

# ONTARIO

# ENERGY

# BOARD

|  |  |  |
| --- | --- | --- |
| FILE NO.: | EB-2013-0109 |  |
| **VOLUME:****DATE:****BEFORE:** | **2****October 23, 2013****Ken Quesnelle****Marika Hare****Ellen Fry** | **Presiding Member****Member****Member** |

**EB-2013-0109**

#### THE ONTARIO ENERGY BOARD

**IN THE MATTER OF** the Ontario Energy Board Act 1998, S.O.1998, c.15, (Schedule B);

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders clearing certain non-commodity related deferral accounts and sharing utility earnings pursuant to a Board approved earnings sharing mechanism;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order approving a deferral account to capture variances between earnings sharing, deferral account and other balances approved for disposition and amounts actually refunded/recovered.

Hearing held at 2300 Yonge Street,

25th Floor, Toronto, Ontario,

on Wednesday, October 23rd, 2013,

commencing at 9:30 a.m.

--------------------

VOLUME 2

--------------------

BEFORE:

 KEN QUESNELLE Presiding Member

 MARIKA HARE Member

 ELLEN FRY Member

KRISTI SEBALJ Board Counsel

LAWRIE GLUCK Board Staff

MUNIR MADHAVJI

CRAWFORD SMITH Union Gas Ltd.

TOM BRETT Building Owners and Managers Association (BOMA)

PETER THOMPSON Canadian Manufacturers & Exporters

 (CME)

JULIE GIRVAN Consumers Council of Canada (CCC)

ROGER HIGGIN Energy Probe Research Foundation

DWAYNE QUINN Federation of Rental-housing Providers of Ontario (FRPO)

RANDY AIKEN London Property Management Association (LPMA)

MICHAEL BUONAGURO Ontario Greenhouse Vegetable Growers

JAY SHEPHERD School Energy Coalition (SEC)

MICHAEL JANIGAN Vulnerable Energy Consumers'

 Coalition (VECC)

ALSO PRESENT:

MARK KITCHEN Union Gas

VANESSA INNIS

[--- On commencing at 9:30 a.m. 1](#_Toc370319831)

[**UNION GAS LTD. - PANEL 2, RESUMED 1**](#_Toc370319832)

**P. Piett, S. Acker, Previously Affirmed; M. Isherwood, P. Elliott, R. Birmingham, Previously Sworn**

[Preliminary Matters 1](#_Toc370319833)

 [Continued Cross-Examination by Mr. Thompson 2](#_Toc370319834)

 [Cross-Examination by Ms. Sebalj 41](#_Toc370319835)

 [Questions from the Board 61](#_Toc370319836)

[--- Recess taken at 11:14 a.m. 64](#_Toc370319837)

[--- On resuming at 11:40 a.m. 64](#_Toc370319838)

[Preliminary Matters 65](#_Toc370319839)

[**UNION GAS LTD. – PANEL 3 66**](#_Toc370319840)

**C. Shorts, M. Wood, J. Stephens, M. Isherwood; Sworn**

 [Examination-In-Chief by Mr. Smith 66](#_Toc370319841)

 [Cross-Examination by Mr. Brett 86](#_Toc370319842)

 [Continued Examination-In-Chief by Mr. Smith 87](#_Toc370319843)

 [Continued Cross-Examination by Mr. Brett 87](#_Toc370319844)

[--- Luncheon recess taken at 12:48 p.m. 108](#_Toc370319845)

[--- On resuming at 2:02 p.m. 108](#_Toc370319846)

 [Cross-Examination by Mr. Quinn: 109](#_Toc370319847)

[--- Recess taken at 3:02 p.m. 147](#_Toc370319848)

[--- On resuming at 3:21 p.m. 148](#_Toc370319849)

 [Cross-Examination by Mr. Thompson: 172](#_Toc370319850)

 [Cross-Examination by Ms. Sebalj: 186](#_Toc370319851)

 [Questions from the Board: 202](#_Toc370319852)

 [Re-Examination by Mr. Smith: 208](#_Toc370319853)

[Procedural Matters 211](#_Toc370319854)

[--- Whereupon the hearing adjourned at 5:06 p.m. 213](#_Toc370319855)

[EXHIBIT K2.1: FRPO COMPENDIUM. 143](#_Toc370319856)

[UNDERTAKING NO. J2.1: TO LIST THE TRANSACTIONS AND THEIR VALUE THAT OCCURRED IN MARCH AND NOVEMBER TO THE EDA WITHIN LINE 6 53](#_Toc370320142)

[UNDERTAKING NO. J2.2: to advise how the ESM revenues change if $5.9 million is removed from the total in revenues in line 7; to put March and November back into winter and advise revenues are available for sharing, and the amount that would end up in the deferral account; to take March revenue amount out of the ESM calculation and advise how it changes the revenue amount in the ESM and the deferral account 55](#_Toc370320143)

[UNDERTAKING NO. J2.3: to PROVIDE TRANSMISSION LINE MAP FOR UNION SOUTH FRANCHISE. 97](#_Toc370320144)

[UNDERTAKING NO. J2.4: to PROVIDE CREDIT LEVELS IN THE STS POOL ACCOUNT, YEAR-END 2008 THROUGH 2012, AND THEN MONTHLY CREDITS 2012 FOR POOL CREDITS AND THE EDA. 119](#_Toc370320145)

[UNDERTAKING NO. J2.5: TO IDENTIFY WHERE IN UNION'S QRAM THE COST ASSOCIATED WITH THE CONTRACT IS IDENTIFIED AND TO PROVIDE THAT SCHEDULE 163](#_Toc370320146)

[UNDERTAKING NO. J2.6: to provide the TOTAL AMOUNT OF DELIVERIES FOR ALL DELIVERY AREAS,LESS THOSE NOT AVAILABLE ON PEAK DAYS, FOR THE YEARS 2011, 2012, 2013 166](#_Toc370320147)

[UNDERTAKING NO. J2.7: TO PROVIDE BREAKDOWN OF TIME SPENT BY S&T GROUP ON UTILITY AND NON-UTILITY. 173](#_Toc370320148)

 Wednesday, October 23, 2013

 --- On commencing at 9:30 a.m.

UNION GAS LTD. - PANEL 2, RESUMED

 **Mark Isherwood, Previously Sworn**

 **Patti Piett, Previously Affirmed**

 **Steve Acker, Previously Affirmed**

 **Rick Birmingham, Previously Sworn**

 **Pat Elliott, Previously Sworn**

 MR. QUESNELLE: Good morning. Please be seated.

 Mr. Smith, any matters that we should discuss before we get going this morning with your panel?

Preliminary Matters:

 MR. SMITH: Just a couple of minor matters, Mr. Chair, relating to the transcript. The witnesses in the usual course reviewed the transcript yesterday, and there were three matters that I thought should be brought to parties' attention. I've spoken to the reporter about two of them. I'll just put them on the record.

 At page 168 Mr. Acker was inadvertently referred to in the transcript as Mr. Thompson. I make no comment about that. And at page 177 "off-ramp" was described as "offering", and so we've made that. And then there's a slight correction Ms. Piett wanted to make to page 171 of the record, and I'd just ask Ms. Piett to make that correction, if she could.

 MR. QUESNELLE: Okay. Ms. Piett?

 MS. PIETT: At line 11 I had said in quotation "they are providing us a service". In fact, what I meant to say was they are receiving a service from Union Gas.

 MR. SMITH: Those are the only preliminary matters.

 MR. QUESNELLE: Thank you. That's helpful. Thank you.

 Yeah, we appreciate the time and effort that -- going into taking a look at that transcript, making those corrections. That last one makes a big difference.

 Okay. We left off, and I believe, Mr. Thompson, that you would be next on the -- and I'll just confirm. Mr. Aiken, did you have any cross for this panel? No. Okay, Mr. Thompson?

Continued Cross-Examination by Mr. Thompson:

 MR. THOMPSON: Thank you, Mr. Chairman.

 Good morning, panel. The purpose of this examination is primarily to confirm our factual understanding and to get clarification if we can on terminology.

 If I might just start with the company's proposal in this case. And is it fair to describe the proposal as, one, to have the Board reverse the classification made in the 0210 and 0087 decisions of FT RAM-related exchanges as gas transportation cost reductions?

 MR. BIRMINGHAM: I think it's fair to say, Mr. Thompson, that the effect of our proposal is to have the Board change their decision in the 0087 decision and be consistent with the findings that they made in 2008, 2009, and 2010.

 It is not a reversal of the 0210 decision. That was dealt with in a cost-of-service basis and was reset prospectively, and so we're not looking for anything on that. But the decision that they made in 0087 in the context of the incentive regulation agreement that was put in place for the 2008 to 2012 period is what would be changed.

 MR. THOMPSON: Okay. Thank you.

 And am I correct that what you're seeking to reverse is the classification aspect of the 0087 decision? And what I mean by that is you're not -- as I understand it, not proposing any variance to the incentive percentage of 10 percent that applies in the event that the gas transportation cost reduction classification is upheld?

 MR. BIRMINGHAM: Well, what we're seeking is to have it treated as revenues and therefore utility earnings and therefore subject to the earnings sharing mechanism that is part of the framework. To the extent that the Board found that they would still be included as gas cost reductions, then we are not seeking any change to the 90/10 sharing that they had already found.

 MR. THOMPSON: All right. So to be clear, it sounds like others may have some proposals that are based on the gas cost classification being upheld, or maybe the other way around, but having a different percentage incentive apply. And I'm just trying to find out, if I understand correctly, where Union sits on those proposals. Are you supporting those alternatives if they arise, or are you sticking with your reclassification issue?

 MR. SMITH: Well, sorry, Mr. Thompson, I think the witness has answered the question with respect to what Union's application reflects and what the relief is, but obviously, unlike in a civil proceeding where we'd have the benefit of a statement of claim and a statement of defence, we don't know what people's positions are going to be in their responding argument, so I think it's fair to ask Union what its application reflects and the relief it's seeking, but we haven't seen anything from anybody at this stage.

 MR. THOMPSON: All right. Thank you. Now, am I correct that Union did not apply to vary or -- in the 0087 case, to vary or reverse any of the findings which it's questioning?

 MR. BIRMINGHAM: For the 0087 decision we have appealed that decision to the Ontario Divisional Court. There was no appeal or motion made to the Ontario Energy Board on that case.

 MR. THOMPSON: And is there any reason for that?

 MR. SMITH: Well, I'm not sure that that is an appropriate question in relation to a 2012 case which has to be decided on the basis of the evidence before the Board in this case.

 MR. THOMPSON: Thank you. Now, in terms of the evidence that you've provided, Exhibit B, tab 1, page 5, and also page 13 -- I think Mr. Janigan referred you to a passage there yesterday, and these themes appear -- also appear in the responses to interrogatories.

 Looking at Exhibit B, tab -- page 5, in item number 2 at the bottom of the page, I read there what I understand to be certain aspects of the 0087 decision that you're challenging. Am I reading that correctly?

 MR. BIRMINGHAM: That's correct.

 MR. THOMPSON: Okay. And I just want to confirm with you if I can -- I don't want to go through that 0087 decision, but the first one, the historical treatment of upstream transportation exchange revenue, you say the 0087 decision is inconsistent with the historical treatment of upstream transportation exchange revenues. Will you agree with me that that issue was raised and argued and decided in the 0087 case?

 MR. BIRMINGHAM: I would agree that it was addressed in the 0087 case. I think our concern, Mr. Thompson, is that there wasn't a full evidentiary record placed before the Board to make that decision, and that's what we've done in this case. But I do agree that that issue was raised in that case.

 MR. THOMPSON: All right. And similarly the second one, the terms of Union's gas supply deferral accounts, which were disposed of in 2012 by final orders of the Board, in QRAM proceedings, in which orders cannot be changed retroactively. Was that issue raised in 0087 or in 0210?

 MR. BIRMINGHAM: It was raised in the 0087 case.

 MR. THOMPSON: And was it decided against Union?

 MR. BIRMINGHAM: It was.

 MR. THOMPSON: And you -- the business about, cannot be changed retroactively, that's been taken to the Divisional Court?

 MR. BIRMINGHAM: That's correct.

 MR. THOMPSON: And so that issue is for determination by the court?

 MR. BIRMINGHAM: That's right.

 MR. THOMPSON: Then the third point, it represents a significant departure from the -- and you refer to these three previous proceedings during the course of the IRM. Can we agree that that topic was raised and argued in 0087 and decided against the company?

 MR. BIRMINGHAM: For the purposes of 2011 it was raised and decided in the 0087 case.

 MR. THOMPSON: And then finally at page 13, the point Mr. Janigan raised yesterday, you challenged the Board's finding that that -- the gas cost reduction classification is consistent with the IRM framework. You don't agree with that?

 MR. BIRMINGHAM: Our position is that the gas cost reclassification is inconsistent with the incentive regulation framework that was approved by the Board for 2008 to 2012.

 MR. THOMPSON: And that, again, was another issue that was raised and argued and decided in that 0087 case?

 MR. BIRMINGHAM: It was, with respect to the 2011 balances.

 MR. THOMPSON: Thanks. Now, just in terms of both the 0210 and the 0087 proceedings and the discussion of base exchanges and FT RAM-related exchanges and the whole subject matter of what is now before the Board, can we agree that there were days of testimony dealing with these topics?

 MR. ISHERWOOD: I would agree there were days of testimony, Mr. Thompson, but I think what we're trying to do in this proceeding is to provide an evidentiary record including the evidence that we filed, which is much more wholesome (sic) and transparent that than we had in that case.

 MR. THOMPSON: In the 0210 proceeding the -- that was heard by Ms. Hare and Ms. Taylor; correct?

 MR. ISHERWOOD: Correct.

 MR. THOMPSON: And the 0087 proceeding was heard by Mr. Quesnelle and Ms. Taylor?

 MR. ISHERWOOD: That's correct.

 MR. THOMPSON: And these are three experienced regulators; would you agree?

 MR. ISHERWOOD: I would agree.

 MR. THOMPSON: Is there anything specific that you think they didn't understand about FT RAM related exchanges?

 MR. ISHERWOOD: I think what we attempted to do in this proceeding is to provide the six different examples, with diagrams and a lot more discussion. I think when I went back and read the transcript, it was -- it was complicated discussion, and we tried to introduce in our evidence a simple way of explaining it and making sure that we are getting our points across more correctly.

 MR. THOMPSON: Okay. But can you point to anything specific which you didn't -- which you think they didn't understand?

 MR. ISHERWOOD: I guess the decision came out with their recommendations, or their final decision, but what was important for us in this case was to make sure that the evidence we filed was clear and wholesome and transparent. And 87 or -- there have been a number of pages, was -- that was the intent of it.

 MR. THOMPSON: Let me move on, then, to another topic, and that's the nature of the FT RAM-related transactions in which the company engaged in 2012.

 Am I correct that the nature of the exchange transactions in which you engaged in 2012 is no different than those in which the company engaged in 2011?

 MR. ISHERWOOD: I think there were some differences, actually. In 2012 there were no elements of annual assignment of capacity. In fact, in 2012 there was no seasonal, winter seasonal assignments capacity either. We did months, and a couple cases we did a couple months together, but the term of the assignments were different and I think our approach to the market was a little bit different as well.

 MR. THOMPSON: So term of the assignments? Just so I understand that, in 2011 you did what, some assignments for a whole year?

 MR. ISHERWOOD: I think in 2012, which this case is about, assignments were done just during the wintertime for a month at a time, or in some cases for two or three months, but never for the full season and never for the full year.

 And the other change, Mr. Thompson, that we had in 2012 was a lot of discussion last year in both cases was around EDA assignments.

 So assignments of capacity, we have from Empress to our EDA, EDA is the eastern part of the province, so the Kingston/Cornwall area. That was a large part of the discussion, and during the winter period we did not do any assignments in 2012, January through February, and November -- sorry, December. We did do an assignment of EDA capacity in March but that's considered to be kind of a shoulder month.

 So locations were different as well, and the term was different.

 MR. THOMPSON: But in terms of the nature of the transactions, you were doing capacity release exchange transactions, FT RAM-related capacity?

 MR. ISHERWOOD: Yeah, the type of transactions we were doing were the same.

 MR. THOMPSON: Okay. Just to make sure that I understand that, if we go to Exhibit B, tab 2, page 9 -- and I discussed this, I think, with somebody on the first panel. Is the table there?

 MS. PIETT: Yes, we have it.

 MR. THOMPSON: Okay. And the FT RAM-related transactions are in the lines 4, 5, 6 and 7?

 MS. PIETT: That's correct.

 MR. THOMPSON: Am I right that lines 6 and 7 are capacity release exchanges?

 MS. PIETT: That's correct.

 MR. THOMPSON: Okay. So I total that up as 31.8 million of the 37.3 that we're debating in this case are capacity release exchanges?

 MS. PIETT: Subject to check.

 MR. THOMPSON: The other two in lines 4 and 5, are those what were being described in the previous proceedings as cases where Union decided to use the IT optionality under its FT contracts to carry some of its own utility gas and then use the remainder of that IT optionality to support third-party exchanges?

 MS. PIETT: I think that you've actually described that incorrectly.

 The contract is a firm contract, and the only optionality is to have it flow firm or not at all.

 MR. THOMPSON: No, you --

 MS. PIETT: So that's the situation in this case, number 4 and 5, where we chose not to flow the firm contract, and instead flow IT to the same or a difficult location.

 MR. THOMPSON: I think that's what I was trying to say. So you chose not to flow the FT?

 MS. PIETT: That's correct.

 MR. THOMPSON: And having done that, you could then use the IT optionality under that contract?

 MS. PIETT: The IT optionality isn't under that contract; it would be a separate contract. So to flow IT is an option that anyone could take, whether they had a firm contract or not.

 MR. THOMPSON: Maybe I'm not expressing it -- FT RAM credits under the FT contract can be used to acquire IT?

 MS. PIETT: The credits can be used to offset any IT charges in the month that they are incurred.

 MR. THOMSON: And so that's what you were using them for under items 4 and 5?

 MS. PIETT: That's correct.

 MR. THOMPSON: Thank you.

 So I would like then to turn to just looking at the essence of the exchange transactions, to make sure, again, we understand these transactions. I'll just deal with your K1.4, which has a base exchange and a capacity release exchange transaction.

 Case 1 is a base exchange; is that right?

 MS. PIETT: That's correct.

 MR. THOMPSON: And based on the evidence that I think is at B2, tab 2, page 4, where you've described basic changes, you tell us that these are the kinds of transactions that occurred historically?

 MS. PIETT: That's correct.

 MR. THOMPSON: And is it fair to describe the transaction as one where a third party has gas commodity at one point and wants to get it to another point where it's needed, but it has no transportation to get the gas from point one to point two?

 MS. PIETT: That's correct. You are describing figure 3, where a third party may have gas at Dawn and would need to get it to the Enbridge EDA, for instance.

 MR. THOMSON: Right.

 MS. PIETT: Enbridge CDA, pardon me.

 MR. THOMPSON: And Union then facilitates that desire, the third party, to get gas from Dawn to the EDA by accepting the third party's gas at Dawn and providing an equivalent amount of commodity at the other point?

 MS. PIETT: That's correct.

 MR. THOMPSON: And the evidence indicates that Union supports this with transportation it holds that is surplus to its needs. Is that...

 MS. PIETT: Yes. How it works is Union uses its long-haul contract to the EDA and diverts it to the Enbridge CDA where the customer requires the gas.

 MR. THOMPSON: And so the person -- so what the third party gets is, in my parlance, virtual transportation service.

 MS. PIETT: What the customer gets is an exchange service that they buy from Union Gas.

 MR. THOMPSON: All right. But it's in substance getting its gas by way of exchange from point A to point B.

 MR. ISHERWOOD: I would classify that as a secondary-market type of transaction, so they don't have primary transport. They are relying on the secondary market, in this case an exchange.

 MR. THOMPSON: Okay. But for Union to provide it, it needs to hold transport. In other words, the exchange service provider has transport.

 MR. ISHERWOOD: You have transport, but not on -- we don't have to use the exact path. We're using a different way of getting there.

 MR. THOMPSON: Now, the procurer of the exchange service is the third party; the provider of the exchange service is Union, and for that the third party pays a fee.

 MS. PIETT: That's correct.

 MR. THOMPSON: And the fee is based on what?

 MS. PIETT: The fee is based on a negotiated arrangement between the Union Gas S&T sales group and the third party. Presumably it's the spread between the two locations from where they wish to move their gas. So in this case it would be the spread between Dawn and Enbridge CDA would be a proxy for the fee that the customer would pay us.

 MR. THOMPSON: And it's the spread in what, transportation costs?

 MS. PIETT: It would be a spread in the price to buy the commodity at those two locations.

 MR. THOMPSON: Which would reflect transportation costs.

 MS. PIETT: If there was not a constraint through that part, it may proxy what the transportation is between the two locations in a perfect, efficient market, but in this case there's a bottleneck between those two locations, so the price could be very different than the cost of transportation, because in fact the primary transportation isn't available through that location, or at least on a long-term basis. So that's exactly why the secondary market was valuing those exchanges that we were selling, was because the secondary market was offering something that the primary market didn't have, and the price that was available to -- for us to sell exchanges was varied through the time. It depended on the needs of gas buyers around that area at the time.

 MR. THOMPSON: So it's a secondary market, as you said, service that is a substitute for primary transportation?

 MS. PIETT: It's an alternative to primary.

 MR. THOMPSON: Alternative. All right. Thank you.

 Now, am I correct that a base exchange is not a combined transaction like an FT RAM-related capacity release exchange? It's a standalone exchange service?

 MS. PIETT: I'm not sure what you mean by "combined", actually.

 MR. THOMPSON: Well, you describe FT RAM capacity release exchanges as combined transactions.

 MS. PIETT: I used that term when I was referring to capacity release, which is the lines 6 and 7 in our table 1. Lines 4 and 5 aren't combined in the same way, because when I said "combined" I meant that we would release the capacity to the third party, and in exchange for that we would have gas exchange between the two parties, so that was a combined transaction when I used that term.

 MR. THOMPSON: All right. But I'm comparing a base exchange and lines 6 and 7, and a base exchange is not a combined transaction, the point I was trying to make. Do I understand that correctly?

 MS. PIETT: In the way you described "combined", that's correct.

 MR. THOMPSON: Thank you.

 Now, I had this discussion yesterday, but I just want to make sure we're on the same page. Am I correct that a standalone capacity release or assignment is not an exchange?

 MS. PIETT: Can you repeat that question again?

 MR. THOMPSON: Yes. We were discussing yesterday the capacity releases or assignments that are done to mitigate UDC, for example, in the north, and these were, in my parlance, standalone capacity releases or assignments. They weren't combined with something else. And am I correct that that transaction is not an exchange?

 MS. PIETT: That's correct. And I think what you are describing is what's the difference between UDC mitigation and optimization, and that's a very important distinction in this proceeding, I understand.

 So the difference between the two is the UDC -- when we mitigate UDC it's because we are long supply for the season to meet customer needs. So we have excess purchases planned and we have transportation that goes with that that are no longer required to meet our storage targets. And we release the capacity, and we don't buy the commodity as well, and the two things go hand in hand. It's a simple process, and we place in the market an RFP to release that asset. It's a simple, one-step procedure, and there's no service provided to anyone, whereas what we're talking about here is optimization. It's much more complicated, and there are different steps to it, on occasion, and what's happening is that the gas continues to be purchased at presumably Empress or wherever it was planned to be purchased, and that carries on. It's just a matter of how we move that gas to the market requirement locations, either in the market or at Dawn.

 MR. ISHERWOOD: The only thing I would add to that is, mitigation, the first example Ms. Piett mentioned, that occurs when we have warmer-than-normal weather, so the gas supply plan is right-sized for normal, average weather, and if we have a warmer winter, like we did back in 2011/'12, then you end up having more supply than you need and more transport than you need. So we have to mitigate that. We can't have that supply coming to us all summer long. We'd overfill storage. So you have to sort of get our gas supply plan back into plan by dealing with this length of supply.

 MR. THOMPSON: Well, I thought in the north you purchased gas at less than 100 percent load factor so you could have UDC without warmer-than-normal --

 MR. ISHERWOOD: Fair enough. In the north there's 10 bcf of excess supply we have, and the reason for that is when we do the gas supply plan for the north you have two requirements. You have to meet a peak day for your transportation and you have to meet your average day, in terms of your supply.

 So in order for us to have enough firm capacity to go to all the different spots across the north, we have to have a bit more transport to be able to meet a peak winter day. So by design we build in about 10 pJs of extra supply that we would mitigate in a normal year, and then if you have warmer-than-normal temperatures you have to do more. And likewise you have colder-than-normal. You have to do less.

 But the gas supply is a base plan. Because you're trying to meet the two requirements of meeting peak, as well as annual volumes, you end up having 10 pJs by design, by plan, that you have to mitigate just on -- if you had exactly normal weather.

 MR. THOMPSON: Okay. And so you mitigate by putting that -- offering that unused capacity to the market, and if it's taken up, then the amount that the company has paid for, that assignment finds its way into the UDC deferral account?

 MR. ISHERWOOD: That's correct.

 MR. THOMPSON: Okay. Now, could marketers -- well, am I correct marketers could buy capacity as a standalone assignment?

 MR. ISHERWOOD: In the case of mitigation?

 MR. THOMPSON: Yes.

 MR. ISHERWOOD: Yeah, we would actually do an RFP to the broad market to see who would pay us the most for that transport, and we're trying to reduce the cost to the ratepayers, so we do a broad-based RFP, and the highest bidder would get the capacity for the month.

 MR. THOMPSON: And that marketer, am I correct, could use the capacity it acquires in the standalone assignment to support its provision of exchange services?

 MR. ISHERWOOD: The marketer would take assignment of the capacity for the month to then interact in the secondary market.

 MR. THOMPSON: And I'm asking, in interacting with the secondary market, could it provide exchange services using the capacity it's acquired?

 MR. ISHERWOOD: It could do whatever it wants with it. It's their capacity for the month.

 MR. THOMPSON: Okay. So now let's come to capacity release, FT RAM-related capacity release exchanges. As we've discussed, you've described these as combined transactions. And are they described that way because they involve a capacity release and an exchange?

 MS. PIETT: That's correct, and that's described in case 4.

 MR. THOMPSON: Is the capacity release transaction the assignment by Union of the FT capacity that it has decided to make surplus to the marketer?

 MS. PIETT: No, I wouldn't agree with that. It hasn't decided to make it surplus. What has happened is the company has decided to monetize the surplus capacity that's available in that contract.

 So if you look at figure 2 of case 4, that's precisely what we were talking about even yesterday. And that is that, notionally, that gas that's purchased at Empress in the summer needs to go to Dawn, and Dawn is a shorter location than the EDA to which the contract is purchased. So we use our STS service, storage transportation service, to take the gas that arrives in the EDA back to Dawn, and it's a longer route than necessary.

 So what results is that there's surplus capacity shown by the dotted line in figure 2, and what we need to do in order to optimize is to unlock that dotted line somehow. We simply can't to flow to Dawn and say to TransCanada: Okay, please give us back the difference in what we flowed, because we will pay that EDA charge no matter what.

 So in order to unlock that value, that's called optimizing, and the only way to optimize that is to provide an exchange. And we could either do an exchange ourselves, through leaving that pipe empty and then flowing IT to Dawn -- which is described in case 3 -- or we could do a capacity release.

 It's really just a matter of what does our S&T customer have interest in, what can we make the most money in, and how do we want to diversify our optimization options.

 So in case 4 what we've done is we've decided to assign that capacity to a third party, and with that, we would exchange our gas at Empress with gas at Dawn, which is where the gas needed to be. So that's the combination.

 MR. THOMPSON: Just looking at the chart, let me play it back this way. And maybe I haven't got this straight, but if you didn't do the assignment, you would have to use the capacity to carry utility gas from points upstream to your system?

 MS. PIETT: If we didn't do the assignment and chose not to optimize, we would be on figure 1, and we could do that all day long. And we could flow gas exactly the way the gas supply plan had indicated, and what would happen was we would have surplus capacity that was shown in figure 2 that would be un-utilized.

 And that would be, presumably, a cost to the market, because we would have assets that aren't fully deployed.

 MR. THOMPSON: Is the answer to my question yes, you

-- if you didn't do the combined transaction, you would have to use the capacity you hold under contract to move the utility gas? That's what it's there for.

 MS. PIETT: The capacity was purchased to meet peak day design, and the only way to buy the contract from TransCanada is to buy an annual service that's firm to the EDA and then an STS service back to Dawn to be used in the summer. Or to withdraw gas out of Dawn in the winter to supplement what's arriving there on the long-haul contract.

 That's the only way to purchase that asset to the EDA in order for it to be firm and renewable and cost-based tolls.

 But what comes with that, because we offer seasonal load, is that in the summer we have surplus capacity. And our view is that it makes sense that we would somehow unlock that surplus for greater gain.

 MR. THOMPSON: Okay. Well, whether the phrase "unlock" applies or doesn't, it doesn't really matter. To do the deal you have to create -- you have to make a decision, do you not, not to use the FT transportation?

 MS. PIETT: I wouldn't say that we aren't using it. In this case, what we are doing is assigning it for a value in an exchange.

 So we're using it. We're using it in a different way that's contemplated in the gas supply plan, in order to unlock that surplus capacity. So we're certainly using it and getting value for it.

 MR. THOMPSON: You assign things away that you are not using?

 MS. PIETT: We're using it to underpin an exchange and a service to the secondary market.

 MR. THOMPSON: Is the decision taken – and I use the word "create"; that's the word, I think, the Board also used in its decision -- to create the surplus that is included in the amount assigned here, looking at your case 4, figure 3, is that a decision within Union's control?

 MS. PIETT: No.

 MR. THOMPSON: It's not?

 MS. PIETT: No.

 MR. ISHERWOOD: If I could add, the next panel is the gas supply panel. I'm sure we'll talk about this in more length there.

 But the gas supply plan is really a long-term plan in terms of how to meet our peak day demand, as well as how to move gas in the summertime away from the market and back to Dawn. So as Ms. Piett mentioned, figure 1 is how we would do that all day long.

 What facilitates case 4 from happening is there was an attribute added to the FT tariff on the TCPL Mainline, called FT RAM. And because of FT RAM, we're able to optimize this temporary surplus and, as mentioned, unlock the surplus.

