the 7th, you weren't that serious.
19 CHAIRMAN:
20 Q. Mr. Dumaresque, I think you really got to ask
21 questions rather than making statements. This
22 is cross-examination.
23 MR. DUMARESQUE:
24 Q. Okay.
25 CHAIRMAN:

Page 29

1 Q. You're entitled -- you'll certainly have an
 2 opportunity to place your thoughts obviously
 3 and your position on these issues, you know,
 4 in argument or conclusion when we wind up the
 5 hearing. But right now, this is cross-
 6 examination. So if you have specific
 7 questions, please put them to the witness.
 8 MR. DUMARESQUE:
 9 Q. Okay. Thank you, Mr. Chair. So the question
 10 is: are you satisfied that you were clear to
 11 the marketplace when you issued the tender
 12 document of December the 7th, in-service date,
 13 that that is precisely what you meant?
 14 MR. MACISAAC:
 15 A. I am, sir. I am clear.
 16 MR. DUMARESQUE:
 17 Q. And the building enclosure, SP-4.2, the
 18 building enclosure complete as soon as
 19 possible after December 7th required. You
 20 gave ProEnergy a score of one because they
 21 said they would have the building also
 22 complete by December the 7th. And then, of
 23 course, PW Power Systems, again there's a note
 24 saying "the building not included in the
 25 execution plan". So, as we know now, the

Page 30

1 building, the Taj Mahal, is now just about
 2 finished. So do you think it was appropriate
 3 again -
 4 CHAIRMAN:
 5 Q. Mr. Dumaresque, I think it's kind of unfair to
 6 characterize the building as a Taj Mahal. I
 7 mean, you're asking questions of the witness.
 8 You can put -- as I say in your final position
 9 on this matter to the Board, you can say
 10 pretty well whatever you want, but I don't
 11 think it's accurate to characterize it as a
 12 Taj Mahal.
 13 MR. DUMARESQUE:
 14 Q. Okay, thank you. "The building not included
 15 in the execution plan", again you know, this
 16 is big, big business when you say you get
 17 zero, the other gets one, and I would like to
 18 know, did you again talk to ProEnergy -- to PW
 19 Power Systems and say "look, you know, you put
 20 in your bid. You put it and accepted the
 21 allowance of eight million dollars, the same
 22 as the other bidder, but it's not included in
 23 your execution plan. Do you intend to build a
 24 building?" Would you have talked to them or
 25 did you talk to them about that and get the

Page 31

1 clarification whether they intended to put the
 2 building? Because I guess if they intended to
 3 put the building -
 4 MR. MACISAAC:
 5 A. So I would say yes, and I think it's important
 6 to appreciate there's context here to and that
 7 this wasn't something that was all of a
 8 sudden, from the perspective of the
 9 information that we had or did not have.
 10 There was meetings with all four of these
 11 respondents inside of the proposal request
 12 that we had in the marketplace before we had
 13 publicly tendered. So we would have had
 14 discussions around what their intentions were
 15 to offer and what they felt they could and
 16 could not have delivered. So that it wouldn't
 17 be in isolation that we purely looked only at
 18 the response. There was meetings and
 19 discussions in the weeks leading up to the
 20 public tender period where we had met in
 21 person with the teams from each of Wood Group,
 22 ProEnergy and Pratt and Whitney, where they
 23 came to site and viewed the conditions. They
 24 also came and met with ourselves here in St.
 25 John's and talked through what some of the

Page 32

1 options were that were in the marketplace and
 2 what they would be proposing, because we had
 3 clearly messaged that we would be publicly
 4 tendering this if it received approval from
 5 the Public Utilities Board, sir.
 6 MR. DUMARESQUE:
 7 Q. Okay. So are you confirming that they -
 8 MR. MACISAAC:
 9 A. So, I think it's important to appreciate that
 10 this is not just us looking at the documents.
 11 This is us being in a place where we've
 12 already been in discussion. We've met face to
 13 face. We've talked about what options they
 14 would offer and we appreciate what their
 15 capabilities are to execute.
 16 MR. DUMARESQUE:
 17 Q. Yes, so in this case, you sufficiently
 18 concluded that they probably couldn't build
 19 the building in order to give them zero. They
 20 put in for the eight million dollar allowance.
 21 Is that what you could conclude from this?
 22 MR. MACISAAC:
 23 A. What we conclude -
 24 MR. DUMARESQUE:
 25 Q. I mean, how would you give them a zero?

Page 33

1 MR. MACISAAC:
 2 A. What we conclude from it is that they were not
 3 including the construction of the building in
 4 the timeframe that it was requested. That's
 5 what we conclude and that's what's reflected
 6 here, sir.
 7 MR. DUMARESQUE:
 8 Q. And the request, to be clear, was as soon as
 9 possible after December the 7th, which we now
 10 know is May, June, July or whatever, 2015,
 11 right.
 12 MR. MACISAAC:
 13 A. I would say that the building was
 14 substantially complete before June or July,
 15 sir.
 16 MR. DUMARESQUE:
 17 Q. Right, okay. SP-5, I just want to draw
 18 attention to that again. This one is specific
 19 on warranty and again, you give both equal
 20 weight for two warranty with qualifications.
 21 I'm just wondering why there was warranty
 22 details and terms identified in SP-2 and again
 23 in a separate SP-5? Any particular reason?
 24 Any difference between the warranties?
 25 MR. MACISAAC:

Page 34

1 A. I don't think I can offer you anything further
 2 on the warranty discussion, sir, quite
 3 honestly.
 4 MR. DUMARESQUE:
 5 Q. No, I'm just wondering why there's two items
 6 for warranty here, you know, not the
 7 difference between the manufacturers and your
 8 warranty.
 9 MR. MACISAAC:
 10 A. I'm sorry, so which line is it you're
 11 referring to?
 12 MR. DUMARESQUE:
 13 Q. Well, SP-2.8 has a warranty details and terms
 14 and then SP-5, which is the only -- SP-5.1 it
 15 says warranty again, two-year warranty. So
 16 I'm just wondering why there would be two
 17 lines for warranty?
 18 MR. MACISAAC:
 19 A. I don't appreciate the difference of those
 20 two. We'll have to confirm that and get back
 21 to you.
 22 MR. DUMARESQUE:
 23 Q. No, it's not obvious, so if you don't know it,
 24 that's fine.
 25 MR. MACISAAC:

Page 35

1 A. Okay.
 2 MR. DUMARESQUE:
 3 Q. We go to SP-7, SP-7.5. This is the exhaust
 4 stack, minimum 50 feet high, complete with
 5 weather and snow stores. So you gave
 6 ProEnergy a one on that one and gave PW Power
 7 Systems zero, and identified that there was a
 8 shorter stack height and no snow doors. So
 9 that would be a critical missing element if it
 10 was shorter and had no doors, no snow doors?
 11 (9:45 a.m.)
 12 MR. MACISAAC:
 13 A. It does make a difference. It makes a
 14 difference, sir, in terms of your dispersion
 15 modelling is directly linked or your emissions
 16 and dispersion modelling is directly linked to
 17 the height of discharge and so it does make a
 18 material difference and it speaks to our
 19 permit to operate at site and to be in
 20 compliance with the dispersion modelling. So
 21 height is an important factor.
 22 MR. DUMARESQUE:
 23 Q. Okay.
 24 MR. MACISAAC:
 25 A. And snow doors is a function of our climate.

Page 36

1 MR. DUMARESQUE:
 2 Q. Yeah, I understand that one. SP-8.1, the
 3 mechanical balance of plant. Obviously
 4 there's a lot of things there and you gave a
 5 score of one to ProEnergy with the note that
 6 "little detail provided in the bid document,
 7 but technical clarification confirmed that all
 8 items included". So you gave them a one. But
 9 then you gave half a point to PW Power Systems
 10 because "the piping between the fuel
 11 forwarding and filtering skid by NLH". Could
 12 you explain what that means?
 13 MR. MACISAAC:
 14 A. I couldn't because I don't know it in that
 15 level of detail.
 16 MR. DUMARESQUE:
 17 Q. Yeah.
 18 MR. MACISAAC:
 19 A. So we can confirm for you.
 20 MR. DUMARESQUE:
 21 Q. Yes, it's not obvious what -- I don't know if
 22 they meant to not put any pipe there or what
 23 it was, so if you could undertake to provide
 24 the explanation of what that comment on SP-8.1
 25 would be?

Page 37

1 MS. GLYNN:
 2 Q. Noted on the record.
 3 MR. DUMARESQUE:
 4 Q. And SP-8.2, again you give the ProEnergy bid
 5 one by noting "little detail provided in the
 6 bid document, but the technical clarification
 7 confirms that all items included". So then
 8 you have the redundant AC pumps and filters
 9 not provided in the PW Power Systems, but the
 10 DC backup is provided. Again, would you care
 11 to elaborate on the seriousness of that aspect
 12 to be able to deduct them a half a point?
 13 MR. MACISAAC:
 14 A. So we'll undertake another undertaking to
 15 confirm that for you.
 16 MR. DUMARESQUE:
 17 Q. Okay.
 18 MS. GLYNN:
 19 Q. Noted on the record.
 20 MR. DUMARESQUE:
 21 Q. Then we got SP-9, SP-9.3.
 22 MR. MACISAAC:
 23 A. Okay.
 24 MR. DUMARESQUE:
 25 Q. "Transformer spill containment with drainage

Page 38

1 directed to oil and water separator". Again,
 2 you gave ProEnergy one and PW Power Systems
 3 zero and you say "containment not noted". I
 4 want to go -- I guess, go back to that earlier
 5 observation and say, you know, would you have
 6 gone to PW Power Systems and say "look, you
 7 know, you haven't noted the containment here.
 8 Surely you need to contain. It would be a
 9 standard thing to do." Would you have gone
 10 back and had that type of discussion with them
 11 and concluded that they didn't intend to
 12 contain in order to give them a zero?
 13 MR. MACISAAC:
 14 A. So, I'm going to provide the same comment that
 15 I had earlier on, and it fits in two buckets
 16 really. One is that inside of doing the
 17 primary ranking that after having received and
 18 gone through and peer reviewed, we would have
 19 spent the majority of our time determining the
 20 completeness of the offer from ProEnergy once
 21 we've reached that space. And in the weeks
 22 leading up to the public tender response, we
 23 had meetings where we talked through scope
 24 with all four groups, team on team, where they
 25 came in and talked through their scope in what

Page 39

1 they were providing and what they weren't
 2 providing and at a certain point, we then took
 3 the offers on their face value and did primary
 4 ranking and when the difference on price was
 5 15 percent and the difference on capacity was
 6 23 and a half percent, our team then started
 7 to focus more heavily on ensuring the
 8 completeness of the offer from ProEnergy, sir.
 9 MR. DUMARESQUE:
 10 Q. Okay. SP-9.20, we go down there and it says
 11 "the site grounding system and generator
 12 ground connection" you give a point to
 13 ProEnergy, zero to PW Power Systems with the
 14 comment "site grounding by NLH". Would you
 15 know what that comment meant?
 16 MR. MACISAAC:
 17 A. Again, we'll take it as an undertaking.
 18 MR. DUMARESQUE:
 19 Q. Take an undertaking, okay.
 20 MS. GLYNN:
 21 Q. Noted on the record.
 22 MR. DUMARESQUE:
 23 Q. On SP-11, on page two of two, number six, it
 24 said "all exterior steel shall be hot-dipped
 25 galvanized" and you gave ProEnergy one full

Page 40

1 point and gave PW Power Systems zero with the
 2 comment "exception to galvanize". Do you
 3 recall what that exception would be?
 4 MR. MACISAAC:
 5 A. Well, what I'm reading from this, and not
 6 having been directly involved in the detail,
 7 but what I'm taking from this is they took
 8 exception to the requirement of galvanizing
 9 the steel, sir. That's how I read it, but
 10 we'll take that as an undertaking as well to
 11 confirm it for you.
 12 MR. DUMARESQUE:
 13 Q. Yeah. I just made a note -
 14 MS. GLYNN:
 15 Q. Noted on the record. Sorry.
 16 MR. DUMARESQUE:
 17 Q. Thank you. I just made a note yesterday when
 18 you were explaining the unbelievable overrun
 19 on the building that one of the contributing
 20 factors to that extra cost was something about
 21 the steel.
 22 MR. MACDOUGALL:
 23 Q. Mr. Chair, just before Mr. MacIsaac -- I don't
 24 know that there was any reference to an
 25 unbelievable overrun. So again, maybe if Mr.

Page 41

1 Dumaresque could try and keep some of the
 2 qualifiers of the comments, unless they're
 3 directly cited from the record.
 4 CHAIRMAN:
 5 Q. Mr. Dumaresque, you know, I understand
 6 rhetorical flourishes. I had one myself once,
 7 but I think, you know, this is in the context
 8 of cross-examination and I think it's
 9 inappropriate and I mean, you know, may God
 10 strike me dead, but it's just not the right
 11 occasion. You can have -- you will have an
 12 opportunity. You can -- you'll have all kinds
 13 of opportunity because we do have free speech
 14 still left in our society for any rhetorical
 15 flourishes you want, but I just don't think
 16 that it's the proper context, and I think Mr.
 17 -- the gentleman over there is a big boy. He
 18 can handle himself, but I just don't think
 19 it's -- I just don't think it's appropriate.
 20 So I would just ask you to try to --
 21 I get the sense what you wanted from
 22 Hydro is every time Pratt and Whitney scored
 23 zero and ProEnergy scored one, you want an
 24 explanation. That's basically what you're
 25 doing and that's a perfectly legitimate -- you

Page 42

1 know, you're entitled to that information. Is
 2 that what you want? Because I mean, they can
 3 just go down and provide you with explanations
 4 on every zero and every one and perhaps save
 5 us all some time.
 6 MR. DUMARESQUE:
 7 Q. Well -
 8 CHAIRMAN:
 9 Q. But I'm not going -- I'm not trying to make
 10 your life unreasonably miserable, let me put
 11 it that way.
 12 MR. DUMARESQUE:
 13 Q. No, let me put you at ease, nobody does that
 14 to me. So, I want to ask these questions on
 15 the detail pertaining to this particular in-
 16 house drafted analysis because clearly at the
 17 end of this process, because PW Power Systems
 18 scored less was a -- he'll answer, I guess,
 19 shortly, but was a factor and I don't know how
 20 significant a factor it was in determining
 21 whether they should get the contract for 115
 22 million versus 100 million and you know, I
 23 just want to have it open and transparent as
 24 to exactly what characterized the reason for
 25 one getting the full point and the other

Page 43

1 getting zero.
 2 CHAIRMAN:
 3 Q. But as I pointed out to you yesterday, there's
 4 an RFI process and if the RFIs aren't
 5 satisfactory, you can ask more RFIs. I mean,
 6 that's the way this process works. These are
 7 factual matters you're dealing with here now.
 8 I mean, they're not -
 9 MR. DUMARESQUE:
 10 Q. Yeah, and we -
 11 CHAIRMAN:
 12 Q. Either the information exists or it doesn't,
 13 and you know, I mean, my impression is that it
 14 does exist. These questions can be answered.
 15 MR. DUMARESQUE:
 16 Q. Yes, and that's -- in this case now, there's
 17 undertakings that have been put on the record
 18 and certainly they will provide the answers
 19 I'm sure. So, the question is the increase in
 20 the cost from eight million to 20 million on
 21 the building, yesterday you indicated that it
 22 was somewhat due to the change in the spec on
 23 the steel. Can you talk about what that meant
 24 again?
 25 MR. MACISAAC:

Page 44

1 A. There wasn't a change in the specification of
 2 the steel. I believe that the difference
 3 being is the extent of engineering work that's
 4 done when they responded initially and the
 5 engineering finished product producing
 6 something that was a more complex design and
 7 looking at what we have here for building code
 8 requirements in Newfoundland and Labrador
 9 would be more demanding than the rest of North
 10 America, I would say. The building code in
 11 the United States is based on their weather or
 12 climatic conditions. The building code here
 13 is based on our own, and the difference
 14 between the two probably contributed to the
 15 building being of heavier design and also more
 16 complexity, given the FM requirements in
 17 Canada and how demanding they are as well. So
 18 it's a function of complexity of the design
 19 and also complexity of the build and execution
 20 of the work because it's fully integrated to
 21 wrapping the building around an ongoing
 22 construction project.
 23 MR. DUMARESQUE:
 24 Q. Thank you. So it's - the only point I was
 25 making there is that the exterior steel

Page 45

1 specification did not get changed from being
 2 hot dipped galvanized to something else?
 3 MR. MACISAAC:
 4 A. It did not, sir.
 5 MR. DUMARESQUE:
 6 Q. Did not, okay, and so SP-7, 6 and 7, fencing
 7 surrounding the unit, again ProEnergy got a
 8 full point and the other company got zero,
 9 saying fencing not noted. Could you undertake
 10 to provide me with the confirmation that you
 11 asked them whether they would fence around or
 12 not?
 13 MR. MACISAAC:
 14 A. Can I offer to respond to any of them that are
 15 different between a one and a zero, between
 16 ProEnergy and Pratt & Whitney for you, sir?
 17 MR. DUMARESQUE:
 18 Q. Yes, well, we only have one more.
 19 MR. MACISAAC:
 20 A. Oh, okay.
 21 MR. DUMARESQUE:
 22 Q. We only have one more, and that is the
 23 building again. To come back to the building
 24 on SP-12, and, of course, "The contractor
 25 shall carry an 8 million dollar allowance",

Page 46

1 exactly what's worded there is what's in the
 2 tender document. ProEnergy got a one, but you
 3 noted in giving zero to the other company that
 4 the building had been excluded from the
 5 execution plan, but the allowance was carried.
 6 I'm sure you'll tell us why. At the end of it
 7 in this case here now, this company got 63
 8 points and ProEnergy got 70.5, a difference of
 9 7.5. Would you tell me what weight you would
 10 have given to the issuing of the award on the
 11 basis of this scoring?
 12 MR. MACISAAC:
 13 A. So it comes down to the completeness of the
 14 response. Our confidence in reliability and
 15 then, obviously, after that price
 16 differential, so again - just so that I'm
 17 clear, it's completeness of response and
 18 ensuring that the response is in compliance
 19 with the specification technically. Then a
 20 determination of reliability, which is the
 21 step that we took when we dispatched an
 22 independent engineer to go and inspect the
 23 unit and ensure that it had been properly
 24 preserved and stored in compliance with the
 25 OEM recommendations. Then once satisfied in

