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<p>1 November 19, 2015  2 (9:36 a.m.)  3 CHAIRMAN:  4 Q. So we're ready to recommence, and I think  5 we're starting with you, Madam.  6 MR. SCOTT PELLEY:  7 MS. KARLA RUSSELL:  8 MS. CAROL ANN LUTZ:  9 CROSS-EXAMINATION BY MAUREEN GREENE, Q.C.:  10 GREENE, Q.C.:  11 Q. Thank you, Mr. Chair. Good morning, Chair,  12 Commissioners, good morning, panel.  13 MS. RUSSELL:  14 A. Good morning.  15 MR. PELLEY:  16 A. Good morning.  17 MS. LUTZ:  18 A. Good morning.  19 GREENE, Q.C.:  20 Q. Ms. Russell, you've given evidence that you  21 have had a recent change in your reporting  22 relationship at Hydro and that you now report  23 directly to the President of Hydro, is that  24 correct?  25 MS. RUSSELL:</p>	<p>1 operations does as well, is that correct?  2 MS. RUSSELL:  3 A. Yes, I believe so.  4 GREENE, Q.C.:  5 Q. And that would be the manager of system  6 operations, is that correct?  7 MS. RUSSELL:  8 A. Yes.  9 GREENE, Q.C.:  10 Q. And are there any other changes?  11 MS. RUSSELL:  12 A. Not to my knowledge.  13 GREENE, Q.C.:  14 Q. Okay. Could I ask for an undertaking that the  15 PUB-138, Revision 2, be updated to reflect the  16 current structure of the regulated utility for  17 Hydro?  18 MS. RUSSELL:  19 A. Yes.  20 GREENE, Q.C.:  21 Q. So that's noted on the record. Ms. Russell, I  22 believe from your evidence, I understand that  23 you have been involved in the rates and  24 regulatory function for Hydro for about three  25 years, is that correct?</p>
<p>1 A. Correct.  2 GREENE, Q.C.:  3 Q. What other positions now report to the  4 President?  5 MS. RUSSELL:  6 A. Reporting to the President at this time would  7 be the - I think Mr. MacIsaac is still - may  8 be making some future changes to that, but we  9 could open up one of the - perhaps we could go  10 to the -  11 GREENE, Q.C.:  12 Q. The org chart is PUB-NLH-138.  13 MS. RUSSELL:  14 A. 138, yes. So in this, all the positions that  15 would have previously reported to Mr.  16 Henderson would report to Mr. MacIsaac now,  17 which would be these individuals.  18 GREENE, Q.C.:  19 Q. So the Chief Operating Officer position  20 continues to exist, is that correct?  21 MS. RUSSELL:  22 A. Yes.  23 GREENE, Q.C.:  24 Q. And in addition to these positions, you're now  25 reporting to him directly. I believe system</p>	<p>1 MS. RUSSELL:  2 A. Correct.  3 GREENE, Q.C.:  4 Q. Your first year was as the manager of rates  5 and now as the general manager, that the  6 manager of rates and regulatory reports -  7 MS. RUSSELL:  8 A. Correct.  9 GREENE, Q.C.:  10 Q. Okay. With respect to the structure at Hydro,  11 who has the overall responsibility for the  12 overall rate strategy and regulatory  13 management at Hydro?  14 MS. RUSSELL:  15 A. For the regulatory management in Hydro, the  16 accountability would lie with myself with  17 respect to the rates and regulatory function.  18 GREENE, Q.C.:  19 Q. With respect to the strategic policies, and  20 what I refer to as the strategic direction, do  21 you make those decisions on your own? You  22 mentioned you're the single point of  23 accountability.  24 MS. RUSSELL:  25 A. They would be in discussion with - previous to</p>

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<p>1 Mr. MacIsaac, it would be in discussion with 2 Mr. Henderson, as well as Mr. Sturge. 3 GREENE, Q.C.: 4 Q. So, for example, with respect to the 2015 cost 5 deferral application amendment that was 6 recently filed, who would you have required 7 approval from? 8 MS. RUSSELL: 9 A. It would have been approved by Mr. Henderson 10 and Mr. Sturge would have reviewed that as 11 well. 12 GREENE, Q.C.: 13 Q. So who would have ultimate responsibility for 14 the decisions that are made with respect to 15 Hydro's proposals on rates? 16 MS. RUSSELL: 17 A. So the ultimate sign off would be Mr. 18 Henderson would sign off on the ultimate - we 19 would propose that to Mr. Henderson. It would 20 signed off as he is the ultimate accountable 21 person for Hydro previously, previous to Mr. 22 MacIsaac. 23 GREENE, Q.C.: 24 Q. Now what would be the role of the Vice 25 President of Finance and the Chief Financial</p>	<p>1 those were looking like with respect to that 2 application. 3 GREENE, Q.C.: 4 Q. I believe you mentioned earlier this week that 5 there are also currently some working sessions 6 with respect to future rate strategies with 7 respect to the impact of Muskrat Falls, and 8 that you attend those sessions, is that 9 correct? 10 MS. RUSSELL: 11 A. Those sessions are the ready for commercial 12 integration, if that's the piece I think you 13 may be referring to. They are not 14 specifically to rates. Those particular ones 15 could be broad areas amongst the whole 16 integration. There are within Hydro a lot of 17 meetings taking place that the manager of 18 rates would be involved in on the studies that 19 I had spoken about before. 20 GREENE, Q.C.: 21 Q. And with respect to the overall rate strategy, 22 who would be responsible for leading that 23 initiative with respect to the integration of 24 Muskrat Falls? 25 MS. RUSSELL:</p>
<p>1 Officer for Hydro? 2 MS. RUSSELL: 3 A. Mr. Sturge - I believe this is in one of the 4 exhibits. Mr. Sturge is responsible for 5 providing the leadership and direction within 6 Nalcor and across the Nalcor lines of business 7 in the functional areas of controllership, 8 taxation, supply chain, treasury, risk 9 management, and then through me, and I would 10 be the one in Hydro that deals with those 11 issues specifically to Hydro and would deal 12 with those. 13 GREENE, Q.C.: 14 Q. Now I'm only talking about with respect to 15 rates and regulation. 16 MS. RUSSELL: 17 A. Okay. 18 GREENE, Q.C.: 19 Q. What would be the Chief Financial Officer's 20 role with respect to the GRA, for example, or 21 the 2015 cost deferral application? 22 MS. RUSSELL: 23 A. So he would be involved in reviewing that, 24 looking at the financial outlook for Hydro, 25 and where there is financial results and what</p>	<p>1 A. So Mr. Fagan is leading that as Manager of 2 Rates and Regulations. He's directly involved 3 in that, and there will be myself, and again 4 in the future now Mr. MacIsaac would be 5 involved. 6 GREENE, Q.C.: 7 Q. So again if there's any direction required 8 with respect to the financial outlook for 9 Hydro and the revenue requirement, would that 10 be the role for the Vice President of Finance 11 and Chief Financial Officer? 12 MS. RUSSELL: 13 A. Going forward? 14 GREENE, Q.C.: 15 Q. Yes. 16 MS. RUSSELL: 17 A. I believe going forward that will remain - Mr. 18 MacIsaac is now the President of Hydro, and 19 myself as the General Manager of Finance, it 20 would remain in Hydro, and we would then speak 21 to Mr. Sturge on Hydro's role, Hydro's 22 financial position. 23 GREENE, Q.C.: 24 Q. And how that fits in with respect to the long 25 term and short term financial outlook for</p>

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<p>1 Hydro as well as Nalcor?  2 MS. RUSSELL:  3 A. Yes, we would definitely speak to him about  4 that.  5 GREENE, Q.C.:  6 Q. I'd like now to turn to another issue which is  7 intercompany charges. I believe these  8 questions are for Ms. Lutz. I'd like to bring  9 up the transcript of October 19th at page 17,  10 please. So if we look at line 23, beginning  11 at line 23, and here I'm sure you'll recall,  12 Ms. Lutz, were you present when Mr. Rolph  13 testified?  14 MS. LUTZ:  15 A. Yes, I was.  16 GREENE, Q.C.:  17 Q. You will recall that in direct-examination,  18 Mr. Rolph reviewed some issues that he had  19 raised in his report with respect to the  20 intercompany charges, and his recommendation  21 that clarification be provided. Here at line  22 23 the question that I asked was with respect  23 to, "In your report, you suggested that  24 clarification should be provided by Hydro  25 about common services charged to Nalcor and</p>	<p>1 MS. LUTZ:  2 A. Yes, I did.  3 (9:45 a.m.)  4 GREENE, Q.C.:  5 Q. Okay, so the first question, if you go back to  6 the very first one, lines 22 to 24, should  7 that have been common services there that you  8 were responding to?  9 MS. LUTZ:  10 A. Yes, we had a number of RFIs where we had been  11 asked which lines of business the admin fee,  12 for example, had been charged to, and we had  13 not provided the individual lines of business,  14 but we can do so if the Board would find that  15 information useful.  16 GREENE, Q.C.:  17 Q. Okay, I just wanted to clarify for the record  18 that Hydro was also accepting Mr. Rolph's  19 clarification that he had requested with  20 respect to common services, so is that  21 correct?  22 MS. LUTZ:  23 A. Yes.  24 GREENE, Q.C.:  25 Q. Another issue that had been raised in Mr.</p>
<p>Page 10</p> <p>1 its affiliated companies. Did you seek  2 clarification in preparing your report on this  3 issue and what was Hydro's response", and I  4 don't think it's necessary to read the answer,  5 but I wanted to bring it up for the context  6 for you. Now in your direct-examination this  7 week, you did respond to a number of the  8 issues that Mr. Rolph had raised, and now I'd  9 like to go to the transcript of November 16th,  10 page 9, and I just wanted to bring your  11 attention to the transcript because while you  12 did identify a number of the issues or  13 concerns that had been raised by Mr. Rolph,  14 you did not address the issue with respect to  15 common services. If we look at the transcript  16 at page 10, lines 22, the question at page 10,  17 line 22, we see there the question at line 21  18 to 24 was related to common expenses. If you  19 just want to scroll down and read your answer.  20 I just wanted clarification there with respect  21 to this issue of common services, and then  22 again if we look at page 11, lines 15 to 19,  23 we see another question also dealing with  24 common expenses. Did you intend to address  25 the issue of common services?</p>	<p>Page 12</p> <p>1 Rolph's report was with respect to whether  2 there should be a markup when a service is  3 provided to a company that is involved in  4 private enterprise. Here I'd like to go to  5 the transcript of October 19th, page 16,  6 beginning at the bottom there, I believe, line  7 24. So this is where he is talking about the  8 markup and the question to Mr. Rolph was, "If  9 a markup were to be applied, what would be  10 reasonable for it", so if we could scroll down  11 to the next page, and I just wanted to bring  12 your attention to his response in lines 2 to  13 20. In that response he indicated that in his  14 report he had used a range of 2 to 5 percent,  15 but that since his report, based on the  16 finalization of the guidance documents from  17 the OECD, the range now - would no longer be a  18 range, it would be a single markup of 5  19 percent, and for that reason he was  20 recommending Hydro apply a 5 percent markup.  21 Do you see that in lines 17 to 21?  22 MS. LUTZ:  23 A. On page 19?  24 GREENE, Q.C.:  25 Q. 17.</p>