 With FT RAM gone, we would be back to figure 1, primarily, for our operation of the pipe, but FT RAM is an attribute that was in place for just a short period of time on a permanent basis from 2009 to '11 and a temporary basis back to '04, that allowed us to do this type of transaction.

 MS. PIETT: And further to that, Mr. Thompson, you said that it was our choice to create that surplus. In fact, I wouldn't agree with that at all.

 In figure 2, it shows that the surplus is there beyond our control, and the fact is that we have capacity to goes to the EDA that's required in Dawn in the summer. And that's beyond our control, and that surplus will happen whether we use it or not.

 It's just a matter of whether we're able to monetize it, is what we're talking about in the optimization of that.

 MR. THOMPSON: Look at the third chart, where you have an assignment of the line from Empress down to the Union EDA. Is the decision to assign that capacity a decision within Union's control?

 MS. PIETT: The decision we have is whether or not we want to monetize the surplus capacity, and figure 3 is one way we can do that. So we make that decision that, yes, we will optimize it. And we can choose to do it in this manner or we can choose to do it as something shown in case 3.

 So it's a choice of we optimize and if we optimize.

 MR. THOMPSON: Is it a decision within your control?

 MS. PIETT: It's our decision to optimize our pipeline.

 MR. ISHERWOOD: The reason we make that decision, it does two things. We're able to unlock the surplus, as we described, and we also get gas at Dawn on a firm basis. So the exchange is still an exchange between Empress and Dawn, is it delivers gas to us firm basis at Dawn.

 So we get the same result in 1, as on figure 1 of case 4 as we do in figure 3. We get supply at Dawn on a firm basis in the middle of summer, able to unlock the surplus, and create the value.

 MR. THOMPSON: So having decided -- to use your words -- unlock, the next step is you assign the FT capacity to a marketer?

 MS. PIETT: That's correct.

 MR. THOMPSON: And that's in exchange for the marketer, am I correct, agreeing to, first, pay the FT toll in full to TransCanada?

 MS. PIETT: That's correct. They do.

 MR. THOMPSON: And to pay to Union a share of the revenues it can achieve using the IT optionality -- is my word -- under the FT contract which has been assigned?

 MS. PIETT: What the third party agrees to is to pay the TransCanada bill and also to pay Union Gas a fee for this combined service. We don't know if it's a share of their profit or not; we just negotiate a price and they agree to pay us when we invoice them.

 MR. THOMPSON: Okay. So they are paying that for the assignment? That's what they are getting out of this deal, is the assigned capacity with the FT RAM attributes?

 MS. PIETT: Correct. And they buy that service from us based on a negotiated fee.

 MR. THOMPSON: And then the other piece of the consideration is that the marketer, am I correct, agrees to provide Union with an exchange service?

 MS. PIETT: Union sells an exchange service to the third party as part of this combined transaction.

 MR. THOMPSON: Well, those are your words, and I find them awkward. Let's just talk about it in substance. Does the marketer agree to provide Union with an exchange service by taking Union's gas at Empress and providing Union with an equivalent amount of gas at Dawn? That's the commodity exchange.

 MS. PIETT: What happens is that capacity --

 MR. THOMPSON: So is that the commodity exchange?

 MS. PIETT: If I can put it in my own words it might be more helpful. This is a combined transaction where capacity is assigned to a third party and in exchange at Empress exchange is transacted where we exchange gas between Empress and the location, which in this case is Dawn. It's a combined transaction, and it's that combined transaction which the third party finds value in and pays us a fee.

 MR. THOMPSON: My question is, is the commodity exchange provided by the marketer to Union as part of this combined transaction?

 MS. PIETT: I wouldn't say that they provide us an exchange. What happens is we agree to exchange gas, so you can say we provide them exchange or they provide us an exchange. The matter is, is that it's a combined transaction, and they're paying us because they find value in it. And we agree to exchange our gas for theirs, Empress to Dawn in this case, and they find value in that, and we invoice them for that fee.

 MR. THOMPSON: I'll try just one more time. The commodity -- once you've assigned -- we'll parse this -- once the transportation has been assigned, then you need to get your gas, Union's gas, from Empress to Dawn by some other means. Stopping --

 MS. PIETT: I think you are trying to break apart something that is never broken apart. It's a combined service, and that's why we used that term in the first place, because it's not that we assigned away our capacity to some third party and then we went looking for an exchange in place of that. That isn't what happened at all. In fact, it's a combined transaction where we wouldn't have released the capacity in the first place if they hadn't agreed to the exchange of our commodity at Empress. So it's not two transactions, it's very much one transaction. We wouldn't do one without the other.

 MR. THOMPSON: All right. I'll leave it for argument.

 The way we perceive it, and that's why I'm trying to get the facts straight, is the procurer of the exchange, the commodity exchange, is Union and the supplier, is the marketer.

 MR. ISHERWOOD: And we disagree with that.

 MR. THOMPSON: Okay.

 MR. QUESNELLE: Mr. Thompson, could I ask you to pursue it a little bit further? Just, I'm trying to capture the value equation that both parties are seeing in this and how that value is recognized, and understanding the concept that it's combined, it's an exchange.

 But where does the release of value come from, either party? Why is it that this creates value for Union and why is it it creates value for the willing party that enters into it?

 MS. PIETT: I can talk about why it adds value to the Union side, and perhaps Mr. Acker could talk about how it adds value to a marketer on their side, because we did exactly these deals with BP and continue to do that.

 So on our side we have an asset, the long-haul EDA contract, that we know has surplus capacity within that contract that we can't unlock on our own, and that's figure 2 of case 4. And it's the same -- figure 2 is the same as what's in case 1 and case 2.

 The fact is we have a long-haul contract that isn't fully utilized, in this case in the summer. So we can ignore that, and we can flow the gas the way the gas supply plan has required the gas to flow, which is a prudent plan, because the contract's required for the right purposes in the first place.

 And we can flow the gas like that all summer long as well, and we know the gas will get where it needs to go. But we know that there is surplus capacity that remains that could be utilized by -- in a secondary market.

 So in order to undertake that, we sell a service. We can sell an exchange like we have in any of these examples here, using that same contract. It's just a matter of what the third-party need is and what the commercial arrangement is that we want to make.

 MR. QUESNELLE: And if I can just slow you down --

 MS. PIETT: Sure.

 MR. QUESNELLE: -- a little bit, at that point, the surplus is a recognized year-over-year surplus which is -- exist due to the seasonality of the gas use and the fact that you want firm at Dawn, so that's the way you arrange your contract, and that's the only contracting that's available to you; is that right?

 MS. PIETT: We want firm at the EDA in the winter --

 MR. QUESNELLE: In the winter, yes.

 MS. PIETT: -- to meet design day, and then that gas in the summer would be surplus. If it all flowed to the EDA it would be too much for what that market needs, and it therefore needs to go firm to Dawn --

 MR. QUESNELLE: Right.

 MS. PIETT: -- which we have the other contract for, the STS.

 MR. QUESNELLE: Okay. Thank you.

 MS. PIETT: And that's beyond our control. We have to contract that way.

 MR. QUESNELLE: Okay. Thank you.

 MS. PIETT: So what we do in this case, to finish off, if you'd like me to talk about the value that we have?

 MR. QUESNELLE: Yes.

 MS. PIETT: So we see that we have that surplus capacity built into our contracts that is beyond our control, and it's temporary in nature. It's only available in the summer. And we can monetize that in different ways.

 And in case 4 what we've chosen to do, because of the RAM program, is we assign away that contract, and we have the assignee of that contract exchange gas with us so that our Empress gas arrives at Dawn on a firm basis like planned.

 And what's in it for the marketer, the value that they get and why they pay us for that, perhaps is best addressed by Mr. Acker.

 MR. QUESNELLE: Thank you.

 MR. ACKER: So in this particular situation, speaking generically on behalf of a marketer, we would take assignment of that FT contract to the EDA, we would provide firm gas at Dawn, which we would source, and what we would decide to be the most economic way in order to fulfil our obligation.

 We would then take that FT contract, and we could do one of three things. If we happen to have a market at the EDA we could use that FT as it was originally intended to conclude a sale at that point. If we did not have a market at that point we could choose to lay down that FT -- i.e., not use it -- and generate IT credits, which as a marketer-trader we would then use to purchase IT to whatever point or points we believe we had the most economic option delivered to us.

 The third option is we could take that FT, and because it also has diversion rights we could divert it to another point along the TransCanada system where again we believed we either had a trading or a marketing opportunity that would generate incremental revenue for us as a marketer.

 So when you combined all of those options together plus our obligation to deliver gas at Dawn, we would perform an economic analysis that would tell us what we believe with an appropriate amount of risk we think that is worth.

 It would then be up to, in this situation, Union would decide if our offer is attractive enough. Presumably they would be reviewing several offers, it being a competitive marketplace, because in the secondary market there is certainly more than one marketing or trading participant, and so we compete against each other for access to assets like this.

 What that does is, I presume, assure Union they are getting a competitive price for that asset. This is the kind of deal that marketers and traders live and breathe. They need these type of deals in order to fulfil their own obligations, those obligations being both sales to third parties, but also effectively what is known as trading for the house. Traders, by definition, are taking a price position, and they will purchase those assets and move gas to a point where they think they can actually earn a profit.

 MR. QUESNELLE: So the engagement, or the kind of the relationship between Union and the marketer in that, is one of recognized in different core businesses? I'm wondering, what is it -- and this is a very obvious and simple question, but what is it that is barring Union from participating in that directly, and finding those types of deals?

 MR. ACKER: In the simplest example, Union is unable to sell fixed-price gas to people within its own franchise. A marketer is certainly allowed to do that. A marketer can provide market-based transportation services to in-franchise customers within Union's franchise or that they are not allowed to. It's not for me to say whether Union should be providing ex-franchise sales gas, but I'm certainly not restricted by any franchise geography as to who I transact with or what type of products or services we're able to provide.

 MR. QUESNELLE: Well, it's the nature of regulation in itself and the franchise obligations that creates --

 MR. ACKER: Absolutely. I mean, in the most conservative or simple transaction, markets would buy their gas at Empress and have the utility take care of all transportation and distribution after that point. Then the only thing unbundled at that point is the commodity. You know, this was the post-Halloween situation. Marketers have facilitated further unbundling in the marketplace to allow participants to freely negotiate not only the price of the gas, but effectively the transportation or movement of that gas.

 MR. QUESNELLE: Thank you. That's helpful. Sorry, Mr. Thompson.

 MR. THOMPSON: No. Thanks very much. We need the facts.

 So if I could just play that back, panel, what I hear you saying is the FT RAM attributes in an FT contract provide value to a marketer in an amount that is greater than the total demand charge obligation to TransCanada, so that the marketer is prepared to take that capacity by assignment and provide some consideration to Union or the seller over and above the total demand charge obligation?

 MR. ACKER: Mr. Thompson, if I can interrupt, the only point I would disagree with is there is no guarantee to the marketer that they will recover costs in excess of that pipe. By very definition, their business is taking risk and positions on future prices.

 So we anticipate and certainly hope, as do our shareholders, that we make the right guess on future prices, but there is absolutely no guarantee we can recover both the FT cost we must pay TransCanada in that scenario, plus recover whatever cost we've incurred by paying Union for the right to access that pipe.

 MR. THOMPSON: No, I understand. I should have said "potential."

 MR. ACKER: Very much. "Potential" is the operative word.

 MR. THOMPSON: In any event, you are prepared to pay more than the total demand charge obligation to acquire those attributes. From the marketers' perspective, that's what's driving their participation. And also provide the exchange service to Union that Union needs; have I got that straight?

 MR. ACKER: Sorry, could you repeat that last question?

 MR. THOMPSON: Yes. The FT contract assignment, with FT RAM attributes, gives potential added value to a marketer greater than the demand charge obligation, to the point that the marketer is prepared to take on the total demand charge obligation, pay something to Union in addition, and provide an exchange service to Union?

 MR. ACKER: The demand charge is not really what we're exposed to. We're exposed to recovering the premium or the cost, the fee that we paid Union to access that transport. So we're at risk for that.

 We also, of course, have to incur the cost to replace the gas or exchange gas, make gas appear at Dawn in this combined transaction.

 MR. THOMPSON: But you also have to pay the demand charge to TransCanada on the assigned capacity?

 MR. ACKER: Yes, in assigned capacity we do receive the bill from TransCanada.

 MS. PIETT: If I can just finish that, what happens on the paper side -- which is what you are alluding to now -- it's actually addressed in your interrogatory at D7.18.

 And it talks about how, when this deal is done, TransCanada will invoice the third party for the contract, for the EDA contract, because it's been assigned to them, so TransCanada will bill them. And the third party in turn bills us for exactly that fee, so that we are kept whole in terms of our gas costs.

 So instead of us paying TransCanada for that, we pay exactly the same charge to the marketer, so that in effect, gas cost is kept whole.

 And then on top of that, then Union Gas invoices the third party for the negotiated fee.

 So that is described -- because it is complicated; and we never said that this stuff is easy. But that was described in numbers on Interrogatory D7.18, because you asked: Give me some numbers around this, so that I can see how this actually flows. And that is what that interrogatory was intended to do.

 MR. THOMPSON: I really wasn't talking about paper, but...

 MS. PIETT: Well, you were talking about invoices, so I've transferred that to paper, but it's who pays who what, and who's at risk for what.

 MR. THOMPSON: I'm talking about the marketer assumes the TransCanada demand charge obligation in full under --

 MR. ISHERWOOD: That's incorrect.

 MR. THOMPSON: Sorry, under this capacity release exchange?

 MR. ISHERWOOD: No. That's what we're trying to explain. That's in your interrogatory on D7.18. It's up on the screen now, if Ms. Piett wants to go through that.

 MS. PIETT: What it means is that TransCanada pays the charge to –- pardon me, TransCanada invoices the assignee of that contract. So in this case it would be BP. And BP would in turn invoice us for that same amount, so that they aren't exposed to the toll on the long-haul CDA contract.

 But then what they are exposed to cover is the fee that we negotiated, which is whatever value that they found in us assigning that contract and arranging for the exchange between our two parties, and then whatever leftover credits that they can somehow make some profit with in the market.

 So that's the negotiated fee and that's what they are at risk to cover.

 And really what that represents is the value of the surplus capacity that we started with in figure 2. That is really what we consider the value of that surplus capacity that's generated by those long-haul contracts in the first place.

 MR. THOMPSON: All right. Well, invoicing can be structured to achieve many objectives. How does it work when it's just a standalone capacity assignment?

 MS. PIETT: A standalone capacity assignment in the case of a UDC mitigation is we assign the capacity to a third party, and they pay TransCanada for that contract from then forward, and they pay us some value for having bought it in the first place from us.

 MR. THOMPSON: So is the invoicing different for a standalone capacity assignment?

 I was asking Ms. Elliott about this yesterday.

 MR. ISHERWOOD: If we're talking about the case of mitigation, where we actually are trying to mitigate supply length, in that case the pipe would be assigned to the marketer for the month. They would then pay the full demand charge to TransCanada for the month.

 But because the market value of that pipe is less than the full cost, we have to pay the difference. So if -- just use round numbers. If the cost of the pipe was a dollar but the market value is only 80 cents, they would to have pay a dollar to TCPL and we would pay them 20 cents, so that they are only paying what the market value was for the pipe.

 And that 20 cents become the unabsorbed demand charges that we are talking about in this case, in terms of what is the amount of UDC. So being able to mitigate a large part of the dollar, but we can't mitigate all of it in the summertime, because the pipe doesn't have the full value.

 MR. THOMPSON: Let's assume the market value is $1.20.

 MR. ISHERWOOD: That would be a great situation.

 MR. THOMPSON: Fine. The marketer pays TransCanada?

 MR. ISHERWOOD: A dollar.

 MR. THOMPSON: Right.

 MR. ISHERWOOD: And they would pay us 20 cents.

 MR. THOMPSON: And all that goes in the UDC account?

 MS. PIETT: Yes, it does.

 MR. THOMPSON: So the invoicing is different than under FT invoicing, FT RAM invoicing you've drawn my attention to?

 MR. ISHERWOOD: UDC mitigation accounting is different.

 MR. THOMPSON: Thank you. Now, am I correct that, again, coming back to this value equation, that Union would not engage in these combined transactions if it could not achieve savings on the amount of the costs that are embedded in the -- amount of the FT demand charge costs that are embedded in rates?

 MS. PIETT: We would not engage in optimization if we weren't in it to earn some sort of revenue. If it was a cost to us, I'm sure we wouldn't do it.

 MR. THOMPSON: Are you agreeing with my --

 MS. PIETT: I agree that if there wasn't revenue in the transaction then we wouldn't do it.

 MR. THOMPSON: But the measure of the revenue is the savings that are achieved in reducing the FT costs that are embedded in rates; is that correct?

 MS. PIETT: I don't agree with you, and I'm thinking about the proper way to respond.

 When we have contracts in our portfolio, they are paid for just like in the gas supply plan, by gas cost customers. If there is a way for us to optimize such that we're able to earn revenue on a transaction and still meet the needs of all of our customers, then we'll consider that an optimization opportunity and we'll investigate it.

 If we aren't able to earn money, then of course we wouldn't undertake it.

 MR. THOMPSON: Well, we may be quibbling about terminology, so I'll move on.

 Now, could one of these deals hypothetically be done where you do the assignment, or Union does the assignment, to one marketer and acquires the exchange service from another simultaneously?

 MS. PIETT: No, we wouldn't do it, because --

 MR. THOMPSON: Not -- could you do it? I appreciate you wouldn't do it, because it would be pretty risky, but -

 MS. PIETT: We wouldn't do it because we wouldn't make any optimization value that way, so therefore we wouldn't do it even though we could. We could lose money, but we wouldn't want to.

 MR. THOMPSON: Well, if you -- if one marketer is going to give you $1.50 for your FT RAM that -- in other words, a price over the TCPL demand charge, and you could conceivably -- hypothetically get an exchange service from another for $1, then you would do that transaction.

 MR. ISHERWOOD: Our experience in the market, Mr. Thompson, is, to unlock the value you need to do both transactions with the same marketer.

 MS. PIETT: What we're focused on is monetizing surplus capacity, and what -- and that's completely where our optimization program is focused on. Now, if you are talking about the fact that our -- the transportation that we have suddenly becomes very valuable in the market and we can release that transportation and make a lot of money and figure out a cheaper way to have gas arrive, frankly, I don't think that I've ever seen that happen that would be worthwhile chasing at all, because the way the natural-gas market works, the reason that pipe would have become so much more valuable is because the spread has increased.

 So we might release a pipe for more than our contracted cost, but then to buy an exchange in place of that would be expensive as well. So those kind of opportunities just don't come along, that I'm aware of.

 MR. THOMPSON: No, I appreciate that. I was putting a hypothetical because, of course, if they did it that way the accounting would have to be quite different, but let me move on.

 Do you agree that when you do one of these combined transactions, you're assigning away capacity that you would otherwise use to carry utility gas and acquiring another mode of moving your utility gas from points upstream to your system? Is that not the substance of the transaction?

 MS. PIETT: I think what you've tried to describe there is case 4, and what we -- what I would disagree with is that, although we do release the capacity, the long-haul capacity, to the EDA, we don't find other transportation in place of it. We arrange for an exchange from the same party.

 So it's not a matter of just switching one type of transportation for another, it's optimizing the current contract that we have so that we can monetize that extra length that's imbedded in it.

 MR. THOMPSON: All right. Well...

 MS. PIETT: What you are describing is exactly what we don't do. We don't release pipe into the market for a profit if we can and then go hunt to see if we can find another way to get gas to the market.

 MR. THOMPSON: All right. But you do switch from one mode of transporting your gas, utility gas, to another.

 MS. PIETT: What we do is engage in exchanges that happen in this case as a combined deal where we release capacity and arrange for an exchange at the same time.

 MR. THOMPSON: Is it not fair to characterize what is happening as a switch from one form of moving your utility gas to another?

 MS. PIETT: No, I wouldn't agree with that.

 MR. THOMPSON: Well, what is it?

 MS. PIETT: I think I've answered it several times, what it is. It's a combined transaction where we release capacity in exchange for gas at another location.

 MR. THOMPSON: All right. Well, let me try this. In a scenario where you did switch from one form of utility transportation to another because the other form of transportation was cheaper, would you agree that that should flow through to the ratepayers as a flow-through item of expense?

 MR. ISHERWOOD: I think the gas supply plan would look at that on a regular basis, Mr. Thompson, so to the extent that we can obtain gas supply from someplace that's cheaper on a long-term basis, and if it was prudent to do so, we would look at that type of decision.

 That's much different than what we're talking about here, where we have a gas supply plan in place and we're actually trying to optimize it using surplus -- temporary surplus capacity.

 MR. THOMPSON: All right. Well, let me conclude with this. Do you read the Board's decisions, the 0087 decision and also in the Enbridge decision, as in essence saying when a utility engages in transportation switching transactions the savings should flow through as upstream gas transportation cost reductions? Is that the way you interpret the decisions?

 MR. ISHERWOOD: I interpret the decision was with -- in both -- in, I guess, all cases, was when FT RAM activity is occurring, that the Board felt those revenues should be treated as gas cost savings. Not base exchanges, just FT RAM type exchanges.

 MR. THOMPSON: But do you read into the -- you interpret the decision to be saying they should be treated in that fashion because what is taking place are in essence transportation switching transactions? Utility gas transportation switching transactions?

 MR. ISHERWOOD: The word "switching" never came into my mind at all. It came -- when I read -- nor did the Board say that. When I read the decision the Board felt those type of activities should be gas cost reductions, in terms of FT RAM assignments and FT RAM exchanges.

 MR. THOMPSON: All right. Thank you very much. Those are my questions.

 MR. QUESNELLE: Thank you, Mr. Thompson.

 Ms. Sebalj?

Cross-Examination by Ms. Sebalj:

 MS. SEBALJ: Good morning. I want to start off to talk a little bit about design day, and a fundamental question, on a design day you do not have surplus capacity; is that correct?

 MR. ISHERWOOD: That's correct. I will say the next panel has a design-day engineering expert on the panel, if that's helpful for you.

 MS. SEBALJ: Yeah, no, I'm not going to ask you --

 MR. ISHERWOOD: Okay. Okay.

 MS. SEBALJ: -- fundamental questions about design day.

 And in the winter, prior to entering into a winter combined exchange and assignment, Union doesn't know whether the design day will occur; is that correct?

 MR. ISHERWOOD: Design day is driven by weather.

 MS. SEBALJ: Right. But presumably -- and this is more for curiosity and understanding how this works. Presumably it's driven by weather and that you have significant expertise in that area, and so it's not as though you find out at eight a.m. that it's a design day. You have some notice that you are about to hit a design day, or is that --

 MR. ISHERWOOD: We spend a lot of time looking at weather.

 MS. SEBALJ: Yeah. Okay. So Ms. Piett, I'm wondering if you can help he just with a purely clarifying question. In the transcript at page 129, line 10 -- not at page 129. Sorry, page 128 at line 10, you were speaking about where in the evidence a particular -- this concept of CDA contracts is described. And unfortunately the reference isn't complete. It says Exhibit (sic), tab 3, page 20. We've assumed that what you are referring to is Exhibit B, tab 3, page 21, but we are not sure if that is the right assumption. You do refer to it being the gas supply evidence.

 MS. PIETT: That's exactly correct. It's tab B -- or, pardon me, Exhibit B, tab 3, page 20.

 MS. SEBALJ: Page 20. Okay.

 MS. PIETT: I believe. And it's the section at line 15. It's the gas supply evidence, and the panel for that evidence will be up next. But the purpose of me referring to that is it describes how the CDA contract is dropped off in the north to other locations.

 So on line 15 it starts off, "Embedded efficiencies in the plan," and then it goes on to describe that CDA contract.

 So on design day, that contract is intended to be dropped off -- instead of flowing all the way to Parkway at the end of the south system, it is dropped off in the WDA or the NDA, which is our north area, to assist with medium peak design day.

 MS. SEBALJ: And that's what I wanted to talk to you about next. And I was hoping that -- I don't know if you have a copy of the transcript in front of you, but this -- you discussed this yesterday in your chief.

 In particular, it's basically starting at page 127 and goes through to page 128, and you've introduced this concept of the fact that the transactions which I'll describe, at table 1 on page 9 of Exhibit B, tab 2 -- and we were talking specifically, I think, about the transactions described at line 7 of that table.

 Am I correct that that is what Mr. Smith was taking you through?

 MS. PIETT: Yes.

 MS. SEBALJ: And the fact there is an X in the temporary surplus column?

 MS. PIETT: Right.

 MS. SEBALJ: And you were indicating that

"What it does describe is how the CDA contract that comes from Empress to the CDA is dropped off in the north to meet winter peak days, and otherwise it flows to the CDA and provides annual gas service to the south portfolio.

 "And what we've done to optimize that plan and to provide an exchange service to the market is we drop that gas off, that CDA gas, into the areas where it would be dropped off for peak day anyway, and we drop that off for three months in the winter or for the entire other months as well -- possibly for the entire year, but in this case we're talking about the winter three months, and we drop that gas off in the north so that when a peak day occurs it's exactly where the gas supply plan needs that gas to be, and where the surplus capacity comes in is, all the days that it isn't peak day design day, that gas is being offered into the north, and the rest of that path is surplus capacity."

 So I'm trying to understand where the temporary surplus comes in if you are dropping off the gas for the purposes of meeting a peak day.

 MS. PIETT: When we drop the gas off -- let's say it's the NDA, which is where in the gas supply plan most of it is dropped off. So when we drop that has off on a peak day or any other day, as a matter of fact, the rest of that length of contract -- so going from the NDA to Parkway -- is not utilized. We've dropped the gas off, and we've got actually a contract that goes all the way to the CDA that we're not utilizing the rest of that portion of the path.

 MS. SEBALJ: How are you serving the south? Presumably if it's a peak day or a near peak day in the north, it's probably pretty chilly in the south too, so how are you serving the south at that point?

 MS. PIETT: With withdraws, increased withdraws from Dawn.

 So this will probably not make it easy, but just so that you have the full record, what happens is we do an exchange between of gas between our north portfolio and our south portfolio.

 So what we do is we have gas that's in Dawn to serve the winter needs for the north, and if we drop south gas off in the north, then we take an equal amount of that gas that normally would be in Dawn for the north and we just exchange it.

 And so the south is met through increased withdraws from Dawn as it is anyway. It's served very differently on design day. We rely on storage. But in the north we have to rely on our contracts from TransCanada.

 MS. SEBALJ: Oddly, that makes sense to me.

 I was confused by your statements yesterday, because I didn't see any anything about this CDA contract in the prefiled evidence. So at page 13 of Exhibit B, tab 2, there is a description of line 7. So you've helpfully gone through every line in the table, which is at page 9, and line 7's description is on page 13 of the evidence. And in that, I don't see anything about the concept of the CDA contract and dropping off at Dawn -- sorry, in the north, on the basis of this CDA contract.

 So can you reconcile for me -- and maybe it's here in different language, but can you reconcile for me the evidence at page 13 and what you provided yesterday at the transcript?

 MS. PIETT: When we were preparing table 1 and when we put that X in that location, we were thinking, from a generic purpose, any time that it's a peak design day we don't have excess assets. That's a fair statement to make, and Mr. Isherwood just agreed with that.

 But in the case of the CDA contract, it is different and it's unique, and we weren't really contemplating that when we did the chart because we were talking from a principled basis. But we don't have excess assets in terms of: Did we have the right contract in place in the first place? We don't. We have all the right contracts in place to meet our gas supply principles.

 But when we drop off that CDA contract on a peak day or any time we drop it off early, there is surplus capacity, which is what I was talking about in-chief yesterday. When we are talking about the CDA contract in particular, which is exactly what was optimized in 2012 in that line 6, that was, in fact, surplus capacity because it was dealing with that particular contract.

 MR. ISHERWOOD: If you want to look at a specific month, pick any month, but assume the peak day happened on February the 15th. If you've done the assignment as described here, the NDA would be getting that capacity, the CDA capacity, for the whole month of February.

 And so February 15th is exactly where it needed to be because it needed to be there for February 15th, and we met the peak day exactly using the assets that the gas supply plan had anticipated.

 But for the other 27 days in the month, we don't necessarily need the gas in the NDA, and that's when we get into the exchange with the south that Ms. Piett mentioned.

 But what makes the CDA contract so unique is it is exactly in the location it's supposed to be on that peak day, and we're just taking advantage of the other 27 days of the month.

 MS. PIETT: Sussex deals with this CDA drop-off matter as well. If you look at their evidence on page 28, they've got a table there. And Mr. Stephens will be here on the next panel, and he will talk about the efficiency of using that contract the way that we do. And he very much endorsed it.

 In fact, many years ago we didn't optimize -- I shouldn't say "optimize" because that word is going to confuse people, but several years ago we didn't have a CDA contract that we dropped off in the north. We kept the two portfolios very different. And if the north needed more contracting capacity to meet its peak day, then we contracted exactly for that. And we had much more UDC in the north because we would contract for long-haul contracts from Empress to serve the north, WDA and NDA, all winter long, and we rarely used some of them because they were just there for design day.

 So several years ago, I would venture to say, probably seven or eight years ago, we redesigned that and we had this CDA contract dropped off. And it saved customers in the order of, using today's tolls, around $30 million by having that contract dropped off on those peak days rather than having the north contract independently for their needs.

 MS. SEBALJ: Can you describe for me, is there -- first I'll ask is there a case -- you've provided the different cases in the figures that you've taken us through. You've taken us through 1 and 4. Is there a case for what we're talking about now, line 7?

 MS. PIETT: Yes. That's case 5.

 MS. SEBALJ: Can you take us through the combined transaction and how it works?

 MS. PIETT: It starts at page 64 of 82 of our evidence, which is Exhibit B, tab 2.

 And first of all, it describes the CDA contract in figure 1, and it shows that the gas would flow long-haul from Empress to the CDA, and if necessary and we needed more supply, we would withdraw from Dawn to meet the CDA needs. That's how the market is served according to the gas supply plan.