Page 47

1 that space, we would have then stepped back
 2 and said, all right, here is the price
 3 differential and here is the capacity output
 4 differential, and this front-end work became
 5 an enabler in taking another step in the
 6 process. Price was clearly an input, capacity
 7 was clearly an input, and inside of the
 8 Liberty Prudence Report, they make reference
 9 to the fact that the decision to go with 123
 10 megawatt unit was beneficial for customers.
 11 (10:00 a.m.)
 12 MR. DUMARESQUE:
 13 Q. Yes, and I appreciate that context, but would
 14 there have been some kind of a formula that
 15 said, okay, we got the lowest tender, we got
 16 the higher capacity, we got the better
 17 technical score, would you have allocated 10
 18 points and said, okay, one gets 5, one gets 3,
 19 one gets 2, or was there any such kind of
 20 structure that would have led you to issue the
 21 award?
 22 MR. MACISAAC:
 23 A. I'll have to go back and check the weighting
 24 on - if there is a weighting on taking this
 25 piece and then taking the piece that is cost

Page 48

1 and also output, I would suspect that it was
 2 discussed at length, but I'll check for you,
 3 sir, to see if there is actually a formula.
 4 MR. DUMARESQUE:
 5 Q. Thank you.
 6 MS. GLYNN:
 7 Q. I think we have three undertakings now that
 8 need to be noted. There's the explanation for
 9 the fencing difference in the tender, and for
 10 the building allowance, and now there's the
 11 undertaking for the weighting of the ratings
 12 within the document.
 13 MR. DUMARESQUE:
 14 Q. Thank you. I would like to go to GT-PUB-NLH-
 15 014, Attachment 1, and at this point, Mr.
 16 Chair, I'm probably going to need some
 17 guidance from you because the questions that I
 18 have concern the prices that have been
 19 provided by ProEnergy versus the other bids,
 20 and there has been times in the public, and
 21 even yesterday when Mr. MacIsaac alluded to
 22 one particular figure, that is pertinent to
 23 this whole review, and I wonder at this point
 24 how we should proceed since you see that all
 25 of the figures in this attachment are blacked

Page 49	Page 51
<p>1 out. So I have to take some guidance here 2 because I would like to be able to - 3 CHAIRMAN: 4 Q. What kind of guidance would you possibly want 5 from me? 6 MR. DUMARESQUE: 7 Q. Well, can I refer to the numbers because I do 8 have the numbers, as you do, and the rest of 9 us here have, the numbers that are identified 10 with the various components of the tender. 11 CHAIRMAN: 12 Q. I don't know - are they on the record, all 13 these - you're looking at all the black spots 14 and you don't like it, that's basically what 15 you're saying? 16 MR. DUMARESQUE: 17 Q. No, sir, no, it's not about like or dislike. 18 All the figures are here, but there was a 19 request, as you might recall, a request that 20 when we were as intervenors provided with the 21 actual numbers that each of these companies 22 bid, there was a request that we not disclose 23 them publicly, and that wasn't an order of the 24 Board, but it was a request, but at various 25 times both the former Vice President of Hydro,</p>	<p>1 transformer, for example, cost. Would that be 2 permissible? 3 CHAIRMAN: 4 Q. I'm going to have to - I'm not sure I 5 understood you, but I'm going to have to ask 6 our solicitor. 7 MS. GLYNN: 8 Q. Perhaps first we should hear from Hydro 9 whether they have any - 10 CHAIRMAN: 11 Q. Yes, do you understand Mr. Dumaresque's 12 request, sir? 13 MR. MACDOUGALL: 14 Q. I believe so, Mr. Chair, and the initial 15 comments I would have, this information was 16 filed some considerable time ago in a redacted 17 format and a request was made of intervenors 18 to say that it could be shared confidentially 19 with them for their purposes. No one had 20 suggested otherwise, so we're here today some 21 many, many weeks after the information was 22 filed with a request that it now be made 23 public. The information is specific line 24 items referable to contractual filings of 25 information which, of course, in the normal</p>
<p>Page 50</p> <p>1 Vice President of Nalcor responsible for 2 Hydro, said what they paid for a certain 3 component of the package, and yesterday Mr. 4 MacIsaac made reference to what they paid for 5 a certain component of the package. Of 6 course, both of those numbers were wrong, and 7 I would like to be able to refer to those 8 numbers to illustrate a very, very important 9 part of my overall argument and position on 10 this transaction by alluding to the - actually 11 referring to some of the specific numbers. 12 Now what I would be prepared to do is rather 13 than talk and point out the actual figures for 14 each of the components for the purposes that I 15 want, I would be prepared only to deal with 16 the allocation of funding - the allocation of 17 the bids that referred to the equipment versus 18 the installation because there's two different 19 contracts that were actually awarded by Nalcor 20 and we can clearly confirm that there is a 21 difference between the equipment cost and the 22 installation cost, and we can certainly talk 23 about the two numbers that make up these 24 without referring to the line items of how 25 much the turbine and the generator and the</p>	<p>Page 52</p> <p>1 course would not be released in that it can 2 cause issues with the futurability of Hydro to 3 go out into the marketplace and get figures 4 from suppliers and the like, so there's 5 various confidentiality concerns that we would 6 have to address to deal with this, and it's 7 just coming to light at this moment, so we 8 certainly wouldn't be prepared now to say we 9 can start dealing with what was asked to be 10 dealt with confidentially in the public 11 record. 12 CHAIRMAN: 13 Q. And I assume this information was kept in the 14 state that it's currently in now because 15 companies requested it, is that the case? 16 MR. MACDOUGALL: 17 Q. That's correct - well, I'm not sure if the 18 companies themselves requested it, but it was 19 Hydro's request of the intervenors that this 20 be kept confidential, and again until today no 21 one had indicated any concern whatsoever with 22 that request. 23 CHAIRMAN: 24 Q. I don't understand, Mr. Dumaresque, why didn't 25 you bring this matter up before, but - do you</p>

Page 53	Page 55
<p>1 have any comment?</p> <p>2 MS. GLYNN:</p> <p>3 Q. No, Mr. Chair, only that I would reiterate, I</p> <p>4 guess, what counsel for Hydro said, is that</p> <p>5 there is a process to be followed if somebody</p> <p>6 would like to challenge the confidentiality</p> <p>7 and that had not been brought up prior to</p> <p>8 today's proceeding.</p> <p>9 MR. MACISAAC:</p> <p>10 A. And if I could just add, sorry, David, for</p> <p>11 jumping in, but inside the course of normal</p> <p>12 business and with each of these suppliers,</p> <p>13 we've signed non-disclosure agreements for</p> <p>14 this very reason, that we don't divulge their</p> <p>15 pricing.</p> <p>16 CHAIRMAN:</p> <p>17 Q. They wanted them, is that what you're saying?</p> <p>18 MR. MACISAAC:</p> <p>19 A. Yes.</p> <p>20 CHAIRMAN:</p> <p>21 Q. It's a factor -</p> <p>22 MR. MACISAAC:</p> <p>23 A. It's commonplace that we don't exchange</p> <p>24 information until a non-disclosure agreement</p> <p>25 is in place for that very reason, sir.</p>	<p>1 out and said what they paid or didn't pay, it</p> <p>2 was the Vice President of Nalcor. Yesterday</p> <p>3 Mr. MacIsaac said they paid somewhere around</p> <p>4 31 million dollars.</p> <p>5 MR. MACISAAC:</p> <p>6 A. I qualified that, sir, by saying "installed".</p> <p>7 MR. DUMARESQUE:</p> <p>8 Q. Installed, so they have chosen - Hydro has</p> <p>9 chosen to go out there and put out numbers. I</p> <p>10 have not put out a number. Both of these</p> <p>11 numbers are totally wrong, and I know they're</p> <p>12 wrong and people who have seen these documents</p> <p>13 know they're wrong, but the general public</p> <p>14 only know what Hydro has said. So, you know,</p> <p>15 I am trying to look at how can the general</p> <p>16 public get to understand the real picture here</p> <p>17 if they are denied the information, but</p> <p>18 somebody else, the proponent in this case, is</p> <p>19 cherry-picking what figures they can put out</p> <p>20 there and they're absolutely wrong.</p> <p>21 MS. GLYNN:</p> <p>22 Q. Mr. Dumaresque, I just - as a point of order,</p> <p>23 the article that you just referred to, that</p> <p>24 has not been entered onto the record yet.</p> <p>25 When you provide the documents for -</p>
<p>1 CHAIRMAN:</p> <p>2 Q. I mean, it's a pretty standard matter in these</p> <p>3 kinds of tenders.</p> <p>4 MR. DUMARESQUE:</p> <p>5 Q. Well, the problem, Mr. Chair, is this -</p> <p>6 CHAIRMAN:</p> <p>7 Q. Well, the problem, Mr. Dumaresque, is that you</p> <p>8 apparently had this information for quite -</p> <p>9 you knew the state of this information for</p> <p>10 quite some time, and you didn't avail of an</p> <p>11 opportunity to raise the issue that you're</p> <p>12 raising now.</p> <p>13 MR. DUMARESQUE:</p> <p>14 Q. Well, again it's a -</p> <p>15 CHAIRMAN:</p> <p>16 Q. I don't think we can deal with it now.</p> <p>17 MR. DUMARESQUE:</p> <p>18 Q. Again you didn't let me explain. Since this</p> <p>19 information was given to us in confidence,</p> <p>20 Hydro, the former Vice President of Hydro, in</p> <p>21 a document that I have filed on September</p> <p>22 11th, 2014, the former Vice President of</p> <p>23 Nalcor was in the public saying that they paid</p> <p>24 23 million dollars for the turbine. That is</p> <p>25 on the public record. It's not me that went</p>	<p>1 MR. DUMARESQUE:</p> <p>2 Q. Oh, exhibit, sorry, that was part of the</p> <p>3 exhibit.</p> <p>4 MS. GLYNN:</p> <p>5 Q. Exactly.</p> <p>6 MR. DUMARESQUE:</p> <p>7 Q. I would like to - maybe I could call that</p> <p>8 exhibit.</p> <p>9 MS. GLYNN:</p> <p>10 Q. Until you enter it through the witness, it's</p> <p>11 not part of the official record, it's filed</p> <p>12 with the Board.</p> <p>13 MR. DUMARESQUE:</p> <p>14 Q. Oh, yeah, and I forgot the procedure, so it</p> <p>15 was part of the exhibit that I put in earlier.</p> <p>16 MS. GLYNN:</p> <p>17 Q. Until you actually cross-examine the witness</p> <p>18 on that document, it doesn't become a part of</p> <p>19 the official Board record. So if you would</p> <p>20 like to present that document the article from</p> <p>21 The Telegram of September 11th, and question</p> <p>22 the witness on that document, we can enter it</p> <p>23 as an Information item, and then it will be</p> <p>24 provided to all the parties.</p> <p>25 MR. DUMARESQUE:</p>

Page 57

1 Q. Well, I guess, first I'd like to, as I said,
2 whether it's in the form of your comments, Mr.
3 Chair, or if you want to take time to make a
4 ruling on it, whether I can refer to these
5 numbers or not, I'd like to have that dealt
6 with first.

7 MS. GLYNN:

8 Q. There would be no question that the number in
9 The Telegram article, you would be able to
10 question the witness on that particular
11 number, if you would like to enter that
12 document and have it on the record.

13 MR. DUMARESQUE:

14 Q. Okay, well, I'll take your guidance on that
15 and, Mr. MacIsaac, I would like to call for
16 the document that we filed, The Telegram
17 article, September 11th.

18 MS. GLYNN:

19 Q. So that would be entered as Information 38.

20 MR. DUMARESQUE:

21 Q. Information 38.

22 MS. GLYNN:

23 Q. And if you could give Ms. Kean a second to
24 distribute it.

25 MR. DUMARESQUE:

Page 58

1 Q. Mr. MacIsaac, I'd like to draw your attention
2 to page two of this article and paragraph 5,
3 and I would refer you to the - well, I guess,
4 I can read part of that, "The cost of the unit
5 includes a number of things. It's the
6 engineering work, the balance of plant work
7 which is the underground civil works, wiring,
8 and in-feeds", dah, dah, dah. "The actual
9 unit", in quote, "The actual unit is around 23
10 million". This was the statement made on
11 September 11th by the Vice President of
12 Nalcor, responsible for Hydro, precisely, I
13 guess, the same position you hold today. Do
14 you agree with this - that this unit only cost
15 23 million dollars?

16 MR. MACISAAC:

17 A. I think you're leaving out part of the
18 sentence, sir. It says, "The actual unit is
19 around 23 million dollars", and then there are
20 a lot of other things that go with that.

21 MR. DUMARESQUE:

22 Q. Yes, that's right, I agree that that's left
23 out, but I want to specifically ask you, the
24 actual unit is around 23 million.

25 MR. MACISAAC:

Page 59

1 A. I think -

2 MR. DUMARESQUE:

3 Q. So are you confirming today that the actual
4 unit is 23 million - you paid 23 million
5 dollars for the actual unit?

6 MR. MACISAAC:

7 A. I can't confirm what Mr. Henderson was
8 referring to inside of his reference to 23
9 million dollars. I wasn't in the room, I
10 didn't have context, so - I'm not trying to be
11 evasive on the topic, but I know that he would
12 have seen the communication, the information
13 that was shared inside of the advertisements
14 that we talked about yesterday. So I can
15 logically get to a place where he would have
16 said, yes, we've seen that advertisement and
17 that's approximately, or around what we paid
18 for it, along with other things. I can
19 support that Mr. Henderson did say that
20 because that's what it says here, and I can
21 understand how he got to a place where he
22 would have made that statement because there
23 would have been information that potentially
24 he would have seen either one of those
25 advertisements that offered the unit at that

Page 60

1 price. So I'm not quite sure where you're
2 going.

3 (10:15 a.m.)

4 MR. DUMARESQUE:

5 Q. Okay. The advertisement that was part of the
6 previous RFI identified the complete package
7 for 23 million dollars by the broker, CFAS
8 Systems, who did not have the right of first
9 refusal, but the - so it's fair to assume that
10 it would have been less than that from the
11 people that we ended up buying it from. Two
12 questions. The unit that is specified here
13 for 23 million, how would the unit compare to
14 the package because as you know from
15 yesterday, we outlined from the GTW Handbook,
16 that a package would include the turbine, the
17 generator, the balance of plant mechanical and
18 electrical, that would be for the complete
19 package, and, of course, that complete package
20 was being offered for 23 million dollars.
21 Would you agree that the unit that Mr.
22 Henderson is talking about here, would that be
23 fair to conclude that he's talking about the
24 complete package?

25 MR. MACISAAC:

Page 61

1 A. I would say it's difficult to determine from
 2 what's here, and his choice of words, and we
 3 know ourselves, based on the work that we did
 4 with ProEnergy, that what was in the offering
 5 actually excluded pieces that would typically
 6 be in a package. There were pieces that
 7 weren't included that they then added into
 8 their scope of supply, sir.
 9 MR. DUMARESQUE:
 10 Q. That's right, like the step-up transformer?
 11 MR. MACISAAC:
 12 A. For example.
 13 MR. DUMARESQUE:
 14 Q. For example. Yesterday -
 15 MR. MACISAAC:
 16 A. For several million dollars, yeah.
 17 MR. DUMARESQUE:
 18 Q. I'm not sure "several". If you want to refer
 19 to the document -
 20 MR. MACISAAC:
 21 A. Okay, I take that back.
 22 MR. DUMARESQUE:
 23 Q. Yeah, I think you should.
 24 MR. MACISAAC:
 25 A. I will.

Page 62

1 MR. DUMARESQUE:
 2 Q. Yesterday in your testimony, you said on page
 3 132, line 9, "That's correct, sir, and I want
 4 to make sure that we don't move away from that
 5 point just for a second because this is about
 6 ensuring that folks understand that customers
 7 receive value".
 8 MR. MACISAAC:
 9 A. Uh-hm.
 10 MR. DUMARESQUE:
 11 Q. "Inside of the detailed breakdown that you
 12 have been asking for in an undertaking, you
 13 will see that line item that we actually paid
 14 31.5 million, something like that".
 15 MR. MACISAAC:
 16 A. Installed, sir.
 17 MR. DUMARESQUE:
 18 Q. Installed?
 19 MR. MACISAAC:
 20 A. Installed, and in gas turbine world that you
 21 showed us yesterday, the price for that same
 22 equipment, the equipment only, was 32 million
 23 dollars US.
 24 MR. DUMARESQUE:
 25 Q. Okay. So my questions there, I guess, when

Page 63

1 you say that inside of the detailed breakdown,
 2 what were you referring to?
 3 MR. MACISAAC:
 4 A. I'm sorry? Inside the detailed breakdown -
 5 I'm sorry, what's the question?
 6 MR. DUMARESQUE:
 7 Q. What detailed breakdown would you have been
 8 referring to, because you also go on to say
 9 "that line item"?
 10 MR. MACISAAC:
 11 A. So I'll go back to the context that I put that
 12 in yesterday where I said - and it's not
 13 captured here, but the context that was
 14 provided was that in setting up the construct
 15 or the structure of the agreed payment
 16 schedule, that there were big pieces that made
 17 up milestone payments, and that is exactly
 18 what I was referring to here, so inside of the
 19 breakdown of the construct of the contract, we
 20 had deliverables, and you can call them the
 21 bigger pieces or the buckets, that we had
 22 identified milestone payments against those
 23 detailed line items.
 24 MR. DUMARESQUE:
 25 Q. Right, so the detailed breakdown, and then you

Page 64

1 say the line items, of course, that would be
 2 what we have here?
 3 MR. MACISAAC:
 4 A. Not necessarily exactly the same.
 5 MR. DUMARESQUE:
 6 Q. So are you saying then that when you accepted
 7 this tender with line item bidding and set up
 8 your payment system to pay them, that you made
 9 up a different line item scheme?
 10 MR. MACISAAC:
 11 A. Potentially, sir, yes.
 12 MR. DUMARESQUE:
 13 Q. Potentially?
 14 MR. MACISAAC:
 15 A. Yes, I'd have to check the difference between
 16 them, but it's based on deliveries.
 17 MR. DUMARESQUE:
 18 Q. Based on deliveries, so for example -
 19 MR. MACISAAC:
 20 A. And percent or work complete.
 21 MR. DUMARESQUE:
 22 Q. Yes.
 23 MR. MACISAAC:
 24 A. And any inspections that we do to confirm that
 25 that actual amount of work is complete.