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<p>1 MS. LUTZ:  2 A. Oh, sorry. Yes, I see that, yes.  3 GREENE, Q.C.:  4 Q. Because earlier in evidence in response to an  5 undertaking you indicated you were going to  6 provide analysis of 2 to 5 percent because  7 that was your understanding of Mr. Rolph's  8 recommendation?  9 MS. LUTZ:  10 A. Yes, that's correct.  11 GREENE, Q.C.:  12 Q. And you can see that from his direct evidence,  13 his recommendation is that it would be 5  14 percent?  15 MS. LUTZ:  16 A. Yes.  17 GREENE, Q.C.:  18 Q. Again for the record, I wanted to clarify what  19 Mr. Rolph's recommendation was and what  20 Hydro's understanding of his recommendation  21 was.  22 MS. LUTZ:  23 A. Okay.  24 GREENE, Q.C.:  25 Q. The other reason Mr. Rolph, if you want to go</p>	<p>1 debt guarantee fee, and here I'd like to bring  2 up the transcript of November 19th at page 85.  3 MS. GRAY:  4 A. This is November 19th.  5 GREENE, Q.C.:  6 Q. Oh, well, it was the first day, so what was  7 Monday? It is a long week.  8 MS. GRAY:  9 Q. The 16th. Sorry, Ms. Greene, what page?  10 GREENE, Q.C.:  11 Q. 85, and again it's to give context for Mr.  12 Pelley to ensure that I am not misquoting him.  13 Again it was in your direct-examination, if  14 you begin at lines - in response to Mr.  15 O'Brien.  16 MR. PELLEY:  17 A. So line 12, page 85?  18 GREENE, Q.C.:  19 Q. Yes, and I just wanted to review with you the  20 comments you made with respect to the  21 guarantee fee. The first one was the fact  22 that Hydro's approach is consistent with a  23 decision of the Regie in Quebec.  24 MR. PELLEY:  25 A. Correct.</p>
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<p>1 back to the transcript, we can, had  2 recommended that clarification be provided for  3 the common services and that Hydro be asked to  4 provide the fees that is charged to the other  5 lines of business with respect to  6 transparency, and in your direct-examination,  7 you did not comment with respect to his  8 concern with respect to transparency, and I  9 wanted to ask what Hydro's position was with  10 respect to the need for transparency and  11 providing the information with respect to the  12 other lines of business as raised by Mr.  13 Rolph?  14 MS. LUTZ:  15 A. We're certainly open to providing that  16 information to enhance transparency.  17 GREENE, Q.C.:  18 Q. And you do see the need for transparency with  19 respect to satisfying the Board and  20 stakeholders of the appropriateness of the  21 charges?  22 MS. LUTZ:  23 A. Yes.  24 GREENE, Q.C.:  25 Q. Thank you. Moving now to another issue, the</p>	<p>1 GREENE, Q.C.:  2 Q. Okay, and we've already had additional  3 discussion on that, and Hydro has agreed to  4 provide that decision, hopefully in English.  5 MR. PELLEY:  6 A. Fortunately, I have an English copy of part of  7 the decision.  8 GREENE, Q.C.:  9 Q. Only part?  10 MR. PELLEY:  11 A. The relevant part, fortunately.  12 GREENE, Q.C.:  13 Q. The other issue that you raised there, though,  14 was with respect to whether the principles of  15 transfer pricing are applicable.  16 MR. PELLEY:  17 A. Uh-hm.  18 GREENE, Q.C.:  19 Q. And that is one of the issues that I wish to  20 follow up with you on that.  21 MR. PELLEY:  22 A. Sure.  23 GREENE, Q.C.:  24 Q. First, why do you think that transfer pricing  25 principles would not apply? In your previous</p>

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<p>1 statements, you only refer to the fact that 2 they're from income tax approaches, so they 3 may not be appropriate, in fact, are not 4 appropriate in the regulatory framework? 5 MR. PELLELY: 6 A. Can you scroll down? 7 GREENE, Q.C.: 8 Q. It's also over to page 89 if you'd like to - 9 MR. PELLELY: 10 A. I'm still looking for the reference, sorry. 11 GREENE, Q.C.: 12 Q. I have noted that it's page 85 you began, so 13 if you go back to page 85, line 12. 14 MR. PELLELY: 15 A. Yes. 16 GREENE, Q.C.: 17 Q. If you go to the bottom of the page, you say, 18 "I guess, the second piece of it I question 19 from my perspective is the case law that they 20 referenced was largely around transfer pricing 21 which is largely concerned with taxation, 22 ensuring that the corporations are not using 23 guarantees to shift taxable income around 24 jurisdictions. The limited look I had, there 25 doesn't seem to be any connection of that</p>	<p>1 MR. PELLELY: 2 A. I am, yes. 3 GREENE, Q.C.: 4 Q. Okay, is it Hydro's position that with respect 5 to the intercompany costing guidelines that 6 those principles are not relevant either? 7 MR. PELLELY: 8 A. I'm not sure what's on the record there, but 9 subject to check, I think that we are in 10 agreement with that, are we not? 11 MS. LUTZ: 12 A. Yes, he made some points from the guidance 13 related to transfer pricing that applied to 14 the intercompany transactions. 15 GREENE, Q.C.: 16 Q. And Hydro has accepted that analogy for that 17 purpose, is that correct? 18 MS. LUTZ: 19 A. Yes. 20 GREENE, Q.C.: 21 Q. That those principles are equally applicable 22 with respect to intercompany charges? 23 MS. LUTZ: 24 A. Yes. 25 GREENE, Q.C.:</p>
<p>1 being used as a precedent in regulatory 2 cases", and you made a similar comment later 3 that morning, if you want to look at it, over 4 at page 89, and I wanted your opinion as to 5 why; is it just because it's applied in 6 taxation law? 7 MR. PELLELY: 8 A. My view there would be that, without having 9 the benefit of looking further into the issue, 10 I couldn't be certain that it was applicable 11 to a regulatory context. 12 GREENE, Q.C.: 13 Q. One of the principles of transfer pricing is 14 to ensure that when a service or a good is 15 provided among affiliated companies, that the 16 appropriate charge or fee is paid for it to 17 ensure that there is not inappropriate 18 subsidization between the affiliated 19 companies. Are you familiar with that concept? 20 MR. PELLELY: 21 A. I am, yes. 22 GREENE, Q.C.: 23 Q. Are you aware that Grant Thornton, Mr. Rolph, 24 also used those principles in reviewing 25 Hydro's intercompany methodology for charges?</p>	<p>1 Q. Okay, so coming back to why these principles 2 would not be applicable to a debt guarantee 3 fee, is the guarantee fee a charge for a 4 service that's provided? 5 MR. PELLELY: 6 A. It is, yes. 7 GREENE, Q.C.: 8 Q. And is one of the basic principles of the 9 application of the transfer pricing guidelines 10 to ensure that a reasonable fee by looking at 11 the market is the right appropriate fee to be 12 charged and there is no inappropriate 13 subsidization? 14 MR. PELLELY: 15 A. It is. 16 GREENE, Q.C.: 17 Q. So perhaps you could explain further then why 18 the principle would not be applicable to 19 determine the appropriate value to be paid for 20 the guarantee fee provided by the province? 21 That was the second point you raised why you 22 didn't agree with Grant Thornton's opinions - 23 MR. PELLELY: 24 A. All I can say is it was one of several points 25 I raised and it's - you know, it was something</p>