 And it also talks about how the NDA is served in figure 2. So independent of the CDA contract for a moment, figure 2 talks about how the NDA is served. And it has the long-haul contract that comes from Empress, and it also has STS contract to move gas between the NDA and Dawn as needed. So in the winter it would move gas into the NDA out of Dawn and it would be served from both directions.

 MS. SEBALJ: So what does the transaction itself look like, the combined transaction?

 MS. PIETT: Just stick with me, because so far I just have described how it normally would work in a gas supply plan, which is important to understand.

 And where this temporary surplus is shown in figure 3 and 4 of the CDA and the NDA, and in the CDA we have surplus capacity, and that on design day -- so this is on design day -- on design day we can move more gas out of Dawn if necessary to serve the market need. There's surplus capacity there to serve the south market, which was the question you just asked me a few moments ago. And in the north on a non-design day or a design day we have flexibility in our STS contract there, as well.

 So on a peak day or anytime that we've done this exchange, even if we've done it for two months at a time, what we do is we release the CDA capacity to a third party and they agree to exchange gas with us, and they move the Empress gas or they exchange gas with us and we give them our Empress gas and they give us gas at the NDA.

 So essentially that's dropping gas off by the use of an exchange. And we do that for several months at a time, if we wished, and that's exactly what happened on line 6 of our table 1.

 And we that have gas move into the NDA so it's there on a peak day just as planned. And if it's not a peak day, and if that means that too much gas is being dropped off there, then we can back off on our STS contract serving gas from Dawn. So we would balance with the STS contract, which is a cost-free move.

 So that's how we optimize the CDA contract. We have the gas moved into the NDA through several months in the winter, and on a peak design day it's there where it's needed, and on a non-design day we just move less gas from Dawn to that area to balance.

 And all of that -- and for all of that we receive a fee from a marketer for having arranged that. And that's just about as complicated as it gets for an exchange, so it doesn't get worse than that.

 MS. SEBALJ: And for how long would you do such a transaction?

 MS. PIETT: When it's a capacity release, we find it useful to do it at least for a month at a time because of the way the billing happens. So we could do this transaction where we are exchanging -- releasing capacity and arranging for an exchange. We would do that for a month at a time at a minimum. Often in the summer when we are dealing with extended periods of surplus capacity we may make an arrangement for an entire season, entire seven months, and we'll receive greater value for that.

 So we on could do it month to month, but we make more money if we do it for an entire season so that the marketer has some certainty about that capacity.

 MR. ISHERWOOD: For 2012 we did it January to March, and then -- I'm just talking about the winter months here

-- and November to December. So we just did it for, as Ms. Piett mentioned, a grouping of months.

 MS. SEBALJ: Okay. Now, I thought I heard you say earlier that you didn't do transactions in December, January, February. I guess we were talking about a different type of transaction?

 MS. PIETT: We were talking about EDA capacity assignments, which is where there really is risk, and that's why that X was in the table, or line 7 of our table 1. But we didn't do that in 2012, simply because, as we were learning how to use RAM credits and so on efficiently -- and the market was also changing around us, and we determined ourselves that, even though there was risk that we had been prepared to take earlier, the risk was increasing, and we weren't prepared to take it any longer, and the risk was around TransCanada's tolls application, where they were looking to change their services. There was also an increasingly constraining bottleneck between our system and TransCanada's system at Maple.

 So there were some real issues in the market that was causing great uncertainty, and because of that increasing risk we chose no longer to do capacity assignments in the winter using the EDA contract.

 MS. SEBALJ: So that entire 5.9 million then is CDA. Sorry, I'm now back at line 7 of table 1, page 9.

 MS. PIETT: Yes. There is a small delivery area just north of the CDA called the NCDA, and of that amount, 58 -- of that 5.9 million in revenue, 58,000 gJs per day was related to the CDA contract and 2,000 per day was related to the NCDA contract, but we treated them similarly.

 MS. SEBALJ: And are the risks in the CDA comparable to -- sorry, in the NCDA comparable to EDA or to CDA?

 MS. PIETT: Not in our view, no.

 MS. SEBALJ: All right. So now if we look at line 6 of the same table, which is the bulk of the revenues associated with the combined transportation exchange and use of FT RAM, you've defined -- Union has defined summer as including March and November; correct?

 MS. PIETT: Yes.

 MS. SEBALJ: And can we talk about the EDA -- so the transactions that you have decided that you are not going to do to the EDA in the winter, do those occur in March? So do they occur within the 25.9 million?

 MS. PIETT: Yes, they occurred in the summer. I'm not exactly sure offhand. I could look it up if you wish. But I'm not sure if they happened in March, but they certainly happened in the summertime, and that's exactly case 4, actually.

 MS. SEBALJ: Case 4. Yes.

 MS. PIETT: Yes.

 MS. SEBALJ: So would you be able to tell us by way of undertaking how many -- I guess list the transactions and their value that occurred in March and in November to the EDA within that line 6?

 MR. SMITH: Yes, we can do that.

 MS. PIETT: Yes, we can.

 MS. SEBALJ: I have to mark that. It's J2.1.

UNDERTAKING NO. J2.1: TO LIST THE TRANSACTIONS AND THEIR VALUE THAT OCCURRED IN MARCH AND NOVEMBER TO THE EDA WITHIN LINE 6

 MS. SEBALJ: And then some of you were on the panel yesterday and others of you were probably listening. But I want to -- I mean, you've provided an explanation, I think, for why the X is there under "temporary surplus", but we're still interested in knowing, if you pull out March and -- well, I guess first of all, with respect to line 7, can you tell us how the ESM revenues change if we pull out that $5.9 million from the total in revenues -- from revenues?

 MR. SMITH: I'm sure we can do that. I'm just pausing to see if Ms. Elliott can do it.

 MS. SEBALJ: On the fly?

 MR. SMITH: On the fly.

 [Laughter]

 MS. SEBALJ: Because she's that good.

 MR. SMITH: There's no question about that.

 MS. ELLIOTT: I would rather not, but I can do it.

 MS. SEBALJ: Okay. I'm going to -- can I do this as a three-part undertaking, and then you can decide if you agree to all the parts? So that would be the first part.

 The second part would be to pull out -- to put March and November back into winter and then give me the revenue amount -- so put them back into winter and then take that amount, whatever it is, out of the revenues and tell me what the revenues are available for sharing, left over, and the amount that would end up in the deferral account.

 I'm assuming that in my first example the amount that ends up in the deferral account is 5.9 million, so I don't need that number.

 And then if -- the third part is whether I can ask you to just put March back into the winter -- take that revenue amount out of the ESM calculation and tell me how it changes the revenue amount in the ESM and the deferral account.

 MR. SMITH: Yes, I believe we can do all of that. I'm not -- well, we'll deal with it in the undertaking, but I'm not certain that the amount that just appears in the deferral account is the 5.9 million, because if the treatment is different, as the Board determined in its second half of the --

 MS. SEBALJ: Right.

 MR. SMITH: -- 0087 case, there are costs which would be netted against that. But we can deal with that in the answer to the undertaking. I'm thinking of fuel and UFG and other costs.

 As for the other, we can do it. I heard the witnesses say that the exchanges which were transacted or the assignments which were transacted were November, December. But multi-month -- a multi-month assignment, and so you are asking us to pull out only one part of a multi-month transaction, which is problematic, but maybe we can think about that in the answer to undertaking.

 MS. SEBALJ: Fair. So that's J2.2, all three parts.

UNDERTAKING NO. J2.2: to advise how the ESM revenues change if $5.9 million is removed from the total in revenues in line 7; to put March and November back into winter and advise revenues are available for sharing, and the amount that would end up in the deferral account; to take March revenue amount out of the ESM calculation and advise how it changes the revenue amount in the ESM and the deferral account

 MS. PIETT: I wonder, if I could just interrupt, if it would be useful to talk about why March and November weren't included in there in the first place. I don't know if we've covered that well enough.

 When we were choosing not to include those months, it's unusual for us, because we talk winter and summer all the time and it's always five months and seven months and that's how we plan everything in gas supply. But in this case, we said: You know, it really doesn't make sense to include the shoulder months in the winter period when we're talking about risk or temporary surplus assets or optimizing our plan, because risk and temporary surplus assets are very much based on design day. And design day does not happen in November and March.

 MS. SEBALJ: That was going to be my question.

 MS. PIETT: That is why we excluded them, because if you want to categorize the difference between lines 6 and 7 -- and previously we hadn't even split that out, but we thought it was important for the Board to understand summer capacity releases and winter ones. And we said: Okay, well, it would be useful to separate those two out. And we hadn't done that before.

 And we did it in order to be helpful, but we thought that the winter should really just be related around when we are having those design days and what surplus capacity is in place at that time. That's why we pulled it out.

 So we can put it back in. We originally prepared it that way, and then we thought better, that we should show it this way instead, but we can show it to you both ways.

 MS. SEBALJ: I guess we were interested in March in particular. And I was going to ask you about design days and when they occur, and I would assume it's largely January and February, and I think the Sussex report provides highest daily degree days by temperature zone, I think you call them, the six different areas in the north in particular.

 Now, I'm assuming it was sort of an Armageddon-like anomaly, but there was a March design day for the Sudbury and the Kingston areas at some point in the -- I think in the '80s. But presumably it can occur?

 MS. PIETT: I can't speak to that but Mr. Stephens could, I'm sure, the next panel.

 MR. ISHERWOOD: Or Mr. Wood.

 MS. SEBALJ: Which sort of segues nicely into the next area, which is risk.

 Ms. Piett, in your chief again yesterday at page 127

-- and this was, again, all with respect to line 7 and the temporary surplus in the winter and why that X is there. But at one point you said, "because we are" – starting at line 21:

"Because we were responding there in general to, if you have a capacity assignment where you assign capacity away in the peak season, then you probably don't have surplus capacity. You are doing that based on risk, and because our capacity is sized to meet winter day, and if there is a peak design day, then of course we wouldn't have surplus capacity."

 And there is quite a bit of evidence in your prefiled evidence with respect to risk. So I just want to take you to that briefly.

 I did ask, and got an answer from Ms. Elliott yesterday, with respect to how the risk gets allocated or booked, I guess, when you incur costs with respect to mitigation activities. And as I understand it, that is booked against revenue; it doesn't go into the deferral account as a cost?

 MS. ELLIOTT: That's correct, yes.

 MS. SEBALJ: So I'm just trying to understand, because you do spend quite a bit of time in the prefiled evidence talking about risk and managing risk and the inability to eliminate risk. So particularly with respect to the -- these winter transactions, what I'm hearing, from Ms. Piett largely, is that because of the nature of the CDA contract, it's Union's view that the risk is minimal in the winter months and that therefore you're comfortable saying that there's a temporary surplus during those months?

 MS. PIETT: There is a temporary surplus because when we drop off the CDA contract, the remaining portion of that path is left empty. So no matter what, there is a temporary surplus when we drop off that gas.

 There will always be a little bit of risk, even on -- any time of the year when we do an exchange, because it's third-party risk with our counterparty and so on, and that we are relying on that party to provide the firm service that they said they were going to do.

 In other cases, we may be flowing IT ourselves, which is our case 3 type of exercise. And we may be flowing IT that could be curtailed, which was the Beardmore discussion that's in our evidence.

 So there is always some risk, but in terms of a design day happening -- which is where I think you were going with this -- is there would zero risk around the CDA contract when we drop it off in the winter in terms of the design day risk occurring, because we would have the gas where it needs to go to meet that need.

 MS. SEBALJ: And with respect to counterparty risk, I understand of course that you do your due diligence with respect to creditworthiness, et cetera, but at the end of the day I understood from your evidence that there have been occasions and that there are occasions where the gas does not – where the third party does not fulfill its end of the bargain and the gas does not end up where it's supposed to be?

 MR. ISHERWOOD: That does happen occasionally.

 MS. SEBALJ: And that you have built into your contract penalties associated with that?

 MR. ISHERWOOD: That's correct.

 MS. SEBALJ: And those penalties may or may not cover the actual cost of...

 MR. ISHERWOOD: Actually, there's a provision in the contract; it's cost plus a penalty.

 MS. SEBALJ: And so there's never been an occasion where you are not fully covered for that?

 MR. ISHERWOOD: We've never left the market short. I think when something like that happens unexpectedly, I think it's on both parties to try and mitigate the exposure for that incident, so we certainly would try and help as well if we can, but it's primarily up to the counterparty to solve the problem. But I think both parties would try and mitigate it.

 So we never had a market shortage. We've always been able to serve the markets.

 MS. SEBALJ: And as I read through your analysis of the financial impacts of one of the types of transaction that you describe – and I don't think you need to pull it up, but you say:

"The revenues from the sale of the transportation exchange service provide compensation for any remaining costs of the interruptible..."

 This was an interruptible deal.

"... which were not covered by FT RAM credits, the costs and market value related to the use of Dawn-to-Parkway transportation and the cost to mitigate any risks if realized."

 Does that mean that there's an actual risk premium built into the negotiated price, as well as the penalty clause in the contract?

 MR. ISHERWOOD: I wouldn't call it risk premium; I would say definitely, though, when the deal is being negotiated we definitely, in the back of our mind, have what it would -- if we were the party that had to mitigate the failure, what that cost would be.

 So we would definitely have that in the back of our mind and make sure that we, on a risk-adjusted basis, would have that covered.

 MS. SEBALJ: So how does risk, in Union's view, play into how the revenues should be treated?

 MR. ISHERWOOD: Our view is, given the S&T group is taking the risk, then that supports why it should be revenue, not a gas cost offset.

 MS. SEBALJ: But is that really true? If it's an offset against revenues and revenues are ultimately shared through ESM, don't the ratepayers bear the risk?

 MR. ISHERWOOD: And it's a great question. I think it depends where are you in earnings sharing in any given year. If you haven't triggered earnings sharing, then I would say it's a hundred percent shareholder. If you're a 50/50 in earnings sharing, then I would agree that the ratepayer's sharing some of that risk or the cost of the risk.

 But our premise going into given year is that we're not into earnings sharing and we're into sort of our normal regulated rate of return.

 MS. SEBALJ: Thanks. Those are all Staff's questions.

Questions from the Board:

 MR. QUESNELLE: I'll just ask one, following up on Ms. Sebalj's last area, covering the risk.

 You say the S&T group is at full risk until the earnings sharing mechanism is triggered. Can you explain the types of risk?

 Everything I've been hearing about the type of exchanges that you enter into are ones that, by design, are favourable to Union. You know that going in. Can you explain what types of risk we're talking about?

 MR. ISHERWOOD: We definitely try to minimize the risk and we structure the deals to have minimum risk, for sure.

 In evidence, we talk about the Beardmore incident where TCPL had a pipeline rupture. And the S&T group were able to change how gas was being delivered that day on very short notice just before the deadline, if you wish. And I think the net cost was $77,000 or something had we missed that one time line. And to schedule gas, there's four different time lines during the day. We were able to get in on the right time line. If you miss that point it would have cost us much more. But even in the case of $77,000, that would have been offset against revenue.

 MR. QUESNELLE: So if you were to arrange your contracts so that they were on an aggregate basis, it was designed to always keep Union ahead -- I'm looking to -- you know, the only thing that would typically drive you to enter into a higher-risk profile would be the competition. Who are you competing with, with these deals?

 MR. ISHERWOOD: Well, we are participating in the secondary market, so the other parties. Well, there's Enbridge, perhaps, or Gas Métropolitain, or marketers are competing as well. TransCanada, now, with their new decision from the NEB is much more active in the secondary market as well. So we have definitely competition in the secondary market.

 MR. QUESNELLE: And do you feel that the approach of the ST group now is to hold Union whole? Or does it change its approach to the contracting depending on its -- where it sits in the projections, as far as the earnings sharing mechanism? I'm trying to understand the risk management approach, I suppose.

 MR. ISHERWOOD: Yeah, I don't think it changes our -- we don't take more risk because of earnings sharing. We would never do that. But we would definitely assume we're not in earnings sharing and may have to cover off the cost entirely.

 I guess another way we would look at it is, in terms of even in 2013 now with the 90/10 sharing we would definitely step back from doing exchanges. We don't -- our risk profile has purposely gone down to a much lower level in '13 than it would have been in the '08 through '12 period. In '08 through '12 we were assuming we had full revenue collection. In '13 we know it's at 90/10, and definitely dialled back in how we are doing some of the transactions.

 MR. QUESNELLE: So "dial back" means you are not taking a higher risk and losing out on a lot of the opportunities?

 MR. ISHERWOOD: Yes.

 MR. QUESNELLE: Thank you. With that why don't we take our morning break, and we have a new panel coming on.

 MR. SMITH: I have no re-examination.

 MR. QUESNELLE: Oh, I am sorry.

 [Laughter]

 Thank you. I'm all excited about the break. It was just you between us and the break, Mr. Smith. Sorry about that.

 With that, why don't we resume at 25 to 12. You'll have your next panel up?

 MR. SMITH: I will, yes.

 MR. QUESNELLE: Okay. And we're going to go with the normal day today, so looking at the schedule, there is a potential to get to the fourth -- a potential, but maybe we should talk about that when we get back from the break as to whether or not we want to entertain the idea of starting the fourth panel late in the afternoon or mid-afternoon or starting fresh in the morning, so...

 MR. SMITH: I would like to have a discussion about that, if only because some of the DSM witnesses are here, but we do have somebody flying in at a fairly considerable distance who won't -- who is probably in the air now. And so I just --

 MR. QUESNELLE: Yeah, why don't we --

 MR. SMITH: -- I want to check in and --

 MR. QUESNELLE: We'll talk about that after the break.

 MR. QUINN: If I could be helpful here. I just -- I exchanged e-mails with Mr. Shepherd, and Mr. Shepherd is going to join us after the break, and if we are going to be discussing schedule and his interest in the DSM panel.

 MR. QUESNELLE: Perfect. Great, thank you, Mr. Quinn.

 --- Recess taken at 11:14 a.m.

 --- On resuming at 11:40 a.m.

 MR. QUESNELLE: Thank you. Please be seated.

 Just before we get started, I was remiss in not thanking the previous panel for their contributions. If they are listening or in the room somewhere, thank you very much.

 Mr. Smith, we had a short conversation about how we see the rest of the day unfolding and what panels would be appropriate to have up today. Any more thoughts on that?

Preliminary Matters:

 MR. SMITH: Thoughts, but not -- nothing that will prove to be entirely helpful to you.

 I think we have to see where the gas supply evidence takes us in terms of length. Mr. Shepherd and I have had a discussion. It looks like -- well, I'm quite confident in saying that even if Mr. Shepherd and others take their full allotment of time, that we will be able to complete tomorrow even if we started panel 4 tomorrow.

 So I anticipate having all of my DSM witnesses here today. They are not all here yet, but they will be.

 So I think it really comes down to the Board's preference as to where we are in the afternoon. If it's four o'clock, I would propose we start the next morning. If it's much earlier than that, 2:30, then you may want to take the time.

 But whatever your decision, I think we can be confident that we will finish without having to sit late tomorrow or start early.

 MR. QUESNELLE: Any other comments on schedule?

 You have a witness on the DSM that is in transit as we speak, and may arrive early afternoon?

 MR. SMITH: No, my understanding is the flight has touched down in Pearson, and so I expect whatever it takes him to get through customs and get be, he'll be here.

 MR. QUESNELLE: All right. We'll just let the day unfold as it will, and then we'll take it from there. Thank you.

 Mr. Shepherd, thank you.

 MR. SMITH: So we have, members of the Board, we have Union's third panel, which of course is its gas supply panel. And they will be speaking, obviously, to the gas supply evidence, which can principally be found at Exhibit A, tab 1, as it relates at least to UDC -- although we've probably covered that exhibit -- A, tab 4, Exhibit B, tabs 3 and 5, and Exhibit C, tab 2.

 And with the exception of Mr. Isherwood, I would ask the other representatives on the panel -- from my left, Mr. Wood from Union, Mr. Stephens from Sussex and Mr. Shorts from Union -- to come forward to be sworn.

 MR. QUESNELLE: Thank you. Madam Fry, if you could do that? Thank you.

UNION GAS LTD. – PANEL 3

 **Chris Shorts, Sworn**

 **Matthew Wood, Sworn**

 **Jim Stephens, Sworn**

 **Mark Isherwood, Previously Sworn**

Examination-In-Chief by Mr. Smith:

 MR. SMITH: Mr. Shorts, why don't we start with you?

 I understand that you are the director of gas supply at Union Gas?

 MR. SHORTS: Yes.

 MR. SMITH: And that is a position you have held since 2012?

 MR. SHORTS: Correct.

 MR. SMITH: You have been employed by Union Gas since approximately 1986?

 MR. SHORTS: Yes.

 MR. SMITH: And you have a bachelor of commerce degree from Windsor University?

 MR. SHORTS: Yes.

 MR. SMITH: And you've testified before this Board on a number of occasions before?

 MR. SHORTS: Yes.

 MR. SMITH: Mr. Wood, if I can turn to you, I understand, sir, that you are the manager of system planning and project development?

 MR. WOOD: Yes.

 MR. SMITH: And that's a position that you assumed, at least as it relates to project development, earlier this year?

 MR. WOOD: That's correct.

 MR. SMITH: Prior to that, you were the manager of system planning?

 MR. WOOD: That's correct.

 MR. SMITH: And you have been employed by Union since approximately 2004?

 MR. WOOD: Yes.

 MR. SMITH: And you have an engineering degree from the University of Western Ontario?

 MR. WOOD: Correct.

 MR. SMITH: And you have a master's of management science from the University of Waterloo?

 MR. WOOD: That's correct.

 MR. SMITH: And you testified before the Board in Union's rebasing proceeding?

 MR. WOOD: That's correct.

 MR. SMITH: Mr. Stephens, can I you turn to you, please?

 MR. STEPHENS: Yes.

 MR. SMITH: I understand, sir, that you are a partner with Sussex Economic Advisors; is that correct?

 MR. STEPHENS: That is correct.

 MR. SMITH: What is the business of Sussex Economic Advisors?

 MR. STEPHENS: We are an energy consulting firm.

 MR. SMITH: I understand, sir, that you have a bachelor of science in management and an MBA in concentration and operations management from Bentley College?

 MR. STEPHENS: That is correct.

 MR. SMITH: Am I correct, sir, that you have over 25 years of experience in the energy industry?

 MR. STEPHENS: Yes.

 MR. SMITH: And that you have held various senior positions in consulting firms over that time period?

 MR. STEPHENS: That is correct.

 MR. SMITH: And I understand, sir, that you were previously employed by one or more local distribution companies?

 MR. STEPHENS: That is true.

 MR. SMITH: Can you just describe that, please?

 MR. STEPHENS: Yes. I worked for Boston Gas as a demand forecasting analyst, and then I was promoted to a gas supply analyst, in which I was responsible for natural gas purchasing as well as transportation and nomination of scheduling.

 Subsequent to that, I was named director of gas supply for Colonial Gas Company. That was during the time of FERC order 636, Federal Energy Regulatory Commission order 636, in which a lot of the transportation was being unbundled. And so for the first time, the LDC was buying capacity and gas supply on its own. And so I was responsible for the natural gas demand forecast, as well as the capacity portfolio and gas supply contracts.

 MR. SMITH: I know, being from Massachusetts, you were excited about tonight's Red Sox game, so I'm going to ask you to go slowly to allow for the reporter keep up with you.

 MR. STEPHENS: Thank you. I will.

 MR. SMITH: Can I ask you, sir, in your experience as -- with consulting firms, can you provide an overview of the nature of the work that you have done in your tenure?

 MR. STEPHENS: Yes. So a lot of my project work has been associated with natural gas distribution companies, associated with demand forecasting, gas supply activities, contract negotiations, open season processes, with looking for new capacity. I've also been involved in sort of broader natural gas market studies associated with additional gas infrastructure, such as LNG projects.

 MR. SMITH: And I understand, sir, that you have testified before the Massachusetts state regulator on prior occasions?

 MR. STEPHENS: That's correct.

 MR. SMITH: And can you tell me the areas in which you were called to testify?

 MR. STEPHENS: I was testifying on behalf of Colonial Gas Company for the gas supply portfolio decisions, their long-range demand forecasting plan, and their purchase of the national gas supply contract from western Canada, which included transportation on TransCanada and Iroquois Gas Transmission.

 I've also, as a consultant, been retained by New England Noonan Gas Company to support their natural gas demand forecast filing and gas supply plan for the last three filings.

 MR. SMITH: Can I ask you, sir, in relation to the gas supply planning process, gas supply plan and gas supply methodology generally, how much of your 25 years of experience has been dedicated to that, or those issues?

 MR. STEPHENS: Almost all my experience is associated with natural gas marketing, natural gas demand forecasting, and LDC capacity portfolio work.

 MR. SMITH: And do I take that answer to be that you have spent most of your time around the gas supply planning issue, if I can call it that?

 MR. STEPHENS: That is correct.

 MR. SMITH: Members of the Panel, I would ask that Mr. Sussex -- sorry, Mr. Stephens, my apologies -- be qualified to provide opinion evidence in the area of natural gas supply planning process, natural gas plan development and ultimately the natural gas supply planning methodology?

 MR. QUESNELLE: Thank you, Mr. Smith.

 Any submissions on that request? No? Okay.

 We're fine with that. You that very much, Mr. Smith. We'll accept your witness as an expert able to provide opinion evidence.

 MR. SMITH: Can I ask a very brief examination-in-chief for Mr. Shorts, and perhaps, with the Board's indulgence, just a little bit longer for Mr. Stephens. But before I do that, perhaps, Mr. Shorts, can I ask you whether the panel adopts Union's gas supply planning evidence and the interrogatories asked in relation to that evidence for the purpose of testifying here today?

 MR. SHORTS: Yes, I do.

 MR. SMITH: Okay. Let me ask you, sir, to turn to Exhibit B, tab 5.

 MR. SHORTS: I have that.

 MR. SMITH: And as I understand it, this is Union's pre-filed evidence describing its response to the Board's directive in the rebasing proceeding. Do you have that?

 MR. SHORTS: I have that.

 MR. SMITH: And can I ask you, sir, just to briefly summarize what Union's response was and how Sussex came to be before us today?

 MR. SHORTS: Yes, I can. As a result of the OEB decision in EB-20110210, the Board directed Union to carry out an independent review of its gas supply planning principles and processes. They laid out 11 specific tasks that can be grouped into three basic areas: Gas supply planning principles and processes, peak day design methodologies, as well as cost allocation rate design and deferral accounting.

 Union took those tasks and prepared an RFP, or request for proposal. That request for proposal was shared with the intervenors in that hearing, and Union incorporated and responded to comments from four intervenors who actually had feedback from that RFP process.

 We had also at that point in time shared with them our criteria for selection of the respondents. And as such we actually prepared the final RFP, sent that to all the intervenors, as well as a list of the 13 consultants that we were proposing to send that RFP to.

 We then performed an analysis on the selection criteria after we had received a number of bids from a number of parties, and we actually then awarded the work for task 1 and 2, which was predominantly the areas around design day methodologies and gas supply planning principles to Sussex Economic Advisors.

 When -- and number 3, the area of -- the third area was awarded to Concentric's energy advisors.

 MR. SMITH: And just for completeness, sir, do we have Concentric's report at Exhibit C, tab 3?

 MR. SHORTS: Yes.

 MR. SMITH: And just for completeness, members of the Board, we had canvassed whether parties had questions in relation to that, and they did not that, and that is why we don't have a Concentric witness with us today.

 Mr. Stephens, if I could turn to you and ask you to turn to Exhibit C, tab 2.

 MR. STEPHENS: I have it.

 MR. SMITH: And is this the report prepared by Sussex Economic Advisors?

 MR. STEPHENS: It is.

 MR. SMITH: And was this report prepared by you or under your direction?

 MR. STEPHENS: It was.

 MR. SMITH: And ask I can you, sir, to turn to appendix A of that report?

 MR. STEPHENS: I have it.

 MR. SMITH: And what have you set out at appendix A?

 MR. STEPHENS: So I've provided a brief biography of the project team members.

 MR. SMITH: And the other team members, how were they selected?

 MR. STEPHENS: So Mr. Newman and Mr. Voss as part of the project team had significant natural gas supply planning experience working for a utility in the Midwest, and Mr. Perry is a part of the Sussex team since (inaudible) the firm and has done a fair amount of consulting over the past five or six years.

 MR. SMITH: Can I ask you, sir, to turn to page 6 of your report?

 MR. STEPHENS: I have it.

 MR. SMITH: And I'm going to ask you: What were you retained to do?

 MR. STEPHENS: So as mentioned by Mr. Shorts, the order in EB-20110210 there was a list of elements that Union was asked to address prior to its next filing. So Sussex was retained to address eight of those elements, and the main focus of the Sussex report is: Is the natural gas supply portfolio right-sized, in terms of the design day demand? And so what Sussex looked at was the overall principles associated with the gas supply planning process, the design day demand forecast and how that forecast was developed, the natural gas portfolio assets that are in place to meet the design day demand, and then any contracting decisions that happen on a going-forward basis, what's the process of looking at contracting decisions.

 MR. SMITH: Can I ask you to turn over to page 7?

 MR. STEPHENS: Yes.

 MR. SMITH: And you've set out here a table of sorts, and I'm just going to ask you to explain for the Board what you've set out on the left-hand side of the report relative to what you've set out on the right-hand side of the report.

 MR. STEPHENS: So on the right-hand side they're the elements that are mentioned in the order, in the decision. On the left-hand side is the way that we organize our approach in order to address those questions. And the way we organize it is a way a natural gas supply plan process would logically be developed.

 So I developed a framework in order to answer the questions in a way that a natural gas supply utility would address those issues, and so on the left-hand side what we have here is the way Sussex organized it, or our framework in order to look at the eight elements that were assigned to us.

 MR. SMITH: And perhaps you just covered this, but why did you pick those four particular activities?

 MR. STEPHENS: So from my experience, these four activities are the four major areas a natural gas utility would look at for a natural gas supply plan, and they're sort of sequenced, the order in which they would look at them.

 MR. SMITH: We'll touch on each of those very briefly, but if I can turn to page 10 of the report, I'd like you to look at the heading "the Sussex project approach", and can you just summarize briefly for the Board what was your approach to tackling your assignment?

 MR. STEPHENS: So there are three main areas that we focus on, in terms of gathering information. The first area was having on-site meetings with the Union personnel that were directly involved in the natural gas supply planning process and the implementation of the gas supply portfolio.