Page 65

1 MR. DUMARESQUE:
 2 Q. Yes.
 3 MR. MACISAAC:
 4 A. And that's our normal practice, that's not
 5 something that's unique to this particular
 6 project.
 7 MR. DUMARESQUE:
 8 Q. Like I said before, I've been in business a
 9 bit, construction, and usually if I bid on a
 10 generator, for example, I wouldn't get paid if
 11 I bought a lump of coal. So what I'm saying
 12 is that it would be quite unusual for you to
 13 set up a payment system that would be
 14 different from the line items that somebody
 15 bid on. You bid on a combustion turbine
 16 generator, you -
 17 MR. MACISAAC:
 18 A. That's not necessarily -
 19 MR. DUMARESQUE:
 20 Q. You show up with the generator, you get paid
 21 for the generator, wouldn't that be an
 22 appropriate way to proceed?
 23 MR. MACISAAC:
 24 A. So we wouldn't necessarily agree in that
 25 space, sir, because typically the way that

Page 66

1 this would work, and what I've personally done
 2 myself on quite a large number of projects,
 3 it's about ensuring that the contractor gets
 4 paid so that he in turn pays his subs on a
 5 timely basis based on the percent of work
 6 that's either completed or incorporated in the
 7 works, and we would typically sit down with in
 8 this case ProEnergy and make a determination
 9 of the big pieces, when they would be
 10 completed and agree what a milestone schedule
 11 looks like, and that can draw in any number of
 12 line items, and not necessarily in the same
 13 sequence that are in the Excel spreadsheet
 14 that you're referring to.
 15 MR. DUMARESQUE:
 16 Q. Okay, so in that same sentence you said, "We
 17 actually paid 31.5 million".
 18 MR. MACISAAC:
 19 A. I should have said approximately instead of
 20 actually, but the end result is the same, so
 21 it's approximate number in terms of what we
 22 paid for that piece of the work installed.
 23 MR. DUMARESQUE:
 24 Q. Okay, so maybe to clarify, what piece of work
 25 were you referring to that you actually paid

Page 67

1 31.5 million dollars for?
 2 MR. MACISAAC:
 3 A. The same piece of work that you were referring
 4 to in the gas turbine world reference
 5 yesterday where you said, you know, the kit or
 6 the package cost nominally 32.5 million
 7 dollars US for the -
 8 MR. DUMARESQUE:
 9 Q. Brand new equipment.
 10 MR. MACISAAC:
 11 A. For the equipment only, equipment only
 12 supplied, and my response was, and should have
 13 been, yes, we've approximately paid 31.5
 14 million for that same piece of kit, but
 15 installed. That was what I was trying to
 16 articulate and I'm sorry if I didn't make that
 17 clear.
 18 MR. DUMARESQUE:
 19 Q. Okay, thank you for that clarification because
 20 in my reference, I was explicit and provided
 21 the detail for it, that what I was talking
 22 about was the turbine, the generator, the
 23 mechanical and electrical balance of plant.
 24 These were the four different components of
 25 the simple cycle combustion turbine projected

Page 68

1 budget cost, and are you saying today, are you
 2 confirming today that for the installation
 3 because you kept insisting on it, that for the
 4 equipment and installation of the turbine,
 5 generator, mechanical and electrical balance
 6 of plant installed at Holyrood, you paid 31.5
 7 million dollars?
 8 MR. MACISAAC:
 9 A. We'll confirm it for you, but I would say,
 10 yes, sir. It's a separate bucket, it's a
 11 separate line item, it should be easy for us
 12 to do that as an undertaking for you.
 13 MR. DUMARESQUE:
 14 Q. Have you seen this document?
 15 MR. MACISAAC:
 16 A. Absolutely.
 17 MR. DUMARESQUE:
 18 Q. Canadian dollars?
 19 MR. MACISAAC:
 20 A. We'll confirm it for you in an undertaking,
 21 sir.
 22 MS. GLYNN:
 23 Q. The undertaking is noted on the record, and,
 24 Mr. Dumaresque, you're referring to a document
 25 that I don't think is on the record and the

Page 69

1 Commissioners -
 2 MR. DUMARESQUE:
 3 Q. Well, the document is on the record. It just
 4 happens to be black, I guess, the numbers,
 5 right.
 6 MS. GLYNN:
 7 Q. If you're referring to a document, though, it
 8 needs to be noted on the record which document
 9 you are referring to.
 10 MR. DUMARESQUE:
 11 Q. Yes, okay, it would be GT-PUB-NLH-014,
 12 Attachment 1.
 13 MS. GLYNN:
 14 Q. Thank you.
 15 MR. DUMARESQUE:
 16 Q. And, of course, this is incredible. How would
 17 you feel if the evidence turns out to show
 18 that this is completely wrong?
 19 MR. MACISAAC:
 20 A. I'm confident, sir, that it's accurate and
 21 fully transparent. I'm fully confident.
 22 MR. DUMARESQUE:
 23 Q. Do you have any suggestion on how we might
 24 comfort the public? I understand the
 25 confidentiality that the customer has asked

Page 70

1 for.
 2 MR. MACISAAC:
 3 A. I believe that that's what this process is
 4 for, is to confirm to the public that we've
 5 actually delivered value for customers on a
 6 reliable piece of generation capacity being
 7 added to the network, and if I look at the
 8 prudence work that was done by Liberty with a
 9 very deep bench, their comment to us inside of
 10 their review is that we had a competent team
 11 who did a solid job of delivering the project,
 12 we had a schedule that was aggressive and we
 13 came very close to meeting that, and that from
 14 their perspective the most credible source of
 15 information on a plant of this type is the
 16 Energy Information Association in the United
 17 States, and that for the same convention gas
 18 turbine that the approximate value that we
 19 should have paid for the plant is 131 million
 20 dollars US, and we are 15 million dollars,
 21 sir, under that price.
 22 MR. DUMARESQUE:
 23 Q. I'm aware of -
 24 MR. MACISAAC:
 25 A. And I'm entirely confident in my information,

Page 71

1 and I'm entirely confident that we gave
 2 customers and rate payers in the province
 3 value for money.
 4 MR. DUMARESQUE:
 5 Q. I have no issue with your assessment of
 6 Liberty's conclusions, but I will have the
 7 questions for them, of course, as to how they
 8 reached it, but if I could now take you to the
 9 document under - while I'm looking for that,
 10 would you agree, as I said yesterday, that you
 11 were not obliged to accept any of these
 12 tenders, would that be a fair statement?
 13 (10:30 a.m.)
 14 MR. MACISAAC:
 15 A. Our public tender document reserves the right
 16 for us to reject any and all offers, sir.
 17 MR. DUMARESQUE:
 18 Q. And specifically it says you do not have to
 19 accept the lowest tender, is that correct?
 20 MR. MACISAAC:
 21 A. We can call it up if you like. I think I
 22 answered this question yesterday where I said
 23 it comes down to technical compliance first to
 24 ensure that it's fit for purpose, and then
 25 thereafter we then look at price.

Page 72

1 CHAIRMAN:
 2 Q. The lowest or any other offer not necessarily
 3 accepted, something to that effect?
 4 MR. MACISAAC:
 5 A. Correct, sir.
 6 CHAIRMAN:
 7 Q. That's the one I'm familiar with.
 8 MR. DUMARESQUE:
 9 Q. When you got the offer from ProEnergy when the
 10 tender closed on April 21st, and you put into
 11 action your due diligence process, knowing
 12 months before that this complete package was
 13 available for 23 million or nearest offer, did
 14 it cross your mind that maybe, you know, we
 15 should go and talk to the owners of this
 16 machine, this package, considering now that we
 17 have a price of 99 million to purchase and
 18 install it, a different allocation for
 19 installation and equipment, did it occur to
 20 you and did you actually take the time in your
 21 due diligence process with ProEnergy to
 22 discuss whether the price they had offered or
 23 they had tendered was a fair price in relation
 24 to the world advertising that was taking place
 25 around this package, because clearly they were

Page 73

1 not the same numbers? Did you do any - did
 2 you have any discussions with ProEnergy along
 3 those lines?
 4 MR. MACISAAC:
 5 A. We did not, sir, and the basis for not having
 6 that conversation is our understanding of the
 7 EPC contract, and inside of the EPC contract
 8 the fact that they bear the burden, they take
 9 on the integration of all of the assets,
 10 including the builder's work, plus they assume
 11 responsibility for the integration of all the
 12 design work as well, so if we were in a
 13 different place and time, I don't think our
 14 approach would have been different, sir, in
 15 that we go to the market and we look for an
 16 EPC response that takes on the integration of
 17 the mechanical, the electrical, goes beyond
 18 buying a specific piece of kit, and it speaks
 19 to the integration of the auxiliaries and the
 20 integration of all the work, including the
 21 design components and making it all work
 22 together. We're not a general contractor.
 23 MR. DUMARESQUE:
 24 Q. Okay, I'm having some difficulty here finding
 25 this, but I know, like, the - when you issued

Page 74

1 the contracts, GT-DD-NLH-001, Attachment 1, is
 2 that the one there? Yes, page 280 of 500, and
 3 before I forget because I'm not sure if we
 4 asked it in an undertaking, but would you
 5 agree then, Mr. MacIsaac, to provide an
 6 undertaking giving us a comparison between the
 7 line item tender acceptance document versus
 8 the payout, because you're saying earlier that
 9 it would not necessarily correspond to the
 10 tender document, like, generators -
 11 MR. MACISAAC:
 12 A. It would fully reconcile, sir, in terms of
 13 total dollar value, but it may not line up
 14 with the spreadsheet that you have.
 15 MR. DUMARESQUE:
 16 Q. Yeah, and I'd particularly like -
 17 MR. MACISAAC:
 18 A. I think what you're looking for is a
 19 reconciliation of our milestone payments and
 20 their total value against the original value
 21 of the contract?
 22 MR. DUMARESQUE:
 23 Q. No, that's not what I'm looking for because I
 24 was - maybe we might misunderstand each other.
 25 What I'm looking for is when I asked you if

Page 75

1 you paid out by line item, I assumed you were
 2 talking about line item, generator, turbine,
 3 transformer, as they were bid in unit price
 4 bidding, right. The only three areas where
 5 you add a different in that was the building,
 6 which you agree and we all agree was open to
 7 the allowance, and if there was a problem,
 8 which we have -
 9 MR. MACISAAC:
 10 A. Uh-hm.
 11 MR. DUMARESQUE:
 12 Q. And then there was two other items of 2.5
 13 million dollars each on the tender document
 14 that said that these were materials for
 15 unscheduled additional work, and labour for
 16 additional unscheduled work. These were two
 17 areas. So there were only three areas really
 18 where I would have thought if I was in
 19 business that I could possibly get more money
 20 than what I would get when I said I'm going to
 21 pay \$10.00, I'll give you \$10.00 for the
 22 generator, for example, right, that's what I'm
 23 trying to get at. Now maybe, as I said, maybe
 24 we're misunderstanding each other, but what I
 25 would like to get is we know what came in in

Page 76

1 the line items, I would like to be able to get
 2 what you paid out. If it doesn't conform to
 3 the line items, I'd like you to show me where
 4 it doesn't conform.
 5 MR. MACDOUGALL:
 6 Q. Mr. Chair, if I could just interject, we did
 7 already say that we would provide an
 8 undertaking of the explanation of the variance
 9 between the contract price and the actual by
 10 component, so that undertaking is already on
 11 the record, and as Mr. Dumaresque said, he
 12 wasn't sure if it was. I believe that is the
 13 item, and we could simply add to that
 14 undertaking if there's line item
 15 discrepancies, that they will be noted where
 16 there's a change in line items. I believe the
 17 undertaking has already been provided on the
 18 record.
 19 JOHNSON, Q.C.:
 20 Q. I think it's page 7 from yesterday.
 21 MR. DUMARESQUE:
 22 Q. Okay, so as you see from this page, Mr.
 23 MacIsaac, you have a contract signed on May
 24 16th for the procurement of 100 megawatt
 25 combustion turbine generator and auxiliary

Page 77

1 equipment for the Holyrood terminal station,
 2 and I would also then refer you in the same
 3 response to page 373 of 500, and this is a
 4 contract between Hydro and ProEnergy for the
 5 engineering on-site procurement and
 6 construction services for 100 megawatt nominal
 7 combustion turbine generator. So as you see,
 8 one is for the turbine generator and auxiliary
 9 equipment, the equipment, and then you have
 10 the engineering on-site procurement and
 11 construction, could be classified as
 12 installation.

13 MR. MACISAAC:
 14 A. Okay.

15 MR. DUMARESQUE:
 16 Q. Right? So first of all, I'd like to ask why
 17 two contracts? You put out a tender for a bid
 18 and you got the price of 99.8 million dollars,
 19 which seemed to be pretty clear. Why did you
 20 do two contracts then to split that award, one
 21 to a US company, and the second one to a
 22 Canadian subsidiary of ProEnergy Services, why
 23 did you do that?

24 MR. MACISAAC:
 25 A. That was based on advice from our Finance and

Page 78

1 Tax group, and it was in order to ensure that
 2 we were tax compliant.

3 MR. DUMARESQUE:
 4 Q. Would you provide an undertaking to give us
 5 the documentation on that advice?

6 MR. MACISAAC:
 7 A. Agreed.

8 MR. MACDOUGALL:
 9 Q. Mr. Chair, likewise, on that item subject
 10 yesterday, I'm not sure what advice was given
 11 and of what nature. We will take the
 12 undertaking, subject to the potential that it
 13 may be confidential or otherwise if it's
 14 professional advice being given with respect
 15 to certain matters.

16 MS. GLYNN:
 17 Q. Noted on the record.

18 MR. DUMARESQUE:
 19 Q. So just on that point, you're saying that you
 20 did two contracts on the advice of your
 21 Finance Department, not on the request of
 22 ProEnergy company? They never requested this,
 23 did they?

24 MR. MACISAAC:
 25 A. I'm responding to the question, I'm sorry, the

Page 79

1 same way, we had advice internally from our
 2 Finance and Treasury group, including tax
 3 folks, that told us that this was a prudent
 4 course of action.

5 MR. DUMARESQUE:
 6 Q. Okay, so I'll just ask the specific question,
 7 did you have a request from ProEnergy to split
 8 the award into two contracts?

9 MR. MACISAAC:
 10 A. I'd have to go back and check, sir, whether we
 11 had or had not a direct request. We
 12 definitely had the discussion.

13 MR. DUMARESQUE:
 14 Q. Okay, so you definitely had the discussion
 15 with ProEnergy?

16 MR. MACISAAC:
 17 A. No, we definitely had the discussion
 18 internally and had the discussion with
 19 ProEnergy about the construction of the
 20 contracts.

21 MR. DUMARESQUE:
 22 Q. Okay, so we're down to -

23 MR. MACISAAC:
 24 A. And it's important to understand that. I
 25 think what you're alluding to is did we have

Page 80

1 surety and were rate payers and customers
 2 protected all the way through, and, yes,
 3 there's a parent agreement here that actually
 4 draws in both contracts to a parent
 5 understanding to ensure that ProEnergy in the
 6 United States, the parent company, was fully
 7 responsible.

8 MR. DUMARESQUE:
 9 Q. Well, I would like to get that information as
 10 to - I guess, it's the chicken and the egg,
 11 did ProEnergy talk first, or you consult your
 12 tax department or finance department first.