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<p>1 for consideration by the Board, and if it's</p> <p>2 something that they wouldn't consider, then</p> <p>3 there's - I don't have anything to elaborate</p> <p>4 on it.</p> <p>5 GREENE, Q.C.:</p> <p>6 Q. Okay, but you do agree that one of the primary</p> <p>7 principles of the guidelines used is to ensure</p> <p>8 that the appropriate fee is being paid for</p> <p>9 goods or service provided?</p> <p>10 MR. PELLEY:</p> <p>11 A. With respect to transfer pricing?</p> <p>12 GREENE, Q.C.:</p> <p>13 Q. Yes.</p> <p>14 MR. PELLEY:</p> <p>15 A. I would agree, yes.</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. And would you also agree that one of the</p> <p>18 issues before the Board is to what is the</p> <p>19 reasonable fee to be recovered from rate</p> <p>20 payers with respect to the guarantee fee</p> <p>21 provided by the province to Hydro?</p> <p>22 MR. PELLEY:</p> <p>23 A. It is, yes.</p> <p>24 GREENE, Q.C.:</p> <p>25 Q. I'm sorry, by Hydro to the province for the</p>	<p>1 the fee, and that would be the Scotia McLeod</p> <p>2 analysis that was done, is that correct?</p> <p>3 MS. PELLEY:</p> <p>4 A. Yes.</p> <p>5 GREENE, Q.C.:</p> <p>6 Q. Okay, and what did Hydro ask Scotia McLeod to</p> <p>7 do?</p> <p>8 MR. PELLEY:</p> <p>9 A. If we could perhaps bring up one of the - I</p> <p>10 believe we have three studies on the record.</p> <p>11 GREENE, Q.C.:</p> <p>12 Q. PUB-061 is the most recent one by Scotia</p> <p>13 McLeod.</p> <p>14 MR. PELLEY:</p> <p>15 A. If we could perhaps bring that up.</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. PUB-061 is the 2013.</p> <p>18 MR. PELLEY:</p> <p>19 A. And if we could go to the attachment, Jenny,</p> <p>20 and I think the answer to the question is</p> <p>21 there on what I'm seeing as page 1 in the</p> <p>22 first three bullet points in terms of what</p> <p>23 Hydro requested Scotia McLeod to do. In this</p> <p>24 context, its reference is an update on</p> <p>25 Scotiabank's thoughts on the value of the</p>
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<p>1 guarantee provided.</p> <p>2 MR. PELLEY:</p> <p>3 A. It is.</p> <p>4 GREENE, Q.C.:</p> <p>5 Q. So it's the very same issue?</p> <p>6 MR. PELLEY:</p> <p>7 A. Very same issue, which is the same issue</p> <p>8 that's faced the Board in the past on</p> <p>9 determining the reasonability of the fee.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. Yes, and we've talked about that before. You</p> <p>12 have acknowledged - Hydro has acknowledged</p> <p>13 their position this time that there is not</p> <p>14 legislation in place requiring the payment of</p> <p>15 the guarantee fee?</p> <p>16 MR. PELLEY:</p> <p>17 A. Can you repeat that, please?</p> <p>18 GREENE, Q.C.:</p> <p>19 Q. In the past, the legislation existed that</p> <p>20 required the payment of the guarantee fee?</p> <p>21 MR. PELLEY:</p> <p>22 A. Agreed.</p> <p>23 GREENE, Q.C.:</p> <p>24 Q. I wanted to look at the analysis that Hydro</p> <p>25 relies on to determine the appropriateness of</p>	<p>1 guarantee provided by the province.</p> <p>2 GREENE, Q.C.:</p> <p>3 Q. Okay, and is it correct that what Scotia did</p> <p>4 was to determine a proxy group of utilities</p> <p>5 who they believed would have a similar credit</p> <p>6 rating to Hydro, as if Hydro would have if it</p> <p>7 did not have a government guarantee, is that</p> <p>8 correct?</p> <p>9 MR. PELLEY:</p> <p>10 A. I would agree.</p> <p>11 GREENE, Q.C.:</p> <p>12 Q. And what did they do next? They looked at the</p> <p>13 spread that these four utilities received with</p> <p>14 respect to short and long term bonds, is that</p> <p>15 correct?</p> <p>16 MR. PELLEY:</p> <p>17 A. That's correct.</p> <p>18 GREENE, Q.C.:</p> <p>19 Q. And then they determined the difference</p> <p>20 between what their range was versus what was</p> <p>21 achievable with the guarantee, is that</p> <p>22 correct?</p> <p>23 MR. PELLEY:</p> <p>24 A. That's correct.</p> <p>25 GREENE, Q.C.:</p>

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<p>1 Q. Okay, and if we could go now to the Grant 2 Thornton Report, please, of June 2015, where 3 they talk about the guarantee fee on page 19. 4 If you begin at line 32, and I'll just give 5 you a moment to read it, Mr. Pelley, but 6 beginning at line 32, Grant Thornton expressed 7 some issues with respect to whether the 8 selection of the proxy group was a total 9 apples to apples comparison, is that correct, 10 and I'll give you a moment to read it? 11 MR. PELLEY: 12 A. And if you could ask the question again before 13 I read it, please? 14 GREENE, Q.C.: 15 Q. The question is what is Hydro's position or 16 comments with respect to Grant Thornton's 17 observations that the proxy group may not be 18 an exact apples to apples comparison? Do you 19 agree with their observations or not is the 20 essential question, and it does go over to the 21 next page, so I'll give you a moment to read 22 it? 23 (10:00 a.m.) 24 MR. PELLEY: 25 A. I would agree.</p>	<p>1 range was provided to Grant Thornton, I 2 understand, is that correct? 3 MR. PELLEY: 4 A. Yes, my understanding would be they would have 5 lifted that from, I think, the 2013 Scotiabank 6 study is what they used. 7 GREENE, Q.C.: 8 Q. Okay. 9 MR. PELLEY: 10 A. Specifically, one of the tables that's there 11 in that study. 12 GREENE, Q.C.: 13 Q. And with respect to the fee for short term 14 debt of 25 basis points, that fee that Hydro 15 pays was less than the top of the range paid 16 by the other utilities, is that correct, 25 17 basis points is less than the range of 31. 7 18 basis points to 33? 19 MR. PELLEY: 20 A. Correct. 21 GREENE, Q.C.: 22 Q. With respect to the long term range of 35. 6 23 basis points to 47.8 basis points, and that 24 was the range with respect to the long term 25 bonds, is that correct?</p>
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<p>1 GREENE, Q.C.: 2 Q. So all they're pointing out there is that 3 there might need to be some adjustments to 4 reflect whether the range that is quoted was 5 really representative of what - 6 MR. PELLEY: 7 A. What they're suggesting, in my view, it would 8 be my position is that more work would need to 9 be done to substantiate whether the 10 comparables Scotiabank used are, in fact, 11 comparables. 12 GREENE, Q.C.: 13 Q. Okay, and that is what they are suggesting, 14 thank you. Did Hydro do any additional work 15 to validate that? 16 MR. PELLEY: 17 A. No, we relied on the conclusion that Scotia 18 provided. 19 GREENE, Q.C.: 20 Q. Now if we go to page 20 of that report, we see 21 that the difference - Grant Thornton is saying 22 that the average difference between the yield 23 on short term bonds issued by the province and 24 that issued by the three Canadian companies 25 range from 31.7 basis points to 33. That</p>	<p>1 MR. PELLEY: 2 A. That is my interpretation, yes. 3 GREENE, Q.C.: 4 Q. And the fee that Hydro pays is 50 basis 5 points? 6 MR. PELLEY: 7 A. Which is higher than the top of that range. 8 GREENE, Q.C.: 9 Q. So in Hydro's opinion, is it reasonable that 10 customers will be asked to pay more than what 11 the top of the range would be? 12 MR. PELLEY: 13 A. I think it is reasonable because - I go back 14 to a previous statement I made about the fact 15 that these spreads over a long period of time 16 move above 50 basis points, below 50 basis 17 points, you're trying to capture something 18 that's reasonable, a reasonable proxy for the 19 fee over a long period of time. For instance, 20 the fee as it was last set was 100 basis 21 points prior to the fee being waived, and I 22 would submit that if we were to look at 23 Hydro's actual spreads over that time, there 24 was instances where they would have been well 25 above 100 basis points and there may have been</p>

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<p>1 instances where they would have been below, so</p> <p>2 it is my position on behalf of the company</p> <p>3 that 50 is a reasonable estimate for the top</p> <p>4 end of the range, based on an opinion of an</p> <p>5 expert that we had in front of us which is</p> <p>6 Scotia Capital.</p> <p>7 GREENE, Q.C.:</p> <p>8 Q. And the purpose of the fee here is to set the</p> <p>9 fee for the revenue requirement and this was</p> <p>10 the fee that was determined appropriate for</p> <p>11 the market conditions at the time of Hydro's</p> <p>12 filing its application and its amendment when</p> <p>13 this report was done?</p> <p>14 MR. PELLEY:</p> <p>15 A. Correct.</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. So we're talking about market conditions that</p> <p>18 existed to set the fee for the 2015 revenue</p> <p>19 requirement?</p> <p>20 MR. PELLEY:</p> <p>21 A. Correct.</p> <p>22 GREENE, Q.C.:</p> <p>23 Q. Not over a long period of time?</p> <p>24 MR. PELLEY:</p> <p>25 A. Correct. What I would add to that is there is</p>	<p>1 GREENE, Q.C.:</p> <p>2 Q. Hydro has already been asked to provide an</p> <p>3 undertaking by Newfoundland Power with respect</p> <p>4 to the sharing of the guarantee.</p> <p>5 MR. PELLEY:</p> <p>6 A. That is correct.</p> <p>7 GREENE, Q.C.:</p> <p>8 Q. I want to ask you to provide an undertaking</p> <p>9 with respect to the analysis showing what the</p> <p>10 fee would be if the fee was selected at the</p> <p>11 midpoint of the range of each of these two</p> <p>12 ranges that are here. So the midpoint of the</p> <p>13 range for short term between 31.7 and 33, and</p> <p>14 the midpoint of between 35.6 and 47.8 for long</p> <p>15 term.</p> <p>16 MR. PELLEY:</p> <p>17 A. So what the fee would be using those ranges?</p> <p>18 GREENE, Q.C.:</p> <p>19 Q. And picking the midpoint of the range?</p> <p>20 MR. PELLEY:</p> <p>21 A. Without apportioning or with apportioning?</p> <p>22 GREENE, Q.C.:</p> <p>23 Q. Without apportioning, and then it's simple</p> <p>24 enough to do the apportionment -</p> <p>25 MR. PELLEY:</p>
Page 30	Page 32
<p>1 also variability in the short term, so I would</p> <p>2 say if you were to look at the spreads even</p> <p>3 over a year period, sometimes it'll be below</p> <p>4 50, sometimes it will be above 50.</p> <p>5 GREENE, Q.C.:</p> <p>6 Q. That's not what's in the analysis that Hydro</p> <p>7 provided in support of the fee, is it?</p> <p>8 MR. PELLEY:</p> <p>9 A. No, it is not.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. Now Grant Thornton has recommended that the</p> <p>12 benefit of the fee be shared. Do you agree</p> <p>13 that the benefit should be shared between the</p> <p>14 guarantor and the guarantee?</p> <p>15 MR. PELLEY:</p> <p>16 A. That is not the company's position, but it is</p> <p>17 an alternative position that the Board needs</p> <p>18 to consider in ruling on this.</p> <p>19 GREENE, Q.C.:</p> <p>20 Q. Okay. Grant Thornton also recommended that</p> <p>21 further analysis be done with respect to the</p> <p>22 appropriate sharing of the benefit. Has Hydro</p> <p>23 done any further analysis?</p> <p>24 MR. PELLEY:</p> <p>25 A. We have not.</p>	<p>1 A. I just gave that up to you, didn't I?</p> <p>2 GREENE, Q.C.:</p> <p>3 Q. Right.</p> <p>4 MR. PELLEY:</p> <p>5 A. 50/50 apportioning?</p> <p>6 GREENE, Q.C.:</p> <p>7 Q. Yes.</p> <p>8 MR. PELLEY:</p> <p>9 A. Understood.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. And that's noted on the record, that's</p> <p>12 acceptable, okay. I'd like to turn now to</p> <p>13 another topic which is the 2014 revenue</p> <p>14 deficiency, and I wonder here if we could</p> <p>15 bring up page 310 of Hydro's general rate</p> <p>16 application, and I just wanted to talk about</p> <p>17 lines 1 to 4. It says, "As stated above,</p> <p>18 Hydro's amending filing is based on a 2014</p> <p>19 test year for the purpose of recovery of a</p> <p>20 2014 revenue deficiency, and is based on a</p> <p>21 2015 test year for the purpose of setting</p> <p>22 rates for customers", and, I guess, this</p> <p>23 question is for you, Ms. Russell. Hydro</p> <p>24 appears to be drawing a distinction for the</p> <p>25 use of test years in that sentence for</p>