 MR. SMITH: And just pausing there, who were those people or what departments were those?

 MR. STEPHENS: So on footnote 7 of the report the groups that we met with range from engineering to legal to regulatory to the gas supply group, so it was a broad-brush approach.

 MR. SMITH: Okay. Second bullet?

 MR. STEPHENS: So in terms of the second approach to data gatherings that we reviewed the Union Gas supply plan documents, as well as their SENDOUT model runs and any additional material that Union had regarding the gas supply plan.

 In addition, we also focused on the order that came out in EB-20110210 and also focused on any of the transcripts associated with the gas supply issues.

 MR. SMITH: And finally, sir, third bullet?

 MR. STEPHENS: So the third bullet, what we wanted to do is develop a benchmarking analysis in order to provide context to the way Union approaches natural gas supply planning to show that -- whether or not the way Union was approaching it was reasonable relative to how other LDCs approach gas supply planning.

 MR. SMITH: Now, can I ask you to turn over to page 11. You have a heading at the top there, "Gas Supply Plan Review – Principles." Do you see that?

 MR. STEPHENS: I do.

 MR. SMITH: And can I ask you generally what are you describing in that section?

 MR. STEPHENS: So this section describes the typical principles that are utilized by a natural gas utility when they're developing a natural gas supply portfolio and plan.

 MR. SMITH: What are those principles?

 MR. STEPHENS: So the two major principles are the balancing of reliability and cost.

 MR. SMITH: And just picking up on -- well, before we come to that, how does Union -- or how do Union's gas supply planning principles compare in your assessment to other LDCs?

 MR. STEPHENS: So they are consistent with what we reviewed on a benchmark analysis and from my experience, as well.

 MR. SMITH: Two things I would like to just draw to your attention. On page 12, last sentence of the second paragraph you talk about gas supply diversity having different meanings and being accomplished in various different approaches. What is it that you are describing in that sentence, sir?

 MR. STEPHENS: So the sentence here describes both the -- how the LDC achieves a balance of reliability and cost, and the way that it's done is through a diversity approach, whether it's a gas supply basin and having multiple gas supply basins, whether it's having multiple access to different pipelines, or it's through staggered contract terms. All that sort of comes together as a balance of reliability and cost.

 MR. SMITH: Is that similarly reflected at the bottom of page 12?

 MR. STEPHENS: Yes.

 MR. SMITH: Can I ask you then to turn to page 15 of your report? And you have a heading there: "Gas Supply Plan Review - Design Day."

 What is the significance of design day and what are you describing here?

 MR. STEPHENS: So the significance of design day is that in order to determine what level of resources the LDC needs to contract for, it needs to first forecast a design day load.

 So the importance of design day is it really drives the level of natural gas assets that are going to be required to serve -- in the portfolio to serve design day demand.

 MR. SMITH: Did you assess Union's design day forecasting methodology?

 MR. STEPHENS: I did. So we looked at both the weather standard, in terms of what's the design day weather; we also focussed on how Union calculates the use per degree day in order to forecast design day load, and we also looked at the alignments between Union South and Union North in terms of their approach to design day. And then we also benchmarked that approach against the way other LDCs approach design day forecasting.

 MR. SMITH: Broadly speaking, what were your conclusions in that respect?

 MR. STEPHENS: So in terms of Union South and Union North, we found that the approach was aligned, so it was consistent, and in terms of the way Union does it relative to other LDCs it was also consistent with the way LDCs approach design day forecast.

 MR. SMITH: Moving over, sir, can I ask you to turn to page 25 of your report?

 Here, you discuss the development of the gas supply plan, and you talk about the concept -- well, let me maybe just ask you the question. What are you describing here in this section?

 MR. STEPHENS: So in this section we're reviewing, once the design day demand, you have an idea what your load is, what is your approach in order to find natural gas assets to serve that load. So overall, what is the approach, what is the plan to serve design day.

 MR. SMITH: And looking at the bottom of the first section, you say:

"Sussex will address Elements two and six from the OEB Decision and Order..."

 And the first is to "determine if the planning principles are objectively applied and the result is a gas supply plan that is 'right-sized'."

 What is it that you mean by "right-sized"?

 MR. STEPHENS: So one of the things -- and I'll actually speak to both of these. The issue, as we viewed the order, was that the focus is whether or not the Union gas supply plan is -- meets the design day load, and is it therefore rightly sized. In other words, is the appropriate level of assets in the portfolio to meet design day demand?

 And that is really sort of the link between design day demand and the portfolio, is you have sufficient assets in terms of volume and level to meet design day load.

 MR. SMITH: Okay. And you say "sufficient." What were your conclusions in respect to the right-sizing -- if that's a term -- of Union's gas supply plan?

 MR. STEPHENS: For both Union North and Union South, we concluded that the gas supply portfolio was right-sized in the sense that it was able to -- it had a sufficient level of assets, volume-wise, to meet the design day load forecast.

 MR. SMITH: You've talked about "sufficient." Does it have excess assets, in your opinion?

 MR. STEPHENS: It does not.

 MR. SMITH: Can I ask you to turn to the contracting analysis that's found on page 33?

 Just briefly, what is it, sir, that you were asked to review or did review at that portion of your report?

 MR. STEPHENS: So what we reviewed here is when there's a contracting decision in the Union gas supply portfolio, what approach does Union take and is that approach consistent with the way other natural gas utilities approach recontracting decisions.

 MR. SMITH: And your conclusion?

 MR. STEPHENS: It was consistent.

 MR. SMITH: Can I ask you to turn to page 39? You have a section there, "Gas Supply Plan Review - Organization."

 As I understand it, you there looked at the relationship between Union's gas supply function and its S&T functions; have I understood that correctly from your report?

 MR. STEPHENS: Yes.

 MR. SMITH: You say, sir -- in the first paragraph you talk about what LDCs typically do, and can you just describe, in your experience, what LDCs typically do around this area?

 MR. STEPHENS: So once an LDC has a portfolio that is assembled in order to meet design day load, there is opportunities then to mitigate demand charges.

 Post -- on the US side post-636, all the transportation contracts are what's called a straight fixed variable rate design, which means they're demand-charge-based, and so you have fixed charge exposure.

 So once the portfolio is assembled, what the LDC will do is provide an optimization or a demand charge mitigation approach, in order to take advantage of opportunities in the marketplace to reduce the demand charge costs.

 MR. SMITH: What is the relationship -- sorry, before we come to that, how do LDCs do that, in your experience?

 MR. STEPHENS: So there are three main areas.

 The first one is the LDC can do it themselves, in-house, where they have the resources in order to re-market capacity, re-market supply, and therefore earn revenue to put against their mitigation demand charges.

 Another approach is they may outsource this activity to a third-party marketing company under an asset management agreement, where the third-party marketing company would provide a sharing mechanism where they would -- say, 60/40, where the utility gets 60 percent and the marketing firm gets 40 percent of all the earnings associated with a mitigation of demand charges.

 And the third option would be to have an affiliated entity provide that function.

 MR. SMITH: Where does Union situate itself in that constellation of options?

 MR. STEPHENS: Union is a little bit of a hybrid, and they're somewhere between doing it in-house and doing it with a marketing affiliate. They have -- currently they have an S&T group that is market-facing, that's involved in non-regulated activity where they sell storage and other services. That group also mitigates the demand charges for the gas supply plan.

 So it really is sort of taking the benefits of an entity that's already in the market and having them optimize or mitigate demand charges on behalf of the gas supply plan.

 MR. SMITH: In your professional opinion, what was your assessment as to the appropriateness of that by Union?

 MR. STEPHENS: The way it was organized, the approach to market was reasonable and appropriate.

 MR. SMITH: Can I ask you, sir -- you've described this mitigation activity that takes place, but what is the relationship between that, in your opinion, and the gas supply plan itself?

 MR. STEPHENS: So the mitigation of the gas supply plan is a secondary activity to actually developing the gas supply plan.

 The first step always -- and the sequence is step one, step two. Step one is having a natural gas supply portfolio in place to meet design day demand.

 And once that is structured, the utility then would take that structure, and on any given day or any given month, try to mitigate the demand charges associated with that on a daily, monthly, seasonal basis.

 But it really is a sequence of step two, and step two never influences step one. Step one, which is the development of a natural gas supply portfolio, really is based on design day demand.

 MR. SMITH: Maybe you answered this in your last comment, but I was going to ask you: In your opinion, would it be appropriate to include that step two in step one?

 MR. STEPHENS: No, it would not.

 MR. QUESNELLE: Mr. Smith, could I ask a question of the witness, just to follow up on yours, of course?

 You've just suggested -- or you've provided your assessment of being reasonable, the arrangements that Union has taken and the hierarchy of the steps that they take. Now, in your assessment of reasonableness, how common is it? I'm wondering how you've tested the reasonableness of it.

 Is this something you see very often? You mentioned it's a hybrid and halfway between two of the typical arrangements you would see, but is it very common?

 MR. STEPHENS: It is common, but it also fluctuates in the sense that sometimes the market conditions are such that you'll have more asset management arrangement deals, because you'll had more marketers that want to get involved in providing asset management services. You may have market conditions that are conducive to having asset management arrangements.

 There are other times when you have in a marketplace

–- you may have consolidation of marketers. You may have market conditions that flatten the basis or flatten any volatility.

 And so the ability to have an asset management arrangement is reduced, associated with the marketplace condition as well.

 That being said, so we've seen all of the above. We're seeing natural gas utilities that use affiliates in order to manage the wholesale natural gas supply portfolio after the LDC develops the plan. So you may have four or five LDCs that are within one entity. They each develop their own natural gas supply plan, and there's a wholesale marketing company that's affiliated with those four LDCs, but that manages the entire portfolio for those four LDCs, in terms of value back to the LDCs.

 That again is based on the LDC first developing a gas supply plan and then providing the assets to the wholesale affiliate.

 We've also seen -- and on the prior panel I think the panellist there was speaking to how BP was also involved in asset management. We have some of the larger players come and go, depending on their sort of corporate focus and, again, market conditions.

 MR. QUESNELLE: And the treatment of the revenues that are generated, is the fashion which Union is proposing in this application, is that a common approach?

 MR. STEPHENS: So I'm not 100 percent understanding the Union approach. What I can tell you is that under an asset management arrangement deal, you would have a third-party marketer, and they do the sharing arrangement. They would have their 40 percent, and that would be to them, toward their margin, so that would be all margin for the third-party marker.

 The 60 percent then would go back to the utility and be shared under some sort of structure that would be approved by the state or a provincial regulatory commission. So there would be two components under an asset management deal that gets sort of allocated.

 MR. QUESNELLE: Thank you.

 MS. FRY: Yeah, just to follow on, I think you just said that you're not 100 percent understanding of the Union approach. Can you just tell us what the limits of your understanding are?

 MR. STEPHENS: So I know that under the current approach that is part of the IRM mechanism, in terms of how the value that is earned is treated as sort of an entire bucket, and under -- so the going-forward approach, it may be treated as a 90/10 sharing, depending on which assets have been mitigated. So that's sort of my understanding of -- but in 2012 was treated sort of entirely under IRM.

 MR. SMITH: And by "IRM" you mean earnings sharing --

 MR. STEPHENS: I'm sorry. Earnings sharing mechanism --

 MR. SMITH: -- incentive regulation? Is that what --

 MR. STEPHENS: Incentive regulation, yes.

 MR. SMITH: Sorry, my apologies.

 MR. QUESNELLE: Thank you.

 MR. SMITH: No further questions.

 MR. QUESNELLE: Thank you, Mr. Smith. Mr. Quinn, or are you up next, Mr. Brett? You're --

 MR. BRETT: We sort of shift that burden around, Mr. Chairman.

Cross-Examination by Mr. Brett:

 MR. BRETT: Good morning, panel. My questions really are going to centre on the Sussex report, so I'll have a number of questions for you, Mr. Stephens. And the only other document you'd really require --

 MR. SMITH: Sorry, Mr. Brett. My apologies. There was one other question I wanted to --

 MR. BRETT: Sure. Go ahead.

 MR. SMITH: If I could.

Continued Examination-In-Chief by Mr. Smith:

 MR. SMITH: Just very briefly, Mr. Shorts, there are a number of recommendations in the Sussex report. Union has received those, and what is Union doing in relation to that?

 MR. SHORTS: Union received and reviewed the recommendations from the Sussex report and has agreed to them and is adopting them and putting them into practice as we speak.

 MR. SMITH: Thank you. Those are my questions. My apologies.

Continued Cross-Examination by Mr. Brett:

 MR. BRETT: Okay. So in addition to the Sussex report, the only other piece you'll need, I think, would be the interrogatories of my client, which are number D, that's D as in dog, D3.2 through until D3.12. I think those are the only documents I'll be referring to.

 Now, Mr. Stephens, do you have your report in front of you? I guess you do.

 MR. STEPHENS: I do.

 MR. BRETT: In your -- if you turn to page 1, you talk about -- and you already explained this to everyone -- the substance of the report, the approach you took. And the bulk of your report, of course, deals with the principles

-- I think it's eight of the 11 points that the Board set out in their decision 0210.

 But then you say in the second paragraph:

"In addition to the above issues outlined by the OEB, Sussex also reviewed the Union approach with respect to extracting value from gas supply assets (i.e. upstream transportation capacity contracts)."

 And just briefly, was that -- I didn't see reference to that in the scope of work documents that I looked at, which included an RFP response from you, a pro forma consultant's agreement from Union, and a revised, sort of scaled-down scope of work, very brief document from you to Mr. Ripley, I believe it was.

 Now, is that an add-on, or was there some subsequent instruction to do this? How did that arise?

 MR. STEPHENS: So during the process of having the on-site interviews we were -- discussed the sort of gas supply with many different functions, and in one of the sessions we sort of talked about what other approaches have been -- or are being utilized, the same conversation we sort of just had with the panel. So the thought was maybe it would be a good addition to add some discussion in the report around the different alternatives that are in the marketplace in terms of how to mitigate demand charge and what approaches are being used by different LDCs in order to address the market regarding mitigation of demand charges.

 MR. BRETT: Fair enough. Now, just picking up on one of the points in the examination in-chief, I gather from your report that some of the -- now, you've examined a number of LDCs in this study with -- in respect of certain matters. And obviously from your experience you've had exposure to those and perhaps others.

 You mentioned when you were discussing with Mr. Smith the -- your last -- this piece of work we were just discussing, this last piece of work on the various structures that LDCs use to mitigate unabsorbed demand charges. You mentioned that some of the LDCs do it themselves, that that is one option; right?

 MR. STEPHENS: Yes.

 MR. BRETT: Is that -- I mean, are there a number of LDCs that do it themselves?

 MR. STEPHENS: So as I mentioned, yes, there are, and it sort of changes. Some LDCs will have the function in-house, some will have an asset management agreement in the following year. I think it really does depend on the market conditions and whether the LDC has the staff in-house or take advantage of those or whether they have decided to do an asset management arrangement.

 So they can have -- their policy to it can change --

 MR. BRETT: Fair enough.

 MR. STEPHENS: -- over time -- it has changed over time.

 MR. BRETT: Now, if they do it themselves -- and you talked in terms of mitigating demand charges, pipeline demand charges. If they are able to do some transactions and earn some revenues, I take it those revenues flow through into mitigating the existing demand charges on the pipelines; is that correct?

 MR. STEPHENS: So we didn't look at -- when we did the benchmarking analysis we didn't look at whether or -- how the LDCs were doing their margin sharing. So we didn't sort of review our --

 MR. BRETT: All right. That wasn't part of the --?

 MR. STEPHENS: It was not, sir.

 MR. BRETT: All right. And so when I -- if you turn to page 3 -- page 41 of your -- the last page of your study, I think Mr. Smith asked you a bit about this. Then you say this -- I want to look at the last paragraph. And I'm just going to read it out and ask you a couple of questions:

"In summary, while there are various alternatives used by LDCs to extract value from the gas supply portfolio assets the main differences in approach are: 'in-house' versus 'out-sourced' and value drivers, that is, incentives. The current approach utilized by Union to extract value leverages the core competencies of Gas Supply and S&T, is consistent with other approaches used by LDCs (e.g., asset management arrangements), and, based on the experience of the project team, is reasonable."

 Now, when you say it's reasonable, is it fair to say there that you're talking about the fact that it's a reasonable structure and it's a reasonable approach from a rather -- from a -- if I can -- want of a better word, a rather high-level approach? In other words, you don't get down in this document into discussing, as you said yourself, the details of the individual measures that Union takes to mitigate and absorb demand charges or whatever.

 But when you say "reasonable", you are talking there about Union's method, its organization, the people that it involves, are comparable to other utilities, and in that sense it's reasonable. Is that fair?

 MR. STEPHENS: That's correct.

 MR. BRETT: All right. Now, so -- and not to put too fine a point on it, but you're not really here to discuss the proper characterization of any revenues that Union obtains or the split in attribution of revenue between the ratepayer and the shareholder. That's not what you are here to do.

 MR. STEPHENS: That's correct.

 MR. BRETT: Now... All right. Let me just switch for a moment. Well, let's carry on that theme just a minute longer. If you go to D3 -- that's our interrogatory D3.12.

 And again at the risk of maybe being a bit repetitive, we had asked the question -- well, first of all, I had quoted something that the Board said in 0210 very briefly. In that decision, the Board said by way of preamble:

"Although the issues of optimization and natural gas supply planning are listed separately on the Issues List, it is evident to the Board from this proceeding that the issues are in fact interrelated."

 And I asked the question:

"In concluding that the gas supply portfolio, including transportation, is appropriately sized, did Sussex examine the impact on the gas supply plan of Union's optimization activities, including the use of FT RAM? If Sussex did not examine the plan from this perspective, please explain why it did not."

 And you then go -- you go on to answer the question, and I think you clarify the scope of the mandate. You say -- and I'm looking at your first paragraph of your response, the last sentence:

"Accordingly, with respect to the determining if the Union Gas supply portfolio was appropriately sized, Sussex focused on this issue."

 "This issue" being that it would deal properly with expected design day demand and not the impact of optimization activities.

 So that's really you saying what you said a moment ago?

 MR. STEPHENS: That's correct.

 MR. BRETT: Okay. Now, on the substance of the plan, one of the parts that -- one of the points you made, and we asked you an interrogatory about it and that interrogatory is -- you might want to have that handy here. It is, yes, it's D3.10. I think I can just ask the question without getting into the detail of it.

 In your report, you basically say that in the -- you differentiate between Union North and Union South in terms of the role of the -- or how the gas supply plan fits into the overall scheme of things.

 In Union North, you say -- for Union North, you say it's a direct input into the -- you do a gas supply plan and that is the gas supply plan for Union North.

 In Union South, you say you do a gas supply plan for distribution, but then that is only part of -- that becomes an input, this what you call Union's transportation -- sorry, integrated physical natural gas delivery program. Now, that's at page 21 of your report, if you want to look it up.

 But in any event, my question is: In the south it's a little different, and I take it your -- that's because Union South contains major assets that are used throughout the company, for one thing, the storage assets, and also because Union South has a -- although we don't call it that in so many words, it has a major transmission component to it; is that fair?

 MR. STEPHENS: The approach utilized by Union to forecast design day demand for Union South and Union North is consistent in terms of they use the exact same components to forecast design day demand.

 In Union South, that demand then gets -- is part of the natural gas storage and transmission plan, that then has to account for, as you mentioned, some of the ex-franchise activities and some of the other parts of the overall storage and transmission plan.

 MR. BRETT: Did you have an opportunity to examine that plan as part of what you were doing?

 MR. STEPHENS: I did not. It was not part of the project.

 MR. BRETT: All right, but is it your understanding is -- or -- all right. Not part of the project, but --

 MR. STEPHENS: But I can clarify that. In terms of trying to determine whether the natural gas supply portfolio is right-sized, I did not need to look at the storage and transmission plan.

 MR. BRETT: But is your understanding that there is such a document?

 MR. STEPHENS: I believe that there is a model process that is used by Union Gas in order to bring those inputs in and then develop sort of what is required by different customers.

 MR. BRETT: Perhaps I can ask, then, Mr. Shorts or Mr. Isherwood -- the model I'm aware of, to some degree. Do you actually put out a document that is entitled something like "Integrated physical natural gas delivery plan"?

 MR. ISHERWOOD: It may be helpful, Mr. Brett, but Mr. Wood is very familiar with that process.

 MR. BRETT: Mr. Wood?

 MR. WOOD: We don't actually -- I wouldn't say that there is a plan as a physical, single document.

 The inputs from design day analysis go into our synergy model, which is a proprietary software program. It's a network modeling program. So we use that to model all the demands on the system, and the results of those models go back to the gas supply group to be incorporated into their plan.

 MR. BRETT: So it's a sort of an iterative process. So that means -- does that mean, Mr. Shorts, that the gas supply group, having done an initial cut at a plan for design day, would then get feedback from this overall -- from this modelling activity, and it might then revise its plan?

 We're talking about Union South now.

 MR. SHORTS: In the Union South, the gas supply plan is based on average day. So we would not necessarily have to worry about the peak day, because we really design it for everything to flow at a hundred percent load factor.

 So from our perspective, we would provide to the distribution and planning group the results of the gas supply plan, to state that what we needed and what the transportation we had contracted for was sufficient to meet our annual needs in the south.

 We don't have to actually contract separately or differently to meet peak day needs in the south. That's really incorporated into the distribution system planning model.

 MR. BRETT: So really the concept of peak day and contracting for peak day or design day is not, really not relevant to the south's operational plan?

 MR. SHORTS: In the south gas supply plan, basically we have all the inputs in regards to how much storage we would require, and that is -- all works out to why we do a hundred percent load factor average model in the south, and we don't actually get involved or required to meet the peak day.

 MR. BRETT: I was going to ask, actually, to see if you had a copy of this plan. And I know in the past you –- there are IRs on the record asking you about information that comes out of these models.

 Is what you are saying is you don't really have a single document? Or you just have a bunch of printouts from a model that --

 MR. ISHERWOOD: Are you asking about the gas supply plan or the Union Gas transmission and storage plan?

 MR. BRETT: I'm after the latter.

 MR. ISHERWOOD: Latter.

 MR. BRETT: The Union Gas integrated -- or plan.

 MR. WOOD: We don't have a single document that would be an outcome of that. It is a little iterative.

 We do provide -- probably the best example of what comes out of that plan would be -- we have a document we've provided in the past. I don't think we did as part of this hearing. It's a transmission line map that shows what the demands are at each location. We have provided that in the past.

 That would be the closest thing we would have to a formal document.

 MR. BRETT: And that is a transmission line map for the north and south franchises?

 MR. WOOD: For the south, for the Dawn-to-Parkway system.

 MR. BRETT: For your own system?

 MR. WOOD: Correct.

 MR. BRETT: Would it be possible to see that, to have that filed here?

 MR. SMITH: Yes, we'll do that.

 MS. SEBALJ: It's J2.3.

UNDERTAKING NO. J2.3: to PROVIDE TRANSMISSION LINE MAP FOR UNION SOUTH FRANCHISE.

 MR. QUESNELLE: Thank you.

 MR. BRETT: Now, Mr. Stephens again.

 Given the fact that you've done the gas plans for the north and south, and you've done it on a basis of assessing the -- what's necessary to properly deal with the peak demand in the north and the annual demand in the south. You've said to us that really you're not an expert in the details of Union's mitigation efforts or the precise sorts of transactions it enters into, the revenues it incurs and so on.

 When you're looking at a plan -- now, you've heard a little bit of testimony, I think, in this case that Union used to at one point, going back a couple of years -- I believe they stopped this in 2000 and either 11 or 12, but there is evidence that suggests that in earlier years Union had assigned capacity on certain upstream pipelines for a year on an annual basis. Do you recall that?

 MR. STEPHENS: Yes.

 MR. BRETT: Now, if you were looking at this plan -- and now, of course, they don't. We've heard a lot of recent testimony on that, but if you were looking at a plan a couple of years ago -- just hypothesize with me -- and you observed that the LDC had contracted a portion of its capacity on upstream pipelines for a period of a year, would you have concluded that that plan was -- had excess capacity?

 MR. STEPHENS: So when you look at the gas supply plan, and the focus is, are there assets in place to meet design day demand, again, step 1; and then how the utility either themselves or through an asset manager decides to manage that plan on any given year, any given month, there could be many different processes or outcomes associated with that.

 But the first step really is, are the assets sufficient in place to meet design day demand. And then -- so for example, if Union had outsourced this portfolio to an asset manager, the transactions the asset manager would have done never would have sort of been provided to Union. All's it provided to Union is the gas supply requirements where they are needed, as they are needed, in any revenue sharing.

 MR. BRETT: What about the case where Union -- where the LDC does it itself?

 MR. STEPHENS: I need a little bit more, please, in terms of...?

 MR. BRETT: Well, were the LDC actually -- where you don't retain a gas supply manager, a third party gas supply manager, but the LDC itself, as in Union's case, decided to assign capacity for a year, in that case Union would, of course, be knowledgeable about what they did, because it would be them doing it. So how do you assess that?

 MR. STEPHENS: So in terms of whether or not an LDC would have to have their resources available for design day demand. If not their resource, they'd have to have a commercial arrangement in or to have design day met by those resources that are not being utilized. And so --

 MR. BRETT: You are saying then that any kind of arrangement or contract that they would make would have to have a hook on it in some way or other or they would have to have some alternative, some backup plan in place, to --

 MR. STEPHENS: Meet design day demand. That's correct.

 MR. BRETT: Now, are you familiar at all with this phenomenon that Union -- well, Union has STS service as well as FT service on -- you looked at that, their STS service as part of their FT contracting during your analysis of their contracts?

 MR. STEPHENS: Yes.

 MR. BRETT: And are you aware of this notion of the utility being able to garner -- first of all, are you aware that the withdrawal rights under STS, the withdrawal rights from storage, are based on -- they are sort of earned by the amount that you inject into storage? There's a relationship there? Are you aware of that in a general way?

 MR. STEPHENS: Yes.

 MR. BRETT: And therefore you're aware that if you had a very mild winter, warm winter, warmer-than-normal winter, then the subsequent summer, spring and summer, you may have -- the utility may have an excess, if you like, of withdrawal credits, storage withdrawal credits. Does that ring a bell with you?

 MR. STEPHENS: Yes.

 MR. BRETT: And then that would then give the utility the ability, would it not, to contract -- to be more aggressive in its contracting, in terms of mitigation for the subsequent year? Does that make sense to you in a general sort of way?

 MR. ISHERWOOD: I should correct that, Mr. Brett. In terms of -- there is definitely a TCPL does keep track of the number of molecules going into storage and out of storage, but that doesn't necessarily impact the amount of excess capacity you have on a temporary basis. That's more based on what's happening on the day. And I think you are getting to the FT RAM credits, and that's really based on the capacity that is not being used on that day. It's a different credit if you want --

 MR. BRETT: All right. Okay. I -- let's leave that.

 I just really have a couple of other areas for you, or other questions.

 Let's deal with your recommendations for a moment. You had a number of recommendations, Mr. Stephens, that you made for Union, and one of them that I want to talk about for a moment is the -- let's look at your executive summary, because they are set out in there.

 And on page 4 of that, just a high-level summary of this, you said at page 4 of the executive summary that Union should develop a gas supply memorandum which really explains how they get to their gas supply plan, and it provides for some background, some regulatory background, on upstream transportation and so on. It's set out there in those two bullets, the top of page 4.

 Now, when was this recommendation -- this recommendation was made -- this was published back in about April, wasn't it?

 MR. STEPHENS: That's correct.

 MR. BRETT: And, now, Union Gas, Mr. Shorts, do you have a -- have you done this -- followed this recommendation set out here? Do you have a gas supply plan memorandum that incorporates some of these -- the factors that are in these two bullets that's available for next year?

 MR. SHORTS: We are putting together the package that we will present at the IRM session in the spring of next year, and an ongoing April of each year for the IRM term. We are working on exactly what that memorandum would look like.

 MR. BRETT: Okay. So your plan is that the first one would be for the period for what, calendar 2015?

 MR. SHORTS: What we will be presenting in April will essentially be the summation of the plan for '13/'14, as well as the expectation for the plan that will be starting November 1 of '14, going forward.

 MR. BRETT: Okay. And that -- I think at the moment there is some evidence that you have a five-year rolling plan that's renewed every year? Is that --

 MR. SHORTS: Yes, that's correct.

 MR. BRETT: But that plan -- I think we've been over this ground before. It seems familiar. But that document has not been filed, has it, in a case?

 MR. SHORTS: Well, what the gas supply plan is is a series of financial and volumetric schedules, as well as the evidence that, for example, was provided in the last rebasing hearing.

 MR. BRETT: Okay. So there really isn't -- and I guess that's part of the reason for this recommendation. There isn't a sort of a narrative piece that pulls it all together, provides some of the background and context, and then goes on to provide the substance of the plan. That doesn't exist at the moment. That is what you are going to be doing for next spring.

 MR. SHORTS: That's correct.

 MR. BRETT: Okay. Now, just another -- two other areas, and they are both -- Mr. Stephens, this is back to you now. I notice that you -- in your -- you have a number of utilities that you looked at for benchmarking purposes in your analysis, and I think you state in -- and I don't think you need to turn it up, but if I can find it if you need to find it. But -- if I need to find it. But I think you stated in response to one of our IRs that about 12 of those utilities have integrated resource plans. They use a -- they kind of derive their information for their gas plan in part from an integrated resource plan; is that right?

 MR. STEPHENS: That's correct.

 MR. BRETT: Yeah. Now, I don't know, does Union have an integrated resource plan that you looked at to develop -- that you assess any integrated resource plan of Union's, or as far as you're aware do they not have one?

 MR. STEPHENS: So one of the issues of the recommendation is that Union has all the information associated with any resource plan, but it wasn't sort of pulled together in a narrative document that I was able to provide an overall story and approach to the marketplace, regulatory conditions, design day demand. What it was behind design day demand, any gas supply portfolio, changes that could be upcoming.

 So that really was the intent. All the information was there, but it just wasn't put into any sort of narrative that could be distributed.

 MR. BRETT: Would you agree with me that -- and your knowledge of this will be much broader than mine. But an integrated resource plan essentially is a plan that takes into account demand-side as well as supply-side assets, effectively; is that fair?