13 MR. MACISAAC:
 14 A. Yeah.

15 MR. DUMARESQUE:
 16 Q. I'm sure the information will clarify that
 17 matter.

18 MS. GLYNN:
 19 Q. We'll note that as an undertaking on the
 20 record.

21 MR. DUMARESQUE:
 22 Q. Yeah, there is - this is where I'm having
 23 trouble finding my document, but there is
 24 another - I don't know if you can help me with
 25 this, but there is another RFI that gives us a

Page 81	Page 83
<p>1 copy of the parent document, the parent 2 contract, and in that contract and in that 3 document it is clear that the contract award 4 will be split into two, and that indeed the 5 contract for the combustion turbine generator 6 and auxiliary equipment will be valued at 7 around 54 million dollars. This is not 8 confidential, this is what's on the public 9 record, that this contract here is 54 million 10 dollars for the turbine generator and 11 auxiliary equipment. The Canadian contract 12 for the procurement and construction services, 13 the installation, is for 45 million dollars. 14 That is the evidence that's on the record 15 here, not redacted in any way, shape, or form.</p> <p>16 MR. MACDOUGALL: 17 Q. Mr. Chair, before a question comes, I'm not 18 sure if Mr. MacIsaac can speak to those 19 numbers or not, but we would appreciate it if 20 Mr. Dumaresque could point to the record on 21 these, and he's now talking about contract 22 specific provisions, he's stating them as 23 facts, so it would be very helpful if we could 24 have it pointed to in the record to make sure 25 if Mr. MacIsaac is asked a question, he can</p>	<p>1 MR. DUMARESQUE: 2 Q. That would be appreciated, yes, I'm sure we'll 3 find it because it's only a matter of checking 4 my RFI. I thought it was in this 001, but 5 it's not. Thank you.</p> <p>6 CHAIRMAN: 7 Q. We shall break. 8 (10:46 a.m.) 9 (RECESS) 10 (11:23)</p> <p>11 CHAIRMAN: 12 Q. So back to Mr. Dumaresque, I believe, sir.</p> <p>13 MR. DUMARESQUE: 14 Q. Thank you, Mr. Chairman. I found the 15 document. It was actually in the same RFI 16 response, GD-DD-NLH-001, page 1 of 500, dated 17 May 16th, 2014, and the contract 2014-57952, 18 is actually, as they point out, in three 19 parts, and I'd like to refer to Section 2, 20 Item 2, the procurement of the 100 megawatt 21 combustion turbine generator and auxiliary 22 equipment, and this contract covers 54.7 23 million dollars.</p> <p>24 MS. GLYNN: 25 Q. Mr. Dumaresque, if you could just move the mic</p>
<p>1 read the context and know what's being put to 2 him.</p> <p>3 MR. DUMARESQUE: 4 Q. I don't know where that went overnight, but it 5 was certainly in this package here that - the 6 document was part of the RFI, and the opening 7 letter of that response clearly indicated that 8 the contract -</p> <p>9 CHAIRMAN: 10 Q. Well, Mr. Dumaresque, you've got to provide 11 it.</p> <p>12 MR. DUMARESQUE: 13 Q. I understand that.</p> <p>14 CHAIRMAN: 15 Q. Because he's entitled to know the context 16 within which the question is being placed.</p> <p>17 MR. DUMARESQUE: 18 Q. That's right, yes. Anyway, we'll see if that 19 goes there -</p> <p>20 MS. GLYNN: 21 Q. Mr. Chair, perhaps we could break a couple of 22 minutes early and allow Mr. Dumaresque the 23 time to look for his reference.</p> <p>24 CHAIRMAN: 25 Q. Okay.</p>	<p>1 and make sure that you're speaking into the 2 mic.</p> <p>3 MR. DUMARESQUE: 4 Q. Okay.</p> <p>5 MS. GLYNN: 6 Q. Thank you.</p> <p>7 MR. DUMARESQUE: 8 Q. Is that better? This contract, as it says 9 there, covers 54.7 million dollars, and the 10 second, number 3, the engineering on-site 11 procurement and construction services, this 12 contract is given to the company in Vancouver, 13 the subsidiary of ProEnergy, covering 45 14 million dollars, and I would just ask you 15 again, Mr. MacIsaac, in light of your 16 statement earlier that the package of a 17 generator, turbine, mechanical and electrical, 18 balance of plant, installed for 31.5 million 19 dollars, do you still stand by that figure?</p> <p>20 MR. MACISAAC: 21 A. So I'm going to answer the question by 22 speaking to the portion because I believe what 23 we're suffering, back to your earlier 24 comments, is sometimes we miss one another in 25 communication, and I'm going to answer the</p>

Page 85

1 question by speaking to the equipment that is
 2 between the 31.5 million dollars and the 54
 3 million dollars. I think that's where we're
 4 missing one another because there's a lot of
 5 equipment in that space. Jenny, if you could
 6 bring that drawing back up that we used
 7 yesterday that shows the red outline and the
 8 green outline because I believe a picture is
 9 worth a thousand words, and there's a lot of
 10 additional equipment supply in the difference
 11 between the two, and I think that's where
 12 we're missing one another.

13 MR. DUMARESQUE:
 14 Q. I don't agree.

15 MR. MACDOUGALL:
 16 Q. Mr. Chair, just for the record, this was
 17 Exhibit 3 that's being pulled up.

18 MR. MACISAAC:
 19 A. So the difference between them, and this is by
 20 no means a comprehensive list, but some of the
 21 bigger pieces, so that the generator, step-up
 22 transformer, is over and above. The 13- 8
 23 switch gear, including unit breaker and fault
 24 current limiter, those are big pieces. The
 25 conversion from natural gas fuel delivery

Page 86

1 system to a diesel fuel delivery system, all
 2 the diesel fuel system itself, including the
 3 tanks, all the gear that goes into the
 4 pumphouse, the fuel delivery system, the fuel
 5 heating system, the air inlet system, and the
 6 heating system for that, the exhaust stack,
 7 snow doors, the water treatment plant, and the
 8 water treatment plant is a state of the art
 9 from GE, it's a reverse osmosis treatment
 10 plant, and it purifies the water. It's the
 11 same sort of thing that you'd use for
 12 desalination from salt water to pure water.
 13 The FOWI mixing skid which mixes the fuel and
 14 water together, all the water storage that's
 15 under the roof line, so you take the purified
 16 water into a water storage tank and it's then
 17 pumped across to the fuel mixing skid, and
 18 that fuel mixing skid is over and above. The
 19 compressed air system and all the associated
 20 infrastructure and pipe work that goes with
 21 that. The SCADA and communications system
 22 between ECC, all the local control, and the
 23 local control itself, and two additional
 24 plants inside the plant, which is the diesel
 25 plant to support black start, and it's a one

Page 87

1 megawatt diesel plant with its own set of
 2 auxiliaries, including fuel, fuel storage,
 3 controls, integrated controls back to the
 4 balance of plant, another gas turbine plant
 5 onto itself, and it's more than a 3 megawatt
 6 plant onto itself with its own separate
 7 control package, with its own separate fuel
 8 storage, and its own separate fuel delivery
 9 system, so all of that, sir, is inside of the
 10 space between the 31.5 million dollars and the
 11 54 in terms of equipment supply. I did say
 12 it's a non-comprehensive list, but I've sat
 13 down and looked at the drawing and went to
 14 some of my notes trying to speak to the gap
 15 between us.

16 MR. DUMARESQUE:
 17 Q. Thank you. I would disagree that the picture
 18 is better than a thousand words in this case,
 19 and I'd like to go back to GT-PUB-NLH-014,
 20 Attachment 1, Page 1 of 1. No, I'm sorry, GT-
 21 PUB-NLH-014. Okay, I thought the information
 22 was there, but it's not, so that I can't refer
 23 to it, but in the description there as opposed
 24 to the amounts, that's where I was hoping we
 25 could clarify that the components were very

Page 88

1 clear, it was turbine generator and - but,
 2 anyway, I won't belabour that any more
 3 because, as my counsel has advised me, the
 4 Board has the unredacted version and all the
 5 intervenors have the unredacted version and
 6 I'm sure the unredacted version is what is
 7 going to be assessed as you look through the
 8 evidence. So, you know, in this case here now
 9 we'll leave it to that as to how the
 10 components are broken down in the absence of
 11 not being able to refer to this information,
 12 and I would also acknowledge, Mr. Chairman,
 13 that maybe a year ago when I did raise this
 14 with your counsel, that I was appraised of a
 15 process that I could follow by making a
 16 separate submission to you, and at that time
 17 both counsel agreed that we would not go that
 18 course, so I accept at this stage the
 19 confidentiality of those numbers still
 20 prevails. So the only final thing that I
 21 would have to add to this particular cross-
 22 examination is did you in the final stage of
 23 this, did you ever ask ProEnergy if they knew
 24 the - who the owner was and did it ever cross
 25 your mind to talk to the owner, the original

Page 89	Page 91
<p>1 owner of this machine and assess this package 2 and assess the original cost of the unit as a 3 dollar figure that you could refer to in 4 assessing fair market value, for example? 5 (11:30 a.m.) 6 MR. MACISAAC: 7 A. I think there's a couple of questions inside 8 of that. I think your question was did I ever 9 ask ProEnergy? 10 MR. DUMARESQUE: 11 Q. Yeah. Did you ever ask ProEnergy who the 12 owner, original owner was? 13 MR. MACISAAC: 14 A. I didn't ask ProEnergy who the owner was. We 15 saw the information in terms of the brokers 16 that were offering it, sir. 17 MR. DUMARESQUE: 18 Q. Okay. That's all my questions, Mr. Chairman, 19 for this witness. 20 CHAIRMAN: 21 Q. Now, where am I going now. I'm after losing 22 track. To the Commissioners. Madam? 23 VICE CHAIR WHALEN: 24 Q. I have no questions. Thank you, Mr. MacIsaac. 25 COMMISSIONER NEWMAN:</p>	<p>1 MR. MACISAAC: 2 A. And the green represents the entire scope of 3 work. 4 CHAIRMAN: 5 Q. Okay. 6 MR. MACISAAC: 7 A. So that the red is a subset of the complete 8 scope. 9 CHAIRMAN: 10 Q. Okay. 11 VICE-CHAIR WHALEN: 12 Q. Could you draw another circle for the 54 13 million again? 14 MR. MACISAAC: 15 A. Right, we could draw another circle or a 16 number of circles that shows all of the pieces 17 of equipment that are within that 54. If that 18 would be helpful, we could do that too. 19 CHAIRMAN: 20 Q. I like the principle Ockham's razor. I don't 21 know if you ever heard of that. Simplicity. 22 MR. MACISAAC: 23 A. Yeah. 24 CHAIRMAN: 25 Q. If simplicity is a sufficient explanation, you</p>
<p>1 Q. No questions. 2 CHAIRMAN: 3 Q. No? 4 COMMISSIONER OXFORD: 5 Q. No. 6 MR. JOHN MACISAAC, CROSS-EXAMINATION BY CHAIRMAN ANDY 7 WELLS 8 CHAIRMAN: 9 Q. Okay. Just a quick one on the diagram, the 10 drawing of the floor plan we just sort of, you 11 know, we had up, the red and the green. Are 12 you saying the red was 54 million dollars and 13 the green was -- doesn't break down that way? 14 MR. MACISAAC: 15 A. No. No, sir. 16 CHAIRMAN: 17 Q. Okay. 18 MR. MACISAAC: 19 A. The message and the question from Mr. 20 Dumaresque was specific to the turbine 21 generator package and the portion that is 22 actually the turbine generator package is 23 inside of that red outline. 24 CHAIRMAN: 25 Q. That's what I mean, yeah.</p>	<p>1 don't have to go any further. 2 MR. MACISAAC: 3 A. I'm with you on that entirely. 4 CHAIRMAN: 5 Q. You got any redirect, sir? 6 MR. JOHN MACISAAC, RE-EXAMINATION BY MR. DAVID MACDOUGALL 7 MR. MACDOUGALL: 8 Q. I do, Mr. Chair. Not very much. Ms. Gray, if 9 you could pull up Hydro's combustion turbine 10 generation application filed April 10, 2014, 11 and if we could go to the report attached to 12 that at page 34, the lower right-hand corner, 13 page 34, and if you can just go up -- yes, if 14 you could go right there, that's terrific. 15 Mr. MacIsaac, you were dealing with a 16 couple of questions with Board counsel a day 17 or two ago with respect to the AACE class 18 three estimate and I just want to ask you a 19 couple of questions. With respect to the 20 application placed before the Board for the 21 113 megawatt aftermarket new and unused no 22 synchronous condenser capability, we see there 23 the cost of 118.9 which is the 119 million 24 we've discussing for that piece of equipment, 25 correct?</p>

Page 93	Page 95
<p>1 MR. MACISAAC: 2 A. That's correct. 3 MR. MACDOUGALL: 4 Q. And if we look directly below that, in Hydro's 5 application, it specifically states "based on 6 the level of input to the estimating process, 7 the estimates used in this report are 8 considered class three estimates per the 9 Association for the Advancement of Cost 10 Engineering, AACE, and thus within an accuracy 11 of plus 20 percent to minus 10 percent" and 12 that's the discussion you had with Board 13 counsel, correct? 14 MR. MACISAAC: 15 A. That's correct. 16 MR. MACDOUGALL: 17 Q. So in the actual application that was placed 18 before the Board and which other parties had 19 an opportunity to review, that statement was 20 indicating that the estimates in the table 21 above were based on that class three estimate, 22 correct? 23 MR. MACISAAC: 24 A. That's correct. 25 MR. MACDOUGALL:</p>	<p>1 MR. MACISAAC: 2 A. That's correct. 3 MR. MACDOUGALL: 4 Q. And has Hydro had an opportunity to fully vet 5 and review all the facts and comments made in 6 that report to date? 7 MR. MACISAAC: 8 A. I'd say it's work in progress. 9 MR. MACDOUGALL: 10 Q. Thank you. Mr. Chair, those are all my 11 questions. 12 CHAIRMAN: 13 Q. So I think we're adjourned until Monday. 14 MS. GLYNN: 15 Q. Yes, we are. 16 CHAIRMAN: 17 Q. Okay. 18 MS. GLYNN: 19 Q. And we are finished with Mr. MacIsaac. 20 CHAIRMAN: 21 Q. Pardon? 22 MS. GLYNN: 23 Q. And we are finished with Mr. MacIsaac. 24 MR. MACISAAC: 25 A. Thank you.</p>
Page 94	Page 96
<p>1 Q. Thank you. Now Mr. Coxworthy asked you a 2 couple of questions about the timing of the 3 testing of the CT for black start. Do you 4 recall that discussion? 5 MR. MACISAAC: 6 A. I do. 7 MR. MACDOUGALL: 8 Q. And I just wanted to note for the record, 9 during the time period now that the testing 10 has been deferred, the Holyrood site still has 11 actual on-site black start capability pursuant 12 to the eight times two megawatt diesels that 13 are still in place, correct? 14 MR. MACISAAC: 15 A. That's correct, sir. 16 MR. MACDOUGALL: 17 Q. Mr. Coxworthy also asked you a couple of 18 questions regarding the Liberty report on the 19 March 4 outage. Do you recall that? 20 MR. MACISAAC: 21 A. I do. 22 MR. MACDOUGALL: 23 Q. And Liberty's report was filed with the Board, 24 I believe one day before the commencement of 25 the prudence phase of this hearing?</p>	<p>1 CHAIRMAN: 2 Q. So you are finito. 3 MR. MACISAAC: 4 A. Thanks very much. 5 CHAIRMAN: 6 Q. Only in so far as these hearings are 7 concerned. 8 MR. MACISAAC: 9 A. Have a good weekend. Thank you. 10 UPON CONCLUSION AT 11:38 A.M.</p>

CERTIFICATE

1
2 I, Judy Moss, hereby certify that the foregoing is a true
3 and correct transcript of a hearing in the matter of
4 Newfoundland and Labrador Hydro's General Rate
5 Application heard on the 6th day of November, A.D., 2015
6 before the Commissioners of the Public Utilities Board,
7 St. John's, Newfoundland and Labrador and was transcribed
8 by me to the best of my ability by means of a sound
9 apparatus.
10 Dated at St. John's, Newfoundland and Labrador
11 this 6th day of November, A.D., 2015
12 Judy Moss