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1 different purposes for 2014 and 2015, and I  
 2 wanted to understand what Hydro's position  
 3 was, so could you explain what was meant by  
 4 that?  
 5 MS. RUSSELL:  
 6 A. So the 2014 is considered a test year for the  
 7 purpose of recovering - just recovery of the  
 8 costs in that year, and for 2015, that test  
 9 year was put forward as the test year for  
 10 setting rates.  
 11 GREENE, Q.C.:  
 12 Q. What's normally the purpose of a test year in  
 13 the normal regulatory practice?  
 14 MS. RUSSELL:  
 15 A. Well, the test year would be to - you would  
 16 have a test year to set rates, get recovery  
 17 from customers on changes and set them going  
 18 forward.  
 19 GREENE, Q.C.:  
 20 Q. So the rates would be designed based on the  
 21 forecast test year to recover the revenue  
 22 requirement?  
 23 MS. RUSSELL:  
 24 A. Correct.  
 25 GREENE, Q.C.:

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1 Q. But that's not what Hydro is proposing in its  
 2 application, is it?  
 3 MS. RUSSELL:  
 4 A. Hydro is proposing that for 2015 test year be  
 5 used for the rates and the 2014 be used for  
 6 the recovery, not for the rates.  
 7 GREENE, Q.C.:  
 8 Q. And we'll come back to it, but that position  
 9 has changed somewhat with respect to your 2015  
 10 cost deferral application amendment. Is it  
 11 correct now to say that Hydro is also viewing  
 12 2015 to determine the revenue deficiency for  
 13 2015 and is considering the 2015 test year as  
 14 the basis for rate setting for 2016?  
 15 MS. RUSSELL:  
 16 A. The cost deferral application deals with the  
 17 fact that there's going to be a time lag from  
 18 the end of the year to when we get the order,  
 19 so it's simply to deal with that time lag on  
 20 that. 2015 is still the year for setting, as  
 21 we put forward in our application for setting  
 22 rates.  
 23 GREENE, Q.C.:  
 24 Q. Yes, but the rates won't become effective  
 25 until 2016?

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1 MS. RUSSELL:  
 2 A. Yes.  
 3 GREENE, Q.C.:  
 4 Q. And you want to use the 2015 test year to  
 5 recover the 2015 revenue deficiency?  
 6 MS. RUSSELL:  
 7 A. Correct.  
 8 GREENE, Q.C.:  
 9 Q. So your first sentence that we just read  
 10 really applies to both 2014 and 2015 in the  
 11 sense that the 2015 test year is being now  
 12 used to recover a 2015 revenue deficiency is  
 13 what is proposed?  
 14 MS. RUSSELL:  
 15 A. Yes.  
 16 GREENE, Q.C.:  
 17 Q.  
 18 MS. RUSSELL:  
 19 A. Correct.  
 20 GREENE, Q.C.:  
 21 Q. Has Hydro determined whether this practice has  
 22 been used in other jurisdictions of using what  
 23 you're calling a test year to recover losses,  
 24 deficiencies?  
 25 MS. RUSSELL:

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1 A. Well, I believe that again the reason we put  
 2 forward this application was simply because of  
 3 the time that it's taken to go through this  
 4 period of time, and so we're asking for a  
 5 deferral of these costs and that as we go  
 6 through and get the final order, any  
 7 adjustments and customers would see - the  
 8 impact of customers will be whatever the final  
 9 order of the Board would be.  
 10 GREENE, Q.C.:  
 11 Q. Yes, I understand what your proposal is. My  
 12 question was have you determined whether this  
 13 approach has been used in other jurisdictions  
 14 with respect to using test year to recover  
 15 revenue deficiency? Have you gone out and  
 16 reviewed the practice in other jurisdictions?  
 17 MS. RUSSELL:  
 18 A. I would have to go check for you. I think our  
 19 position and sort of where we've been in this  
 20 GRA has probably been a little bit different  
 21 as well as what other - there's a little bit  
 22 of different circumstances in this one, so I  
 23 think that's why we put forward this, again  
 24 due to the timing and where we are.  
 25 GREENE, Q.C.:

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<p>1 Q. Yes, and I understand the timing and where we 2 are.</p> <p>3 MS. RUSSELL:</p> <p>4 A. So we can check. I can check for you.</p> <p>5 GREENE, Q.C.:</p> <p>6 Q. But you haven't to date, that's the -</p> <p>7 MS. RUSSELL:</p> <p>8 A. I don't know. I don't have that information 9 with me at the moment.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. Okay, has Hydro consulted with an expert on 12 regulatory finance or regulatory accounting to 13 determine whether this is an acceptable 14 regulatory practice?</p> <p>15 MS. RUSSELL:</p> <p>16 A. So we would have had this - a similar deferral 17 in 2014 where - we would have a similar 18 deferral in 2014, that when we went through 19 our year end with our auditors, that amount 20 would have been recorded.</p> <p>21 GREENE, Q.C.:</p> <p>22 Q. Yes, but my question was, has Hydro sought - I 23 understand that you've done that.</p> <p>24 MS. RUSSELL:</p> <p>25 A. Okay.</p>	<p>1 concerns in relation to whether Hydro's 2 proposals with regard to the 2014 revenue 3 requirement can be considered good regulatory 4 practice, and to the precedent that may be 5 established, and then they also quote 6 Newfoundland Power at page 5, "That an 7 approach along these lines is clearly a 8 departure from regulatory practice relating to 9 cost deferrals", and then the Board goes on to 10 talk about the extraordinary measure. After 11 you received that Board Order, did Hydro 12 address the concerns with respect to 13 appropriate regulatory practice?</p> <p>14 MS. RUSSELL:</p> <p>15 A. With respect to the 2014?</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. And the fact that you're also applying for 18 2015 for the same thing?</p> <p>19 MS. RUSSELL:</p> <p>20 A. I think, as I said with the 2015, it's been a 21 matter of the timing again as to when we have 22 done this and Hydro feels that, again looking 23 at its ability to earn a reasonable return 24 that without this, Hydro would not be able to 25 earn a reasonable return for both the 2014 and</p>
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<p>1 GREENE, Q.C.:</p> <p>2 Q. And we're actually going to talk about that, 3 but there are regulatory experts out there. 4 Newfoundland Power has called them in their 5 GRAS to determine what is normal acceptable 6 regulatory practice from a regulatory 7 financial and accounting perspective. My 8 question was did Hydro consult with respect to 9 that sort of expertise with respect to this 10 approach that they're asking the Board to 11 accept as to whether this is acceptable 12 regulatory practice?</p> <p>13 MS. RUSSELL:</p> <p>14 A. Not to my knowledge.</p> <p>15 GREENE, Q.C.:</p> <p>16 Q. I wonder if we could look at Order PU-58 of 17 2014.</p> <p>18 MS. GRAY:</p> <p>19 Q. Sorry, the order number, Ms. Greene?</p> <p>20 GREENE, Q.C.:</p> <p>21 Q. It was Order PU-58, Ms. Gray, of 2014. Order 22 PU-58, 2014, page 7, beginning at lines 33, 23 and here this is where the Board is quoting 24 from some of the submissions that both Vale 25 and the industrial customer group raised,</p>	<p>1 2015.</p> <p>2 GREENE, Q.C.:</p> <p>3 Q. And we're going to come back to Hydro's 4 explanation or rationale for it. With respect 5 to the 2014 revenue deficiency and now if the 6 Board grants the 2015 application, the 2015 7 revenue deficiency, what is Hydro's proposal 8 with respect to how the amounts will be 9 recovered from customers?</p> <p>10 MS. RUSSELL:</p> <p>11 A. So Hydro's proposal, the current application 12 is for deferral so the proposal would be once 13 an order from the GRA came forward, in the 14 compliance application, Hydro, once we had the 15 numbers from the Board of any adjustments or 16 what the order was, we would put forward a 17 recovery proposal in that compliance 18 application.</p> <p>19 (10:15 a.m.)</p> <p>20 GREENE, Q.C.:</p> <p>21 Q. And in terms of where Hydro now believes its 22 proposal will be, how does it envisage 23 recovering the deficiencies from customers?</p> <p>24 MS. RUSSELL:</p> <p>25 A. So there are a couple of options for that. We</p>