 MR. STEPHENS: Yeah. Most integrated -– yes, integrated resource plans do consider demand-side management. It can be considered either in a sort of trend equation where, if you have over time, you have a trend line that's becoming a little bit flatter because of more efficiency built into that, or it can be a deduct from sort of natural demand forecast, depending on how the utility wants to approach it.

 MR. BRETT: Right. Now, can I ask you to turn to -- I would like to ask you this, Mr. Stephens, and –- no, I think actually this is not -- let me ask you this. Let me first start with Union.

 Mr. Isherwood or Mr. Shorts, you're aware, I think, that in both the 0087 case and the 0210 case, the Board raised the issue -- they raised -- they didn't answer it, but they raised the issue of whether optimization of the gas supply plan is simply a matter -- is an integral part prudent utility practice and should be undertaken by Union without the payment of an incentive. You're aware of that? You recall those words, or something to that effect?

 MR. ISHERWOOD: Yes.

 MR. BRETT: As I say, they didn't answer it. They just said it wasn't an issue in each -- either of the prospective proceedings, but...

 MR. ISHERWOOD: I would say, Mr. Brett, I guess the answer was a 90/10 sharing. So they identified it; they didn't evaluate, but they landed on the 90/10.

 MR. BRETT: I agree with that. I agree with that.

 As I say, I don't recall, actually, other -- I don't recall, before the Board actually came out with a decision, that there was a great deal of discussion of that option, that is to say no sharing, simply the concept -- of that concept. What is your view of that?

 MR. ISHERWOOD: Our view of that, Mr. Brett, is during the incentive regulation time line, it shall be treated as revenue at a hundred percent, as filed in this proceeding.

 MR. BRETT: Now, Mr. Stephens, you've looked at a number of these other LDCs. And I think I asked you earlier on about the relationships that they had, and you spoke in terms of unabsorbed demand charges and mitigating unabsorbed demand charges when you first introduced this subject.

 To your knowledge, do some of the LDCs, particularly

-- now speaking here LDCs that do their own asset management or their own extraction of value from transportation assets, do some of them do it solely on the basis that -- some of them do it just as a part of prudent utility practice? In other words, it's just something you do?

 You have some un-utilized assets or you have some surplus, temporary surplus assets. You, as the LDC, decide you are going to go and try and earn some revenue from those assets to offset -- to either offset the -- well, to offset the overall costs of your transportation assets?

 MR. ISHERWOOD: Mr. Brett, just maybe to clarify the terminology before Mr. Stephens answers that question, this morning we talked about two kinds of activity we do.

 One is mitigation, in terms of we have too much supply, so we then try to mitigate the UDC. That benefit goes a hundred percent back to the ratepayer.

 MR. BRETT: No, I understand that. I guess I asked the question to Mr. Stephens, though. I understand what your view is and I think you've made it perfectly clear, but I'm really interested in whether Mr. Stephens has -- and maybe you haven't, but I'm interested in whether Mr. Stephens has seen, in his analyses of other gas LDCs situations, situations where they have simply optimized the gas supply plan, what you called optimization of the gas supply plan or, in your words, extracting value from -- from transportation assets, whether you've seen an LDC do this as simply by part of prudent utility practice. In other words, the costs of doing it would be a cost of the utility, a recoverable cost, and the revenues from it would flow to offset commitments or costs incurred for upstream assets.

 MR. STEPHENS: When we do the benchmarking analysis, we did not look at any of that information associated with what is, if any, any sort of margin sharing approach or any sort of revenue generation allocation associated with mitigation of demand charges.

 MR. BRETT: I understand that. And I guess the question was I seem to recall, reading your qualifications, that you had looked in the past at –- you had assignments in the past, speaking very generally, on -- about asset management and valuating asset management programs. And I thought perhaps that you might have looked at some asset management programs that the LDC itself was carrying out, which was one of the options. I was curious as to whether in any of those circumstances, some of the LDCs had just done this as a part of prudent utility practice.

 MR. STEPHENS: Most of the cases I've seen is whether the LDCs assigned to –- outsource to an asset manager, and if so, what is the process of utilized the outsource to the manager, and what's the commercial structure around that.

 So for example, if an LDC -- what my project were associated with, an LDC determining: Okay, we're going to outsource this to outsource manager, first of all, what's the RFP process to sort of make that happen. And then what are the value drivers that we should be asking for in the commercial range, or what type of sharing.

 MR. BRETT: Fair enough. You've answered that twice now, and that's fine.

 What about in situations where the LDC doesn't hire an asset manager, where they're doing the activity themselves?

 MR. STEPHENS: So my experience, there have been several different incentives.

 For example, there are a couple of LDCs that have incentive to increase on-system non-firm transport. So that would be transport to oil customers, or customers that can have either fuel. For that, they have one incentive.

 There's another incentive associated with capacity release, and it may have been a sort of benchmark. So if you achieve a certain benchmark over that, you had a different incentive. But you had a threshold you had to achieve first.

 So there many different structures associated when LDCs are doing it, and whether it's associated with just capacity, on-system load, or other activities. So some have been just different structures.

 MR. BRETT: All right. Thank you very much. Those are my questions.

 MR. QUESNELLE: Thank you, Mr. Brett.

 It's going onto 10 to one. Why don't we take our lunch break now? And we'll start again at two o'clock. Thank you.

 --- Luncheon recess taken at 12:48 p.m.

 --- On resuming at 2:02 p.m.

 MR. QUESNELLE: Good afternoon. Please be seated.

 If there is nothing else we'll carry on in the order, and Mr. Quinn, are you up next, or Mr. Thompson? Mr. Quinn?

 MR. QUINN: Yes, I am, sir.

 MR. QUESNELLE: Thank you.

 MR. QUINN: I'd held Ms. Sebalj up just to -- before just to figure out how much Board Staff has in terms of timing. Do I understand correctly, just making sure we handle the process, Mr. Smith, is the DSM panel sitting this afternoon?

 MR. SMITH: Well, they are here. I had understood, based on the most recent canvassing of estimates, that it was improbable that they would be called, in that I think the current estimate when I added it up was in the neighbourhood of two hours-ish, which, I don't think it makes a lot of sense to put them on at four o'clock, but...

 MR. QUESNELLE: The Board agrees with you.

 MR. SMITH: Not my decision.

 MR. QUESNELLE: No, I think that would make sense, if we go as late as that, Mr. Quinn, we might as well start fresh in the morning. The Panel has discussed it. We certainly, looking at the estimates, accept that we won't be at any risk of running over tomorrow if we leave the whole DSM cross for tomorrow.

 MR. QUINN: Thank you, sir. I just want to get that clarification, because I was going to ask the question. Is there a natural break time? I have my cross-examination parsed out, and to the extent that I get finished in 90 minutes, that might be great, but if it's longer or shorter, is there a time you had in mind as to when you might want to take a break?

 MR. QUESNELLE: Well, typically we go, you know, quarter after three, given we're back at two o'clock, or so, so I'll leave it to you. In that range somewhere. Come close to that, and it's a good break for you, that's fine. Just let me know.

 MR. QUINN: Okay. I'll keep that in mind. Thank you, sir.

Cross-Examination by Mr. Quinn:

 MR. QUINN: Good afternoon, panel, and thank you, Mr. Stephens, for coming over and introducing yourself, so you know I'm Dwayne Quinn and I represent the Federation of Rental Housing Providers of Ontario. And we certainly have interest in what this panel has to say, and I hope that we can work together to try to stay in a reasonable time frame.

 I want to start, I guess, where I left off in part yesterday with the previous panel and ask that -- if Exhibit D8.42, attachment 1 could be pulled up, please.

 MR. ISHERWOOD: Mr. Quinn, can you repeat that? D8?

 MR. QUINN: D8.42, attachment 1.

 Now, I discussed some of this predominantly, I guess, with Ms. Piett, and she -- I had asked about some of the content in here, and I understand Mr. Wood may be the person who'd be responsible for this, but we had some discussion about column E being the market -- sorry, column D being the peak day requirement design day.

 First off -- and I guess I'm going to get this order straight here. As I understand it, Mr. Wood, the design day would be something that is calculated using your heating degree days for the EDA in this case?

 MR. WOOD: That's correct.

 MR. QUINN: Now, the market requirement, Ms. Piett referred to -- I don't want to put words in her mouth, but I believe the word in the transcript was "a forecast". Could you explain specifically how column E was provided?

 MR. ISHERWOOD: I thought she was going to check on that, actually, because I think there was some discussion whether it was actual or market.

 MR. QUINN: Okay. And that's --

 MR. ISHERWOOD: Sorry, actual or forecast. Sorry.

 MR. QUINN: That was the discussion, but I thought she referred that this panel would be better to handle it. Maybe it's my bad recollection, but does anybody on the panel have knowledge of specifically how E was determined?

 MR. ISHERWOOD: I think Mr. Wood can address column D, and I think we're probably in the same position on column E. So we should confirm that at the break once and for all. Sorry about that.

 MR. QUINN: Okay. Thank you. I would appreciate that. It might be helpful, Mr. Isherwood. I think it will be helpful. And I think I can still ask some of my questions here, but I may have to loop back on the market requirement if it's not too inconvenient, so just looking at the table in a more wholesome fashion, what we're trying to understand is the evolution of how the eastern market was served, and we used just the month of January to be predominantly in the peak month.

 But in the years 2008 to 2011 the peak day is just under 150,000. But the daily contract for those respective years is just over 160,000. Can you help me with why Union contracted for a surplus?

 MR. SHORTS: Sure, Mr. Quinn. If you turn up the page 28 of the Sussex report, this might be easier to be able to see how that -- those two numbers equate.

 MR. QUINN: Okay. Well, turn it up now. I will be coming back to that later. At a high level are you able to provide an answer, Mr. Shorts, or do you want to go --

 MR. SHORTS: Yeah, no, basically what happens is we have excess EDA STS capacity that we use then to pool in the other zones to help meet the integrated nature of the design day. So we actually have -- in the schedule we actually show -- there is actually 9,000 a day that is actually excess in this scenario, as an example, and that 9,000 would be deducted from the 162 or 163, to basically get to your 154 in the case that they have in the analysis that Sussex did because of the year difference.

 MR. QUINN: Okay. But to be clear -- and we're going to have a little bit of trouble with this, Mr. Shorts, so I'll try to be clear about this, but what's shown on this page is 2012. The year that Mr. Stephens and the Sussex group looked at was January 2013. Would that be correct?

 MR. SHORTS: Yeah, the Sussex report was looking at the gas year for '13, which is basically November of '12 through '13, so this would have been the year prior, but we would have had -- those STS contract rights did not change. So we still had those same contract rights, so we had that excess that was able to be pooled in the other areas to meet those peak days. So in aggregate there were no excess STS withdrawal rates.

 MR. QUINN: Okay. Thank you.

 And I'm going to be flexible here and move to a different subject that it's on this area, because then maybe you can help explain something further. If Exhibit D8.24 then could be brought up, please.

 So more for the benefit of the Board, Mr. Shorts, what I'm hearing you say is your contracts with TCPL allow you to pool your STS capability to serve areas, and maybe -- I think it would be helpful for the record if you could just explain how you do that.

 MR. SHORTS: The STS contracts allow us to pool between certain areas, so we can pool injection rights in certain areas, we can pool withdrawal rights into other areas. And that gives us the ability to not have to go in each year to change contracts, but to keep the aggregate level of those contracts the same and just reallocate each year which zone they are required for.

 MR. QUINN: And implicit in part of that answer, or actually explicit in part that answer you talked about pooling the credits. Now, I want to be clear about where you're defining in terms of credits. So the question we had asked was, please provide the STS credit level on a monthly basis during the IR term. Could you help with a definition of the credits that you provided? Because on the attachment it shows a monetary value.

 MR. SHORTS: I was not speaking about credits. I was just speaking about STS withdrawal and injection rights, not credits related to FT RAM.

 MR. QUINN: Well, and this is where I think we lost each other, Mr. Shorts, and we've had some dialogue here in the past. I understand sometimes we use different vernacular. But I was asking about the STS credits in terms of how much was injected, how much was withdrawal. What the answer I got was financial figures.

 So maybe if you could help me with what the answer is answering, and then possibly we could talk about what I was asking.

 MR. ISHERWOOD: Yeah, the actual credits -- part of the FT RAM program allows for you to gain credits on STS firm if it's not being used. So this table -- we obviously misunderstood your question, but this table is really showing what was the STS RAM credits we could use against IT volumes in the same months.

 MR. QUINN: That's what I thought it said, Mr. Isherwood, but then I was confused then by the last paragraph that states:

"In 2012 Union did not qualify to earn STS credits on unused EDA STS capacity because the EDA STS balance was not positive, as Union had withdrawn more supply than it had injected using STS capacity since 2003."

 So stopping there, are you able to pool your credits?

 MR. ISHERWOOD: It's –- and I should just explain for the Board Panel, one of the requirements of STS on the TransCanada system is they actual count how much gas goes into storage and how much gas comes out of storage, and as long as you are using the service to move gas that has been injected, then you can move it within the service on withdrawal. And they do keep track of that on a kind of a continuous basis from 2003. It's not annual; it's a continuum.

 And because of the S&T activity that Union Gas has gone in the EDA, we actually took that balance down to zero. Now, when that happens you can still use the STS service but there's an additional cost of 7 or 8 cents to use the service.

 And when we did that, that would be cost that went against S&T revenue. But for a certain period -- I think from January 12 through to about mid –- sometime in April of '13, we were actually in a deficit position. We're now back to a positive position.

 So during that period in time, we would have been paying an extra 7 or 8 cents for withdrawals and we would not have had FT RAM available on the STS service.

 MR. QUINN: Again, I'm going to try to break this down. Is the answer, then, you cannot pool your credits?

 MR. ISHERWOOD: EDA has -- is tracked differently than the rest.

 MR. QUINN: So you cannot pool your credits, then, for the EDA?

 MR. ISHERWOOD: For the EDA, that's true.

 MR. QUINN: Okay. That was what I was asking for, was the levels that were available, but I'm going to ask a couple questions and then possibly by way of undertaking we can get the clarification.

 Would it be simple summary to say because you had withdrawn more than you injected over the recent period, the benefit of STS RAM credits, which are an attribute of those contracts, was not available to Union during this -- the period of 2012, this winter of 2012?

 MR. ISHERWOOD: Yes, the impact, as I mentioned, would be we could still use service, but it had an additional cost, which the S&T group covered.

 MR. QUINN: There's two different costs I think we're talking about here, Mr. Isherwood.

 The 7 cents, because of your overrun, but the STS RAM is a different opportunity, is it not?

 MR. ISHERWOOD: I think the reason why we got the credits down to zero was we had -- if you want to overuse the service earlier on.

 MR. QUINN: Well, I guess still my question is: You're not able to use STS RAM credits because you're overdrawn; is that correct?

 MR. ISHERWOOD: We would have used the STS service in earlier periods, whether it was in 2011 or earlier in 2012, to run that balance down to zero. So it's not like we lost an opportunity; we gained the opportunity earlier on.

 MR. QUINN: That's your view, sir, and I'm just trying to make sure we have an answer, that, because of the position you're in, you are not able to accrue STS RAM credits; is that correct?

 MR. ISHERWOOD: I think that's clear from the table.

 MR. QUINN: So that's a yes?

 MR. ISHERWOOD: Sorry?

 MR. QUINN: So that's a yes?

 MR. ISHERWOOD: Yeah. We showed, 2012, that there were no credits available during the winter period.

 MR. QUINN: These are the same credits you use to balance your LDA contracts, historically?

 MR. ISHERWOOD: We can actually use the other STS RAM or other RAM credits to do that.

 So it wouldn't have restricted us from fully using IT -- IT to resolve LBA issues, and using FT RAM credits to pay for that.

 MR. QUINN: Well, I think it would be some comfort to us and, I trust, the Board if you were able to provide us with the year-end balances for your pooled STS credit levels and your EDA credit levels over the IRM framework period, and then you can put whatever caveat you want in terms of your ability to use it.

 But we would like to get that answer to see what happened over the IRM period, and then get the monthly balances just for the EDA for 2012. Actually, for both the EDA and for the pools, so we have an understanding of what's going on.

 Those are reports that can be easily pulled from the TransCanada website; is that not correct?

 MR. ISHERWOOD: I have no idea. I don't know.

 MR. QUINN: Would you take it, subject to check, that I had the ability to do that on behalf of another client, to pull that report? And so what I'm asking for is not an awful lot of effort.

 MR. SMITH: I guess I have two comments in respect of that.

 First is, based on the last proposition, if my friend is correct, then I guess I would have thought we'd have already been provided with them in the package unless they are not available to Union.

 But the second comment I have is to the extent we can do it, I just want to make sure that we're doing what Mr. Quinn wants us to do, because the word "credit" is being used and I just want to make sure that we're giving him exactly what it is that he wants.

 So the discussion began with a discussion about withdrawal rights versus STS RAM credit availability, and I just want to make sure, Mr. Quinn, I have your question.

 MR. QUINN: Thank you, Mr. Smith. There was a back-and-forth with the panel, and I think we've acknowledged there was a difference in perspective about what I asked versus what was answered.

 So what I'm looking for is the credit levels in the STS pool account, year-end 2008 through 2012, and then the monthly credits just for the year of 2012, for both the pool credits and the EDA.

 MR. SMITH: When you say "credits" do you mean STS RAM credits? Is that what you are asking for?

 MR. QUINN: No, we're looking for -- thank you for the clarification -- the balance between the cumulative injection withdrawals in the respective accounts.

 MR. SMITH: Is that something that's possible?

 MR. ISHERWOOD: I missed the very last sentence.

 MR. QUINN: It's the cumulative balance between the injection withdrawals over time.

 MR. ISHERWOOD: It is, yes.

 MR. QUINN: That's what I'm looking for.

 MR. ISHERWOOD: Year-end '08 through '12, and then through the year 2012?

 MR. QUINN: The monthly ones for the year 2012.

 MR. SMITH: Yes, we can do that.

 MR. QUINN: Thank you.

 MR. QUESNELLE: Undertaking?

 MS. SEBALJ: J2.4.

UNDERTAKING NO. J2.4: to PROVIDE CREDIT LEVELS IN THE STS POOL ACCOUNT, YEAR-END 2008 THROUGH 2012, AND THEN MONTHLY CREDITS 2012 FOR POOL CREDITS AND THE EDA.

 MR. QUINN: I'm going to, if I may, turn to Mr. Stephens. And we have -- I think on the record sufficiently -- how Union has developed its peak day and heating degree day volumes expected for the respected delivery areas. I think you covered that fairly well in your evidence.

 It may be helpful, though, to turn up page 19 of the Sussex report, if you would, please.

 MR. STEPHENS: I have it.

 MR. QUINN: While the reporter's bringing it up –- sorry, not the reporter, but our helpful screen operator, maybe, Mr. Stephens, you could explain, just for the Panel's benefit, what the term "base load" means.

 MR. STEPHENS: So "base load" would normally mean that it's the assumption for an LDC that happens during the summer period. Usually it's July and August.

 MR. QUINN: So again implicit in that is that there are -- there's no heating demand expected, so this would be load that would continue. Whether it be July or August, it would be load that would continue in through the winter months also?

 MR. STEPHENS: That is correct.

 MR. QUINN: Thank you. So when the graph -- thank you -- shown here on page 19 was developed, one of our concerns that we had expressed at the time was: Did Sussex compare the predicted zero heating degree day volumes to the summer base load that was actually experienced for the NCDA?

 MR. STEPHENS: No, we did not.

 MR. QUINN: Did Union do that subsequently?

 MR. WOOD: We hadn't done that analysis before. We don't use the zero heating degree day for any analysis.

 Following the submission of the interrogatories, we did go back and run that analysis. Took a bit more time than we expected, but the base load numbers are very close to where that trend line intercepts the zero heating degree day.

 MR. QUINN: I guess, Mr. Wood, would you agree with me that an analysis like that would actually help validate the -- this assumption of the linear relationship between heating degree days and consumption?

 MR. WOOD: It would show that, if you extrapolated towards warmer weather, that it aligns, yes.

 MR. QUINN: So that would be a method of validation, then?

 MR. WOOD: That's correct.

 MR. QUINN: Thank you.

 So did Sussex do any separate analysis to look at removing base load and more specifically focus on analyzing heat sensitivity for the respective delivery areas?

 MR. STEPHENS: No, Mr. Quinn, we did not, as most of the utilities in our benchmarking analysis did not take base load out when they do the trend analysis.

 MR. QUINN: And I understand different utilities do different things. In your experience do you know that there are some utilities that actually do that?

 MR. STEPHENS: So we had an interrogatory on this, Mr. Quinn, and of the LDCs that we looked at there was one, northwest Natural, that removed base load when they did their trend line calculation. That was the only one.

 MR. QUINN: Okay. And they're --

 MR. STEPHENS: But there are ones that do it, Mr. Quinn.

 MR. QUINN: And what location is northwest Natural?

 MR. STEPHENS: They are in the Pacific northwest.

 MR. QUINN: So comparable heating degree days or even slightly less than Union's territory?

 MR. STEPHENS: So in terms of degree day levels I would assume they would be slightly less.

 MR. QUINN: That would be my assumption also.

 MR. WOOD: Can I just -- Mr. Quinn, can I just add on to that? The analysis that Union does uses only the, I guess what we would call our winter data, so from November through March. And in doing that we really aren't looking at what you would consider base load heating demand.

 So if we took the trend line, as you see in the Sussex report that's up, if we remove that base load it wouldn't change the, I guess you'd call it the angle of the trend line, so that if we ran the trend line and then added the base load back in we would end up at the same expected demand consumption on our design day, so I think by nature of removing the summer data we do actually take out the effect of the base load.

 MR. QUINN: Thank you. And Mr. Stephens, you were aware of that, were you?

 MR. STEPHENS: I'm sorry, what, Mr. Quinn?

 MR. QUINN: That that's Union's approach?

 MR. STEPHENS: Yes.

 MR. QUINN: That isn't covered in your report, is it?

 MR. STEPHENS: In terms of, that Union does not take up base load?

 MR. QUINN: The approach that Mr. Wood just clarified for us.

 MR. STEPHENS: I'm sorry, I'm not following the question, Mr. Quinn. I apologize.

 MR. QUINN: Mr. Wood just clarified how it was done. You were aware that that's the way Union would -- I have used the word compensate for summer load?

 MR. STEPHENS: So in the analysis we were only focused on design day, and so we looked at, was sort of the information utilized by Union to calculate the design day demand, so we weren't looking at base load or summer load.

 MR. QUINN: Okay. Well, I think there's diminishing returns in this area, so I'll move on.

 One of the main themes that Union has emphasized is that their plan is right-sized. And I guess many times in their evidence Union has referenced the Sussex report to support that assertion. However, I didn't find the term "right-sized" in your determination or your conclusions. I read aspects of your conclusions that talk about, they had sufficient assets. But is it your professional opinion that they are right-sized for the period you analyzed?

 MR. STEPHENS: It is.

 MR. QUINN: Okay.

 MR. ISHERWOOD: And in fact, Mr. Quinn, on page 2 the conclusion is -- the word is "appropriately-sized", which I think is the same as "right-sized".

 MR. QUINN: Okay. Now, in looking at the alternatives were (sic) available to Union in that period, did Sussex consider the benefits of STFT to meet some of the demands in the north?

 MR. STEPHENS: No, we did not, and the reason for that, Mr. Quinn, is that from the perspective of relying on a discretionary service -- STFT is a discretionary service offered by TransCanada, and so on a discretionary service usually a pipeline does not have to plan that on a long-term basis to serve. So they focus on their firm demand, not on discretionary services.

 So from an LDC perspective if you are trying to put together a portfolio to meet design day demand, your focus really is on firm service for firm load, and so relying on a discretionary service offered by the pipeline from my perspective would not be an appropriate choice.

 MR. QUINN: Well, this is what I feared may happen, and I certainly won't get into a debate with Mr. Stephens, so I'm simply going to say, would you agree with me that the level of STFT availability and its pricing has changed dramatically in this last year?

 MR. STEPHENS: Yes. So in terms of how TransCanada prices the short-term service, yes, that -- but that would not influence my decision, Mr. Quinn. My decision really goes to that, from an LDC perspective, if you are trying to plan for design day load your focus is on firm transportation for firm load, and since that is a service that's offered discretionarily by the pipeline from trying to rely on that service on a year-to-year or long-term basis is just not going to be sufficient.

 MR. QUINN: Okay, sir. I'm going to parse this up a bit. Discretionary service, would you agree with me STFT holds the same level of priority as FT once it has been contracted for?

 MR. STEPHENS: Yes, but it can't be renewed, and you don't have the service attributes associated with the FT service.

 MR. QUINN: Yes, sir, and I said firm service, so you're talking about firm load, STFT uses firm as FT, correct?

 MR. ISHERWOOD: Mr. Quinn, just to be fair, there is lots of evidence on the record in our filing on page 39 of 47, Exhibit B, tab 3, talks about the attributes of STFT and why it's not appropriate to be included, and TCPL themselves calls it a discretionary service. We call it a discretionary service. They will not build for that service. They will offer it if the capacity is available, and it's not always available.

 MR. QUINN: Mr. Isherwood, again, where I'm reluctant to say this but, I'll say it and I'll move on. We're dealing with 2012. We're dealing with the environment of 2012. A lot of things have changed, and I think we would all acknowledge that. In 2012 we had TCPL witnesses in the rebasing proceeding talk about the availability of STFT. I won't put anything into the record as evidence because it's not appropriate, but I'm just trying to focus on the period of 2012 that Mr. Stephens analyzed.

 MR. ISHERWOOD: I think you do have to look beyond 2012 when it comes to discretionary services, because, from the point of -- if you look at the Enbridge situation where they did testify during the Parkway hearing, they have lost their ability to have STFT and FT for the winter of '15/'16, and it's only through that settlement agreement that it actually gets -- you get some opportunity to extend their FT and R to get through to '16, but there's an example where STFT in '12 is available, but their portfolio is not -- is not -- did not have sufficient capacity starting in '15 to carry on, and that's a concern they have and a concern that GMI has, same situation, and it's a concern we don't have.

 MR. QUINN: And that evidence is on the record from applications that were made in 2013, Mr. Isherwood?

 MR. ISHERWOOD: That's correct, yes.

 MR. QUINN: Okay. Well, I'm still focusing on 2012 and what was known at the time, so --

 MS. SEBALJ: But it shows you the impact of what happens to STFT. Because it is a discretionary service, TCPL will not build for it, and it's not -- it's not available.

 MR. QUINN: I would like to see if we could advance -- oh, sorry, sir, did you have -- page 28, if you would turn up page 28 of the Sussex report, please.

 MR. STEPHENS: I have it.

 MR. QUINN: Now, this is a table that -- thank you -- that we spent a little bit of time on, and first off -- and I think it might be helpful if we just simplify this table. I'm going to go through a description, and Mr. Stephens, you can tell me if this is incorrect at all.

 We spent a little bit of time on the development of the degree day assumption and that is forecasted for the respected delivery areas which are found in the design day demand for delivery area in the top line. Is that -- the top line of the box.

 MR. STEPHENS: That's correct.

 MR. QUINN: Okay. But in that box there is capacity provided by others, so that capacity is deducted then to come up with a firm demand Union is responsible for?

 MR. STEPHENS: That's correct.

 MR. QUINN: So from there you calculate capacity and supply available from storage and transportation to determine a balance in the next box?

 MR. STEPHENS: That's correct.

 MR. QUINN: Okay. So ultimately you come up with a shortfall, moving quickly. If there is anything else, sir, that I skipped over quickly, for the benefit of time, that you would like to emphasize, please do, because I want to kind of go to the bottom line.

 MR. STEPHENS: Okay. Go ahead, please.

 MR. QUINN: Okay. So ultimately what is shown at the bottom is called excess shortfall by delivery area. So once all of these components from firm demand to supply from storage and transportation are calculated, you end up with your excess or shortfall by delivery area, which is in -- bottom line of the second-last box, top line of the first box?

 MR. STEPHENS: Yes.

 MR. QUINN: Okay. And so from there you have TCPL, Empress, Union, CDA, and the respective figures for the areas that are still in need of additional firm delivery on a peak design day; is that correct?

 MR. STEPHENS: So that's the line where Union uses the CDA contracted by deliveries? Yes, that's correct.

 MR. QUINN: So in your view, at this point we have essentially a perfect balance between the forecasted needs of the respected delivery areas and the firm contractual obligations that Union either holds or can provide through its own assets?

 MR. STEPHENS: Yes, so when you look at the combination of the STS and the ability to pool that and the redelivery of the CDA contract, they are in balance.

 MR. QUINN: Okay. Now, before I move to the south, we -- you know, clearly we have a utility that has a north franchise and south franchise, and I think you acknowledged earlier, Mr. Stephens, that they -- their approach is different for each of their geographical areas, but have you had experience with a utility that has two separate geographical franchise areas, similar to Union?

 MR. STEPHENS: Sorry, when you "approach," Mr. Quinn, in terms of?

 MR. QUINN: How they are planning their peak day needs.

 MR. STEPHENS: So their approach is consistent and aligned in terms of having a design day weather standard and having a use per degree day factor and then using the trend line, so their approach to design day is consistent.

 MR. QUINN: Design day, but I'm talking about the way the demand is met contractually in one case.

 In this case here, you've developed a balance for a design day demand, but I think I heard -- and you can, Mr. Wood or somebody else, correct me if I'm wrong -- but I thought I heard that in the south, the issue is seasonal balance, not peak day balance.

 MR. WOOD: I'll actually comment on that, Mr. Quinn.

 MR. QUINN: Thank you.

 MR. WOOD: In the south, the design day, because of our integrated system, it's run through our synergy network models, but it does come to a balance to meet design day.

 And what happens is we use all the in-franchise and ex-franchise demands, and if there is still a shortfall on the Dawn-to-Parkway system, that number would go back to the gas supply group to look at short-term solutions, I believe, like winter peaking service.

 So we do still run as a balance, the entire system.

 MR. ISHERWOOD: I would just add that the Dawn-to-Parkway system is designed to meet the peak day load of the Union Gas south, as well as all of our ex-franchise contracts, obviously. And all the branches that come off of the Dawn-to-Parkway system to London, to Kitchener, to Waterloo, to Hamilton, are all designed to meet peak day as well.