	21 [3] 12:3,9 13:1	9.9 [1] 4:12	34:15 37:4,10 38:1 39:17	argument [2] 29:4 50:9
-\$-	21st [5] 5:15 19:6 21:19	99 [1] 72:17	40:25 43:24 45:7,23	arrangement [1] 19:19
\$10.00 [2] 75:21,21	22:10 72:10	99.8 [2] 24:2 77:18	46:16 52:20 54:14,18	arrive [1] 7:7
-&-	23 [15] 17:14,21 39:6	9:08 [1] 1:1	84:15 91:13	art [1] 86:8
& [1] 45:16	54:24 58:9,15,19,24 59:4	9:15 [1] 8:4		article [5] 55:23 56:20
-0-	59:4,8 60:7,13,20 72:13	9:30 [1] 19:25		57:9,17 58:2
001 [1] 83:4	24 [3] 19:3,6,12	9:45 [1] 35:11	against [2] 63:22 74:20	articulate [1] 67:16
014 [1] 48:15	24-month [1] 20:19		aggressive [1] 70:12	ASAP [1] 22:6
-1-	280 [1] 74:2	-A-	ago [3] 51:16 88:13 92:17	aspect [1] 37:11
1 [9] 1:13 3:2 48:15 69:12	-3-	A.D [2] 97:5,11	agree [12] 13:16 21:25	assess [2] 89:1,2
74:1 83:16 87:20,20,20	3 [4] 47:18 84:10 85:17	a.m [10] 1:1 8:4 19:25	58:14,22 60:21 65:24	assessed [1] 88:7
10 [3] 47:17 92:10 93:11	87:5	35:11 47:11 60:3 71:13	66:10 71:10 74:5 75:6,6	assessing [1] 89:4
10-12 [1] 27:9	31 [1] 55:4	83:8 89:5 96:10	85:14	assessment [2] 10:24
100 [7] 8:23 9:12 28:13	31.5 [8] 62:14 66:17 67:1	AACE [2] 92:17 93:10	agreed [4] 20:14 63:15	71:5
42:22 76:24 77:6 83:20	67:13 68:6 84:18 85:2	ability [2] 12:17 97:8	78:7 88:17	assets [1] 73:9
100-115 [1] 16:11	87:10	able [8] 25:20 26:3 37:12	agreeing [1] 24:9	associated [1] 86:19
101 [2] 3:14,16	32 [1] 62:22	49:2 50:7 57:9 76:1	agreement [2] 53:24	Association [2] 70:16
10:00 [1] 47:11	32.5 [1] 67:6	88:11	80:3	93:9
10:15 [1] 60:3	34 [2] 92:12,13	above [3] 85:22 86:18	agreements [1] 53:13	assume [3] 52:13 60:9
10:30 [1] 71:13	373 [1] 77:3	93:21	air [2] 86:5,19	73:10
10:46 [1] 83:8	38 [2] 57:19,21	absence [1] 88:10	allocated [2] 8:9 47:17	assumed [1] 75:1
110 [1] 9:15		absolutely [5] 5:6,14	allocation [3] 50:16,16	attached [1] 92:11
113 [2] 10:3 92:21	-4-	21:25 55:20 68:16	72:18	attachment [7] 1:13 3:2
115 [2] 25:18 42:21	4 [1] 94:19	AC [1] 37:8	75:7	48:15,25 69:12 74:1
115.2 [1] 8:21	45 [3] 12:25 81:13 84:13	accept [3] 71:11,19 88:18	allow [1] 82:22	87:20
118.9 [1] 92:23	48 [6] 4:8,9,15 5:4 6:2 7:8	acceptable [1] 3:7	allowance [6] 30:21	attention [3] 17:18 33:18
119 [1] 92:23	48-hour [1] 6:7	acceptance [1] 74:7	32:20 45:25 46:5 48:10	58:1
11:23 [1] 83:10	-5-	accepted [4] 22:11 30:20	75:7	auxiliaries [2] 73:19
11:30 [1] 89:5	5 [2] 47:18 58:2	64:6 72:3	alluded [1] 48:21	87:2
11:38 [1] 96:10	50 [1] 35:4	accompanied [1] 3:20	alluding [2] 50:10 79:25	auxiliary [5] 76:25 77:8
11th [4] 54:22 56:21	500 [5] 3:14,16 74:2 77:3	account [1] 4:15	along [2] 59:18 73:2	81:6,11 83:21
57:17 58:11	83:16	accuracy [1] 93:10	always [1] 20:10	avail [1] 54:10
12 [3] 11:20 19:16,17	54 [7] 81:7,9 85:2 87:11	accurate [2] 30:11 69:20	ambient [1] 9:13	available [1] 72:13
123 [1] 47:9	90:12 91:12,17	achieve [1] 24:19	America [1] 44:10	award [6] 24:14 46:10
123.5 [4] 9:24 10:5,7,9	54.7 [2] 83:22 84:9	acknowledge [1] 88:12	amount [2] 13:4 64:25	47:21 77:20 79:8 81:3
13-8 [1] 85:22	5th [2] 26:2,6	action [2] 72:11 79:4	amounts [1] 87:24	awarded [1] 50:19
131 [1] 70:19	-6-	actual [12] 49:21 50:13	analysis [1] 42:16	aware [2] 8:13 70:23
132 [1] 62:3	6 [1] 45:6	58:8,9,18,24 59:3,5	ANDY [1] 90:6	away [2] 24:17 62:4
135 [1] 10:22	6.4 [2] 3:18 5:18	64:25 76:9 93:17 94:11	answer [6] 5:2 10:12	
143 [1] 7:11	63 [1] 46:7	add [5] 20:2 53:10 75:5	18:2 42:18 84:21,25	-B-
15 [4] 17:13,21 39:5 70:20	6th [5] 22:13 23:8,9 97:5	76:13 88:21	answered [2] 43:14	B [1] 3:9
16th [2] 76:24 83:17	97:11	added [2] 61:7 70:7	71:22	backup [1] 37:10
17 [1] 3:2	-7-	addition [1] 8:2	answers [1] 43:18	balance [7] 36:3 58:6
172 [1] 3:2	7 [2] 45:6 76:20	additional [4] 75:15,16	anyway [3] 11:24 82:18	60:17 67:23 68:5 84:18
18th [1] 3:18	7.5 [1] 46:9	85:10 86:23	88:2	87:4
-2-	70.5 [1] 46:8	address [2] 1:5 52:6	apologize [1] 4:2	bank [6] 3:10,12,18 4:11
2 [3] 47:19 83:19,20	7th [11] 22:6 23:20 24:3	adjoined [1] 95:13	apparatus [1] 97:9	4:15 5:17
2.5 [1] 75:12	27:13 28:6,14,18 29:12	Advancement [1] 93:9	application [6] 28:6	based [9] 44:11,13 61:3
20 [5] 5:10 13:7,8 43:20	29:19,22 33:9	advertised [1] 10:11	92:10,20 93:5,17 97:5	64:16,18 66:5 77:25 93:5
93:11	-8-	advertisement [2] 59:16	applied [1] 11:2	93:21
2014 [6] 3:18 24:3 28:9	8 [1] 45:25	60:5	applies [1] 9:23	basis [5] 7:7 12:2 46:11
54:22 83:17 92:10	70.5 [1] 46:8	advertisements [2]	appraised [1] 88:14	66:5 73:5
2014-57952 [1] 83:17	7th [11] 22:6 23:20 24:3	59:13,25	appreciate [7] 18:13	bear [1] 73:8
2015 [3] 33:10 97:5,11	27:13 28:6,14,18 29:12	advertising [1] 72:24	31:6 32:9,14 34:19 47:13	became [1] 47:4
	29:19,22 33:9	advice [6] 77:25 78:5,10	81:19	become [2] 19:18 56:18
	-9-	78:14,20 79:1	appreciated [1] 83:2	belabour [1] 88:2
	9 [1] 62:3	advised [1] 88:3	approach [1] 73:14	below [1] 93:4
		aftermarket [1] 92:21	appropriate [4] 18:3	bench [1] 70:9
		again [31] 3:2 5:24 17:5	30:2 41:19 65:22	beneficial [1] 47:10
		17:20 18:21 19:14 20:17	approval [1] 32:4	best [1] 97:8
		22:15 26:14 29:23 30:3	approve [1] 32:4	better [4] 27:12 47:16
		30:15,18 33:18,19,22	approximate [2] 66:21	84:8 87:18
			70:18	
			April [7] 3:18 5:15 19:5	
			22:10 28:6 72:10 92:10	
			areas [3] 75:4,17,17	

between [17] 33:24 34:7 36:10 44:14 45:15,15 50:21 64:15 74:6 76:9 77:4 85:2,11,19 86:22 87:10,15	buying [2] 60:11 73:18	cherrypicking [1] 55:19	company [10] 3:5 16:19 26:2 45:8 46:3,7 77:21 78:22 80:6 84:12	confirming [3] 32:7 59:3 68:2
beyond [2] 20:9 73:17	<hr/> -C- <hr/>	chicken [1] 80:10	compare [1] 60:13	confirms [1] 37:7
bid [18] 3:20 5:11 7:3,11 8:13,14 12:1 25:1 30:20 36:6 37:4,6 49:22 65:9 65:15,15 75:3 77:17	Canada [1] 44:17	choice [1] 61:2	comparison [1] 74:6	conform [2] 76:2,4
bidder [1] 30:22	Canadian [4] 5:17 68:18 77:22 81:11	chosen [2] 55:8,9	competent [1] 70:10	connection [1] 39:12
bidding [2] 64:7 75:4	capabilities [1] 32:15	circle [2] 91:12,15	complete [15] 17:11,20 22:6 29:18,22 33:14 35:4 60:6,18,19,24 64:20,25 72:12 91:7	considerable [1] 51:16
bids [2] 48:19 50:17	capability [2] 92:22 94:11	circles [1] 91:16	completed [2] 66:6,10	considered [1] 93:8
big [7] 16:2 30:16,16 41:17 63:16 66:9 85:24	capacity [7] 17:14,22 39:5 47:3,6,16 70:6	cited [1] 41:3	completely [1] 69:18	considering [1] 72:16
bigger [2] 63:21 85:21	captured [1] 63:13	civil [1] 58:7	completeness [7] 16:1 17:17,24 38:20 39:8 46:13,17	consistent [4] 1:21,25 4:7 19:10
binary [2] 7:19 15:24	car [2] 21:10,10	clarification [4] 31:1 36:7 37:6 67:19	complex [1] 44:6	consolidated [1] 8:22
birth [1] 21:3	care [1] 37:10	clarify [5] 1:8 8:3 66:24 80:16 87:25	complexity [4] 20:5 44:16,18,19	construct [2] 63:14,19
bit [6] 4:3 6:19 15:16,19 15:21 65:9	carried [1] 46:5	class [3] 92:17 93:8,21	compliance [8] 7:19,21 7:24 17:24 35:20 46:18 46:24 71:23	construction [8] 33:3 44:22 65:9 77:6,11 79:19 81:12 84:11
biweekly [1] 22:19	carry [1] 45:25	classified [1] 77:11	compliant [1] 78:2	consult [1] 80:11
black [5] 49:13 69:4 86:25 94:3,11	case [9] 17:20 32:17 43:16 46:7 52:15 55:18 66:8 87:18 88:8	classify [3] 11:6 27:8,11	component [3] 50:3,5 76:10	CONT'D [1] 2:8
blacked [1] 48:25	cash [2] 4:11,14	cleaning [1] 18:5	components [7] 7:18 49:10 50:14 67:24 73:21 87:25 88:10	contain [2] 38:8,12
blow [1] 6:19	cashier's [1] 3:17	clear [17] 3:24 4:1 5:6 19:5 22:21 23:15,17 26:18 27:3 29:10,15 33:8 46:17 67:17 77:19 81:3 88:1	concern [2] 48:18 52:21	containment [3] 37:25 38:3,7
Board [15] 28:5,10,17 30:9 32:5 49:24 56:12 56:19 88:4 92:16,20 93:12,18 94:23 97:6	cautious [1] 13:6	clearly [8] 5:14 32:3 42:16 47:6,7 50:20 72:25 82:7	concerned [1] 96:7	context [11] 4:4 24:11 31:6 41:7,16 47:13 59:10 63:11,13 82:1,15
bond [1] 3:4	certain [5] 25:21 39:2 50:2,5 78:15	climate [1] 35:25	conclude [5] 32:21,23 33:2,5 60:23	continue [1] 2:24
bother [1] 11:23	certainly [9] 5:2 6:11 8:7 12:16 29:1 43:18 50:22 52:8 82:5	climatic [1] 44:12	compressed [1] 86:19	contract [29] 5:18 6:4 7:2 23:13,15 24:2,10 25:18 28:3 42:21 63:19 73:7,7 74:21 76:9,23 77:4 81:2,2,3,5,9,11,21 82:8 83:17,22 84:8,12
bought [3] 10:2 11:2 65:11	CERTIFICATE [1] 97:1	close [2] 19:5 70:13	concern [2] 48:18 52:21	contractor [3] 45:24 66:3 73:22
box [1] 5:12	certified [4] 3:9 4:10,14 5:16	closed [1] 72:10	concerns [1] 52:5	contracts [10] 4:8 5:11 50:19 74:1 77:17,20 78:20 79:8,20 80:4
boy [1] 41:17	certify [1] 97:2	closer [1] 12:25	concluded [2] 32:18 38:11	contractual [1] 51:24
brand [4] 16:19 20:18 26:4 67:9	CFAS [1] 60:7	coal [1] 65:11	conclusion [3] 9:16 29:4 96:10	contributed [1] 44:14
break [3] 82:21 83:7 90:13	Chair [17] 1:7 2:4 29:9 40:23 48:16 51:14 53:3 54:5 57:3 76:6 78:9 81:17 82:21 85:16 89:23 92:8 95:10	code [3] 44:7,10,12	conclusions [1] 71:6	contributing [1] 40:19
breakdown [6] 62:11 63:1,4,7,19,25	Chairman [47] 1:3 2:5 2:10 28:19,25 30:4 41:4 42:8 43:2,11 49:3,11 51:3,10 52:12,23 53:16 53:20 54:1,6,15 72:1,6 82:9,14,24 83:6,11,14 88:12 89:18,20 90:2,6,8 90:16,24 91:4,9,19,24 92:4 95:12,16,20 96:1,5	coin [1] 24:17	condenser [1] 92:22	control [3] 86:22,23 87:7
breaker [1] 85:23	challenge [1] 53:6	cold-eyes [1] 15:21	condition [3] 19:17 22:12 25:18	controls [2] 87:3,3
bring [3] 15:14 52:25 85:6	change [3] 43:22 44:1 76:16	columns [1] 6:20	conditions [2] 31:23 44:12	convention [1] 70:17
broken [1] 88:10	changed [1] 45:1	combed [1] 15:8	conduct [1] 3:5	conversation [2] 18:10 73:6
broker [1] 60:7	characterize [4] 27:20 27:22 30:6,11	combination [1] 4:10	confidence [2] 46:14 54:19	conversion [1] 85:25
brokers [1] 89:15	characterized [2] 27:4 42:24	combined [1] 8:21	confident [4] 69:20,21 70:25 71:1	cooler [1] 9:14
brought [1] 53:7	chartered [2] 3:10,11	combustion [9] 1:11 11:2 65:15 67:25 76:25 77:7 81:5 83:21 92:9	confidential [3] 52:20 78:13 81:8	copy [1] 81:1
bucket [1] 68:10	check [12] 15:17,17,18 15:19 16:18 18:10 25:23 26:23 47:23 48:2 64:15 79:10	comfort [1] 69:24	confidentiality [4] 52:5 53:6 69:25 88:19	corner [1] 92:12
buckets [2] 38:15 63:21	checking [1] 83:3	coming [2] 27:9 52:7	confidentially [2] 51:18 52:10	correct [23] 7:6 10:3 11:16 16:14 19:7,9 20:21 22:13 24:7 52:17 62:3 71:19 72:5 92:25 93:2 93:13,15,22,24 94:13,15 95:2 97:3
budget [1] 68:1	checklist [1] 7:17	commencement [1] 94:24	confirm [13] 6:1 9:1 12:8 34:20 36:19 37:15 40:11 50:20 59:7 64:24 68:9 68:20 70:4	correspond [1] 74:9
build [3] 30:23 32:18 44:19	cheque [8] 3:9,17,20,23 4:11,14 5:16,19	comment [7] 36:24 38:14 39:14,15 40:2 53:1 70:9	confirmation [2] 6:6 45:10	cost [13] 40:20 43:20 47:25 50:21,22 51:1 58:4 58:14 67:6 68:1 89:2 92:23 93:9
builder's [1] 73:10		comments [5] 41:2 51:15 57:2 84:24 95:5	confirmed [5] 4:18,22 26:1,3 36:7	counsel [6] 53:4 88:3,14 88:17 92:16 93:13
building [30] 22:5 25:5 25:13,14,17 29:17,18,21 29:24 30:1,6,14,24 31:2 31:3 32:19 33:3,13 40:19 43:21 44:7,10,12,15,21 45:23,23 46:4 48:10 75:5		commissioning [2] 13:5 22:21		couple [6] 82:21 89:7 92:16,19 94:2,17
burden [1] 73:8		commonplace [1] 53:23		course [17] 3:4 5:1 7:10 10:25 15:7 29:23 45:24
business [6] 3:6 5:10 30:16 53:12 65:8 75:19		communication [2] 59:12 84:25		
		communications [1] 86:21		
		companies [6] 14:17,18 15:2 49:21 52:15,18		