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<p>1 would still be looking at that and putting a 2 proposal forward at that time, but one could 3 be from any credits in the RSP or it could be 4 through a rate rider, and again, those would 5 be put forward through the compliance 6 application. 7 GREENE, Q.C.: 8 Q. Okay. And Hydro's proposal is that the 2014 9 rates which are now interim be made final? Is 10 that correct, as part of this approach? 11 MS. RUSSELL: 12 A. Yes. 13 GREENE, Q.C.: 14 Q. And if the cost deferral application -- 2015 15 cost deferral application is approved, the 16 2015 rates, which are now also interim, would 17 it be Hydro's position that these rates be 18 made final? 19 MS. RUSSELL: 20 A. I believe so. 21 GREENE, Q.C.: 22 Q. The current 2015 rates be made final? 23 MS. RUSSELL: 24 A. I believe so. 25 GREENE, Q.C.:</p>	<p>1 deficiency, that amount, what is Hydro's view 2 with respect to the probability of recovery of 3 the amount of 45.6 million? 4 MS. RUSSELL: 5 A. Well, Hydro has put forward its evidence on 6 that and is just awaiting the Board, the order 7 from the Board. 8 GREENE, Q.C.: 9 Q. Okay. So within the 2014 revenue deficiency, 10 you do agree that there are a number of items 11 that are subject to disagreement by the 12 parties, for example, Liberty has recommended 13 that a number of items not be allowed as a 14 result of their findings on prudence? Is that 15 correct? 16 MS. RUSSELL: 17 A. Agreed. 18 GREENE, Q.C.: 19 Q. Do you also agree that the parties have raised 20 the issue of whether the full amount of the 21 return on equity should be allowed to be 22 recovered in the 2014 revenue deficiency? 23 MS. RUSSELL: 24 A. I am aware of that. 25 GREENE, Q.C.:</p>
<p>1 Q. Now you had mentioned that -- come back to 2 first for 2014. When the Board approved the 3 creation of the 45.6 million dollars be 4 created in a deferral account, I understood 5 from your earlier evidence that that allowed 6 that to be set up as a regulatory asset on the 7 2014 financial statements. Is that correct? 8 MS. RUSSELL: 9 A. It was a deferral of costs, yes. 10 GREENE, Q.C.: 11 Q. So with respect to 2014, if there is to be any 12 impact, it will occur in the year of the 13 Board's order, which most likely will be 2016? 14 MS. RUSSELL: 15 A. Correct. 16 GREENE, Q.C.: 17 Q. And I also understood that if less is allowed 18 to be recovered by the Board than what has 19 been placed as an asset, then that would be 20 taken as a loss in that current year, 2016? 21 Is that correct? 22 MS. RUSSELL: 23 A. Correct. 24 GREENE, Q.C.: 25 Q. Okay. Now with respect to the 2014 revenue</p>	<p>1 Q. And I also -- my understanding of some of the 2 positions of the parties to date is there's an 3 issue with respect to some of -- the 4 reasonableness of some of the costs in the 5 2014 revenue deficiency, apart from the return 6 on equity and apart from the prudence issues. 7 Is that correct? 8 MS. RUSSELL: 9 A. I'm aware of those concerns or those issues, 10 yes. 11 GREENE, Q.C.: 12 Q. Has Hydro done any analysis of the probability 13 of the implications of the recovery of 14 different amounts? 15 MS. RUSSELL: 16 A. Well, we have looked at -- for those 17 particular items, we would know what the 18 amounts were for those items, but Hydro still 19 feels that they are reasonable as the evidence 20 has been put forward on those and it would 21 wait for an order from the Board to assess 22 that. 23 GREENE, Q.C.: 24 Q. And then that would be -- the difference would 25 be a loss in 2016?</p>

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<p>1 MS. RUSSELL: 2 A. Correct. 3 GREENE, Q.C.: 4 Q. Okay. So are we now in the same situation 5 with respect to 2015 as a result of your most 6 recent cost deferral application? I guess 7 it's an amendment to your previous cost 8 deferral. 9 MS. RUSSELL: 10 A. Yes, that there would be an adjustment in 2016 11 if there was any adjustments. 12 GREENE, Q.C.: 13 Q. Okay. 14 MS. RUSSELL: 15 A. Yes. 16 GREENE, Q.C.: 17 Q. So the amount now that Hydro is asking be set 18 aside in a deferral account is 60 and a half 19 million dollars? Is that correct? 20 MS. RUSSELL: 21 A. Yes. 22 GREENE, Q.C.: 23 Q. Okay. And again, would you agree that there's 24 uncertainty with respect to the amount that 25 would be recovered?</p>	<p>1 so this is the historical performance, Table 2 3.6, for your return on rate base from the 3 previous test year, and would you agree that 4 from 2007 up to 2013, there was only one year 5 that Hydro earned within the range that had 6 previously been approved by the Board? 7 MS. RUSSELL: 8 A. Correct. 9 GREENE, Q.C.: 10 Q. And similarly, if we could go to the next page 11 for the return on equity, again when we look 12 back historically from 2007 to 2013, we don't 13 see a consistent pattern of Hydro earning the 14 rate of return that the Board had said that 15 Hydro was entitled to earn, and Mr. Pelley 16 also expressed some concern and I'd like to go 17 to this, the transcript of November 16th at 18 page 179. I'm just getting the correct 19 reference number for you. And it begins at 20 page 180 actually. It starts at page 179, if 21 Mr. Pelley would like to read it for context, 22 but where I wanted to bring your attention to, 23 Mr. Pelley, was at the bottom of page 180. 24 MR. PELLEY: 25 A. Sure. You can just to -</p>
<p>Page 46</p> <p>1 MS. RUSSELL: 2 A. Yes. 3 GREENE, Q.C.: 4 Q. One of the reasons you've given for -- in your 5 evidence to date, because you -- is it correct 6 that the 60 and a half million dollars is the 7 full amount that Hydro is looking for? So it 8 assumes that everything that Hydro has asked 9 for in its general rate application is 10 approved? Is that correct? 11 MS. RUSSELL: 12 A. Yes. 13 GREENE, Q.C.: 14 Q. And I believe you were asked this question by 15 Mr. O'Brien, and I just wanted to review it 16 with you, and I believe you also answered it a 17 little earlier this morning. You chose to 18 include the full amount because that would 19 allow you to earn the low end of your range of 20 return? Is that correct? 21 MS. RUSSELL: 22 A. That's correct. 23 GREENE, Q.C.: 24 Q. I wonder if we could go to page 3.17 of the 25 GRA or Hydro's application? Table 3 -- okay,</p>	<p>Page 48</p> <p>1 GREENE, Q.C.: 2 Q. Okay. So you're discussing the need for Hydro 3 to earn a reasonable rate of return and earn 4 its return on rate base, and beginning at line 5 17 of page 180, you talk about Hydro's concern 6 of really earning a reasonable return. And I 7 understand from what - 8 JOHNSON, Q.C.: 9 Q. I think, Ms. Greene -- I don't think that's on 10 the screen there. 11 MR. PELLEY: 12 A. Yeah. 13 MS. GRAY: 14 Q. Sorry. 15 GREENE, Q.C.: 16 Q. November 16th, page - 17 JOHNSON, Q.C.: 18 Q. Oh, 16th. 19 MS. GRAY: 20 Q. I apologize. 21 GREENE, Q.C.: 22 Q. Sorry. I was looking at my hard copy where I 23 had it noted to make sure of the number. So 24 it's November 16th, sorry, page 180. So we're 25 talking about Hydro concern with respect to</p>

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1 earning within a reasonable range of return  
 2 and Ms. Russell has already expressed that as  
 3 the rationale for why Hydro is seeking to set  
 4 aside in a deferral account the full amount  
 5 that it has asked for in its GRA. And here,  
 6 if we go to page 180, and if you begin  
 7 actually at the bottom of page 179, if Mr.  
 8 Pelley would like to look at it for context,  
 9 he's talking about the need for the utility to  
 10 earn and what happens if they don't earn over  
 11 a period of time, and then if you come to the  
 12 bottom of the page, page 17, and I think this  
 13 is also the concern that Ms. Russell just  
 14 raised as the rationale for the 2015 cost  
 15 deferral application.  
 16 "To address your question, what Hydro's  
 17 concern, and it really is earning a reasonable  
 18 return, again under -- putting aside, under  
 19 the presumption that these costs -- I'm  
 20 answering from the perspective that those  
 21 costs are all considered reasonable, you know.  
 22 Part of our job as a management team is to  
 23 earn within the range because if we're below  
 24 that, if we're" -- carry on to the next page -  
 25 - "if we're below that range, something has to

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1 change and if we're above it, it goes back to  
 2 rate payers. That's the whole premise of the  
 3 range."  
 4 So in the context of Mr. Pelley's  
 5 statements with respect to Hydro and how it  
 6 affects the credit rating, et cetera, and  
 7 Hydro's position with respect to the 2015 cost  
 8 deferral application, I did want to bring your  
 9 attention to Hydro's historical performance.  
 10 MS. RUSSELL:  
 11 A. So, on the -  
 12 GREENE, Q.C.:  
 13 Q. When the Board is looking at this, I mean, one  
 14 takeaway would be that up 'til now Hydro has  
 15 not been that concerned about earning within a  
 16 reasonable -- the range that previously had  
 17 been set by the Board.  
 18 MS. RUSSELL:  
 19 A. So it has been a concern of Hydro's and it  
 20 just hasn't -- this is the first time since  
 21 2006 that we've been into a GRA and just --  
 22 maybe just to bring up Appendix A of the cost  
 23 deferral application, you know, with respect  
 24 to the return and why Hydro does feel that it  
 25 is important. I'll just -- with respect to --

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1 if you could scroll down a bit more there,  
 2 Jenny. At this point in time, without any  
 3 cost deferral application, Hydro would be  
 4 sitting at a loss of 30.8 million dollars at  
 5 the end of December and as I said, Hydro  
 6 doesn't feel that that is -- that's a fair  
 7 rate of return for -- or reasonable rate of  
 8 return for 2015 and that's why the application  
 9 -- that's the reason for the application.  
 10 You can also see below that, as you go  
 11 down through, it'll take you through -- as you  
 12 scroll down through, the different pieces that  
 13 we've asked for in the application and how  
 14 much they impact the net income as you take it  
 15 down and the deferrals are a big piece of  
 16 that. And as well, the delayed rate  
 17 implementation and then we have some more  
 18 adjustments to get down to what Hydro feels is  
 19 a reasonable rate of return for 2015.  
 20 GREENE, Q.C.:  
 21 Q. And we are going to come to some of these  
 22 specifics. And I guess I wanted to give Hydro  
 23 the opportunity to -- because when you do look  
 24 at where Hydro has been -  
 25 MS. RUSSELL:

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1 A. Right.  
 2 GREENE, Q.C.:  
 3 Q. - one would not take the view that you have  
 4 been concerned about earning a range of  
 5 return, but now it's the driving factor, and  
 6 it is -  
 7 MS. RUSSELL:  
 8 A. And it has to do, I think, with the delays,  
 9 and again, there have been a lot of delays  
 10 since Hydro's last GRA. Reasons, there have  
 11 been some industrial rates issues, some RSP  
 12 things, and the RFI NP-369 does go through the  
 13 reasons for why it has taken so long for Hydro  
 14 to be back for its GRA. And at this point, we  
 15 are in because we do feel we need to earn that  
 16 reasonable return and that's why the cost  
 17 application is there and that's why the test  
 18 year and we're in for this GRA.  
 19 MR. PELLEY:  
 20 A. Could we perhaps go back to the table that was  
 21 referenced with Hydro's -  
 22 GREENE, Q.C.:  
 23 Q. The return on rate base?  
 24 MR. PELLEY:  
 25 A. Return on rate base.