 MR. QUINN: I think you offered as an undertaking to Mr. Brett you are going to provide that picture, which I think was seen in the facilities application. So I appreciate that.

 So back you to, Mr. Stephens, this is what I guess I'm referring to, is that how Union is meeting its peak day in the north and south differs.

 And do you have experience with utilities that have different ways within separate franchises or the same franchises of meeting their needs?

 MR. STEPHENS: Yes. So the way they actually would meet peak day really depends on the assets available to them.

 For example, there may be an LDC that has an LNG facility they can utilize on peak day. That would become part of their peak day portfolio and be used to meet design day demand.

 MR. QUINN: So the answer is yes, you have that experience?

 MR. STEPHENS: Yes.

 MR. QUINN: Now, in the experience you have with those utilities, do they have the different rates for north and south -– sorry, different rates for their respective franchises?

 MR. STEPHENS: In terms of cost of gas?

 MR. QUINN: Their delivery and transportation rates.

 MR. STEPHENS: So, Mr. Quinn, I'll have to -- I haven't -- my experience in that is it's not clear. If that's a question I'll have to go research. I'm not sure on that.

 MR. QUINN: Maybe I can ask the question a little differently. In your experience with other utilities, and based upon what I understood you were doing in task 3, what we have here is a case where the TCPL-Empress-Union CDA -- and maybe -- I don't know if you need to turn it up, but I'll give you a reference. D8.30, Union has confirmed that there is no -- there is the cost of the TCPL contract from Empress to Union CDA is borne by southern customers, not northern customers.

 In your experience with other utilities and in your evaluation you did under task 3, do you see that as an appropriate ratemaking methodology?

 MR. SMITH: Sorry, Mr. Quinn, if you are referring to task number 3, as you know, that was work that was undertaken by Concentric, not by Sussex.

 MR. QUINN: I said task 3, and I apologize. Thank you, Mr. Smith, because I could have thrown a lot of people off.

 I meant the third assignment, let's say. It was broken down in the chart of -- on page --

 MR. SMITH: You mean chart of the planning activities?

 MR. QUINN: Yes. Thank you for the clarification.

 Maybe we can pull up page 7, because it may have thrown the Board Panel off.

 On page 7, under task 3, I thought that this would -- it would you would fall under, and I call it task 3, but maybe we should refer to it as assignment 3, to separate it from the other activities. Activity 3; that's what we'll call it.

 So it talked about differing peak day methodologies and if they are appropriate, and if not, recommend alternatives.

 So you did that evaluation, and I understand you're saying they are appropriate. You did not recommend an alternative?

 MR. STEPHENS: That's correct.

 MR. QUINN: The cost causality that flows from it, though, did you evaluate that? Or is that outside the scope of your work?

 MR. STEPHENS: I did not evaluate that. That was not within our scope.

 MR. QUINN: From your experience with other utilities, can you give us your expert opinion as to the appropriateness of a rate methodology whereby a contract that is providing peak day delivery service to one area gets charged to another area?

 MR. STEPHENS: My experience, Mr. Quinn, is more on the gas supply side, not on the rate -- revenue side.

 MR. QUINN: Okay. Fair enough.

 MR. SHORTS: Just to be clear, Mr. Quinn, what the north does is actually pays for the costs of transportation by TCPL from Dawn to the Union CDA, to replace those volumes. So they pay for those costs so that that exchange that Ms. Piett spoke about this morning can actually take place, where the north provides the volumes that would have been delivered to Parkway on that day, and then those volumes from the CDA contract are allowed to be dropped off earlier.

 MR. QUINN: And you're talking about the commodity costs, sir?

 MR. SHORTS: No, the transportation costs. So the transportation costs of TCPL capacity between Dawn and the Union CDA is picked up by the Union North customers.

 MR. QUINN: Right. But there was what I understood Ms. Piett to say -- and maybe I didn't have a complete understanding -- is there was essentially an exchange of molecules between the north and the south.

 MR. SHORTS: And that's how that exchange is effectuated.

 MR. QUINN: So that would impact the commodity cost, but not the transport cost?

 MR. ISHERWOOD: The southern franchise -- the CDA contract is intended to supply on an annual basis Western Canadian Sedimentary Basin gas to the southern franchise area. So the south pays for the cost of that transport and the cost of the gas supply.

 MR. QUINN: Then I don't have clarity, Mr. Isherwood. When you answered in D8.30 that Union North customers do not get allocated any of this TCPL Empress-Union CDA demand charge, you are saying that the entire charge goes to southern customers?

 MR. ISHERWOOD: That's correct.

 MR. QUINN: And there is some kind of compensating commodity internal transaction between the respective portfolios?

 MR. ISHERWOOD: I think what Ms. Piett was referring to this morning was around the optimization activity, where we actually leave the CDA contract in the NDA for, say, the month of January. It would only be intended by the gas supply plan to be there for the peak winter day, so the remaining days, when there's excess capacity available, that exchange that she mentioned would take place.

 But from a cost point of view, the south is intended to pick up the cost of that entire contract.

 MR. QUINN: Even though it's providing deliveries to the north most of the year?

 DR. HIGGIN: On the optimization model, it is. From the gas supply point of view, it's only dropping off gas on a peak winter day. In the gas supply evidence, it talks about how we use -- this is an example of how we use the integrated planning between the north and the south, and in total are able to save the north quite a bit of costs in terms of meeting a peak winter day. This contract would be dropped off in the north and meet their peak winter day; otherwise, it flows to the CDA, which is basically Parkway.

 And it's a key part or certainly an element of the Union South supply portfolio.

 MR. QUINN: I'm going to digest that a bit and carry on with Mr. Stephens.

 We had page 28 up there before. And I thank you for your flexibility, young lady who is running the screen, to move back and forth. But we had page 28, which is the summary of how the north demands are managed on a peak day.

 And underneath -- so that's what we just covered, and I think we have clarity on the record as to what entails, but if we can flip two more pages on to page 30, what we have is Sussex's analysis of the south design day demand.

 And this is where I'm having a little bit of struggle. I was trying to reconcile the south from the north, and I think clarity has come through understanding that -- do I have this correct, that this table is showing an average day, as opposed to a peak day?

 MR. SHORTS: That table shows the Union South peak day.

 MR. QUINN: It's showing...

 MR. SHORTS: At the top where you see "Union South demand", that would be the peak day demand. The 2583 at the top?

 MR. QUINN: Yes.

 MR. SHORTS: And then the components below are the supply that is there to meet that peak day requirement.

 MR. QUINN: Okay. Well, then I was wrong, because I thought it was wrong, and I have now a table that I think we can reconcile, and this is why I guess I want to ask. What I was trying to do is reconcile what the demands were for the Union CDA, and in combing through the evidence I don't see it. Could you provide to us what the peak day demand is to the Union CDA?

 MR. ISHERWOOD: We don't look at it that way, Mr. Quinn. We look at the entire south by itself.

 MR. QUINN: I understand that, but they're ultimately -- you need to be able to determine how much gas you need on a peak day in the CDA, one for your customers here, the TCPL Empress to CDA. That's 70 allocated. That's for your in-franchise customers, correct?

 MR. ISHERWOOD: That 70 allocated is for Union South in total, not CDA.

 MR. QUINN: And --

 MR. SHORTS: And that supply is really designed to meet the average or annual needs of the south, so when we do the gas supply plan in Union South we actually look at the annual and the storage needs of the requirement. We don't look at the peak day, because from our perspective what we need to do is, because we got the integrated system, the integrated system picks up the difference between our average day and the peak day, so when we do our average annual requirements in the south, that dictates how much gas we need to deliver on the given day, being transport and/or purchases at Dawn, for example.

 MR. QUINN: Okay. So again, we need to -- I'm following most of this, Mr. Shorts, but I want to make sure there's clarity for the record. On this table I just heard this as peak day; is that correct?

 MR. SHORTS: The peak day demands are at the top. And the average day supplies from the gas supply plan are shown below.

 MR. QUINN: Okay. So that's where -- that helps me, and I hope helped others. You are talking about the supply available from TCPL Empress to the CDA is 70 on the peak day of 2583; is that accurate?

 MR. SHORTS: That's correct.

 MR. QUINN: Okay. So when you do this integrated model, and I have some familiarity with it, you need to be able to determine how much gas you need in the CDA on that day because of your respective needs for both the north and the south. That's why it's integrated.

 Can you help us by way of undertaking to demonstrate that there is a balance between what is the total amount that is required in the CDA on a peak day and how is it met?

 MR. ISHERWOOD: I'm not sure we would have that, Mr. Quinn. CDA is fairly unique. CDA is a term that TransCanada uses and includes Bronte, Burlington, Hamilton, and Nanticoke, so it's a bit of a ribbon along Lake Ontario, and then also up into Nanticoke area.

 We have, I think, four different gate stations off TCPL that feed into that CDA. We also have some of our own gas off the Dawn to Parkway system feeds into that same area as well.

 MR. QUINN: And I think I understand this, sir, from our infrastructure proceedings, and as a -- well, I'm going to turn it to Mr. Stephens. Mr. Stephens, how did you evaluate the needs in the Union CDA on a peak day and how they were met?

 MR. STEPHENS: So the focus here, Mr. Quinn, was on the Union South and in total, and then the supplies, and then the storage requirement needed to meet the demand. So there was no CDA focus. It was sort of the Union South demand in total.

 MR. QUINN: How would you know if they didn't have excess in the CDA, excess capability in the CDA?

 MR. SHORTS: Sir, what do you mean by "excess capability in the CDA"?

 MR. QUINN: If -- you have either -- supply and demand. You have a demand and you have a supply.

 MR. SHORTS: But there's no excess required, because we're just doing an exchange or a swap. That 70 is being dropped off, and the north is then delivering storage volumes down the Dawn to Parkway system to replace those volumes in the CDA the way they were originally designed to be.

 MR. ISHERWOOD: And I would just add to that. The key characteristic of the south is a load factor on the pipelines that we're using, so whether that's Panhandle or Trunk line or Vector or TransCanada, and as evidence indicates, the forecasted, unabsorbed demand charge or UDC is zero for the south. So that would tell you that the system is rightly-sized from an annual point of view, and then using the storage at Dawn number, the top of the supply line, is how we reached and get the peak day.

 So I think it balances very well using a combination of storage and the other pipelines at 100 percent load factor.

 MR. QUINN: Said differently, Mr. Isherwood, I think what you are describing is, you hold all the pipelines at 100 percent utilization and storage becomes the plug to meet the peak day?

 MR. ISHERWOOD: That's correct.

 MR. QUINN: Okay. Now, getting back to the CDA, you have contracts to the CDA. This says TCPL Empress to the CDA is needed to provide 70. I heard Mr. Shorts talk about gas being dropped off. This 70 that's in this table was not dropped off because it was needed in the south or is in fact dropped off? Could you clarify that?

 MR. ISHERWOOD: Mr. Shorts said earlier on that the TCPL Empress to CDA contract is dropped off on a peak winter day in the north, and some of it goes to WDA, most of it goes to the NDA, but we've also mentioned earlier on that the north has a contract that takes gas from Dawn to the CDA -- or, sorry, to Parkway, which compensates for the loss of the south, if you want, from having this contract showing up on a peak winter day.

 So north pays that little short-haul path, instead of having to pay for a long-haul from Empress to the NDA to be used for one or two or three days. This is a much more cost-effective way of doing it.

 MR. QUINN: And I understand your evidence, sir, and to -- I'll be careful what I say here, because it can and would be used against what I'm trying to say as a result. You have a balance for each of the delivery areas. Your consultant has put together a report and testified that you are in balance.

 I understand an integrated capability, but Ms. Piett herself this morning spoke about the challenge of the bottleneck in fact getting gas from Parkway through to the north or through, you know, through the -- through -- between Parkway and Maple on the TCPL system.

 You have to plan your contracts accordingly to make sure gas is where it needs to be on a peak day.

 So could Union in some way provide, by delivery area, including the CDA, what flows are needed on a peak day and how those flows are met?

 MR. ISHERWOOD: I've got to stop in your question when you talked about the bottleneck, because gas is not actually going through the bottleneck --

 MR. QUINN: I understand that --

 MR. ISHERWOOD: We're leaving the gas up in the north rather than the gas flowing from Parkway.

 MR. QUINN: And we'll probably go there later. But the question I had, could you by delivery area, including the CDA, say what is the flow that's needed at that -- in that area and how is it met on a peak day?

 MR. ISHERWOOD: I believe the table on page 28 covers every delivery area except CDA.

 MR. QUINN: Except CDA, and that's the area I'm focusing on. So if you could expand that --

 MR. SMITH: Please, Mr. Quinn, just let the witness answer the question.

 MR. QUINN: Sorry, Mr. Isherwood, I'm trying to make sure I'm clear, but go ahead.

 MR. ISHERWOOD: The CDA and Union South is between Dawn and Parkway, so it's contained within the integrated system that we have between Dawn as using your storage and the Dawn to Parkway system. The CDA is in that same geography, and we do rely on some TCPL contracts as we rely on Panhandle and Vector and everybody else. So it's really this chart that explains the balance of the entire south.

 MR. QUINN: And so I'm going to ask the question, and you can tell me if it's feasible. Could you extend the chart that is on page 28, adding the CDA, and showing the amount of gas that's needed in the CDA and how it's provided in a similar manner as Mr. Stephens had provided for the north?

 MR. ISHERWOOD: I'm not sure we have the data. But we don't -- I shouldn't say we don't have the data. I'm not sure we look at it that way.

 MR. QUINN: I know you don't look at it that way. I would ask you to look at it that way.

 MR. QUESNELLE: Perhaps you can provide the -- to what purpose you would put that information, Mr. Quinn.

 MR. QUINN: And I would be coming to that, sir, but the understanding is if Union has said that its portfolio is right-sized, how can they evaluate that if they don't know where the gas needs to be on the days it's needed? And given the fact that it's predominantly a peak day design?

 My past experience tells me that you look at what your peak day needs and you have the pipeline capacity, or storage in this case, to be able to get the gas where it needs to be on the coldest day in January or coldest day of the winter, which is going to satisfy your customers

 And I can't understand how -- I know Union says they don't look at it that way, and I respect that, but others could look at it that way, and I think it would be insightful for the Board.

 MR. WOOD: Mr. Quinn, maybe I'll come in really quickly. The undertaking that we are going to be providing for Mr. Brett does list all of Union's in-franchise areas and the demand that needs to be met on design day. So I think we don't list the CDA separately, but the areas that are included in what we would consider CDA for in-franchise demand would be listed on that diagram.

 MR. QUINN: And the consumptions would be listed, sir, but there would not necessarily the amount that's needed to facilitate your STS contracts, or your other needs of the north.

 And I want to be specific: this is for the year 2012.

 MR. ISHERWOOD: The CDA has no STS contracts. It's just supply either through our own system, integrated system, or through some TCPL contracts.

 MR. QUINN: But you have STS contracts to go between the NDA and the CDA, and the WDA and the CDA?

 MR. ISHERWOOD: No, they -- no, they don't. They go from NDA to Parkway.

 MR. QUINN: Okay. Maybe this is the opportunity, sir, and I am going come back to this. I'm going to try to answer your question in parallel.

 But I did put together a compendium that I thought would be helpful, and I was going to enter it a little bit later, but I think this may be timely so that we're all on the same page.

 It was submitted earlier to Union, and I think Staff has copies for the Panel.

 MS. SEBALJ: I think it was provided to you yesterday as part of the three compendia that were in a bull clip in front of you. It's marked as the "Federation of Rental-housing Providers of Ontario compendium."

 MR. QUESNELLE: We have it.

 MS. SEBALJ: But it hasn't been marked as an exhibit. I think we're at the first exhibit, K2.1.

EXHIBIT K2.1: FRPO COMPENDIUM.

 MR. QUINN: I think if we could turn page if 15 of 16, I provided the entire -- maybe I should start here.

 What I filed is information that's available publicly from TransCanada's website, called "Index of Customers," and it's a contracted demand energy report.

 Mr. Shorts and Mr. Isherwood, you are very familiar with this report?

 MR. SHORTS: Yes.

 MR. ISHERWOOD: I am not, but I'm sure Mr. Shorts is.

 MR. QUINN: Certainly, then, I'll discuss this with Mr. Shorts, but Mr. Isherwood, I'm wanting to make sure that we had clarity on what we just talked about.

 So I'm going to focus on just CDA for the moment. So in the middle of page, 15 of 16 -- I'm glad I handed out some paper copies, and I hope the witnesses can see this, because it is another eye test on the screen. But in the middle of the page, it starts with the primarily delivery location of being Union CDA. Do you see that?

 MR. SHORTS: Yes.

 MR. QUINN: Now, of course there are other entities that deliver to the CDA beyond Union, and a couple are listed there.

 And to be complete, I filed the entire package, but my focus will be on, of course, contracts that Union has.

 So looking at this report, Mr. Isherwood, to get back to where we were, I see on contract 1142, which is third and fourth lines of the primary delivery area of the Union CDA, we have a couple of STS contracts. And I'll read into record, because people are having a hard time seeing, but it's an STS contract from Union WDA to Union CDA. Then we have, under the same contract ID of 1142, we have a contract from the Union NDA to the Union CDA.

 That's what I was referring to as your STS contracts, Mr. Isherwood. Do you see that?

 MR. ISHERWOOD: I do. And my apologies, it's obvious it's to the CDA, but I always view it, in my own mind, as coming to Parkway. And they also have an option to deliver to Dawn; that's kind of their option, but I always view it as being Parkway.

 MR. QUINN: I understand, sir, with your responsibility that there -- some of the detail may elude you, but this is very clearly a report that provides the contracts that Union has to the Union CDA.

 What I'm looking for is to match that up with what the needs of the CDA are. And I think with this information, coupled with your understanding of demand, Mr. Wood, from your in-franchise customers, which would be part of that line, but part of your gas flow that you need in the CDA, I would like to have a supply-demand balance shown also on the table that appeared on page 28 Mr. of Stephens' report.

 Is that something that we can get?

 MR. SHORTS: Just to be clear, Mr. Quinn, the numbers that you are showing as the -- those STS contracts, those are STS injection amounts, so they can only move in one direction. From the west, so for example, from the WDA to the CDA for 31.50 and from the NDA to the CDA to 49.1.

 MR. QUINN: This would be very helpful, Mr. Shorts, to clarify in providing the table, because it would help us to see how these contracts are used.

 MR. SMITH: Members of the Panel, as my friend will be aware, in Exhibit D4.2 supplemental -- sorry, 8.42, provided on September 24th, Union indicated in the final paragraph on page 2 of 2:

"Since Union does not calculate the peak day demands and contractual requirements of Union CDA independent of Union South peak day demands and requirements, the requested information is not available."

 MR. QUINN: I did read that, sir. That's why -- and Mr. Isherwood and I had our exchange. He says that's not the way he looks at it, and I say others would. And I just asked if it was feasible.

 Mr. Wood added some clarity, saying he has in-franchise demand. You also have contracts, you're providing what your flows are.

 I don't see why a simple gas molecule mass balance cannot be done for the CDA on a peak day.

 MR. SMITH: Well, I'm not going to engage in whether what Mr. Quinn thinks is simple, manageable, should be done, ought to be done, anything like that.

 What I think we can do is we can go back and look at Union's response and consider whether there's some other way to address what Mr. Quinn is asking, but the information that we provided is the information that we provided. But we can certainly go back and look at it, if that's what my friend wants us to do.

 MR. QUESNELLE: I think that would be the best thing that could happen, Mr. Smith.

 But my earlier question was trying to drill down to the purpose that you had put it to, and I think you described that, Mr. Quinn. But we do accept that if there is a fundamental management approach to the way they view this area, it may be that they have never gathered information in the fashion that you would like to have it created.

 To the extent that -- accepting that there may be different ways to view it, but if the company has never viewed it the way you have now, it would have been nice to have this exchange a month ago when you received the IR that denied –- or basically provided you with the information that they do not have the data. We're finding out now what it's for or what you'd like to use it for.

 So all I'm getting at is if this best effort isn't enough, it would have been nice to have this conversation a month ago, where we could have perhaps arrived at, through some fashion, your purpose, and they could have provided something else, perhaps.

 MR. QUINN: Sir, I understand your concern about this. From my experience, I think TransCanada has to look at it this way. Union, in my view, would have to -- they may not look at it this way for doing their planning, but that's something that we can discuss maybe after the break.

 Sir, these questions were actually asked in July. I got my response at the end of September. We were very busy in here with the infrastructure proceeding. I didn't see any way except for the type of dialogue we've just had to try to elicit a better response from Union.

 So I'll take your point, sir. And maybe I need to draw that to the Board's attention at an earlier date, but I was trying my best in this.

 MR. QUESNELLE: Fair enough. Thank you, Mr. Quinn.

 MR. QUINN: What I'm going to do, because I had some more questions in that area, but it's clear they want to consider what they might be able to provide, if I move to just a slightly different area and then come back to it.

 And, sir, I notice from the clock -- if it would be your preference to take a break and then we could pick up from there, I'm in your hands.

 MR. QUESNELLE: We'll take the break now and return at 20 after three.

 MR. QUINN: Thank you, sir.

 --- Recess taken at 3:02 p.m.

 --- On resuming at 3:21 p.m.

 MR. QUESNELLE: Please be seated.

 MR. SMITH: Sorry, I -- just as a quick preliminary matter, we had agreed that we would check column E in D8.42, and I think Mr. Isherwood is in a position to say what that represents.

 MR. QUESNELLE: Thank you.

 MR. ISHERWOOD: So the question we had a little bit earlier today and this afternoon is column E, titled "market requirement", and this is in Exhibit D8.42, is that a forecast number or a measured real number. And it is close to being an actual market number as we would have -- on the TCPL system you have four chances to nominate during the day, and you adjust your nominations based on what's happening in the market on that day, and that number is representative of the very last nomination that we would have made on TCPL for that gas day, so it would be very, very close to an actual market number.

 MR. QUESNELLE: Okay. Any further explanation required in that? Mr. Quinn?

 MR. QUINN: Just a minor explanation. These are nominations. Mr. Isherwood, is this net of any LBA changes or -- this is -- do it at a high level. Is this net of LBA changes? It's not based upon your meters.

 MR. ISHERWOOD: It's not based on meters. It's based on what our volume planners think the requirement for the market is on that day, and they would -- as I mentioned, over the four nomination windows it is just as required to meet market requirements as they change during the day.

 MR. QUINN: So could you provide a number that is net of LBA? Because that would give you -- would you agree with me that would give you more an accurate figure of what was actually consumed?

 MR. ISHERWOOD: I believe that's the only number we have.

 MR. QUINN: You wouldn't have your LBA in the east, you would have an LBA number for the day, correct?

 MR. ISHERWOOD: Well, we have an LBA every day with positive or negative --

 MR. QUINN: So if you take that number and you net out the LBA difference, that would give your meter consumptions, correct?

 MR. ISHERWOOD: I believe that is the market number, Mr. Quinn, and I'd do it subject to check, but I think it's a market number not including the LBA.

 MR. QUINN: Okay. So could you net out the LBA to give us actual consumption?

 MR. ISHERWOOD: I think I just said that is -- my understanding, that is a number without LBA included, subject to check, and we'll check on that.

 MR. QUINN: Without LBA included.

 MR. ISHERWOOD: It's just a market number. It's a requirement of the market, so not including any impact of a plus or minus in the LBA.

 MR. QUINN: And what we were looking for was actual consumption, so --

 MR. ISHERWOOD: That's -- I'm saying the same thing.

 MR. QUINN: That's a minor point. I'll leave it there. Thank you.

 MR. QUESNELLE: If there's nothing else, Mr. Quinn, do you want to proceed?

 MR. QUINN: I don't know if Union had an opportunity to consider the undertaking, and maybe it's helpful, sir, if I may, based upon some good counsel I received during the break, maybe I'll reserve on their asking their position right now. I'll further advance where I'm going with this for you, and then hopefully that will be helpful to determine the value of the undertaking.

 MR. QUESNELLE: It would, thank you.

 MR. QUINN: If you would turn up Exhibit D8.12, 8.12. And so in this interrogatory we were asking for Union's updated schedule that was helpful in the previous year's proceeding. So if we turn to attachment 2, the result is available. And I don't know if it can be expanded for better sight. Thank you.

 So what we had asked Union to do is, from the respective transportation routes that it has and it analyzes as part of its incremental transportation analysis on an annual basis, we had wanted to know the amount of short-term exchange revenues from the respective paths. And I think it'll be somewhat clear the concern that we have, which is in some ways comparable to a number from the previous year, but a total of about $18.5 million was earned on the TCPL Union CDA path. Now, that number is possibly close to somewhere around a third of the overall optimization account that was $55 million when everything was thrown in together, and that led us to try and understand how did we get there.

 So that is the interrogatory response we had, sir, which is why I started focusing on how that number was achieved.

 And so in asking what capacity was available to the CDA I'm asking questions to understand the contracting decisions of Union relative to the choices it has, and maybe just maybe for reference, if you would go to the previous page, you'll notice that -- and I think it's actually contained -- well, it's not contained in that answer, but the path to -- from TCPL to the CDA is the most expensive landed cost that Union has amongst its choices for capacity.

 So that is reflective of some of our concerns, but as we dug into it and looked at the respective reports from TransCanada, we found something that I thought was somewhat surprising, and I don't have -- I didn't create a table, because I was -- out of an abundance of caution I was concerned about creating my own evidence and putting a table in to summarize the values in these reports from TransCanada.

 But I guess I'll turn to the panel, and would you take it subject to check that in 2013 the total capacity of contracts to the CDA was approximately 196,000 gJs per day?

 MR. ISHERWOOD: Sorry, where is that number?

 MR. QUINN: Sorry, that number would be a total of the contracts that are showing up in -- on page 15 of 16, sorry, I didn't advance to that -- get to the screen operator, but we have the report from TransCanada in my compendium on page 15 of 16. There are a number of contracted demand figures to the CDA, and if I total those numbers, just doing the math, would you take it subject to check that that is in the realm of 196,000 gJs per day?

 MR. SHORTS: Mr. Quinn, you can't really add the two STS contracts into that category, especially if you are looking at how we serve peak day. Those are STS injection contracts, and they would not be -- they are interruptible in the peak season on an injection basis, so they would not be incorporated into my kind of a peak day usage for the north.

 MR. QUINN: Why would you hold those contracts then, sir?

 MR. ISHERWOOD: Those contracts are held to balance the north supply, so STS is the storage service that TransCanada offers, and there's two sides so it. There's withdrawals in the winter that go from Dawn to the north, and in the summer excess demand -- excess supply, sorry, goes from north into -- sorry, the NDA back into Dawn storage.

 MR. QUINN: I think your knowledge in this area would help demonstrate that it is possible to do a gas demand and supply balance to the CDA. Would I be correct in that assessment?

 MR. ISHERWOOD: You would not include those contracts in demands. Those contracts are designed for storage.

 MR. QUINN: And that's -- we've been asking if you would provide us that supply demand balance, and again you've just demonstrated your knowledge of whether that contract is available to flow into the CDA on a peak day. And that's what we're trying to determine, and we were asking you to provide us that type of analysis. Is that something you can provide to us?

 MR. ISHERWOOD: We did at the break, Mr. Quinn, check with some of the team members that responded to the original interrogatory, the supplemental one that was read previously, and it is not possible to come up with that balance, as we indicate in the interrogatory. But what we can say is, in terms of the south, we look at the south in total, in terms of the total gas supply coming towards us, which is 100 percent load factor, and then we meet the peak winter day by taking gas out of storage, and we don't separate the CDA out at all. We treat Oakville the same way we treat Chatham or we treat Sarnia or Windsor. It's all in terms of total demand requirement within Union Gas south.

 MR. QUESNELLE: Mr. Quinn, to the extent -- and I'm trying to be helpful here. If the responses you receive to date demonstrate why the applicant doesn't capture the CDA quantums the way you would like to have them and for your purposes that you've demonstrated, what about a direct question as to why the percentages are so high for CDA? Is there an explanation for that?

 MR. QUINN: That would be a good question.

 MR. ISHERWOOD: Which percentage, sorry?

 MR. QUESNELLE: Mr. Quinn, if you can take him back to the earlier exhibit and point out what led you to this concern.

 MR. QUINN: Well, there's a number of things put together, sir, but to the response to Exhibit D8.12.

 MR. ISHERWOOD: Attachment 2?

 MR. QUINN: Attachment 2, yes. And this number of actual percentage use for optimization, where I see the Vector has 51 percent and $57,000 revenue was made from that path.

 96 percent, in the case of TCPL Union CDA, was used for optimization, and 18.5 million was derived.

 So can you help us with why that path was so lucrative?

 MR. ISHERWOOD: Yeah. There's really two reasons, I guess.

 The contract is from Empress to Union CDA, and as Ms. Piett mentioned this morning, for January, February and March of 2012, that contract was diverted to Union NDA and to a lesser extent in the WDA, and basically was -- that was done through a capacity assignment to a third party. So it was really part of the FT RAM optimization program. We were able to earn revenue on that for those months, and in the summer that gas that would otherwise be destined to the CDA is really destined to Union Dawn, so a similar type of arrangement would have been made for the summer, and again, probably through a capacity assignment that gas would have been -- the path would have been assigned to a third party, and it would have been -- the gas supplied would have still been purchased at Empress, and would have been exchanged to Dawn.

 So it's a contract we actually used for most of the summer and most of the winter, and that is why the 96 percent is showing up. The revenue attached to that, the $18 million, is really a function of the value in the market based on the FT RAM program.

 MR. QUINN: Based on what we've heard so far, how do you know if you can meet your obligations in the CDA before you let the contract be diverted to the NDA?

 MR. ISHERWOOD: Again, as testified this morning by Ms. Piett, the gas supply plan has that contract staying in the north on a peak winter day.

 So to the extent that we assign that for the entire month of January, then it would be there if a peak day occurred in the month of January, and it may also be there –- it will also be there for the remaining days in January.

 And that's where you have this temporary surplus capacity. And I mentioned that this morning, that even if the peak day happened on January the 15th, it would still be the whole month.