<p>50:6 51:25 52:1 53:11 60:19 64:1 69:16 71:7 79:4 88:18</p> <p>covering [1] 84:13 covers [2] 83:22 84:9 Coxworthy [2] 94:1,17 credible [1] 70:14 credit [1] 3:11 critical [1] 35:9 cross [4] 29:5 72:14 88:21,24 cross-examination [4] 2:8 28:22 41:8 90:6 cross-examine [1] 56:17 CT [2] 10:14 94:3 culture [1] 27:11 current [2] 1:12 85:24 customer [1] 69:25 customers [5] 47:10 62:6 70:5 71:2 80:1 cycle [1] 67:25</p>	<p>department [3] 78:21 80:12,12 deposit [1] 27:10 desalination [1] 86:12 describe [2] 7:13 13:23 description [1] 87:23 design [6] 11:9 44:6,15 44:18 73:12,21 detail [7] 15:9 36:6,15 37:5 40:6 42:15 67:21 detailed [6] 62:11 63:1 63:4,7,23,25 details [3] 19:1 33:22 34:13 determination [2] 46:20 66:8 determine [3] 7:23 17:24 61:1 determining [2] 38:19 42:20 diagram [1] 90:9 diesel [4] 86:1,2,24 87:1 diesels [1] 94:12 difference [17] 8:8 33:24 34:7,19 35:13,14,18 39:4 39:5 44:2,13 46:8 48:9 50:21 64:15 85:10,19 different [11] 4:6 9:13 45:15 50:18 64:9 65:14 67:24 72:18 73:13,14 75:5 differential [4] 17:13 46:16 47:3,4 difficult [2] 6:17 61:1 difficulty [1] 73:24 diligence [3] 18:4 72:11 72:21 dipped [1] 45:2 direct [1] 79:11 directed [1] 38:1 directly [5] 35:15,16 40:6 41:3 93:4 disagree [2] 5:23 87:17 disagreed [1] 2:11 disagreeing [1] 5:25 discharge [1] 35:17 discipline [2] 14:7 15:14 disclose [1] 49:22 discrepancies [1] 76:15 discuss [2] 14:13 72:22 discussed [2] 20:14 48:2 discussing [1] 92:24 discussion [9] 32:12 34:2 38:10 79:12,14,17 79:18 93:12 94:4 discussions [3] 31:14 31:19 73:2 dislike [1] 49:17 dismissed [2] 14:21,24 dispatched [1] 46:21 dispersion [3] 35:14,16 35:20 disqualified [1] 7:6</p>	<p>disqualify [1] 15:4 distribute [1] 57:24 divulge [1] 53:14 document [41] 1:10,14 1:15,17 5:3,16 7:1,14 8:7 11:8,12,14 14:2 16:5 29:12 36:6 37:6 46:2 48:12 54:21 56:18,20,22 57:12,16 61:19 68:14,24 69:3,7,8 71:9,15 74:7,10 75:13 80:23 81:1,3 82:6 83:15 documentation [2] 23:2 78:5 documented [1] 13:12 documents [4] 14:13 32:10 55:12,25 doesn't [6] 21:17 43:12 56:18 76:2,4 90:13 dollar [6] 5:19 24:2 32:20 45:25 74:13 89:3 dollars [38] 3:19 4:12,13 5:20 16:12 25:19 27:10 28:13 30:21 54:24 55:4 58:15,19 59:5,9 60:7,20 61:16 62:23 67:1,7 68:7 68:18 70:20,20 75:13 77:18 81:7,10,13 83:23 84:9,14,19 85:2,3 87:10 90:12 done [7] 13:21 14:8 15:20 24:14 44:4 66:1 70:8 doors [5] 35:8,10,10,25 86:7 double [1] 25:23 doubt [1] 5:14 down [11] 15:6 18:17 39:10 42:3 46:13 66:7 71:23 79:22 87:13 88:10 90:13 drafted [1] 42:16 drainage [1] 37:25 draw [5] 33:17 58:1 66:11 91:12,15 drawing [3] 85:6 87:13 90:10 drawn [2] 3:9,17 draws [1] 80:4 drive [2] 21:10,14 due [4] 18:4 43:22 72:11 72:21 Dumaresque [191] 1:9 1:15 2:6,8,9,18,23 4:23 5:9 6:10,15,25 7:9 8:5 8:17,24 9:5,10,20,25 10:6,10,19,23 11:13,17 12:15,21 13:9,19 14:9 14:20 16:4,9,15 18:1,12 18:16,20,24 19:13,23 20:15,25 21:7,11,16,24 22:4,24 23:6,12,16,21 23:25 24:6,25 25:6,10 25:15,25 26:9,25 27:7 27:17,21 28:1,20,23 29:8 29:16 30:5,13 32:6,16 32:24 33:7,16 34:4,12 34:22 35:2,22 36:1,16</p>	<p>36:20 37:3,16,20,24 39:9 39:18,22 40:12,16 41:1 41:5 42:6,12 43:9,15 44:23 45:5,17,21 47:12 48:4,13 49:6,16 52:24 54:4,7,13,17 55:7,22 56:1,6,13,25 57:13,20 57:25 58:21 59:2 60:4 61:9,13,17,22 62:1,10 62:17,24 63:6,24 64:5 64:12,17,21 65:1,7,19 66:15,23 67:8,18 68:13 68:17,24 69:2,10,15,22 70:22 71:4,17 72:8 73:23 74:15,22 75:11 76:11,21 77:15 78:3,18 79:5,13 79:21 80:8,15,21 81:20 82:3,10,12,17,22 83:1 83:12,13,25 84:3,7 85:13 87:16 89:10,17 90:20 Dumaresque's [1] 51:11 during [1] 94:9</p>	<p>entitled [3] 29:1 42:1 82:15 environment [2] 13:24 14:4 EPC [3] 73:7,7,16 equal [2] 11:23 33:19 equipment [27] 1:24 2:14 8:13 9:1,2 20:18 50:17,21 62:22,22 67:9 67:11,11 68:4 72:19 77:1 77:9,9 81:6,11 83:22 85:1,5,10 87:11 91:17 92:24 estimate [2] 92:18 93:21 estimates [3] 93:7,8,20 estimating [1] 93:6 evaluation [1] 11:6 evaluations [2] 11:10 11:10 evasive [1] 59:11 evidence [4] 28:2 69:17 81:14 88:8 exactly [5] 42:24 46:1 56:5 63:17 64:4 examination [2] 29:6 88:22 example [9] 7:3 27:23 51:1 61:12,14 64:18 65:10 75:22 89:4 exceeded [5] 4:12,16 10:15,16,18 Excel [1] 66:13 exception [3] 40:2,3,8 exchange [1] 53:23 exclude [1] 24:22 excluded [2] 46:4 61:5 Excuse [1] 26:12 execute [1] 32:15 execution [5] 29:25 30:15,23 44:19 46:5 exhaust [2] 35:3 86:6 exhibit [5] 56:2,3,8,15 85:17 exist [1] 43:14 exists [1] 43:12 expect [1] 10:16 explain [2] 36:12 54:18 explained [2] 9:12 22:15 explaining [1] 40:18 explanation [5] 36:24 41:24 48:8 76:8 91:25 explanations [1] 42:3 explicit [1] 67:20 expressing [1] 27:8 extended [1] 15:7 extension [1] 19:17 extent [1] 44:3 exterior [2] 39:24 44:25 extra [2] 19:19 40:20</p>
-D-				
<p>dah [3] 58:8,8,8 DANNY [1] 2:8 date [17] 21:6,8 23:7,9 23:13,22 24:1,24 25:3,5 25:9,17,23 26:24 27:13 29:12 95:6 dated [3] 3:18 83:16 97:10 David [2] 53:10 92:6 days [2] 12:7 13:6 DC [1] 37:10 dead [1] 41:10 deal [4] 22:8 50:15 52:6 54:16 dealing [5] 14:16 17:7 43:7 52:9 92:15 dealt [2] 52:10 57:5 December [18] 22:6,13 22:23 23:8,9,20 24:2,15 26:2,5 27:13 28:9,14,18 29:12,19,22 33:9 decision [2] 28:7 47:9 dedicated [1] 15:10 deduct [1] 37:12 deemed [1] 20:7 deep [1] 70:9 deferred [1] 94:10 definitely [3] 79:12,14 79:17 deliver [3] 4:9 5:5 24:23 deliverables [1] 63:20 delivered [2] 31:16 70:5 deliveries [2] 64:16,18 delivering [1] 70:11 delivery [5] 22:22 85:25 86:1,4 87:8 demanding [2] 44:9,17 denied [1] 55:17</p>	<p>dah [3] 58:8,8,8 DANNY [1] 2:8 date [17] 21:6,8 23:7,9 23:13,22 24:1,24 25:3,5 25:9,17,23 26:24 27:13 29:12 95:6 dated [3] 3:18 83:16 97:10 David [2] 53:10 92:6 days [2] 12:7 13:6 DC [1] 37:10 dead [1] 41:10 deal [4] 22:8 50:15 52:6 54:16 dealing [5] 14:16 17:7 43:7 52:9 92:15 dealt [2] 52:10 57:5 December [18] 22:6,13 22:23 23:8,9,20 24:2,15 26:2,5 27:13 28:9,14,18 29:12,19,22 33:9 decision [2] 28:7 47:9 dedicated [1] 15:10 deduct [1] 37:12 deemed [1] 20:7 deep [1] 70:9 deferred [1] 94:10 definitely [3] 79:12,14 79:17 deliver [3] 4:9 5:5 24:23 deliverables [1] 63:20 delivered [2] 31:16 70:5 deliveries [2] 64:16,18 delivering [1] 70:11 delivery [5] 22:22 85:25 86:1,4 87:8 demanding [2] 44:9,17 denied [1] 55:17</p>	<p>disqualify [1] 15:4 distribute [1] 57:24 divulge [1] 53:14 document [41] 1:10,14 1:15,17 5:3,16 7:1,14 8:7 11:8,12,14 14:2 16:5 29:12 36:6 37:6 46:2 48:12 54:21 56:18,20,22 57:12,16 61:19 68:14,24 69:3,7,8 71:9,15 74:7,10 75:13 80:23 81:1,3 82:6 83:15 documentation [2] 23:2 78:5 documented [1] 13:12 documents [4] 14:13 32:10 55:12,25 doesn't [6] 21:17 43:12 56:18 76:2,4 90:13 dollar [6] 5:19 24:2 32:20 45:25 74:13 89:3 dollars [38] 3:19 4:12,13 5:20 16:12 25:19 27:10 28:13 30:21 54:24 55:4 58:15,19 59:5,9 60:7,20 61:16 62:23 67:1,7 68:7 68:18 70:20,20 75:13 77:18 81:7,10,13 83:23 84:9,14,19 85:2,3 87:10 90:12 done [7] 13:21 14:8 15:20 24:14 44:4 66:1 70:8 doors [5] 35:8,10,10,25 86:7 double [1] 25:23 doubt [1] 5:14 down [11] 15:6 18:17 39:10 42:3 46:13 66:7 71:23 79:22 87:13 88:10 90:13 drafted [1] 42:16 drainage [1] 37:25 draw [5] 33:17 58:1 66:11 91:12,15 drawing [3] 85:6 87:13 90:10 drawn [2] 3:9,17 draws [1] 80:4 drive [2] 21:10,14 due [4] 18:4 43:22 72:11 72:21 Dumaresque [191] 1:9 1:15 2:6,8,9,18,23 4:23 5:9 6:10,15,25 7:9 8:5 8:17,24 9:5,10,20,25 10:6,10,19,23 11:13,17 12:15,21 13:9,19 14:9 14:20 16:4,9,15 18:1,12 18:16,20,24 19:13,23 20:15,25 21:7,11,16,24 22:4,24 23:6,12,16,21 23:25 24:6,25 25:6,10 25:15,25 26:9,25 27:7 27:17,21 28:1,20,23 29:8 29:16 30:5,13 32:6,16 32:24 33:7,16 34:4,12 34:22 35:2,22 36:1,16</p>	<p>early [2] 13:6 82:22 ease [1] 42:13 easier [1] 6:19 easy [1] 68:11 ECC [1] 86:22 effect [1] 72:3 egg [1] 80:10 eight [6] 18:25 24:13 30:21 32:20 43:20 94:12 either [7] 3:8 5:13 7:20 24:24 43:12 59:24 66:6 elaborate [1] 37:11 electrical [6] 15:23 60:18 67:23 68:5 73:17 84:17 element [1] 35:9 email [2] 4:17,21 emissions [1] 35:15 enabler [1] 47:5 enclosure [3] 22:6 29:17 29:18 end [4] 28:7 42:17 46:6 66:20 ended [1] 60:11 Energy [1] 70:16 engage [1] 20:10 engagement [1] 20:8 engineer [1] 46:22 engineering [7] 44:3,5 58:6 77:5,10 84:10 93:10 ensure [6] 20:8,11 46:23 71:24 78:1 80:5 ensuring [5] 17:17 39:7 46:18 62:6 66:3 enter [3] 56:10,22 57:11 entered [2] 55:24 57:19 entire [1] 91:2 entirely [3] 70:25 71:1 92:3</p>	<p>entitled [3] 29:1 42:1 82:15 environment [2] 13:24 14:4 EPC [3] 73:7,7,16 equal [2] 11:23 33:19 equipment [27] 1:24 2:14 8:13 9:1,2 20:18 50:17,21 62:22,22 67:9 67:11,11 68:4 72:19 77:1 77:9,9 81:6,11 83:22 85:1,5,10 87:11 91:17 92:24 estimate [2] 92:18 93:21 estimates [3] 93:7,8,20 estimating [1] 93:6 evaluation [1] 11:6 evaluations [2] 11:10 11:10 evasive [1] 59:11 evidence [4] 28:2 69:17 81:14 88:8 exactly [5] 42:24 46:1 56:5 63:17 64:4 examination [2] 29:6 88:22 example [9] 7:3 27:23 51:1 61:12,14 64:18 65:10 75:22 89:4 exceeded [5] 4:12,16 10:15,16,18 Excel [1] 66:13 exception [3] 40:2,3,8 exchange [1] 53:23 exclude [1] 24:22 excluded [2] 46:4 61:5 Excuse [1] 26:12 execute [1] 32:15 execution [5] 29:25 30:15,23 44:19 46:5 exhaust [2] 35:3 86:6 exhibit [5] 56:2,3,8,15 85:17 exist [1] 43:14 exists [1] 43:12 expect [1] 10:16 explain [2] 36:12 54:18 explained [2] 9:12 22:15 explaining [1] 40:18 explanation [5] 36:24 41:24 48:8 76:8 91:25 explanations [1] 42:3 explicit [1] 67:20 expressing [1] 27:8 extended [1] 15:7 extension [1] 19:17 extent [1] 44:3 exterior [2] 39:24 44:25 extra [2] 19:19 40:20</p>
-E-				
-F-				
face [3] 32:12,13 39:3				

fact [6] 6:8 12:24 20:6 22:9 47:9 73:8
factor [4] 35:21 42:19 42:20 53:21
factors [1] 40:20
facts [2] 81:23 95:5
factual [1] 43:7
fair [7] 9:16 16:23 60:9 60:23 71:12 72:23 89:4
familiar [1] 72:7
far [1] 96:6
fault [1] 85:23
feet [1] 35:4
felt [1] 31:15
fence [1] 45:11
fencing [3] 45:6,9 48:9
figure [3] 48:22 84:19 89:3
figures [5] 48:25 49:18 50:13 52:3 55:19
filed [7] 51:16,22 54:21 56:11 57:16 92:10 94:23
filings [1] 51:24
filtering [2] 7:20 36:11
filters [1] 37:8
filtration [1] 17:15
final [3] 30:8 88:20,22
finance [4] 77:25 78:21 79:2 80:12
finding [2] 73:24 80:23
fine [1] 34:24
finished [4] 30:2 44:5 95:19,23
finito [1] 96:2
first [20] 1:23 4:4 5:12 8:1 11:19 14:8,12 17:20 17:23 20:13 22:19,20 51:8 57:1,6 60:8 71:23 77:16 80:11,12
fit [1] 71:24
fits [1] 38:15
five [2] 11:22,24
floor [1] 90:10
flourishes [2] 41:6,15
FM [1] 44:16
focus [2] 17:6 39:7
folks [2] 62:6 79:3
follow [1] 88:15
followed [1] 53:5
foregoing [1] 97:2
forget [1] 74:3
forgot [1] 56:14
form [4] 3:7,12 57:2 81:15
format [1] 51:17
former [3] 49:25 54:20 54:22
forms [1] 4:6
formula [2] 47:14 48:3
fortune [1] 14:16
forward [1] 6:11

forwarding [1] 36:11
found [2] 1:12 83:14
four [8] 8:20 14:17,17,18 15:2 31:10 38:24 67:24
FOWI [1] 86:13
frankly [1] 24:19
free [1] 41:13
front [2] 19:10 22:18
front-end [1] 47:4
frustrate [2] 5:24 17:5
fuel [13] 36:10 85:25 86:1 86:2,4,4,13,17,18 87:2,2 87:7,8
full [5] 16:6,20 39:25 42:25 45:8
fully [6] 44:20 69:21,21 74:12 80:6 95:4
function [2] 35:25 44:18
funding [1] 50:16
futurability [1] 52:2

-G-

galvanize [1] 40:2
galvanized [2] 39:25 45:2
galvanizing [1] 40:8
gap [1] 87:14
gaps [2] 7:24 16:2
gas [5] 62:20 67:4 70:17 85:25 87:4
gate [1] 15:2
GD-DD-NLH-001 [1] 83:16
GE [1] 86:9
gear [2] 85:23 86:3
general [4] 55:13,15 73:22 97:4
generate [1] 9:15
generation [2] 70:6 92:10
generator [23] 12:9 39:11 50:25 60:17 65:10 65:16,20,21 67:22 68:5 75:2,22 76:25 77:7,8 81:5,10 83:21 84:17 85:21 88:1 90:21,22
generators [1] 74:10
gentleman [1] 41:17
given [8] 4:17 20:5 44:16 46:10 54:19 78:10,14 84:12
giving [2] 46:3 74:6
GLYNN [30] 13:17 18:22 26:11,17,22 37:1 37:18 39:20 40:14 48:6 51:7 53:2 55:21 56:4,9 56:16 57:7,18,22 68:22 69:6,13 78:16 80:18 82:20 83:24 84:5 95:14 95:18,22
God [1] 41:9
goes [7] 14:6 21:6,8 73:17 82:19 86:3,20

gone [4] 1:13 38:6,9,18
good [11] 14:16,17,18,18 14:24 15:1,2,3,6 17:9 96:9
government [1] 5:11
grading [1] 13:21
Gray [3] 1:10,13 92:8
green [4] 85:8 90:11,13 91:2
ground [1] 39:12
grounding [2] 39:11,14
group [10] 4:17,21 6:7 7:2 15:22,23,23 31:21 78:1 79:2
groups [1] 38:24
GT [1] 87:20
GT-CA-NLH-005 [1] 6:16
GT-DD [1] 1:12
GT-DD-NLH-001 [2] 3:15 74:1
GT-DD-NLH-011 [1] 3:1
GT-PUB-NLH [1] 48:14
GT-PUB-NLH-014 [2] 69:11 87:19
GTW [1] 60:15
guarantee [2] 4:5 25:2
guaranteed [1] 24:1
guess [13] 9:11 11:3 27:11 31:2 38:4 42:18 53:4 57:1 58:3,13 62:25 69:4 80:10
guidance [4] 48:17 49:1 49:4 57:14
gun [1] 28:9

-H-

half [5] 17:14,21 36:9 37:12 39:6
hand [3] 23:20,24 27:4
Handbook [1] 60:15
handle [1] 41:18
hear [2] 18:9 51:8
heard [3] 12:23 91:21 97:5
hearing [3] 29:5 94:25 97:3
hearings [1] 96:6
heating [2] 86:5,6
heavier [1] 44:15
heavily [1] 39:7
height [3] 35:8,17,21
help [1] 80:24
helpful [2] 81:23 91:18
Henderson [3] 59:7,19 60:22
hereby [1] 97:2
high [1] 35:4
higher [1] 47:16
himself [1] 41:18

history [1] 11:4
hold [1] 58:13
Holyrood [3] 68:6 77:1 94:10
honestly [1] 34:3
hoping [1] 87:24
hot [1] 45:2
hot-dipped [1] 39:24
hours [7] 4:8,10,15 5:4 6:2 7:8 16:25
house [1] 42:16
Hydro [15] 11:4 26:18 41:22 49:25 50:2 51:8 52:2 53:4 54:20,20 55:8 55:14 58:12 77:4 95:4
Hydro's [4] 52:19 92:9 93:4 97:4

-I-

identified [6] 9:18 33:22 35:7 49:9 60:6 63:22
identify [1] 16:21
illustrate [1] 50:8
important [6] 11:25 31:5 32:9 35:21 50:8 79:24
impression [1] 43:13
in-feeds [1] 58:8
in-house [2] 11:12,14
in-service [9] 23:7,9 25:2,5,9,17 26:24 27:13 29:12
inappropriate [1] 41:9
include [1] 60:16
included [6] 29:24 30:14 30:22 36:8 37:7 61:7
includes [1] 58:5
including [8] 22:21 33:3 73:10,20 79:2 85:23 86:2 87:2
incorporated [1] 66:6
increase [1] 43:19
incredible [1] 69:16
indeed [3] 12:8,9 81:4
independent [1] 46:22
indicate [1] 25:19
indicated [3] 43:21 52:21 82:7
indicating [1] 93:20
information [32] 5:3 12:1 13:11,14 14:1,2 31:9 42:1 43:12 51:15 51:21,23,25 52:13 53:24 54:8,9,19 55:17 56:23 57:19,21 59:12,23 70:15 70:16,25 80:9,16 87:21 88:11 89:15
infrastructure [1] 86:20
initial [5] 7:17,23 15:12 15:19 51:14
inlet [1] 86:5
input [3] 47:6,7 93:6
inside [27] 4:9,18 6:4,7