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<p>1 GREENE, Q.C.:</p> <p>2 Q. Sure.</p> <p>3 MR. PELLEY:</p> <p>4 A. So the data in that table suggests Hydro has</p> <p>5 not earned -</p> <p>6 GREENE, Q.C.:</p> <p>7 Q. Within the range.</p> <p>8 MR. PELLEY:</p> <p>9 A. - within its range with the exception of -</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. 2011.</p> <p>12 MR. PELLEY:</p> <p>13 A. I would submit that that table does not also</p> <p>14 suggest that Hydro is not concerned about it.</p> <p>15 That's an inference. You know, there's -</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. Which is why I gave you the opportunity to</p> <p>18 express it.</p> <p>19 MS. RUSSELL:</p> <p>20 A. Yes.</p> <p>21 MR. PELLEY:</p> <p>22 A. Yeah.</p> <p>23 GREENE, Q.C.:</p> <p>24 Q. Because if you look at the factual basis or</p> <p>25 the evidence that we have here -</p>	<p>1 A. I'm not sure that that's -</p> <p>2 GREENE, Q.C.:</p> <p>3 Q. You're talking about a longer term concern is</p> <p>4 the way I understood your answer.</p> <p>5 MR. PELLEY:</p> <p>6 A. You just said the credit rating agencies</p> <p>7 haven't adjusted the Province's return?</p> <p>8 GREENE, Q.C.:</p> <p>9 Q. Based on Hydro's -</p> <p>10 MR. PELLEY:</p> <p>11 A. Right, and I'm talking about Hydro's position,</p> <p>12 not the Province's.</p> <p>13 GREENE, Q.C.:</p> <p>14 Q. Yes, but when you go back to -- if we want to</p> <p>15 have the discussion, how does Hydro -- Hydro</p> <p>16 borrows with the guarantee of the Province?</p> <p>17 Is that correct?</p> <p>18 MR. PELLEY:</p> <p>19 A. Absolutely, but I also believe I just said</p> <p>20 that that's not going to prevent investors</p> <p>21 from not considering the financial position</p> <p>22 and performance of Hydro.</p> <p>23 (10:30 a.m.)</p> <p>24 GREENE, Q.C.:</p> <p>25 Q. No, and in fact, Hydro's goal would be to not</p>
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<p>1 MR. PELLEY:</p> <p>2 A. And I would say, certainly from my perspective</p> <p>3 as corporate treasurer and someone that is</p> <p>4 responsible for the financing program for</p> <p>5 Hydro, I do have a concern over a utility that</p> <p>6 has sustained losses over a period of six,</p> <p>7 seven, eight years. I've been on the record</p> <p>8 as saying that these things can be managed in</p> <p>9 the short term because we do have the benefit</p> <p>10 of a debt guarantee fee from the Province, but</p> <p>11 over -- and again, as I've said, over the long</p> <p>12 haul, it becomes a lot more difficult to</p> <p>13 manage that when you have the equity base</p> <p>14 eroding because at some point investors do get</p> <p>15 concerned about a utility that has a sustained</p> <p>16 losses and a fairly low equity thickness and a</p> <p>17 high degree of debt in their capital</p> <p>18 structure, even with a guarantee in place.</p> <p>19 So, I can say from my perspective, it's my</p> <p>20 position that it is concerning.</p> <p>21 GREENE, Q.C.:</p> <p>22 Q. But to date, the credit rating agencies have</p> <p>23 not adjusted the Province's credit rating</p> <p>24 because of Hydro's position, have they?</p> <p>25 MR. PELLEY:</p>	<p>1 be a drag on the Province's credit rating? Is</p> <p>2 that correct?</p> <p>3 MR. PELLEY:</p> <p>4 A. So I think we agree. Okay, I think we're --</p> <p>5 okay.</p> <p>6 MS. RUSSELL:</p> <p>7 A. Yes, and as said, without any of this, it</p> <p>8 would be a 30 million dollar loss. So that</p> <p>9 would be a huge loss to Hydro.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. Now, and I just wanted to go to P.U.39 of</p> <p>12 2014. P.U.39 where the Board did talk about</p> <p>13 the legislative requirement that Hydro's</p> <p>14 entitled to earn a just and reasonable return.</p> <p>15 It's page nine beginning at line 24.</p> <p>16 So, "the Board agrees that Hydro is</p> <p>17 entitled to earn annually a just and</p> <p>18 reasonable return on its rate base as provided</p> <p>19 for in Section 80 of the Act, but notes that</p> <p>20 Hydro is not guaranteed to earn the</p> <p>21 established return. The rate of return is</p> <p>22 where practicable established by the Board on</p> <p>23 a prospective basis and Hydro must manage its</p> <p>24 business working within the existing</p> <p>25 regulatory framework so as to minimize the</p>

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<p>1 risk and maximize this opportunity." And then 2 they do go on to quote the Court of Appeal 3 which also made similar comments. 4 So there's no guarantee about the rate of 5 return, is it? It's still up to the utility 6 to manage its business to ensure that it earns 7 the return. 8 MS. RUSSELL: 9 A. Correct. 10 GREENE, Q.C.: 11 Q. Okay. So with respect to the 2015 cost 12 deferral application amendment, can you 13 explain how this application benefits first 14 Newfoundland Hydro? 15 MS. RUSSELL: 16 A. It benefits Newfoundland Hydro -- well, again, 17 as -- if we pull up Appendix A again, we're 18 currently at a 30 million dollar -- 19 forecasting a 30 million dollar loss and with 20 this application, we would be in a position 21 that we would be earning at the low end of the 22 rate of return. So feel that that would be a 23 fair and reasonable rate of return for Hydro 24 in 2015. 25 GREENE, Q.C.:</p>	<p>1 They're not negatively -- we're not asking for 2 recovery in rates of this application. It's 3 strictly a deferral and customers will get -- 4 the rates that customers will get will be 5 based on the Board's order when it comes out 6 after we've gone through this process. 7 GREENE, Q.C.: 8 Q. Now Hydro is asking that the deferral accounts 9 that it's seeking in this application also be 10 established from January 1, 2015? Is that 11 correct? 12 MS. RUSSELL: 13 A. Yes. 14 GREENE, Q.C.: 15 Q. Okay. So that would, at least on an interim 16 basis, transfer the risks associated with the 17 various deferral accounts from Hydro into a 18 deferral account? 19 MS. RUSSELL: 20 A. When you say "transfer the risk", it would -- 21 I would say there's a sharing of risks and one 22 of the particular deferral accounts is 23 actually a recovery to customers. 24 GREENE, Q.C.: 25 Q. It's a small one, yes, but for the others -</p>
<p>Page 58</p> <p>1 Q. But this approval of this application will 2 allow you to create the deferral account so 3 that like 2014, you can close your 2015 4 financial statements? 5 MS. RUSSELL: 6 A. Correct. 7 GREENE, Q.C.: 8 Q. Right, so - 9 MS. RUSSELL: 10 A. And then any adjustments would be made in the 11 previous or in the next year, in 2016, 12 whenever we receive a Board order. 13 GREENE, Q.C.: 14 Q. So that's how the application benefits Hydro? 15 It allows you to close your 2015 financial 16 statements showing the return that this is 17 based on? 18 MS. RUSSELL: 19 A. Correct. 20 GREENE, Q.C.: 21 Q. Okay. How does it benefit Hydro's customers? 22 MS. RUSSELL: 23 A. So, Hydro's customers will not be -- Hydro's 24 customers will not get any rate implications 25 because of this, because of this application.</p>	<p>Page 60</p> <p>1 MS. RUSSELL: 2 A. But yes, but there is - 3 GREENE, Q.C.: 4 Q. - for the fuels. 5 MS. RUSSELL: 6 A. It does -- just shows it can go both ways. 7 GREENE, Q.C.: 8 Q. So what you would be doing, you would be 9 taking out of an expense of Hydro and creating 10 it on an interim basis -- I agree it's an 11 interim basis, but you're asking the Board to 12 set up and to transfer into the accounts the 13 amount associated with those deferral accounts 14 from January 1 of 2015? 15 MS. RUSSELL: 16 A. Yes, we're asking to defer those costs until 17 the Board has -- until we have a point -- 18 until we receive the order and then we will 19 make whatever adjustments that are required to 20 be in line with that order and customers will 21 see the outcome of that order, not of this 22 application. 23 GREENE, Q.C.: 24 Q. And similarly, you're asking for the 25 settlement agreement to be implemented on an</p>