 MR. QUINN: How but do you know if your CDA needs are being met if you haven't done an analysis of how you meet your CDA peak day demands?

 MR. ISHERWOOD: What we have done or what was also gas supply plan is the north pays for our contract at the same volume, the same, call it, $70,000 -- for round numbers -- to go from Dawn to Parkway, which is basically the CDA receipt point.

 So the CDA is kept whole. The NDA picks up the entire cost. Their north picks up the entire cost of Dawn-to-CDA, and the north gets a benefit by having a peaking service, essentially, in the north on the days they need it by us diverting this contract.

 And the only thing new in 2012 or in this plan is the ability to optimize, because of the FT RAM attribute on the TCPL capacity.

 MR. SHORTS: And that capacity is required to over the northern peak day, and it's an economical way for the north to be served that way, rather than contracting for Empress to the NDA capacity for the entire year.

 MR. QUINN: I think I understood that you've testified in different ways to that effect. And I guess what I'm still struggling with is to know what tools you may have to meet your peak day in the CDA.

 But what I'm hearing as a summary is that in the 2012, '13 period that was evaluated and analyzed by Sussex, everything is in perfect balance per your gas supply plan; is that accurate?

 MR. ISHERWOOD: That's correct.

 MR. QUINN: What I would like you to do, if I may ask you, with your finger on page 15 of 16, which shows Union contracting to the Union NDA, I would like you to turn up page 10 of 16 also.

 As I was trying to diagnose what was going on because it wasn't available in evidence, I went back to the previous year. And so if you look at the top, the date is January 3rd of 2012.

 So these would be contracts in place during the year that we're concerned about here, 2012; is that correct?

 MR. SHORTS: Yes.

 MR. QUINN: As I compared 2012 to 2011, you probably understand where I'm going, that there was some contracts that stood out for me. And they are contained right near the bottom of the page, so if leave it right there, it's very handy.

 The second and third last, 42581 and 42582, I respect that you're going to be able hopefully provide us some kind of gas balance at the end of this with an undertaking. But before you do that, I'm looking at the numbers of the capacity in those respective contract. And would you take it, subject to check, that those are the only two contracts that are the incremental to -- well, let's say it this way, that these contracts appear in 2012, and that's different from 2011?

 MR. SHORTS: Yes.

 MR. QUINN: So what I'm seeing here is additional capacity that's available from Union Parkway belt to the Union CDA. And I think I've just heard that 2012, '13 was in proper balance for a peak day.

 It strikes me as to why -- what are the purposes of those two contracts and why are they part of the gas supply plan?

 MR. ISHERWOOD: I should point out the second of the two, the 42582, it's classified as -- and this is one for 64,000 gJs per day. The classification of service type is FT NR --

 MR. QUINN: And that --

 MR. ISHERWOOD: So "FT NR" means non-renewable.

 So I might have testified to this in the Parkway hearing and certainly in past hearings, but TCPL had asked Union Gas to contract between Parkway and the CDA a number of years ago. And we –- this is probably going back two or three, maybe four years ago, maybe longer. And we went to them to contract for Parkway-to-CDA. They actually, in the end, didn't have enough capacity in the long term to provide that service.

 So they gave us the one contract for 16,000, and then they had a second contract they offered to us. I think it was for a couple years, or...

 MR. SHORTS: One year.

 DR. HIGGIN: One year? For one year only.

 So that 64,000 in the FT NR contract has been replaced, and today we're using actually a market-based service because it's not available on TCPL.

 And you've also heard us talk about us building a project from our Dawn-to-Parkway system down to the Burlington-Oakville area, and it's partly to replace that FT NR contract. And others.

 MR. QUINN: So, Mr. Stephens, when you reviewed their 2012, '13 plan, did you -- where would I find that market-based contract in the numbers that you evaluated?

 MR. SHORTS: Again, Mr. Quinn, that contract is really to move volumes that are already being delivered on the Union system from Parkway to the Union CDA.

 So those deliveries of the supply are already included in what they have included for the south. So for example, we've already included volumes that have already been delivered. It's just that what TransCanada required to move those volumes into the CDA, they required the volume

-- the contracts to move that volume across the meter, if you want to call it that.

 So there was no supply attached to it. That supply was already showing up at Dawn.

 MR. ISHERWOOD: Said differently, if you draw a circle around the Union Gas south, that contract actually goes from inside the circle and flows around and back inside the circle. It doesn't change the balance in the circle; it just takes it to a different spot in the circle.

 MR. QUINN: I appreciate you've got a way of looking at it, Mr. Isherwood, which then strikes for me the concern: Why is it you can't draw a circle around the Union CDA and show the flows in and out on a peak day?

 MR. ISHERWOOD: Mr. Quinn, the team had tried to do that prior, in the interrogatory response, and tried very hard to do that.

 And it's a combination of that CDA is integrated within the bigger Union Gas south; it's served not only off the TCPL, but it's also served from Union Gas' system. And there was no way to get an accurate representation of that to provide for your interrogatory answer.

 MR. QUINN: If it's served off the Union Dawn-Parkway system it's allocated Dawn-Parkway capacity, correct?

 MR. ISHERWOOD: But, for example, lateral it goes from Dawn-Parkway into that system, may go to other towns and other markets along the way.

 MR. QUINN: Peak day design, it's allocated Dawn-Parkway capacity, is it not?

 MR. ISHERWOOD: Dawn to Parkway capacity, whether it's going down our own line or on TCPL, would be a total of the two.

 MR. QUINN: We've asked it in different ways. I'm going to start with a simpler interrogatory, because I think it will be informative for the Board, but because I didn't come up with a table, could Union summarize the total flows to the respective delivery areas by just summarizing the total contracts on these reports from 2011 through 2013? It's a simple mathematical calculation, correct? We'll start off for the totals --

 MR. ISHERWOOD: I'm just not sure the value, Mr. Quinn. It's on the submission you've given. It's easy math to your point.

 MR. QUINN: Well, I'm hearing -- and this concerns me, Mr. Isherwood, because I'm saying it's simple math, and I thought you were going to object because Mr. Shorts says you can't look at it that way, so I'm asking --

 MR. ISHERWOOD: This column. It's what you're asking, isn't it?

 MR. QUINN: I'm asking for the respective delivery area, for you to add up the total. Then the second step I was going to ask is that you can put any caveats around capacity that does not necessarily flow into an area -- into a delivery area on a peak day. Would you be able to do that out and net it -- do that math, and then net out what can't flow into that area on a peak day?

 MR. ISHERWOOD: We don't know. We can try, but we don't know.

 MR. QUINN: Okay. Well, I'm struggling with this, because I was trying not to take the pen out of your hand by not creating the table myself, because you've added the caveats that you want to.

 I've given you the opportunity, but my next step with that is to add any market-based contracts, and that gives me a question for you since this is new information. This market-based contract that you have now replaced it with, who pays for that contract?

 MR. SHORTS: Mr. Quinn, in that scenario the north would have to ensure that those volumes get between Dawn to Parkway and Parkway to the CDA. So there's a portion of that cost that would be allocated to north and south of those. I would have to get the -- I don't have the breakdown right now.

 MR. QUINN: As part of the gas supply plan?

 MR. SHORTS: Yes.

 MR. QUINN: So it's in your QRAM figures?

 MR. SHORTS: Yes.

 MR. QUINN: Okay. If you could just by undertaking provide that breakdown. That would be helpful. But to the extent that it's allocated for different purposes, if it's providing north capacity, obviously it's going to a delivery area, so you could add that figure to the respective delivery area that is there to serve, but again, I would ask, because you have to do some form of balance to make sure that you're properly contracted to the Union CDA, that you provide in addition to that -- well, first off, can you provide the undertaking I asked for initially, just the math?

 MR. SMITH: I've lost track. What I was going to say is, we can identify where in Union's QRAM the cost associated with the contract just mentioned is identified, and we can provide that schedule. That I think is step one. Next request?

 MR. QUINN: Shall we take an undertaking for that? That won't be a separate one. I would --

 MS. SEBALJ: I think he was looking confirmation as to whether that was part of the request. So that's --

 MR. QUINN: Okay.

 MS. SEBALJ: -- a single undertaking?

 MR. QUINN: Yes, I think that would simplify --

 MS. SEBALJ: J2.5.

UNDERTAKING NO. J2.5: TO IDENTIFY WHERE IN UNION'S QRAM THE COST ASSOCIATED WITH THE CONTRACT IS IDENTIFIED AND TO PROVIDE THAT SCHEDULE

 MR. QUINN: So the undertaking that I started with at the outset was to total the amount of deliveries to the delivery area by adding up the contract demand available to the delivery area on the peak day. Stopping there, is that something you can do?

 MR. ISHERWOOD: Is that not already contained in the table that Sussex has done for all but the CDA?

 MR. QUINN: No, it is not, sir, because I couldn't reconcile the CDA, and that's -- frankly, that's where I got stuck, and I've heard from you this morning or this afternoon now that Union CDA is managed differently. I'm asking Union to undertake this because I don't have Union's knowledge of how it manages this gas. I didn't know about that market contract, so I think that provides Union that opportunity.

 MR. SMITH: Yes, we'll do that.

 MR. QUINN: Okay. So that's doing the total math. Then from that point net out any contract that does not actually provide delivery to that area, and maybe that was implicit in your response, Mr. Smith, but I want to make sure that that's part of it, that if the caveats that Mr. Shorts put around the STS contracts says it's not available on a peak day, then please note that and net it out.

 MR. ISHERWOOD: Mr. Quinn, just for the CDA?

 MR. QUINN: This is for -- I would like it for all delivery areas, because I think it is math, Mr. Isherwood, to the extent that everything lines up --

 MR. ISHERWOOD: I believe the Sussex report makes a very strong conclusion on all of the delivery areas except the CDA --

 MR. QUINN: And it does it, sir, for 2012, 2013. I'm asking for the three years, 2011, 2012, and 2013.

 MR. SMITH: I'm sorry, I don't understand why we would be doing it for 2011. What we're talking about is 2000 -- the directive was to address concerns about the size of Union's gas supply plan going forward. I could understand in argument about 2012, because it's a 2012 deferral account proceeding, but that's where I stop.

 MR. QUESNELLE: Mr. Quinn, what's the relative comparison of use?

 MR. QUINN: Thank you, sir. I've had the advance look at these schedules. The capacity that Union is referring to wasn't contracted in 2011, was contracted in 2012, and is not contracting in 2013. The year that is in question is 2012. So there has to be a purpose for that contract that is specifically for 2012, but that wasn't the year that Sussex evaluated the balance for. They evaluated it for 2012, 2013.

 So it was intentional when I submitted these index of customer reports that each of them are for January of the respective years. So I'm looking at three consecutive winters. Mr. Stephens evaluated a balance for the third winter, but ironically, the third winter is not the winter that would be a subject of this proceeding, the January of that winter. It's the January of the previous year, that is January 2012, which is subject to this proceeding.

 MR. SHORTS: Just to clarify, Mr. Quinn, you said that those contracts weren't there in '13?

 MR. QUINN: One of the contracts is there, excuse me, but wasn't there in 2011. So one of the contracts is there in 2013. That's why I'm asking Union to just summarize this. Is it very hard to read, and especially with all the detail. It's just a summary report, but it shows the summary of those numbers, the respective delivery areas for the three years.

 MR. ISHERWOOD: Would it be more helpful to do an undertaking on those two contracts, the 16,000 and 64,000, give the history and why it's changed over the three years?

 MR. QUINN: No, sir, I would prefer to have the total, because from my evaluation of the numbers -- and you can take this subject to check, but the amount of the CDA -- and you can put the caveats on what's available, but there is a significantly higher availability of capacity CDA in 2012, the numbers I have, when you add it all up, you will do the netting as appropriate, but in 2011 it was 192,000, in 2012 it was 263,000, in 2013 it was 196,000.

 I have trouble reconciling why there would be almost a 35 percent increase in capacity for that one year to the CDA, which is the nature of my questions in the first place.

 MR. ISHERWOOD: But I think Mr. Shorts already identified that the FT and R contract was only there for one year.

 MR. QUINN: And I understand that, and to the extent that there is explanation that comes with the numbers we will accept -- because we're trying to understand.

 MR. SMITH: We'll do the undertaking, because the 64,000 is not incremental capacity, and we will do the undertaking, and we will show that.

 MR. QUESNELLE: Thank you.

 MS. SEBALJ: J2.6.

UNDERTAKING NO. J2.6: to provide the TOTAL AMOUNT OF DELIVERIES FOR ALL DELIVERY AREAS,LESS THOSE NOT AVAILABLE ON PEAK DAYS, FOR THE YEARS 2011, 2012, 2013

 MR. QUINN: Now, I just have a couple clean-up questions, and I was helping my friend Mr. Thompson get on with his, but this morning there was some discussion about mitigating UDC. As part of the gas supply plan, I understand, Mr. Shorts, you have planned UDC?

 MR. SHORTS: Yes, there's a -- there's planned UDC in the north.

 MR. QUINN: In the north, or specifically the EDA? My recollection from last year.

 MR. SHORTS: No, actually, most of the planned UDC in the north is the WDA and NDA.

 MR. QUINN: There's no more UDC in the EDA?

 MR. SHORTS: The EDA is the highest load factor in the north. I don't know exactly. There's a small amount of, I believe, UDC due to balancing at the end of March.

 MR. QUINN: Okay. I accept that things may have evolved since last year. What my question is more specific to is, Union has planned UDC. They know going into the year that there's expectation the pipe is going to be empty at some times, because the gas balance for the year would tell you that it's not needed; is that a summarized way of saying it?

 MR. SHORTS: The gas supply plan tells us each year how much planned UDC in the north there will be.

 MR. QUINN: So you know going in there is UDC. Clearly, the gas supply plan is cast, and then as I understand it, it is then optimized by Ms. Piett's group; is that correct?

 MR. ISHERWOOD: That's correct.

 MR. QUINN: So when early in the year rolls around and there's an opportunity to optimize for people in, let's say March, if March is the month that you have -- you have some planned UDC in March, I believe?

 MR. SHORTS: Yes, there's some planned UDC in Match. That's the bulk of the UDC in the north, is planned in March.

 MR. QUINN: And so there's an opportunity to optimize through assignment in March. Who makes the decision whether it's the UDC capacity that gets mitigated or it's used for transactional services on an assignment basis?

 MR. SHORTS: When we do our gas balance and we update the amounts as we go throughout year, we look at what the volume will be in our balance for the storage season.

 So for example, in 2012, because it was extremely warm, that 10.3 level of planned UDC we had in the north actually escalated to include both north and south.

 So what was he actually will do is look at how much capacity we don't need anymore, back off of those supplies, release that pipe to the marketplace, and take that entire value to the UDC account.

 MR. QUINN: What you have is two opportunities at that point. And I guess this question might be better for Mr. Isherwood. This additional capacity arrives on your plate and you have not peak winter days, so you have opportunities for -- as is demonstrated from one of your schedules, that you do assign pipe away in March.

 Whose pipe gets assigned away first? The company's UDC pipe, or incremental assets that have been developed by -- surplus assets as deemed by the S&T group?

 MR. ISHERWOOD: The gas supply group gets a report every month, Mr. Quinn, in terms of what our current position is in terms of how much gas do we have, how much gas is being consumed versus supply.

 And so to the extent we are getting length in our gas supply, the net number is reported to Mr. Shorts's group every month, and he would work with both our gas control operations group in terms of when and which pipeline is that best to mitigate that capacity on.

 And although the gas supply plan does have mitigation showing up in March, I think from a gas control point of view, their preference is typically to wait until at least April before they start mitigating, just to make sure we get through the consolidated weather.

 MR. QUINN: If you've got planned UDC and you know you're long --

 MR. ISHERWOOD: The planned UDC is one thing, but as you would expect from a gas control operational point of view, they want to make sure. So the supply length is -- can be handled any time during the summer. It can be handled in a variety of different ways.

 And in March, especially in the north, from an operating point of view you would rather have the gas continue to show up than to start to mitigate.

 MR. QUINN: Is there a policy or procedure that Union follows in this regard?

 MR. ISHERWOOD: There's no formal policy or procedure, but there's a dialogue between the gas control group and the gas supply group.

 MR. QUINN: Let just to make sure I've captured this correctly, even if you have planned UDC in March and you've had a warmer than normal January, the gas supply group will not release the transport until April, just in case it gets cold again?

 MR. ISHERWOOD: As I just said, it would not be prudent to do mitigation in March, especially in the north. So the decision that we have made historically -- and I think it is the right decision -- is not to mitigate in April -- or, sorry, in March, and to begin that work in April and through the rest of the summer.

 There's lots of time in the summer to mitigate; there's no urgency to do that in March.

 MR. QUINN: And in addition to that, Mr. Quinn, there is UDC in every month in certain delivery areas in the north, but we -- again, for the same reason Mr. Isherwood just stated -- we do not look at the UDC mitigation or release that pipe in case there is a peak day in those periods.

 MR. QUINN: So said differently, S&T optimizes all of the opportunities for March, and the UDC, your intention isn't turned to UDC pipe in the summer -– until the summer?

 MR. SHORTS: It's not just, again -- the way we manage UDC or our balance may not be strictly by releasing pipe. So for example, we have Dawn purchases within the south portfolio that we used to actually not buy.

 So there's no demand charge associated with that, so we would actually forego, for example, like we did in '12, buying four-plus pJs of supply that was planned to be bought, but to mitigate the balance, the imbalance, we had not purchased those supplies.

 MR. QUINN: I think we focused a lot on the gas supply part of this, but Mr. Shorts, would you be able to anywhere either point to us by reference, by undertaking, where we would be able to see your UDC mitigation and the strategies that were employed by Union and the results for customers for 2012?

 MR. SHORTS: I'm just trying to turn up the interrogatory.

 MR. QUINN: I would be happy, sir, for you to just give us a reference afterwards, if you know that you have it.

 MR. SHORTS: So for example, if we look at D8.1, we actually show on D8.1, attachment 1, the mitigation of our four UDC purposes for our gas supply plan.

 And you'll see that they are listed by pipe, and that it gives -- the first is the demand charge, and then the released value. So those two numbers then give you the net UDC that went into the deferral account for 2012.

 MR. QUINN: Kudos to you, because your memory is better than mine that this is our IR.

 But I see March demand charged and the release value; can I conclude from that that there was actually March UDC mitigated?

 MR. SHORTS: Yes. Because it was so uncharacteristically warm in 2012, we did actually start earlier in '12 than we would have normally done so in any other year.

 MR. QUINN: I didn't want to debate with you the merits of starting in March, but I'm comforted by the fact you have.

 I think those are my questions. Thank you very much, sir.

 MR. QUESNELLE: Thank you, Mr. Quinn.

 Mr. Thompson, it's the panel's intent to finish with this witness panel today, just to let you know that. I believe we have on the request list -- estimate list, rather, today about an hour and a half left of cross-examination, but I think unless there is a restriction on anyone's time, we'll intend to stay with this panel until its conclusion. Okay? Thank you.

Cross-Examination by Mr. Thompson:

 MR. THOMPSON: Thank you, Mr. Chair.

 Mr. Stephens, my questions will be primarily for you, and they pertain to a topic Mr. Brett was discussing with you, and it relates to your evidence at page 39 -- pages 39 to 41. And I'll come to you in a moment, because before I pose these questions I just have a few questions for Mr. Isherwood or Mr. Shorts.

 And this relates to Union's S&T department and the performance of the gas supply portfolio optimization activities.

 Now, Mr. Isherwood, are you still the head of the S&T department?

 MR. ISHERWOOD: S&T department reports in to me, yes.

 MR. THOMPSON: Are you an employee of the utility?

 MR. ISHERWOOD: I am.

 MR. THOMPSON: Now, are there others in the department that are also employees of the utility?

 MR. ISHERWOOD: Which de -– S&T department?

 MR. THOMPSON: Yes.

 MR. ISHERWOOD: They are all employees. And I'm defining S&T as being Ms. Piett's group.

 MR. THOMPSON: Now, do the members of the S&T department also perform non-utility functions?

 MR. ISHERWOOD: They also sell non-utility or unregulated storage space.

 MR. THOMPSON: And are you able to tell -– let me ask this question. Is all of the time that the group spends on utility asset optimization, as well as other resources that are used by the department for that activity, charged to the utility?

 MR. ISHERWOOD: Probably a better question for Ms. Elliott, but I would say yes.

 MR. THOMPSON: Do you happen to know approximately what the allocation factor is as between utility and non-utility for the department?

 MR. ISHERWOOD: I do not.

 MR. THOMPSON: Could you possibly get that by way of undertaking for me?

 MR. SMITH: Relevance aside, yes, we'll do that.

 MS. SEBALJ: J2.7.

UNDERTAKING NO. J2.7: TO PROVIDE BREAKDOWN OF TIME SPENT BY S&T GROUP ON UTILITY AND NON-UTILITY.

 MR. THOMPSON: So in this context, where the utility is paying for the asset optimization activities being done with respect to -- or in connection with utility assets, is it fair, Mr. Stephens, to characterize the Union approach as effectively an in-house approach, in terms of the costs incurred to perform those utility asset optimization functions?

 MR. STEPHENS: Yeah, yes, I think that would be fair, Mr. Thompson.

 MR. THOMPSON: Thank you. So now, Mr. Stephens, over to you, and the starting point with respect to my questioning is first of all with respect to background in terms of timing, and I've taken dates from Exhibit B, tab 5, which Mr. Shorts had described, I believe, in his evidence in-chief this morning. And there's also some information in the BOMA Exhibit D3.1, and then there's information contained in the attachments to -- well, in your report. Let me just give me you this -- these -- these mileposts, subject to check.

 First of all, the Board's 0210 decision, would you take subject to check was issued on October 25, 2012?

 MR. STEPHENS: Yes.

 MR. THOMPSON: And then the next Board decision, which I call the 0087 decision, was issued on November 19, 2012? Would you take that subject to check?

 MR. STEPHENS: Yes.

 MR. THOMPSON: The RFP that Union sent with respect to the work that your firm eventually contracted, would you take subject to check was sent on December 12, 2012?

 MR. STEPHENS: Yes.

 MR. THOMPSON: The proposal that you made, which I believe is attached to Exhibit D3.1, would you take subject to check was January 4, 2013?

 MR. STEPHENS: Yes.

 MR. THOMPSON: And the services agreement which you signed which is also part of that exhibit was -- is dated January 14, 2013? Would you take that date subject to check?

 MR. STEPHENS: Yes.

 MR. THOMPSON: And the report that's been filed here as a date of April 2013 on it, is there an exact date? I had a note of April 20, 2013, but now I don't know where I got that.

 MR. STEPHENS: I gave a -- is accurate.

 MR. THOMPSON: Thank you. And so having regard to that sequence of events, can you tell me whether you reviewed both of these 0210 and 0087 decisions during the course of your work and prior to finalizing your report?

 MR. STEPHENS: So we reviewed 0210 both prior to submitting the proposal and during the sort of course of the project, which was sort of the focus of the eight elements that we're working on.

 In terms of the 0087, I don't have a clear recollection when I reviewed that, Mr. Thompson.

 MR. THOMPSON: Sorry, so did you review it, or --

 MR. STEPHENS: I believe I did. I have to -- subject to check.

 MR. THOMPSON: Okay. And can you help me at all with the timing of when you reviewed it?

 MR. STEPHENS: Subject to check; I'm not sure when I reviewed that document, Mr. Thompson.

 MR. THOMPSON: Was it before you issued your report?

 MR. STEPHENS: Excuse me a second, please, Mr. Thompson. I'm sorry, Mr. Thompson, I did not review this report, this order, actually, the 0212087 (sic), I did not review that, now that I'm looking at it.

 MR. THOMPSON: You've never reviewed it?

 MR. STEPHENS: I have not.

 MR. THOMPSON: Okay. So now back to page 39 of the report, and the first sentence reads, and Mr. Brett, I think, quoted this to you, but it will help the context of my questions. The first sentence says:

"In addition to the gas supply elements identified by the OEB in EB-20100210..."

 If I could just stop there and interject. Am I correct that that's referring to the list of 11 items that I think appears at page 41?

 MR. STEPHENS: It is, but more focus on the eight that we actually evaluated.

 MR. THOMPSON: Yes, okay. The eight of the 11 that you --

 MR. STEPHENS: That's correct.

 MR. THOMPSON: -- were your responsibility.

 And then it goes on and says:

"Sussex also reviewed the Union practices associated with gas supply portfolio asset optimization."

 And I think you said to Mr. Brett this morning that this particular element of the work -- and I may not have put down the right word, but what I had noted was it emerged as the project evolved or something to that effect. Have I got that straight?

 MR. STEPHENS: So it was during the -- we had three on-site meetings. At the second on-site meeting we were talking about the interview process and the ways different utilities look at asset management. At that point in time it was suggested that would be a good section to add to the report.

 MR. THOMPSON: Okay. And who suggested that?

 MR. STEPHENS: So Union did.

 MR. THOMPSON: Thank you. Now, is there anything in writing describing what it is that was requested and how you proposed to perform that element of the project?

 MR. STEPHENS: So there's nothing in writing, Mr. Thompson. The focus was really a high-level structural analysis of how utilities look at asset management.

 MR. THOMPSON: All right. So there are no e-mails or no correspondence, it's all verbal?

 MR. STEPHENS: That's correct.

 MR. THOMPSON: Now, I just want to then get the extent of your expertise in the practice followed by utilities in connection with gas supply portfolio optimization. And in that connection we have at appendix A of your report that's in the pre-filed evidence, it follows page 41, about four lines down, a statement:

"He has assisted numerous clients with regulatory policy, strategy/oblique tactics and energy market analyses/assessments, including..."

 And then there's a list of them, but if we go down in the middle of the list, there is:

"...natural gas supply portfolio evaluation and optimization..."

and then:

"(e.g., asset management agreements)."

 And then a little further down, second-last sentence, it says:

"Mr. Stephens was also responsible for the Gas Supply Procurement and Portfolio Optimization function for a local distribution company."

 And I gather from your CV that's part of Exhibit K1.1 that company was Colonial Gas Company, a national grid subsidiary, and you were with them between 1991 and 1994?

 MR. STEPHENS: That's correct.

 MR. THOMPSON: Now, does that -- do those words describe the extent of your expertise in this subject-matter area?

 MR. STEPHENS: They do.

 MR. THOMPSON: Okay. Now, can you give us some idea of the number of numerous clients you assisted with respect to natural gas supply portfolio evaluation and optimization?

 MR. STEPHENS: Over the course of my career it's been quite a few, Mr. Thompson, so I would say at least 20.

 MR. THOMPSON: Thank you. In the project approach that you were discussing in-chief this morning -- and this is I think set out in page 10 of the report -- as part of the project approach, third bullet point, you conducted an LDC benchmarking analysis which consisted of a review of certain Canadian and US LDC gas supply plan materials; is that right?

 MR. STEPHENS: That's correct.

 MR. THOMPSON: And in the -- I think it's appendix C to your report, the list of utilities that were included in your benchmarking analysis includes a number of utilities that have subsidiaries or affiliates; is that fair?

 MR. STEPHENS: Yes.

 MR. THOMPSON: I did a rough count, not counting the affiliates, but I saw -- I think I got 20 utilities plus their affiliates were the sample group.

 Would you take that, subject to check?

 MR. STEPHENS: Yes.

 MR. THOMPSON: And in terms of the tasks pertaining to optimization, if we go towards the second part of it, which I think starts -- maybe it's the third part, starting at page C11, the benchmark study addresses optimization software used; is that correct?

 MR. STEPHENS: Yes.

 MR. THOMPSON: So you did not include in the benchmark study -- at least it's not shown in this appendix -- the optimization approach used by each of these utilities?

 MR. STEPHENS: We did not review that information. That's correct.

 MR. THOMPSON: But do you know that information?

 MR. STEPHENS: Not offhand, I do not.

 MR. THOMPSON: But is it available to you? Is that part of your background expertise here?

 MR. STEPHENS: The information may be available in the individual LDCs dockets that are filed any margin sharing on a set of regulations basis, but we do not review all those documents.

 MR. THOMPSON: Whether you reviewed them or not, I'm asking: Are you aware of them? Are you aware of the optimization approach used by these utilities in your sample here?

 MR. STEPHENS: I'm aware of the general approach used by utilities, Mr. Thompson.

 MR. THOMPSON: Is that, then, the information source for your description of the three approached that you have in the --

 MR. STEPHENS: It is.

 MR. THOMPSON: -- evidence? And so does that –- just to nail it down, does that come from this sample, or is it an even broader sample?

 MR. STEPHENS: Some of my project experience is beyond these utilities.

 MR. THOMPSON: So it's this sample, plus a broader experience?

 MR. STEPHENS: That's correct.

 MR. THOMPSON: Thank you. Now, the other point that I think you told Mr. Brett you didn't include in your benchmarking analysis was how optimization proceeds were used by the utilities.

 MR. STEPHENS: That's correct.

 MR. THOMPSON: Again, but do you know that for each of these utilities in this sample and for a broader sample?

 MR. STEPHENS: I do not know it for each of these utilities, Mr. Thompson. I did not review their actual

-- any revenue sharing mechanism they may have in place. I did not review any of that information.

 MR. THOMPSON: I appreciate that, but I'm asking: Do you know it from your expertise and experience?

 MR. STEPHENS: So in a broader sense, my typical experience has been that the revenue sharing mechanism to provide incentive to LDCs to remarket capacity has been in the 90/10 range, with some at 75/25.

 MR. THOMPSON: You told Mr. Brett this morning that the proceeds of these activities, in terms of the utility share of the proceeds, are applied to reduce the costs of the assets being optimized.

 MR. STEPHENS: That's correct.

 MR. THOMPSON: Is that, again, your general experience?

 MR. STEPHENS: No, my general experience, Mr. Thompson, is a utility is optimizing their assets, anything that they earn is shared 90/10, with 90 percent going back to the ratepayers and 10 percent going to the shareholder.

 MR. THOMPSON: It goes back to the ratepayers by reducing the cost of the assets optimized?

 MR. STEPHENS: I'm not sure how the money flows through, Mr. Thompson. My expertise on the rate regulatory side is more on the gas supply side, so I'm not sure how those dollars are actually accounted for and flow through.

 MR. THOMPSON: Thank you.