12:12 13:7,25 15:11 16:2 17:19 20:12 31:11 38:16 47:7 53:11 59:8,13 62:11 63:1,4,18 70:9 73:7 86:24 87:9 89:7 90:23
insist [1] 24:16
insisting [2] 24:15 68:3
inspect [1] 46:22
inspections [1] 64:24
install [1] 72:18
installation [7] 50:18 50:22 68:2,4 72:19 77:12 81:13
installed [9] 55:6,8 62:16,18,20 66:22 67:15 68:6 84:18
instead [1] 66:19
instructions [1] 5:3
integrated [2] 44:20 87:3
integration [5] 73:9,11 73:16,19,20
intend [2] 30:23 38:11
intended [4] 12:13 22:22 31:1,2
intent [1] 23:19
intention [1] 20:10
intentions [1] 31:14
interesting [1] 21:1
interject [1] 76:6
internally [3] 20:14 79:1 79:18
intervenor [4] 49:20 51:17 52:19 88:5
involved [1] 40:6
irrevocable [1] 3:11
ISO [1] 10:9
isolation [1] 31:17
issue [4] 10:13 47:20 54:11 71:5
issued [3] 3:4 29:11 73:25
issues [2] 29:3 52:2
issuing [1] 46:10
IT6 [1] 3:2
item [15] 1:8 3:3 56:23 62:13 63:9 64:7,9 68:11 74:7 75:1,2 76:13,14 78:9 83:20
items [13] 34:5 36:8 37:7 50:24 51:24 63:23 64:1 65:14 66:12 75:12 76:1 76:3,16
itself [4] 86:2,23 87:5,6

-J-

January [1] 21:19
Jenny [1] 85:5
job [1] 70:11
JOHN [3] 1:2 90:6 92:6
John's [3] 31:25 97:7,10
JOHNSON [1] 76:19

Judy [2] 97:2,12	8:8 11:18,20 17:19 24:20	March [1] 94:19	missed [1] 2:22	53:13,24
July [2] 33:10,14	26:8 30:19 38:6 55:15	market [3] 22:17 73:15	missing [3] 35:9 85:4,12	normal [4] 13:8 51:25
jumping [1] 53:11	70:7 71:25 73:15 82:23	89:4	misunderstand [1]	53:11 65:4
June [2] 33:10,14	88:7 93:4	marketplace [6] 27:9	74:24	North [1] 44:9
<hr/>		27:23 29:11 31:12 32:1	misunderstanding [2]	note [7] 11:22 29:23 36:5
-K-		52:3	2:19 75:24	40:13,17 80:19 94:8
Kean [1] 57:23	looked [4] 5:12 14:3	material [1] 35:18	mixes [1] 86:13	noted [16] 12:4 13:18
keep [2] 17:6 41:1	31:17 87:13	materials [1] 75:14	mixing [3] 86:13,17,18	18:23 37:2,19 38:3,7
KENNEDY [1] 18:18	looking [9] 6:21 7:15	matrix [1] 11:5	mobile [1] 8:20	39:21 40:15 45:9 46:3
kept [3] 52:13,20 68:3	32:10 44:7 49:13 71:9	matter [8] 1:5 2:4 30:9	modelling [3] 35:15,16	48:8 68:23 69:8 76:15
key [1] 7:18	74:18,23,25	52:25 54:2 80:17 83:3	35:20	78:17
kind [8] 8:13 13:24 14:4	looks [2] 13:7 66:11	97:3	moment [1] 52:7	notes [1] 87:14
19:18 30:5 47:14,19 49:4	losing [1] 89:21	matters [2] 43:7 78:15	Monday [1] 95:13	nothing [1] 5:1
kinds [2] 41:12 54:3	lower [2] 17:21 92:12	may [6] 33:10 41:9 74:13	money [3] 28:13 71:3	noting [1] 37:5
kit [4] 17:9 67:5,14 73:18	lowest [3] 47:15 71:19	76:23 78:13 83:17	75:19	November [2] 97:5,11
knew [6] 16:17 22:18	72:2	mean [14] 5:24 13:3,25	month [1] 28:7	now [31] 6:16 7:14 12:5
24:11 28:16 54:9 88:23	lump [1] 65:11	16:11 27:14 30:7 32:25	months [7] 19:4,6,12,16	12:18 13:20 19:4 28:14
knowing [1] 72:11	<hr/>	41:9 42:2 43:5,8,13 54:2	19:17 24:13 72:12	29:5,25 30:1 33:9 43:7
<hr/>	-M-	90:25	moot [1] 20:17	43:16 46:7 48:7,10 50:12
labour [1] 75:15	MacDougall [20] 1:4,6	meaning [1] 9:11	morning [1] 2:25	51:22 52:8,14 54:12,16
Labrador [4] 44:8 97:4	2:2 40:22 51:13 52:16	means [3] 36:12 85:20	Moss [2] 97:2,12	71:8 72:16 75:23 81:21
97:7,10	76:5 78:8 81:16 85:15	97:8	most [2] 17:19 70:14	88:8 89:21,21 94:1,9
large [1] 66:2	92:6,7 93:3,16,25 94:7	meant [4] 29:13 36:22	move [2] 62:4 83:25	number [17] 4:6 11:20
last [2] 1:22 22:23	94:16,22 95:3,9	39:15 43:23	Ms [35] 1:9,13 13:17	11:21,22,24 18:25 22:5
latest [1] 16:19	machine [6] 18:7 21:3	mechanical [7] 15:22	18:22 26:11,15,17,22	39:23 55:10 57:8,11 58:5
laws [1] 3:6	21:17 28:4 72:16 89:1	36:3 60:17 67:23 68:5	37:1,18 39:20 40:14 48:6	66:2,11,21 84:10 91:16
leading [2] 31:19 38:22	MacIsaac [180] 1:2,8,18	73:17 84:17	51:7 53:2 55:21 56:4,9	numbers [15] 49:7,8,9
leads [2] 14:7 15:14	1:20 2:3,12,16,21 3:19	meeting [1] 70:13	56:16 57:7,18,22,23	49:21 50:6,8,11,23 55:9
leave [1] 88:9	3:22 5:7,22 6:13,23 7:5	meetings [3] 31:10,18	68:22 69:6,13 78:16	55:11 57:5 69:4 73:1
leaving [1] 58:17	7:16 8:15,19 9:3,8,17,22	38:23	80:18 82:20 83:24 84:5	81:19 88:19
led [1] 47:20	10:4,8,17,21 11:11,15	megawatt [8] 47:10	92:8 95:14,18,22	<hr/>
left [2] 41:14 58:22	12:11,19 13:2,15 14:5	76:24 77:6 83:20 87:1,5	-N-	obliged [1] 71:11
legitimate [1] 41:25	14:11,23 16:7,13 17:2	92:21 94:12	Nalcor [5] 50:1,19 54:23	observation [1] 38:5
length [1] 48:2	18:8,14 19:8,21 20:1,22	megawatts [4] 8:23 9:12	55:2 58:12	obvious [2] 34:23 36:21
less [2] 42:18 60:10	21:5,9,13,20 22:2,14	9:15 10:3	natural [1] 85:25	obviously [7] 2:15 7:3
letter [2] 3:11 82:7	23:4,10,14,18,23 24:4,8	message [1] 90:19	nature [1] 78:11	7:11 10:11 29:2 36:3
level [4] 10:15,20 36:15	25:4,8,12,22 26:7,20	messed [1] 32:3	nearest [1] 72:13	46:15
93:6	27:2,15,19,24 29:14 31:4	met [3] 31:20,24 32:12	nearly [1] 5:10	occasion [1] 41:11
Liberty [3] 47:8 70:8	32:8,22 33:1,12,25 34:9	mic [2] 83:25 84:2	necessarily [6] 64:4	occur [1] 72:19
94:18	34:18,25 35:12,24 36:13	might [4] 20:17 49:19	65:18,24 66:12 72:2 74:9	Ockham's [1] 91:20
Liberty's [2] 71:6 94:23	36:18 37:13,22 38:13	69:23 74:24	need [5] 21:22 22:3 38:8	OEM [1] 46:25
licensed [1] 3:5	39:16 40:4,23 43:25 45:3	milestone [4] 63:17,22	48:8,16	off [4] 7:12 21:10,14
life [1] 42:10	45:13,19 46:12 47:22	66:10 74:19	needs [2] 26:18 69:8	28:16
light [2] 52:7 84:15	48:21 50:4 53:9,18,22	million [58] 3:19 4:12,13	negotiated [1] 19:20	offer [14] 17:8,17,20,25
likewise [1] 78:9	55:3,5 57:15 58:1,16,25	5:18,20 7:11 8:21 16:11	network [1] 70:7	20:11 31:15 32:14 34:1
limitations [1] 14:25	59:6 60:25 61:11,15,20	24:2 25:18 27:10 28:13	never [2] 11:2 78:22	38:20 39:8 45:14 72:2,9
limiter [1] 85:24	61:24 62:8,15,19 63:3	30:21 32:20 42:22,22	new [15] 1:17,17,24 2:14	72:13
line [24] 1:22 16:12 34:10	63:10 64:3,10,14,19,23	43:20,20 45:25 54:24	9:1,4,6 10:14 12:9 16:19	offered [3] 59:25 60:20
50:24 51:23 62:3,13 63:9	65:3,17,23 66:18 67:2	55:4 58:10,15,19,24 59:4	20:6,18 26:4 67:9 92:21	72:22
63:23 64:1,7,9 65:14	67:10 68:8,15,19 69:19	59:4,9 60:7,13,20 61:16	Newfoundland [5] 3:6	offering [3] 17:9 61:4
66:12 68:11 74:7,13 75:1	70:2,24 71:14,20 72:4	62:14,22 66:17 67:1,6	44:8 97:4,7,10	89:16
75:2 76:1,3,14,16 86:15	73:4 74:5,11,17 75:9	67:14 68:7 70:19,20	NEWMAN [1] 89:25	offers [4] 15:6,7 39:3
lines [2] 34:17 73:3	76:23 77:13,24 78:6,24	72:13,17 75:13 77:18	NLH [2] 36:11 39:14	71:16
linked [2] 35:15,16	79:9,16,23 80:13 81:18	81:7,9,13 83:23 84:9,14	NLH-011 [1] 1:13	official [2] 56:11,19
list [2] 85:20 87:12	81:25 84:15,20 85:18	84:18 85:2,3 87:10 90:12	nobody [2] 24:18 42:13	oil [1] 38:1
local [2] 86:22,23	89:6,13,24 90:6,14,18	91:13 92:23	nominal [9] 8:22 9:11	on-site [4] 77:5,10 84:10
logic [1] 9:23	91:1,6,14,22 92:2,6,15	mind [3] 13:13 72:14	9:12,18,24 10:2,7,9 77:6	94:11
logically [1] 59:15	93:1,14,23 94:5,14,20	88:25	non-comprehensive	once [3] 38:20 41:6 46:25
look [19] 1:9 3:1 6:11 8:6	95:1,7,19,23,24 96:3,8	minimum [1] 35:4	[1] 87:12	one [57] 1:5,8 2:22 3:3
	Madam [1] 89:22	minus [1] 93:11	non-disclosure [2]	6:17 7:12,20 12:2 14:21
	made-in-Hydro [1]	minutes [7] 12:3,10,25		14:24 15:4,25 17:11 19:1
	11:8	13:8,8 16:25 82:22		19:3 22:7 26:10,13 29:20
	Mahal [3] 30:1,6,12	miserable [1] 42:10		30:17 33:18 35:6,6 36:2
	majority [2] 17:23 38:19	mislead [1] 27:23		36:5,8 37:5 38:2,16
	makes [1] 35:13	miss [1] 84:24		
	managers [1] 15:22			
	manufacturer's [6] 9:6			
	20:19 21:2,18 22:1 26:5			
	manufacturers [2]			
	16:20 34:7			