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<p>1 interim basis now, as of -</p> <p>2 MS. RUSSELL:</p> <p>3 A. Yes.</p> <p>4 GREENE, Q.C.:</p> <p>5 Q. And that it would be effective as of January</p> <p>6 1, 2015?</p> <p>7 MS. RUSSELL:</p> <p>8 A. Yes.</p> <p>9 GREENE, Q.C.:</p> <p>10 Q. If the Board refuses the application, how</p> <p>11 will, first Hydro be impacted?</p> <p>12 MS. RUSSELL:</p> <p>13 A. The 2015 cost deferral, Hydro will end up</p> <p>14 taking -- will end up recording a loss of</p> <p>15 negative 30 million dollars on its financial</p> <p>16 statements for 2015, which again it does not</p> <p>17 feel is in line with earning a just and</p> <p>18 reasonable return.</p> <p>19 GREENE, Q.C.:</p> <p>20 Q. And how will Hydro's customers be impacted?</p> <p>21 MS. RUSSELL:</p> <p>22 A. Hydro's customers, this won't have an impact</p> <p>23 on Hydro's customers as in they will get rates</p> <p>24 for this particular -- there are no rates to</p> <p>25 be set based on this application.</p>	<p>1 is that Hydro would be asking or is asking the</p> <p>2 Board to set rates to be effective in 2016</p> <p>3 based on a 2015 test year? Is that correct?</p> <p>4 MS. RUSSELL:</p> <p>5 A. Correct.</p> <p>6 GREENE, Q.C.:</p> <p>7 Q. Okay. And I think Hydro has already</p> <p>8 acknowledged that these rates will not be</p> <p>9 effective as of January 1, 2016. Does Hydro</p> <p>10 intend to ask the Board for a 2016 cost</p> <p>11 deferral to take into account any shortfall</p> <p>12 from the late implementation of the order?</p> <p>13 MS. RUSSELL:</p> <p>14 A. At this point we don't have any -- at this</p> <p>15 point, there is no application planned for</p> <p>16 anything, because interim rates will have been</p> <p>17 -- interim rates were not in place for January</p> <p>18 1 of last year and they are in place for this</p> <p>19 year. That will make a big difference on the</p> <p>20 numbers for 2016.</p> <p>21 GREENE, Q.C.:</p> <p>22 Q. But you haven't -</p> <p>23 MS. RUSSELL:</p> <p>24 A. But not at this point, there's no -- been no</p> <p>25 discussion of that. We would have to look to</p>
<p>1 GREENE, Q.C.:</p> <p>2 Q. So -</p> <p>3 MR. PELLEY:</p> <p>4 A. I'm sorry, I didn't know if I could just take</p> <p>5 the opportunity to add something to that.</p> <p>6 GREENE, Q.C.:</p> <p>7 Q. Sure.</p> <p>8 MR. PELLEY:</p> <p>9 A. In terms of the -- looking at it from the</p> <p>10 customer perspective, if we go back to the</p> <p>11 discussion you and I just had over the</p> <p>12 importance of the financial position and</p> <p>13 performance of the utility. If you agree that</p> <p>14 customers have a vested interest in ensuring</p> <p>15 that Hydro can always access debt financing</p> <p>16 from the capital markets, regardless of what</p> <p>17 market conditions are like, then I think</p> <p>18 that's part of that whole overall story of a</p> <p>19 utility being able to demonstrate that it's</p> <p>20 coming back to a place where it's earning its</p> <p>21 allowed return.</p> <p>22 GREENE, Q.C.:</p> <p>23 Q. So now that we've talked about 2014 and 2015</p> <p>24 revenue deficiency, where we see ourselves</p> <p>25 now, if the Board approves this application,</p>	<p>1 see, I guess, when the Board order comes in</p> <p>2 and what the timing would be at this point in</p> <p>3 time.</p> <p>4 GREENE, Q.C.:</p> <p>5 Q. And so it may be possible there might be a</p> <p>6 2016 cost deferral application?</p> <p>7 MS. RUSSELL:</p> <p>8 A. I can't -- I can't -- there's not one planned</p> <p>9 at this point in time, but we would have to</p> <p>10 check and see.</p> <p>11 GREENE, Q.C.:</p> <p>12 Q. You would have to assess depending on what the</p> <p>13 order -</p> <p>14 MS. RUSSELL:</p> <p>15 A. Correct. We'd have to assess the timing of</p> <p>16 the Board order and the numbers at that point</p> <p>17 in time, but there are different factors than</p> <p>18 what there would have been for '14 and '15.</p> <p>19 GREENE, Q.C.:</p> <p>20 Q. Now, in setting the rates that will become</p> <p>21 effective in January -- in 2016, you've given</p> <p>22 evidence that you would like the Board to</p> <p>23 adjust the rate base, and I wanted to review</p> <p>24 that with you. Normally in a normal process,</p> <p>25 because the assets were not in service at the</p>

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<p>1 beginning of the year, the assets, including</p> <p>2 the new combustion turbine, will not be</p> <p>3 included in rate base? Is that correct?</p> <p>4 MS. RUSSELL:</p> <p>5 A. Correct.</p> <p>6 GREENE, Q.C.:</p> <p>7 Q. And normally there would be no adjustment to</p> <p>8 when the rates are set or when they become</p> <p>9 effective to allow recovery for that, either</p> <p>10 in rate base, but Hydro is asking the Board to</p> <p>11 consider that, as I understand it. Is that</p> <p>12 correct?</p> <p>13 MS. RUSSELL:</p> <p>14 A. Correct. For the 2015 cost deferral for that</p> <p>15 piece, yes.</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. And again, that wouldn't be normal regulatory</p> <p>18 practice?</p> <p>19 MS. RUSSELL:</p> <p>20 A. We're speaking about the 5.1 million dollars,</p> <p>21 correct? That would be -- we're not asking</p> <p>22 for that to be adjusted out of the rates that</p> <p>23 are being -- out of the 2016 rates that are</p> <p>24 being proposed for customers. We are asking</p> <p>25 that that stay in. We're only adjusting --</p>	<p>1 MS. RUSSELL:</p> <p>2 A. For the cost deferral application only? Just</p> <p>3 for that application?</p> <p>4 GREENE, Q.C.:</p> <p>5 Q. But when new rates become effective, you want</p> <p>6 -</p> <p>7 MS. RUSSELL:</p> <p>8 A. We're not asking for the adjustment for the</p> <p>9 new rates. We're not asking for that 5.1</p> <p>10 million to be taken out of for the new rates.</p> <p>11 We're asking for that to stay in. This is</p> <p>12 just an adjustment on the cost deferral.</p> <p>13 GREENE, Q.C.:</p> <p>14 Q. So I'm not sure that I -- that you and I are</p> <p>15 on the same wavelength.</p> <p>16 MS. RUSSELL:</p> <p>17 A. Okay.</p> <p>18 GREENE, Q.C.:</p> <p>19 Q. And I just want to make sure. First of all,</p> <p>20 for the 2015 test year, the new CT and the</p> <p>21 assets that are not in service, normally the</p> <p>22 Board would say because it's not in service</p> <p>23 any implications for rate base and revenue</p> <p>24 requirement would come out for the test year.</p> <p>25 Is that correct?</p>
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<p>1 and I think it's simply because we're almost</p> <p>2 through the end of 2015. So, for the cost</p> <p>3 recovery, but we're not asking for adjustment</p> <p>4 for that out of the test year for recovery.</p> <p>5 GREENE, Q.C.:</p> <p>6 Q. No. But normally when a test year is set and</p> <p>7 you want the 2015 test year -</p> <p>8 MS. RUSSELL:</p> <p>9 A. Yes.</p> <p>10 GREENE, Q.C.:</p> <p>11 Q. - it would reflect the assets that are in</p> <p>12 service and would also be adjusted in the</p> <p>13 revenue requirement. Is that correct?</p> <p>14 MS. RUSSELL:</p> <p>15 A. When the setting of the rates?</p> <p>16 GREENE, Q.C.:</p> <p>17 Q. Normally. I'm talking about normal, not what</p> <p>18 Hydro is proposing.</p> <p>19 MS. RUSSELL:</p> <p>20 A. Right, okay. Yes.</p> <p>21 GREENE, Q.C.:</p> <p>22 Q. So Hydro is asking for an adjustment to the</p> <p>23 normal practice, and I wanted to give you the</p> <p>24 opportunity to explain why you think that's</p> <p>25 appropriate.</p>	<p>1 MS. RUSSELL:</p> <p>2 A. Okay, yes.</p> <p>3 GREENE, Q.C.:</p> <p>4 Q. Okay. That is -- what is Hydro asking the</p> <p>5 Board to do for the rates that it's going to</p> <p>6 set to become effective for 2016 with respect</p> <p>7 to those assets that were not in service in</p> <p>8 the 2015 test year?</p> <p>9 MS. RUSSELL:</p> <p>10 A. So we weren't asking in 2016 for any</p> <p>11 adjustment out of the test year for setting</p> <p>12 rates.</p> <p>13 GREENE, Q.C.:</p> <p>14 Q. And they now include those assets?</p> <p>15 MS. RUSSELL:</p> <p>16 A. They would include -- because they are in</p> <p>17 service. They will be in service for when -</p> <p>18 GREENE, Q.C.:</p> <p>19 Q. But they weren't in for the test year, so that</p> <p>20 is an anomaly or a difference. And I'm asking</p> <p>21 you to explain why the Board should be willing</p> <p>22 to do that. First of all, will there be other</p> <p>23 changes going on? Rates will be set on a 2015</p> <p>24 test year, correct?</p> <p>25 MS. RUSSELL:</p>

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<p>1 A. Correct.</p> <p>2 GREENE, Q.C.:</p> <p>3 Q. Okay. Now, in 2016, if we actually -- in a</p> <p>4 normal world, we would be looking at hopefully</p> <p>5 a 2016 test year where rates will be set on a</p> <p>6 forecast basis to recover the forecast costs.</p> <p>7 MS. RUSSELL:</p> <p>8 A. Right.</p> <p>9 GREENE, Q.C.:</p> <p>10 Q. There will be other changes going on. Hydro</p> <p>11 has -- so normally, you would take those</p> <p>12 assets out of your 2015 test year included in</p> <p>13 rate base and revenue requirement. So they</p> <p>14 wouldn't be in when you came to 2016. But</p> <p>15 Hydro wants to put them back in rates.</p> <p>16 MS. RUSSELL:</p> <p>17 A. Hydro is putting them -- they were in the test</p> <p>18 year submitted was 2015 test year.</p> <p>19 GREENE, Q.C.:</p> <p>20 Q. Right.</p> <p>21 MS. RUSSELL:</p> <p>22 A. And this is -</p> <p>23 GREENE, Q.C.:</p> <p>24 Q. Normally they would come out with a Board</p> <p>25 order if they weren't in service.</p>	<p>1 the appropriate return on our rate base and we</p> <p>2 would have had to come back and ask for</p> <p>3 another application.</p> <p>4 GREENE, Q.C.:</p> <p>5 Q. Yes.</p> <p>6 MS. LUTZ:</p> <p>7 A. So we're asking in 2016 for rate setting</p> <p>8 purposes to maintain the rate base that was</p> <p>9 presented in the 2015 test year and for the</p> <p>10 purpose of the cost deferral, we had made the</p> <p>11 5.1 million adjustment for the 2015 year. I</p> <p>12 don't know if that helps.</p> <p>13 GREENE, Q.C.:</p> <p>14 Q. Yes, it does. It confirms what I thought</p> <p>15 Hydro's proposal was and the reason. So while</p> <p>16 this is a departure from regulatory practice,</p> <p>17 Hydro again, because of its concern about</p> <p>18 earning within the range, rather than reapply,</p> <p>19 which they would have had to do -</p> <p>20 MS. RUSSELL:</p> <p>21 A. Correct. If we didn't do this, we would have</p> <p>22 had to reapply, yes, for that particular --</p> <p>23 for those items, because that was a very large</p> <p>24 item, larger than any full capital budget</p> <p>25 application in previous years.</p>
<p>1 MS. LUTZ:</p> <p>2 A. Can I -- I might be able to add something here</p> <p>3 to help clarify. If we refer to PUB-NLH-487?</p> <p>4 So this particular RFI -- just wait for it to</p> <p>5 get on the screen. So in the Grant Thornton</p> <p>6 report, we talked about the impact of the CT</p> <p>7 and other assets not in service at the end of</p> <p>8 2014.</p> <p>9 GREENE, Q.C.:</p> <p>10 Q. Yes.</p> <p>11 MS. LUTZ:</p> <p>12 A. And this RFI demonstrates the impact that that</p> <p>13 would have on the rate base for 2015 and 2016.</p> <p>14 So as you can see, if you scroll down there,</p> <p>15 so in 2015, if we -- so the way this RFI has</p> <p>16 been done, we have put the ending balances for</p> <p>17 the actuals for 2014 in the scenario column</p> <p>18 and rolled it forward for '15 and '16. So,</p> <p>19 without those assets in service, Hydro would</p> <p>20 be earning, in 2016, 6.18. So if we remove</p> <p>21 the impact of the 2014, we will be below our</p> <p>22 low end range of return and the CT in</p> <p>23 particular is such a significant dollar valued</p> <p>24 asset that we would not have been able to --</p> <p>25 we would not have been in a position to earn</p>	<p>1 GREENE, Q.C.:</p> <p>2 Q. So again, Hydro is asking the Board to deviate</p> <p>3 from normal regulatory practice to accommodate</p> <p>4 that?</p> <p>5 MS. RUSSELL:</p> <p>6 A. Well, since we are here for a GRA and we're</p> <p>7 there, it's one of the things we're asking to</p> <p>8 consider, or else there would have -- you</p> <p>9 know, we would have to come back for another</p> <p>10 application.</p> <p>11 GREENE, Q.C.:</p> <p>12 Q. Okay. So looking at where we are now, we have</p> <p>13 the revenue deficiency -- first of all, the</p> <p>14 Board will be setting rates for 2016 and</p> <p>15 that's when they will become effective. But</p> <p>16 in addition, there is the issue of the</p> <p>17 outstanding 2014 revenue deficiency of 45.6</p> <p>18 million and Hydro has acknowledged that there</p> <p>19 certainly are contentious issues with respect</p> <p>20 to that, and I think it's fair to say that</p> <p>21 it's most likely it will not be 45.6 million</p> <p>22 dollars as allowed by the Board. And now</p> <p>23 Hydro is proposing that 60.5 million dollars</p> <p>24 be added in another cost deferral application.</p> <p>25 And we also have the supply cost variance of</p>

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<p>1 another ten million dollars. So, we have 116 2 million dollars that will be due from 3 customers at the same times that rates will be 4 adjusted. Is that correct? 5 MS. RUSSELL: 6 A. Correct. 7 GREENE, Q.C.: 8 Q. Okay. And at this time, you're saying that 9 Hydro's approach to recovery of the 116 10 million dollars, you're not sure what it will 11 be, whether it will be to access the RSP 12 balances or as a rate rider? 13 (10:45 a.m.) 14 MS. RUSSELL: 15 A. Correct. 16 GREENE, Q.C.: 17 Q. From a customer perspective, have you done any 18 analysis as to the impact on customers of the 19 recovery of the 116 million dollars in 20 addition to the rate changes? 21 MS. RUSSELL: 22 A. So that will form part of our compliance 23 application. Once we get the numbers and we 24 know what they are, we will have all those 25 things as part of that application.</p>	<p>1 2020 and there will be 20 cents a kilowatt 2 hour from the current roughly 13, so about 3 another 50 percent increase in rates. You're 4 familiar with that evidence that was 5 introduced here in the hearing? 6 MS. RUSSELL: 7 A. The undertaking? 8 GREENE, Q.C.: 9 Q. Yes. 10 MS. RUSSELL: 11 A. I've seen -- I've read the undertaking. 12 GREENE, Q.C.: 13 Q. Okay. So we know that customers also in a 14 very short period of time will be looking at 15 another significant rate increase. Has Hydro 16 considered the implications for the cost 17 recovery of those amounts for customers and 18 the impact on customers? And if not, when 19 will it do so? 20 MS. RUSSELL: 21 A. So that will all form part of Hydro's next GRA 22 and when we go through the studies that it's 23 currently going through, the cost of service 24 and the costs that were in that particular 25 undertaking were forecast costs, high level</p>
<p>1 GREENE, Q.C.: 2 Q. Do you think customers will be concerned about 3 having to pay Hydro to cover their losses, 116 4 million dollars? 5 MS. RUSSELL: 6 A. Well those costs, the reason why the losses 7 were there were for costs that were incurred 8 to provide service for electricity to 9 customers and Hydro will be looking at ways to 10 recover those. So those were for electricity 11 costs to customers. 12 GREENE, Q.C.: 13 Q. Now, Hydro also, we understand, will be back 14 before the Board for rate changes for 2018. 15 MS. RUSSELL: 16 A. Yes. 17 GREENE, Q.C.: 18 Q. That has been agreed to in the settlement 19 agreement. And you have confirmed that that's 20 what you're working for. Is that correct? 21 MS. RUSSELL: 22 A. Yes, by March of 2017, yes. 23 GREENE, Q.C.: 24 Q. There's also been evidence adduced at the 25 hearing that the increases that will be for</p>	<p>1 costs. Once this GRA is completed, Hydro will 2 be looking -- and all the studies are done, we 3 will be providing and getting more analysis on 4 those costs and then we will look at what 5 those are and any plans in place before -- and 6 that will form part of the next GRA. 7 GREENE, Q.C.: 8 Q. With respect to Hydro's accounting treatment 9 for the 2014 and the 2015 revenue 10 deficiencies, I wanted to talk to you about 11 Hydro's approach. In this particular case, 12 the losses between what Hydro has booked and 13 what the Board may allow will be recorded as a 14 loss in 2016. Is that correct? As we just 15 discussed, right? 16 MS. RUSSELL: 17 A. Correct. 18 GREENE, Q.C.: 19 Q. And 2016 is the go-forward year. I wanted to 20 ask why Hydro has chosen to look for a 100 21 percent recovery of the 2015 revenue 22 deficiency, which doesn't that make it riskier 23 with respect to the outlook for 2016? 24 MS. RUSSELL: 25 A. Again, I think I've indicated that the reason</p>

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<p>1 why the 100 percent was because that takes us 2 to the bottom of the range of return and Hydro 3 felt that that was a reasonable return for 4 2015. So that's why that number was chosen. 5 And Hydro will make any adjustments in 2016, 6 but it's put forward the case for the GRA. So 7 until we have the order, we have no certainty 8 on what those -- what that number might be. 9 GREENE, Q.C.: 10 Q. From a financial management perspective, 11 Hydro's sitting there with the 40 -- around 46 12 million dollars and now another potential 60. 13 Are you concerned at all that what the impact 14 of the loss would be and what it would mean 15 for 2016 on the go-forward year when you're 16 going to have new rates? 17 MS. RUSSELL: 18 A. Yes, we're concerned about the loss for 2014, 19 hence the application. We're concerned about 20 a 30 million loss for 2015. And we are 21 concerned about any potential adjustments that 22 may come from the Board, but we don't know 23 what they are. But depending on -- it would 24 depend on the magnitude of what any 25 adjustments would be.</p>	<p>1 MR. PELLEY: 2 A. And while I'm somewhat uncertain as to how the 3 accounting implications relate to the rate 4 case, but what I will say is those balances, 5 especially the '14, was subject to audit by 6 our external auditors and was viewed as being 7 reasonable. I think that - 8 MS. RUSSELL: 9 A. And 2015 would be subject to auditors, an 10 audit review as well. 11 GREENE, Q.C.: 12 Q. And I don't need to go back to the old Board 13 order, but the Board certainly, in approving 14 the creation of the deferral account, did make 15 clear that there was no level of certainty 16 with respect to whether any or all of any 17 amount would be recovered. Is that -- from a 18 -- but that allowed you to book it for 2014? 19 Is that correct? 20 MS. RUSSELL: 21 A. Correct. 22 GREENE, Q.C.: 23 Q. And you don't anticipate a problem for 2015? 24 MS. RUSSELL: 25 A. I don't. We would follow the same process as</p>
<p>1 GREENE, Q.C.: 2 Q. And with respect to 2014 and 2015 financial 3 statements, they're presented on the basis of 4 that they're booked as regulatory assets even 5 though they are not fully recovered, there's 6 no certainty of recovery of the full amount? 7 MS. RUSSELL: 8 A. Until we get a Board order, that's where we 9 would make the adjustment. 10 GREENE, Q.C.: 11 Q. And again, if I had somebody who owed me 116 12 million dollars and I wasn't sure how much 13 would be recovered, it really goes to why 14 Hydro is asking for the full amount to be 15 booked. 16 MS. RUSSELL: 17 A. Yes, but Hydro - 18 GREENE, Q.C.: 19 Q. Again, it's increasing the risk for 2016. 20 MS. RUSSELL: 21 A. Hydro does feel it's fair. What Hydro has 22 asked for, Hydro feels is fair for recovery. 23 So Hydro is recording that until we get a 24 Board order that would say something 25 different.</p>	<p>1 2014 until we received a Board order. 2 GREENE, Q.C.: 3 Q. And the reason for reviewing this with you is 4 the Board, in looking at Hydro's application, 5 has to balance the interest of both rate 6 payers and Hydro with respect to where they 7 are and the context of what customers will be 8 expected to pay you understand is relevant for 9 the Board in assessing that? 10 MS. RUSSELL: 11 A. Yes. 12 GREENE, Q.C.: 13 Q. And the earliest the Board can expect to see 14 any proposal with respect to recovery from 15 customers and what it means for customers is 16 Hydro's next GRA? 17 MS. RUSSELL: 18 A. For? 19 MR. PELLEY: 20 A. Recovery of the deferrals. 21 GREENE, Q.C.: 22 Q. Whatever the amounts of the deficiencies, if 23 your proposal is approved for 2015. 24 MS. RUSSELL: 25 A. Right. When we do the compliance application,</p>

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1       yes.  
2 GREENE, Q.C.:  
3       Q. Okay.  
4 MS. RUSSELL:  
5       A. Yes. If there was something that they would  
6       require in advance, we could get for them.  
7 GREENE, Q.C.:  
8       Q. Okay. Thank you, Mr. Chair. That's all my  
9       questions.  
10 COMMISSIONER OXFORD:  
11      Q. No.  
12 VICE CHAIR WHALEN:  
13      Q. No questions, thank you.  
14 CHAIRMAN:  
15      Q. So have you guys got any?  
16 MR. CASS:  
17      Q. No, sir, thank you.  
18 CHAIRMAN:  
19      Q. So we are adjourned until Monday. Thank you.  
20            (ADJOURNED AT 10:53 A.M.)

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1                   CERTIFICATE  
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 19th 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 19th day of November, A.D., 2015  
12 Judy Moss

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