39:25 40:19 41:6,23 42:4 42:25 45:15,18,22 46:2 47:18,18,19 48:22 51:19 52:21 59:24 72:7 74:2 77:8,20,21 84:24 85:4 85:12 86:25 90:9 94:24	81:1 part [9] 50:9 56:2,11,15 56:18 58:4,17 60:5 82:6 particular [6] 33:23 42:15 48:22 57:10 65:5 88:21 particularly [1] 74:16 parties [2] 56:24 93:18 partnered [1] 20:4 parts [1] 83:19 pass [1] 14:12 pay [4] 28:13 55:1 64:8 75:21 payable [1] 3:10 payers [2] 71:2 80:1 payment [4] 3:25 63:15 64:8 65:13 payments [3] 63:17,22 74:19 payout [1] 74:8 pays [1] 66:4 peak [1] 28:8 peer [3] 14:6 15:16 38:18 PENNELL [1] 26:15 people [4] 20:7 27:9 55:12 60:11 per [1] 93:8 percent [12] 5:17,19 17:13,14,21,22 39:5,6 64:20 66:5 93:11,11 perfectly [1] 41:25 perform [2] 12:18,23 perhaps [3] 42:4 51:8 82:21 period [5] 15:7 23:2 28:9 31:20 94:9 permissible [1] 51:2 permit [1] 35:19 person [1] 31:21 personally [1] 66:1 perspective [3] 21:21 31:8 70:14 pertaining [1] 42:15 pertinent [1] 48:22 phase [1] 94:25 phone [1] 18:5 pick [1] 18:5 picture [4] 13:21 55:16 85:8 87:17 piece [12] 11:25 14:1,2 47:25,25 66:22,24 67:3 67:14 70:6 73:18 92:24 pieces [9] 3:25 61:5,6 63:16,21 66:9 85:21,24 91:16 pipe [2] 36:22 86:20 piping [1] 36:10 place [16] 4:22 6:9 7:25 11:9 15:3 26:5 28:8,11 29:2 32:11 53:25 59:15 59:21 72:24 73:13 94:13 placed [3] 82:16 92:20 93:17	plan [5] 29:25 30:15,23 46:5 90:10 plant [21] 11:24 12:8 13:13 22:22 36:3 58:6 60:17 67:23 68:6 70:15 70:19 84:18 86:7,8,10 86:24,25 87:1,4,4,6 plants [1] 86:24 plus [3] 28:13 73:10 93:11 point [25] 2:10,14 8:9 10:12 15:10 20:9,17 21:1 22:8 36:9 37:12 39:2,12 40:1 42:25 44:24 45:8 48:15,23 50:13 55:22 62:5 78:19 81:20 83:18 pointed [2] 43:3 81:24 points [4] 7:25 8:3 46:8 47:18 portion [2] 84:22 90:21 position [4] 29:3 30:8 50:9 58:13 possible [2] 29:19 33:9 possibly [2] 49:4 75:19 potential [1] 78:12 potentially [3] 59:23 64:11,13 Power [22] 6:21 8:10,12 12:4 17:8,12 18:6 19:3 20:18 25:2 26:2 27:1 29:23 30:19 35:6 36:9 37:9 38:2,6 39:13 40:1 42:17 practicality [1] 24:21 practice [1] 65:4 Pratt [6] 8:16 17:7,12 31:22 41:22 45:16 pre [1] 20:13 precisely [2] 29:13 58:12 preliminary [1] 2:4 prepared [3] 50:12,15 52:8 present [1] 56:20 preserved [1] 46:24 President [6] 49:25 50:1 54:20,22 55:2 58:11 pretty [3] 30:10 54:2 77:19 prevails [1] 88:20 previous [3] 5:2 12:7 60:6 PREVIOUSLY [1] 1:2 price [16] 8:21 17:14 39:4 46:15 47:2,6 60:1 62:21 70:21 71:25 72:17,22,23 75:3 76:9 77:18 prices [1] 48:18 pricing [1] 53:15 primary [4] 17:15,16 38:17 39:3 principle [1] 91:20 problem [3] 54:5,7 75:7 procedure [1] 56:14 proceed [2] 48:24 65:22	proceeding [1] 53:8 process [20] 4:8 5:8,23 5:25 6:3,5 16:6,6 17:4 18:4 42:17 43:4,6 47:6 53:5 70:3 72:11,21 88:15 93:6 procurement [6] 76:24 77:5,10 81:12 83:20 84:11 producing [1] 44:5 product [2] 16:6 44:5 ProEnergy [47] 3:21 6:21 8:10 10:2 12:1 17:8 17:11,18 19:2 20:20 23:8 24:12 29:20 30:18 31:22 35:6 36:5 37:4 38:2,20 39:8,13,25 41:23 45:7 45:16 46:2,8 48:19 61:4 66:8 72:9,21 73:2 77:4 77:22 78:22 79:7,15,19 80:5,11 84:13 88:23 89:9 89:11,14 professional [1] 78:14 progress [1] 95:8 project [6] 14:8 15:9,20 44:22 65:6 70:11 projected [1] 67:25 projects [1] 66:2 proper [1] 41:16 properly [1] 46:23 proponent [1] 55:18 proposal [1] 31:11 proposing [1] 32:2 protected [1] 80:2 provide [19] 4:3,20 6:2 13:10,11 19:12 23:1 24:11 25:20 36:23 38:14 42:3 43:18 45:10 55:25 74:5 76:7 78:4 82:10 provided [12] 1:24 26:19 36:6 37:5,9,10 48:19 49:20 56:24 63:14 67:20 76:17 providing [4] 13:13 22:16 39:1,2 province [1] 71:2 provision [1] 20:5 provisions [1] 81:22 prudence [3] 47:8 70:8 94:25 prudent [3] 16:23 20:7 79:3 PUB [1] 22:19 PUB-NLH-014 [1] 87:21 public [18] 28:5,10,17 31:20 32:5 38:22 48:20 51:23 52:10 54:23,25 55:13,16 69:24 70:4 71:15 81:8 97:6 publicly [3] 31:13 32:3 49:23 pull [2] 1:10 92:9 pulled [1] 85:17 pumped [1] 86:17	pumphouse [1] 86:4 pumps [1] 37:8 purchase [2] 20:9 72:17 purchased [1] 9:24 purchasing [3] 4:17,21 6:7 pure [1] 86:12 purely [1] 31:17 purified [1] 86:15 purifies [1] 86:10 purpose [1] 71:24 purposes [2] 50:14 51:19 pursuant [1] 94:11 put [23] 22:9 26:3 27:9 28:9 29:7 30:8,19,20 31:1,3 32:20 36:22 42:10 42:13 43:17 55:9,10,19 56:15 63:11 72:10 77:17 82:1 PW [21] 6:21 8:10,12,18 12:3 18:6 19:3 20:18 25:1 26:2,24 29:23 30:18 35:6 36:9 37:9 38:2,6 39:13 40:1 42:17
-P-				
package [19] 50:3,5 60:6 60:14,16,19,19,24 61:6 67:6 72:12,16,25 82:5 84:16 87:7 89:1 90:21 90:22 packs [1] 8:20 page [14] 3:2,14,16 39:23 58:2 62:2 74:2 76:20,22 77:3 83:16 87:20 92:12 92:13 pages [1] 7:14 paid [19] 50:2,4 54:23 55:1,3 59:4,17 62:13 65:10,20 66:4,17,22,25 67:13 68:6 70:19 75:1 76:2 paragraph [2] 1:23 58:2 Pardon [1] 95:21 parent [5] 80:3,4,6 81:1	part [9] 50:9 56:2,11,15 56:18 58:4,17 60:5 82:6 particular [6] 33:23 42:15 48:22 57:10 65:5 88:21 particularly [1] 74:16 parties [2] 56:24 93:18 partnered [1] 20:4 parts [1] 83:19 pass [1] 14:12 pay [4] 28:13 55:1 64:8 75:21 payable [1] 3:10 payers [2] 71:2 80:1 payment [4] 3:25 63:15 64:8 65:13 payments [3] 63:17,22 74:19 payout [1] 74:8 pays [1] 66:4 peak [1] 28:8 peer [3] 14:6 15:16 38:18 PENNELL [1] 26:15 people [4] 20:7 27:9 55:12 60:11 per [1] 93:8 percent [12] 5:17,19 17:13,14,21,22 39:5,6 64:20 66:5 93:11,11 perfectly [1] 41:25 perform [2] 12:18,23 perhaps [3] 42:4 51:8 82:21 period [5] 15:7 23:2 28:9 31:20 94:9 permissible [1] 51:2 permit [1] 35:19 person [1] 31:21 personally [1] 66:1 perspective [3] 21:21 31:8 70:14 pertaining [1] 42:15 pertinent [1] 48:22 phase [1] 94:25 phone [1] 18:5 pick [1] 18:5 picture [4] 13:21 55:16 85:8 87:17 piece [12] 11:25 14:1,2 47:25,25 66:22,24 67:3 67:14 70:6 73:18 92:24 pieces [9] 3:25 61:5,6 63:16,21 66:9 85:21,24 91:16 pipe [2] 36:22 86:20 piping [1] 36:10 place [16] 4:22 6:9 7:25 11:9 15:3 26:5 28:8,11 29:2 32:11 53:25 59:15 59:21 72:24 73:13 94:13 placed [3] 82:16 92:20 93:17	plan [5] 29:25 30:15,23 46:5 90:10 plant [21] 11:24 12:8 13:13 22:22 36:3 58:6 60:17 67:23 68:6 70:15 70:19 84:18 86:7,8,10 86:24,25 87:1,4,4,6 plants [1] 86:24 plus [3] 28:13 73:10 93:11 point [25] 2:10,14 8:9 10:12 15:10 20:9,17 21:1 22:8 36:9 37:12 39:2,12 40:1 42:25 44:24 45:8 48:15,23 50:13 55:22 62:5 78:19 81:20 83:18 pointed [2] 43:3 81:24 points [4] 7:25 8:3 46:8 47:18 portion [2] 84:22 90:21 position [4] 29:3 30:8 50:9 58:13 possible [2] 29:19 33:9 possibly [2] 49:4 75:19 potential [1] 78:12 potentially [3] 59:23 64:11,13 Power [22] 6:21 8:10,12 12:4 17:8,12 18:6 19:3 20:18 25:2 26:2 27:1 29:23 30:19 35:6 36:9 37:9 38:2,6 39:13 40:1 42:17 practicality [1] 24:21 practice [1] 65:4 Pratt [6] 8:16 17:7,12 31:22 41:22 45:16 pre [1] 20:13 precisely [2] 29:13 58:12 preliminary [1] 2:4 prepared [3] 50:12,15 52:8 present [1] 56:20 preserved [1] 46:24 President [6] 49:25 50:1 54:20,22 55:2 58:11 pretty [3] 30:10 54:2 77:19 prevails [1] 88:20 previous [3] 5:2 12:7 60:6 PREVIOUSLY [1] 1:2 price [16] 8:21 17:14 39:4 46:15 47:2,6 60:1 62:21 70:21 71:25 72:17,22,23 75:3 76:9 77:18 prices [1] 48:18 pricing [1] 53:15 primary [4] 17:15,16 38:17 39:3 principle [1] 91:20 problem [3] 54:5,7 75:7 procedure [1] 56:14 proceed [2] 48:24 65:22	proceeding [1] 53:8 process [20] 4:8 5:8,23 5:25 6:3,5 16:6,6 17:4 18:4 42:17 43:4,6 47:6 53:5 70:3 72:11,21 88:15 93:6 procurement [6] 76:24 77:5,10 81:12 83:20 84:11 producing [1] 44:5 product [2] 16:6 44:5 ProEnergy [47] 3:21 6:21 8:10 10:2 12:1 17:8 17:11,18 19:2 20:20 23:8 24:12 29:20 30:18 31:22 35:6 36:5 37:4 38:2,20 39:8,13,25 41:23 45:7 45:16 46:2,8 48:19 61:4 66:8 72:9,21 73:2 77:4 77:22 78:22 79:7,15,19 80:5,11 84:13 88:23 89:9 89:11,14 professional [1] 78:14 progress [1] 95:8 project [6] 14:8 15:9,20 44:22 65:6 70:11 projected [1] 67:25 projects [1] 66:2 proper [1] 41:16 properly [1] 46:23 proponent [1] 55:18 proposal [1] 31:11 proposing [1] 32:2 protected [1] 80:2 provide [19] 4:3,20 6:2 13:10,11 19:12 23:1 24:11 25:20 36:23 38:14 42:3 43:18 45:10 55:25 74:5 76:7 78:4 82:10 provided [12] 1:24 26:19 36:6 37:5,9,10 48:19 49:20 56:24 63:14 67:20 76:17 providing [4] 13:13 22:16 39:1,2 province [1] 71:2 provision [1] 20:5 provisions [1] 81:22 prudence [3] 47:8 70:8 94:25 prudent [3] 16:23 20:7 79:3 PUB [1] 22:19 PUB-NLH-014 [1] 87:21 public [18] 28:5,10,17 31:20 32:5 38:22 48:20 51:23 52:10 54:23,25 55:13,16 69:24 70:4 71:15 81:8 97:6 publicly [3] 31:13 32:3 49:23 pull [2] 1:10 92:9 pulled [1] 85:17 pumped [1] 86:17	pumphouse [1] 86:4 pumps [1] 37:8 purchase [2] 20:9 72:17 purchased [1] 9:24 purchasing [3] 4:17,21 6:7 pure [1] 86:12 purely [1] 31:17 purified [1] 86:15 purifies [1] 86:10 purpose [1] 71:24 purposes [2] 50:14 51:19 pursuant [1] 94:11 put [23] 22:9 26:3 27:9 28:9 29:7 30:8,19,20 31:1,3 32:20 36:22 42:10 42:13 43:17 55:9,10,19 56:15 63:11 72:10 77:17 82:1 PW [21] 6:21 8:10,12,18 12:3 18:6 19:3 20:18 25:1 26:2,24 29:23 30:18 35:6 36:9 37:9 38:2,6 39:13 40:1 42:17
-Q-				
Q.C [1] 76:19				
qualification [2] 19:4 19:22				
qualifications [1] 33:20				
qualified [1] 55:6				
qualifiers [1] 41:2				
questions [18] 28:21 29:7 30:7 42:14 43:14 48:17 60:12 62:25 71:7 89:7,18,24 90:1 92:16 92:19 94:2,18 95:11				
quick [1] 90:9				
quite [7] 24:19 34:2 54:8 54:10 60:1 65:12 66:2				
quote [1] 58:9				
-R-				
radar [1] 7:12				
raise [2] 54:11 88:13				
raising [1] 54:12				
ranking [4] 7:23 17:16 38:17 39:4				
rate [3] 71:2 80:1 97:4				
rather [2] 28:21 50:12				
rating [8] 8:22 9:24 10:2 10:9 11:23 15:13 19:1,2				
ratings [2] 9:19 48:11				
razor [1] 91:20				
RE-EXAMINATION [1] 92:6				
reach [1] 24:18				
reached [3] 10:15 38:21 71:8				
read [4] 19:12 40:9 58:4 82:1				
reading [2] 19:14 40:5				

<p>successful [1] 20:11 such [2] 5:25 47:19 sudden [1] 31:8 suffering [1] 84:23 sufficient [1] 91:25 sufficiently [2] 4:1 32:17 suggested [1] 51:20 suggestion [1] 69:23 summary [1] 7:17 supplied [1] 67:12 suppliers [2] 52:4 53:12 supply [3] 61:8 85:10 87:11 support [2] 59:19 86:25 suppose [1] 8:11 supposing [1] 3:23 Surely [1] 38:8 surety [9] 3:5 4:5,9,16 4:22 6:2,3,8 80:1 surrounding [1] 45:7 suspect [1] 48:1 switch [1] 85:23 SWORN [1] 1:2 synchronous [1] 92:22 system [15] 8:9 12:4 39:11 64:8 65:13 86:1,1 86:2,4,5,5,6,19,21 87:9 Systems [22] 6:22 8:10 8:12 17:8,12 18:6 19:3 20:18 25:2 26:3 27:1 29:23 30:19 35:7 36:9 37:9 38:2,6 39:13 40:1 42:17 60:8</p> <hr/> <p style="text-align: center;">-T-</p> <hr/> <p>table [2] 27:10 93:20 Taj [3] 30:1,6,12 takes [1] 73:16 taking [5] 40:7 47:5,24 47:25 72:24 tank [1] 86:16 tanks [1] 86:3 target [2] 22:17 26:13 tax [4] 78:1,2 79:2 80:12 team [7] 14:8 15:9,20 38:24,24 39:6 70:10 teams [1] 31:21 technical [10] 7:18 11:6 11:10 12:12,22 20:12 36:7 37:6 47:17 71:23 technically [1] 46:19 technology [1] 16:20 Telegram [3] 56:21 57:9 57:16 telling [1] 28:14 temperatures [2] 9:13 9:14 ten [5] 4:13 5:17,19 16:25 16:25 tender [35] 1:10,15,17 2:13 3:3,4,8 4:25 5:2,5</p>	<p>5:12,13,16,21 7:7 11:19 15:5 19:5 22:9 23:3 29:11 31:20 38:22 46:2 47:15 48:9 49:10 64:7 71:15,19 72:10 74:7,10 75:13 77:17 tendered [3] 7:22 31:13 72:23 tenderers [1] 5:4 tendering [2] 2:25 32:4 tenders [3] 22:10 54:3 71:12 terminal [1] 77:1 terminology [1] 15:15 terms [11] 15:25 19:1 24:10 27:5 33:22 34:13 35:14 66:21 74:12 87:11 89:15 terrific [1] 92:14 testimony [5] 1:25 12:6 12:16,23 62:2 testing [2] 94:3,9 thank [22] 1:7 2:3,10 26:10 27:1 29:9 30:14 40:17 44:24 48:5,14 67:19 69:14 83:5,14 84:6 87:17 89:24 94:1 95:10 95:25 96:9 Thanks [1] 96:4 themselves [3] 13:25 24:23 52:18 thereafter [1] 71:25 they've [1] 24:14 thinking [1] 15:25 third [1] 8:1 thought [3] 75:18 83:4 87:21 thoughts [1] 29:2 thousand [2] 85:9 87:18 three [10] 11:3 14:21 15:5 48:7 75:4,17 83:18 92:18 93:8,21 through [15] 8:7 14:3,12 14:13 15:6,8,12,24 31:25 38:18,23,25 56:10 80:2 88:7 timeframe [3] 6:8 13:7 33:4 timely [1] 66:5 times [4] 10:14 48:20 49:25 94:12 timing [1] 94:2 today [6] 51:20 52:20 58:13 59:3 68:1,2 today's [1] 53:8 together [2] 73:22 86:14 too [1] 91:18 took [3] 39:2 40:7 46:21 topic [1] 59:11 total [2] 74:13,20 totally [1] 55:11 track [2] 17:7 89:22 transaction [1] 50:10 transcribed [1] 97:7</p>	<p>transcript [1] 97:3 transformer [5] 37:25 51:1 61:10 75:3 85:22 transmission [1] 15:23 transparent [2] 42:23 69:21 Treasury [1] 79:2 treatment [3] 86:7,8,9 trouble [1] 80:23 true [2] 12:24 97:2 try [2] 41:1,20 trying [8] 13:21 24:11 42:9 55:15 59:10 67:15 75:23 87:14 turbine [24] 1:11 50:25 54:24 60:16 62:20 65:15 67:4,22,25 68:4 70:18 75:2 76:25 77:7,8 81:5 81:10 83:21 84:17 87:4 88:1 90:20,22 92:9 turbines [1] 11:3 turn [1] 66:4 turns [1] 69:17 two [34] 3:25 6:20 7:14 8:25 11:3,20,22 20:13 22:5 26:4,12 33:20 34:5 34:16,20 38:15 39:23,23 44:14 50:18,23 58:2 60:11 75:12,16 77:17,20 78:20 79:8 81:4 85:11 86:23 92:17 94:12 two-year [1] 34:15 type [4] 8:1 11:5 38:10 70:15 types [1] 11:10 typically [4] 21:6 61:5 65:25 66:7</p> <hr/> <p style="text-align: center;">-U-</p> <hr/> <p>Uh-hm [2] 62:9 75:10 Um-hm [1] 24:5 unbelievable [2] 40:18 40:25 under [5] 3:6 13:8 70:21 71:9 86:15 underground [1] 58:7 understand [11] 8:12 36:2 41:5 51:11 52:24 55:16 59:21 62:6 69:24 79:24 82:13 understood [2] 2:12 51:5 undertake [3] 36:23 37:14 45:9 undertaking [27] 4:19 4:20 6:12 13:11 18:19 18:21 22:25 23:1 26:23 37:14 39:17,19 40:10 48:11 62:12 68:12,20,23 74:4,6 76:8,10,14,17 78:4,12 80:19 undertakings [3] 26:12 43:17 48:7 unfair [1] 30:5 unfortunately [1] 15:4</p>	<p>unique [1] 65:5 unit [30] 9:23 10:1 12:13 12:18,23 13:5,7 20:5,6 25:20 28:8,11 45:7 46:23 47:10 58:4,9,14,18,24 59:4,5,25 60:12,13,21 75:3 85:23 89:2 United [3] 44:11 70:16 80:6 units [7] 8:20 9:4,6 10:1 16:19 22:12 26:4 unless [1] 41:2 unreasonably [1] 42:10 unredacted [3] 88:4,5,6 unscheduled [2] 75:15 75:16 unused [6] 1:18,24 2:13 2:15 9:2 92:21 unusual [1] 65:12 up [32] 1:10 4:8 6:19 10:14,22,24 12:25 14:15 17:3 18:5 20:2 21:4 29:4 31:19 38:22 50:23 52:25 53:7 60:11 63:14,17 64:7 64:9 65:13,20 71:21 74:13 85:6,17 90:11 92:9 92:13 update [1] 22:19 used [5] 1:17 7:19 15:15 85:6 93:7 usually [1] 65:9 Utilities [5] 28:5,10,17 32:5 97:6</p> <hr/> <p style="text-align: center;">-V-</p> <hr/> <p>value [9] 39:3 62:7 70:5 70:18 71:3 74:13,20,20 89:4 valued [1] 81:6 Vancouver [1] 84:12 variance [1] 76:8 various [4] 12:6 49:10 49:24 52:5 version [3] 88:4,5,6 versus [5] 20:19 42:22 48:19 50:17 74:7 vet [1] 95:4 Vice [7] 49:25 50:1 54:20 54:22 55:2 58:11 89:23 VICE-CHAIR [1] 91:11 viewed [1] 31:23</p> <hr/> <p style="text-align: center;">-W-</p> <hr/> <p>walk [1] 24:17 wants [1] 1:8 warranties [1] 33:24 warranty [23] 9:7 16:20 18:25 20:19,20,24 21:2 21:14,18,21 22:1,3 26:5 33:19,20,21 34:2,6,8,13 34:15,15,17 water [10] 38:1 86:7,8 86:10,12,12,14,14,16,16</p>	<p>weather [2] 35:5 44:11 week [1] 22:23 weekend [1] 96:9 weeks [4] 28:15 31:19 38:21 51:21 weight [2] 33:20 46:9 weighting [4] 11:20 47:23,24 48:11 WELLS [1] 90:7 WHALEN [2] 89:23 91:11 whatsoever [1] 52:21 Whitney [6] 8:16 17:7 17:12 31:22 41:22 45:16 whole [1] 48:23 wind [1] 29:4 wiring [1] 58:7 wish [1] 1:5 within [7] 1:15 4:15 7:8 48:12 82:16 91:17 93:10 without [2] 17:18 50:24 witness [7] 29:7 30:7 56:10,17,22 57:10 89:19 wonder [1] 48:23 wondering [4] 16:10 33:21 34:5,16 Wood [2] 7:2 31:21 word [1] 27:12 worded [1] 46:1 words [3] 61:2 85:9 87:18 works [4] 4:4 43:6 58:7 66:7 world [4] 28:3 62:20 67:4 72:24 worth [1] 85:9 wrapping [1] 44:21 writing [1] 6:6 written [1] 23:1 wrong [6] 50:6 55:11,12 55:13,20 69:18</p> <hr/> <p style="text-align: center;">-Y-</p> <hr/> <p>year [1] 88:13 years [3] 5:10 20:13 26:4 yesterday [25] 1:21 2:1 3:25 4:24 9:12 21:1 22:16 40:17 43:3,21 48:21 50:3 55:2 59:14 60:15 61:14 62:2,21 63:12 67:5 71:10,22 76:20 78:10 85:7 yet [1] 55:24</p> <hr/> <p style="text-align: center;">-Z-</p> <hr/> <p>zero [17] 7:20 12:4 15:25 30:17 32:19,25 35:7 38:3 38:12 39:13 40:1 41:23 42:4 43:1 45:8,15 46:3</p>
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