 Did Union seek your advice on the 90/10 that had come out of the 0210 decision?

 MR. STEPHENS: No, Mr. Thomson. My focus was on the structure of the organization in terms of how they approached the market, not on any of the revenue sharing analysis.

 MR. THOMPSON: So of the utilities with which you are familiar -- how did Colonial do it? Did it apply the -- first of all, did Colonial have an asset manager, or did it do it in-house?

 MR. STEPHENS: Mr. Thompson, this is very early on in the 636 process. So as we go through the unbundling on the US side, Colonial Gas Company was doing it in-house. So we were negotiating our own contracts and managing our own capacity.

 MR. THOMPSON: Did the proceeds of the activities get applied to reduce the costs of the assets being optimized?

 MR. STEPHENS: Again, I'm not familiar with how they accounting was done, Mr. Thompson. I wasn't in that role. I was on the gas supply side.

 MR. THOMPSON: So you have no idea how it was done?

 MR. STEPHENS: I do not, Mr. Thompson.

 MR. THOMPSON: In your expertise, have you come across any cases where the proceeds of the asset optimization activities have been used otherwise than to reduce the cost of the assets optimized?

 MR. STEPHENS: As I mentioned, there is some sharing, so I would assume that some of the sharing goes back to the shareholder. Then the rest of the proceeds would be -- either flow through a gas cost charge or a distribution charge. I'm not familiar how the LDCs would flow through those charges, or those revenues.

 MR. THOMPSON: Are you aware of any cases which support Union's proposal to classify the proceeds of asset optimization activities as utility revenues?

 MR. STEPHENS: What I know, Mr. Thompson, if you look at how utilities may do this, if they had an asset manager in place, that asset manager then would be involved in sort of growing the pie, and that asset manager then would take some of that pie for their own margin.

 I'm not sure whether that would equate to utility revenues in the sort of nomenclature that's being used, but that is a structure that can be used and is used on the US side.

 MR. THOMPSON: My understanding of what you mean when you describe an asset manager is it's a third-party service provider whose costs would be covered –- whose own costs would be covered by the -- his share of the pie, as you put it.

 MR. STEPHENS: There are two types, Mr. Thompson. One is a third party and one is an affiliated marketer that would be related to the utility.

 MR. THOMPSON: But the share of the pie is used to cover the third party or the affiliate's costs?

 MR. STEPHENS: That's true.

 MR. THOMPSON: Those are my questions, subject to -- I wanted to ask Mr. Isherwood one question that came up this morning. It's about Exhibit D7.18. This was the invoicing practices. That was raised and I didn't stick with it, I moved on, but I wanted to ask if I could be permitted to ask that question.

 MR. QUESNELLE: Certainly, Mr. Thompson.

 MR. ISHERWOOD: What was the reference, sorry?

 MR. THOMPSON: D7.18, and it's attachment 1.

 You mentioned this this morning, Mr. Isherwood, when we were talking about the -- who pays what on a capacity release exchange transaction.

 MR. ISHERWOOD: Yes.

 MR. THOMPSON: How that... And so in case 4, where we have the summer release or even the winter -- doesn't really matter -- case 4, case 5, this is showing, first of all, the Union -- once the assignment -- once the transaction is in place, Union doesn't pay anything to TransCanada. That's the first line, right?

 I'm looking at it, summer actual or winter actual.

 MR. ISHERWOOD: So you're referring to under "Actual" the 229?

 MR. THOMPSON: That's right. Plan, your demand charge is 229.

 MR. ISHERWOOD: Yes.

 MR. THOMPSON: And then when you go through the capacity release exchange you don't pay the 229. The S&T customer, if you go down to the third pay, it's the 229 to TransCanada.

 MR. ISHERWOOD: That's correct. So on the capacity assignment, the capacity actually assigned to the customer for the month in question, and because it's been assigned for the month TCPL, actually invoices the customer directly, and then the customer invoices us directly for the same amount.

 MR. THOMPSON: And so as a result of what the -- I just want to make sure I get these numbers -- as a result of what the S&T customer gets, which is an assignment of the FT contract, which includes the FT RAM attributes, right?

 MR. ISHERWOOD: That's correct.

 MR. THOMPSON: The customer pays 229 to TransCanada and pays to Union 45 cents. Do I understand this correctly?

 MR. ISHERWOOD: That's the exchange revenue; that's correct.

 MR. THOMPSON: All right. Well, the customer pays a total of 245.

 MR. ISHERWOOD: Of which? No.

 MR. THOMPSON: Well, 229 to TransCanada and 45 to Union.

 MR. ISHERWOOD: Right, so that would be 274 or something.

 MR. THOMPSON: Right. Sorry. That's right. 274. Thanks. And then Union pays to the customer for the service Union gets out of the deal 229.

 MR. ISHERWOOD: We pay the same price to them as we would to TCPL.

 MR. THOMPSON: And you get -- do you get a firm commitment from the marketer to deliver your gas or make the exchange at Dawn? In other words, it's firm for firm?

 MR. ISHERWOOD: It is firm, yes.

 MR. THOMPSON: Okay. And so you are paying exactly to the marketer for the service you are getting what you did pay to TCPL?

 MR. ISHERWOOD: That's correct. On the capacity that we actually assign them.

 MR. THOMPSON: Okay. Right. And do those cheques actually flow that way? Like --

 MR. ISHERWOOD: It is actually invoices, two different invoices.

 MR. THOMPSON: Okay. And so when -- okay. So the bottom line is marketer pays a total of 274, and Union pays the marketer 229, and the difference is the 45, right?

 MR. ISHERWOOD: And I guess from our perspective we still pay the 229 we would have paid to TransCanada, and then the value or the revenue we get is the 45 cents. That's how our side of the transaction looks.

 MR. THOMPSON: Okay. Well, we'll deal with that later. Thank you very much. Those are my questions.

 MR. QUESNELLE: Thank you, Mr. Thompson.

 Ms. Sebalj?

Cross-Examination by Ms. Sebalj:

 MS. SEBALJ: Good afternoon, gentlemen. My name is Kristi Sebalj. I'm the legal counsel for Board Staff. I have -- I'm going to try to be efficient about this for the obvious reason that everyone probably wants to get out of here, but do I have a number of sort of disparate areas/follow-up that I want to do.

 I'm going to start with the core, though, which is Mr. Stephens and your report, and start at page 10 of your report. I don't know if you are going to pull it up. The last line says:

"It's important to note that as market circumstances and regulatory requirements change the LDC approach regarding the four major gas supply planning activities would also change."

 And those four gas supply planning activities are also on that page, just a paragraph above. So:

"Develop and communicate the gas supply planning objective and principles, prepare a design day demand forecast which guides the level of resource requirements, develop the gas supply plan within the stated objective and principles, and ongoing management of the gas supply portfolio."

 And as I understand it, you basically structured your report around those four areas; is that correct?

 MR. STEPHENS: That's correct.

 MS. SEBALJ: And I wanted to ask, the last line of that page, which suggests this -- that it's a dynamic -- that it changes with market circumstances, what that means from a practical perspective at the LDC level.

 MR. STEPHENS: So the only point that was made as market or regulatory conditions change, the LDC planning process may need to change to adjust that. For example, if there's any additional -- any change associated with perhaps capacity assignment, which happens on the U.S. side that may impact the way the portfolio is planned, they need something to get -- needs to get involved in the process and into the planning loop.

 MS. SEBALJ: And did you evaluate whether Union is essentially changing with market circumstances? Did you look at their operations to see whether they are indeed doing that?

 MR. STEPHENS: So what we did is we looked at whether or not Union is -- has resources dedicated to reviewing market circumstances, to reviewing regulatory changes and regulatory situations, and we concluded that they do have people and resources focussed on those two issues.

 MS. SEBALJ: So they have resources dedicated to it. But I guess what I'm trying to get at is whether or not you evaluated the sort of day-to-day operations of Union with respect to gas supply planning. I get the impression from the report that it's high-level, it evaluated the approach, as opposed to the rubber hitting the road of what they do on a day-to-day basis.

 MR. STEPHENS: We did not review any daily analysis or any daily tasks. Our focus was at a high level, in terms of, does the planning process produce a portfolio that is right-sized. That was our objective. And it was not looking at daily transactions or daily activity.

 MS. SEBALJ: And then with respect to the gas supply planning principles, your report on that starts at page 11. You identify the principles that Union uses. I'm assuming Union provided those to you?

 MR. STEPHENS: They did, but they also were in the transcripts that I reviewed.

 MS. SEBALJ: Sorry, which transcripts did you review? The EB-20110210?

 MR. STEPHENS: That's correct.

 MS. SEBALJ: And did you find that they're -- those principles are documented at Union?

 MR. STEPHENS: Yes, I did.

 MS. SEBALJ: And do you know how long they have been in place? Since the dawn of time or...

 MR. STEPHENS: I think --

 MS. SEBALJ: They've been doing this for a while.

 MR. STEPHENS: -- they've been, based -- based on the analysis that I -- and I'm trying to recollect the documents -- I believe that these principles have been in place for a fairly long time. I can't give you a specific date, though.

 MS. SEBALJ: And again, from an operational perspective, do you have an opinion with respect to whether Union adheres to the principles?

 MR. STEPHENS: Based on our view and our analysis, yes, they do adhere to the principles that are outlined here.

 MS. SEBALJ: And I think I gleaned from the examinations of my friends some of the answers to the questions I had about the design day analysis, but let me give it a shot, and you can tell me if I'm wrong. What I glean from the report is that essentially the gas supply plan -- that there's a design day analysis that's based on coldest temperature observed. At least for Union that's what it's based on. And you've provided us with the numbers in teraJoules per day that are required to supply the two different -- the north and the south.

 MR. STEPHENS: That's correct.

 MS. SEBALJ: And that, provided that those number of teraJoules will meet the design day demand, that's the end of the gas supply planning story; is that correct?

 MR. STEPHENS: So the gas supply plan sort of on page 28, for example, the focus there is that is --

 MS. SEBALJ: Sorry, can you give me that page number again?

 MR. STEPHENS: Oh, sorry. It's on page 28.

 MS. SEBALJ: Yup.

 MR. STEPHENS: So the focus there is to show that the design day demand calculation that Union does is in the gas supply plan, and that the resources are -- the certain amount of resource are contracted in order to meet that level of demand.

 One of the things that we also include in our report is one of the recommendations, is to make sure there's a feedback loop so during -- after the forecast is done and the year is completed, to go back to see if there's anything that could have been changed, look at any additional analyses that may be relevant, but just to create a feedback loop around the whole process.

 MS. SEBALJ: And I guess I'll just ask my question here. You were asked by Mr. Brett earlier today about -- and this didn't occur in 2012, but there have been full-year capacity assignments by Union, and presumably that's the kind of information you are talking about, the feedback loop. If I'm -- in my view, and I'm not a gas supply expert, but in my view, if you are able to do a full-year capacity assignment, then surely that needs to feed back into the gas supply plan, because if you were able to contract for it then get rid of it for the full year, you probably shouldn't be contracting for it in the first place.

 MR. STEPHENS: So they're two definitely two separate issues.

 The first issue in terms of is the portfolio right-sized to meet design day demand. That's issue one.

 The second issue is how is that portfolio managed or how are demand charges mitigated, and what you are talking about, I believe, is sort of the second aspect, is was there a transaction to mitigate demand charges and was there another commercial transaction in order to make sure design day was met.

 To me, those are -- so looking at the plan, which was right-sized, and how the plan is managed are two separate issues, and I was focussing on size.

 MS. SEBALJ: And you spoke about that this morning, and I guess that's my -- this is my learning curve.

 So as I said before, as long as your design day will be met by the number of terajoules in whatever the service area is, that's the gas supply plan?

 MR. STEPHENS: That is the gas supply plan, to sort of say that's the -- the portfolio's right-sized.

 Now, there may be contract decisions that are coming up, there may be some additional market context that should be provided, but that, in terms of the gas supply plan, is it right-sized, that was the focus of the analysis.

 MS. SEBALJ: Right-sized. So what you are saying is step two is to look at the optimization of the plan, mitigation of UDC, those sorts of things, but that is step two.

 Step one, whether the plan is right-sized, is just: Can you meet design day?

 MR. STEPHENS: That's correct.

 MS. SEBALJ: I guess for me confusion arises because you say in your report -- and Union testified to this earlier today -- that they don't -- the gas supply plan for Union South is not designed to peak day or design day.

 MR. ISHERWOOD: I should clarify that. The south -- there is a design day requirement in the south that is met by our own system. The gas supply plan does not have to deal with that. It's dealt elsewhere within the company.

 MR. SHORTS: Just to add to that, the gas supply plan in that Union South does not have to, in and of itself, worry about the design day temperature requirement, because it is designed to meet a hundred percent load factor flow of our upstream pipes, and it's really designed around meeting an average day load.

 Anything above that average day load is met through incremental withdrawals from storage.

 MS. SEBALJ: Which are not taken into consideration in the gas supply plan?

 MR. SHORTS: Correct. That's part of the system transportation storage plan.

 MS, SEBALJ: Which is what you said, I think. It's S&T that looks at this.

 Then we heard about integrated --

 MR. ISHERWOOD: Sorry, it's not S&T either. Sorry. Engineering has a storage and transportation plan, but it's not anywhere near the S&T marketing group. It's all engineering design and confirmation.

 So we have to meet peak day demand on the Dawn-to-Parkway system, which is a summation of in-franchise demands and ex-franchise. Then all the laterals that leave and come off the Dawn-to-Parkway system are all designed to meet peak day.

 MS. SEBALJ: I heard you say that this morning.

 When you say designed to meet peak day -- I've been in enough infrastructure hearings -- you are not talking about the capacity of the pipe? You're talking about the flow through the --

 MR. ISHERWOOD: Yes, yes. Absolutely. The capacity of the pipe.

 MS. SEBALJ: You're talking about the capacity of the pipe?

 MR. ISHERWOOD: Yes.

 MS. SEBALJ: Okay. I guess I was just trying to understand. Basically, the gas supply planning, although you say it's aligned, it is very different in the north versus the south?

 MR. STEPHENS: In terms of how the assets are developed, the gas supply plan in the north sort of reflects the assets that are available to it. The gas supply plan in the south reflects the assets that are available to it, which are different.

 MS. SEBALJ: I guess the way I would character –- there's more flexibility in the south?

 MR. ISHERWOOD: The flexibility is around the fact that we own the assets. It's our assets that we own.

 In the north we have to buy services from TransCanada, primarily.

 MS. SEBALJ: Right. So here's a way to dumb it down for me. Although this could never happen, I'm assuming, unless we continue to abuse our planet, if you had coincident peaks in the north and the south, your gas supply plan is right-sized such that you can meet those coincident peaks; is that correct?

 In other words, if you had design day in every area, including the six areas that you define as being part of the north and the south?

 MR. STEPHENS: That's correct.

 MS. SEBALJ: You have contracts in place to meet those needs?

 MR. SHORTS: That's correct.

 MS. SEBALJ: I guess it would be contracts including withdrawals from storage to meet those --

 MR. SHORTS: Contracts, as well as our own assets.

 MS. SEBALJ: And that essentially is the reason that we're here talking about this today? Because it is right-sized to that very extreme example, there's room to play on every other day?

 MR. ISHERWOOD: There's surplus assets available that can be optimized on days we're not having a peak day.

 MS. SEBALJ: Sorry, I'm just making sure I'm not re-asking questions.

 If I switch gears a little bit and go back to a discussion we had this morning with Mr. Isherwood and Ms. Piett about the table at page 9 of Exhibit B, tab 2 -- which I know is not, strictly speaking, part of what this panel is here to talk about, but I just want to follow up, basically, in light of some discussions that we've had this afternoon.

 The first follow-up piece is you had a discussion with Mr. Quinn about injection and withdrawal from storage, and my understanding is that at some point in the recent past, storage balances went below zero; correct? Or below some line that you, once you cross, it –- TCPL's measurement --

 MR. ISHERWOOD: Oh, on the STS?

 MS. SEBALJ: On the STS, yes.

 MR. ISHERWOOD: It went to zero, yes.

 MS. SEBALJ: Went to zero? And my question related to the rationale that we were given this morning for why the X in the first column, row 7, should be a checkmark is that this -- you do these types of transactions, the exchanges with the capacity assignment, in the winter only to the CDA.

 And what I heard you say to Mr. Quinn this morning was -- or, sorry, earlier, was that essentially the reason that you're able to do these deals is that you pull gas out of storage and you do an exchange, essentially, where the north -- the needs of the north are met by this CDA contract, and the needs of the south are then met by withdrawals from storage?

 MR. ISHERWOOD: The gas that the NDA had sitting at Dawn in storage. That's correct.

 MS. SEBALJ: So if you run into this type of situation, is there not a cost associated –- an incremental cost associated with pulling the gas out of storage when you need it for the south because you are using the gas that was intended to go to the south in the NDA?

 MR. ISHERWOOD: I'll make two points, I guess.

 The issue we had with the STS -- I'm going to call it this molecule count, because it -- we talked about credits. It's not a financial credit; it's just a counting of how many pJs are in or out of storage.

 And that was an issue in the EDA only, so it doesn't really affect this transaction between the CDA and the NDA. It's in the EDA only. The same issue didn't happen in the NDA.

 Secondly, I guess to the extent that we're actually leaving gas in the NDA that was otherwise coming to the CDA, the gas we're taking out the storage on that day is gas that would have went to the NDA anyways. We've just kind of short-circuited that. Because we dropped the CDA gas from the NDA, the gas that comes out of storage at Dawn doesn't have to go any further. It's already in the Union South.

 MS. SEBALJ: But surely those -- the number of molecules don't match?

 MR. ISHERWOOD: It won't match exactly, and to the extent that you still have -- you may actually end up with more gas in the NDA than you want. If it's a warm March day, it may actually be -- some of the CDA gas you may still take back into the south, using some other product, STS injections or interruptible flow or something.

 So you're right. Every day you have to try and balance the gas supply, but on a colder winter day, it is a reduction of gas from storage going to the NDA, because the gas is already there.

 MS. SEBALJ: If I can ask you to pull up case 5, which is in Exhibit B, tab 2, at -- starts at page 64 of 82. This is the diagram -- these are the diagrams that Ms. Piett was taking me through this morning so that I could understand this type of transaction, which she indicated is the transaction contemplated in that table under line 7.

 Just by way of clarification, I want to understand what pipe -- what capacity is left empty or partially empty such that it can be optimized as a result of this type of transaction? So in other words, the first part of this case 5 tells me that there is an exchange, and the second part is telling me where optimization can occur on the pipe.

 And so if I look at case 5, figure 5, which is on page 68, it says -- there's a dotted line, a dotted arrow, from Empress to the CDA, and it says "transportation assignment of a portion".

 So I need you to -- in my mind it sounded like this gas is going from Empress to the NDA. That pipe is full, and the optimization opportunity is occurring from Dawn to the CDA, but this looks to me as though there is optimization opportunity on Empress to the CDA as well.

 And so is that pipe not full? Is the point not that you're dropping all that gas off in the NDA?

 MR. ISHERWOOD: So maybe I'll just start on figure 1, and I'll go through it pretty quickly. But I think it's important to start at the beginning of the story. But the contract that's being optimized primarily is the contract that goes from Empress to CDA, so it's a long-haul contract. It's at 68,000 that we've talked about a few times this afternoon.

 And on a cold winter day that gas would otherwise go to the CDA, but on a peak winter day by the gas supply plan it would be left or diverted to the NDA on a very peak winter day, so that kind of shows up on figure 2. Figure 2 shows what happens on a planned winter day, cold day, and you would see that the gas flowing on STS from Dawn up to the NDA and then the contract actually, there's gas flowing to the NDA as well from Empress. So that's figure 2.

 MS. SEBALJ: Sorry, when you say "planned winter day", that means design day, or no?

 MR. ISHERWOOD: Sorry, I think -- let me back up. Figure 2 is a non-design day, is kind of -- it's a cold winter day, so you are getting gas from -- we have contracts as well that go from Empress to the NDA. So this graph, I think, is -- or graph just showing that flow to the NDA plus some STS withdrawals going up in the NDA as well, and that's figure 2.

 Figure 3 is showing what's happening in terms of the CDA contract, and going to the CDA in this case.

 MS. SEBALJ: And the surplus is from Dawn to the CDA?

 MR. ISHERWOOD: Correct, in this example. And then in figure 4 there's -- could be surplus as well in terms of the -- on a non-design day you don't need all the STS coming out of Dawn either on a non-peak day.

 MS. SEBALJ: Right.

 MR. ISHERWOOD: But I think -- I think the graphic that really shows what happens in the -- which is I think what your question was, is where is the economic value happening? It's really showing on figure 6. And we are in that case, actually -- we have assigned away the CDA contracts, the long-haul contract from Empress to CDA has been assigned away to a third party. They are providing an exchange service for us --

 MS. SEBALJ: Sorry, say that again. So Empress to CDA has been assigned away.

 MR. ISHERWOOD: Empress to CDA has been assigned.

 MS. SEBALJ: Because that path is empty because you're going Empress to NDA?

 MR. ISHERWOOD: Because the same transaction, the same counterparty, we do an exchange with them where we give them gas at Empress and they give us at a firm basis gas in the NDA.

 MS. SEBALJ: So that's the exchange piece.

 MR. ISHERWOOD: That's the exchange piece.

 MS. SEBALJ: And so the capacity assignment deals only with the pipe between Dawn and the NDA?

 MR. ISHERWOOD: Sorry, the capacity which?

 MS. SEBALJ: The assignment of the pipe.

 MR. ISHERWOOD: No. The only assignment of pipe we give them is the Empress to CDA pipe, the long-haul pipe. And again, it's a combined deal. So we give them the long-haul pipe --

 MS. SEBALJ: Because they're giving you gas at the NDA.

 MR. ISHERWOOD: Right. Then they give us an exchange back to the NDA, so we're still buying the same amount of gas we'd always buy. It's just now showing up in the NDA, and as per the gas supply plan on a peak winter day, that's where it's supposed to be anyways, and is not a peak day, then by definition there would be some temporary surplus assets for the other days in the month.

 MS. SEBALJ: And those temporary surplus assets are where?

 MR. ISHERWOOD: It's really the capacity between -- what they're monetizing here is the capacity between the NDA and the CDA, really. It's a length of pipe between those two, primarily.

 MS. SEBALJ: And then to switch gears once again, Mr. Quinn took you to one of the FRPO IRs at Exhibit D8.42. And there's the attachment 1. And you've had some discussion particularly with respect to column E and what those numbers represent. I'm interested in why the contracted daily capacity as per the gas supply plan, which is column F, is higher than the peak day requirement, which is in column D.

 MR. SHORTS: As I mentioned previously, we do have excess STS withdrawal capacity in the EDA, but we have had that capacity when previously I would suspect at some point in time the peak day was higher, but rather than de-contract that we are allowed to pool that excess STS capacity to the other delivery areas so that we don't have to contract up in those delivery areas for the incremental requirements.

 MR. ISHERWOOD: And that does show up in the Sussex report on page 28, how that gets allocated to other delivery areas to re-balance. It's on page 28.

 MS. SEBALJ: That's what I was just going to ask you, where it fits into the plan. So it is accounted for. It's not extra.

 MR. ISHERWOOD: That's correct.

 MS. SEBALJ: Sorry, so on page 28 where do I...

 MR. SHORTS: So if you look at, for example, the EDA, and you go down to where it says "redelivery from storage, TCPL STS withdrawals pooled", that's where you'll see there is an excess of nine in this scenario that's then reallocated to, in this example, to NDA and NCDA, to meet the requirements of those areas.

 MS. SEBALJ: Thank you, that's helpful. And I think those are all of our questions. Thank you very much.

 MR. QUESNELLE: Thank you, Ms. Sebalj. The Panel has some questions as well.

Questions from the Board:

 MS. HARE: I have some questions about the design day forecast process. Mr. Stephens, if I could take you to your report, page 23. I just want to make sure I understand what this table shows.

 So I take it you looked at 21 companies, or did you look at 20 plus Union? Is Union included in this chart?

 MR. STEPHENS: I believe Union is not included in this chart.

 MS. HARE: Not included. Okay. So what this chart shows is that there are two methods. Do you have -- that are most commonly used, with the method that Union uses the most common, 12 to seven. Do you have an opinion as to which of these is a better methodology?

 MR. STEPHENS: So I think either one would work for the particular utility. I'm not sure that one is better or worse, and it really depends on the individuals, utility circumstances, how much weather data they actually have. One of the nice things about Union, they have a decent amount of weather data to sort of use. So I think either approach would work.

 MS. HARE: Then if I take you to page 22 of your report. I was particularly interested in the fact that Union uses 50 years.

 Without knowing all that much about gas supply planning, it struck me that 50 years was a really long time, particularly since the gas distributors have been in several times in the last few years, arguing that their load forecast methodology should change because of this warming trend that they are experiencing.

 So it struck me as somewhat odd to hear that Union is using 50 years, when they also have been here, as have the other utilities, to argue for a shorter time period.

 Now, in your report you do say that the more typical is to go back 30 to 40 years; you do give that example of Con Ed going back to 1934.

 But is 50 on the long side compared to other utilities?

 MR. STEPHENS: I think it's within the range of reasonableness. It may be sort of on the longer end in terms of range of reasonableness, but one of the things about design day weather is that you're planning for an event that doesn't occur that often, but when it does occur it's a high-impact event.

 So if you have as much data as you can and you can use it in terms of your planning process, to me that's a very good approach.

 MS. HARE: You did recommend and Union accepted that recommendation to go from 44 to the actual observed of 43.1. I don't know -- maybe this is a question for the Union Gas panel.

 What significance does that have, going from 44 to 43.1, in terms of either volumes, or better yet, dollars? Does that really make much of a difference?

 MR. WOOD: So just -– so it isn't a significant difference, I would say, moving from a 44 to a 43.1.

 The reason that I believe Sussex recommended it, the reason we adopted it was that it aligned our practices between the north and the south to close to historical. The impact was less than 20 tJs a day on our design day demand, which is a relatively a small number for the south.

 I just wanted to clarify. We talk a lot, and I know in evidence in the past, the 50-year number has been used. Union actually uses coldest historical period.

 The majority of those temperatures were within the last 30 years or so, but I believe we have one zone that has a temperature occurrence that was longer than 50 years. So I just wanted to make sure we weren't -– we don't hold the line at 50 years; it's the coldest observed temperature.

 MS. HARE: Sorry, so now I understand what you just told me. So it could be more than 50?

 MR. WOOD: I believe in one of our zones it is more than 50. The rest are much less than 50.

 MS. HARE: So when you said it –- sorry, what did you say, 20? The difference between 44 and 43.1, that's tJs a day. What does that translate to in dollars, do you know? Just rule of thumb?

 MR. WOOD: I'm not sure of the impact in dollars.

 MR. SHORTS: The impact that we are speaking to is actually an impact on the Dawn-to-Parkway capacity. It doesn't impact the amount of capacity on upstream that we have contracted for, because as I've mentioned, we actually contract the pipe at a hundred percent load factor.

 So therefore that would create approximately about 17 tJs of Dawn-to-Parkway capacity that would be available to be sold throughout this time period.

 MS. HARE: I think I know the answer, so going from 44 to 43.1 isn't significant, then, looking on page 20. If instead of using 50 years or the coldest observed day, you only went back, say, 30 years, it wouldn't make any difference because it would be a change from 43.1 to 42.8; is that right?

 MR. WOOD: I think in this case the difference would be fairly minor. The concern with limiting ourselves to a shorter period of time is that as those years roll by and those colder weather numbers fall off, you are constantly changing your design day.

 And the only concern there is when we look back at our historical weather data for the south, in the 30 years prior to our coldest day, which was 1981, we hadn't had –- we had had a degree day of -- I believe it was two or three degree days warmer was the coldest. So if we'd used 30 years at that point, we would have exceeded our design day by three degree days.

 So there is still some concern that even though there's a fair amount of discussion about warming trend, the weather tends to be volatile and I don't know that we're comfortable adjusting it on a regular basis.

 MS. HARE: Thank you. Those are my questions.

 MR. QUESNELLE: I just had one for Mr. Stephens as well.

 I'll take you in your report to page 40. The header is on 40, where you're talking about the attributes of the Union approach to , basically the optimization activities and the interaction between the various groups. And you're talking about the attributes, and I'll take you over to the second-last bullet on the next page, page 41.

 I just want to get your -- you've described something here. It's:

"The incentive for S&T to extract value from the gas supply portfolio assets creates a healthy tension between S&T, i.e. the market-driven, and the Union Gas control group, the reliability and the system integrity."

 Can you expand on "healthy tension"?

 MR. STEPHENS: So what we observed during our interview process is that the S&T group is very market-orientated. So they are out there trying to find transactions to optimize the value of the assets and provide services to the secondary market.

 Then you have gas control that is trying to make sure that the ability for Union to meet their demand requirements is of utmost importance.

 So you have those two. Those two groups are sometimes in the process of discussing transactions to make sure they actually can happen or not happen.

 That's what we saw as a healthy tension.

 MR. QUESNELLE: So the tension exists because they have different objectives?

 MR. STEPHENS: That's correct.

 MR. QUESNELLE: And you consider it to be a healthy tension in what way?

 MR. STEPHENS: In the sense that the opportunities for transactions are sort of governed by the gas control group to make sure that the sort of system is maintained, but at the same time that the gas control group sometimes thinks a little bit broader when S&T comes up with a deal.

 So that seemed to be an organizational structure that seems to sort of work and add value.

 MR. QUESNELLE: So part of that, if I'm hearing you right, is the hierarchy of decision-making leans on the reliability side?

 MR. STEPHENS: Yes.

 MR. QUESNELLE: That's the -- what you consider to be the health of it?

 MR. STEPHENS: That's correct.

 MR. QUESNELLE: Thank you. I didn't have anything else on that. Redirect, Mr. Smith?

 MR. SMITH: Oh, that's dangerous.

 [Laughter]

 MR. SMITH: I'm going to be short because I just know you want to get the DSM panel up at 5:15. So I will wrap this up as quickly --

 MR. QUESNELLE: But no, we don't have a hard line at 5:00 o'clock this evening, so take your time.

Re-Examination by Mr. Smith:

 MR. SMITH: I won't be long. I just have a couple of questions.

 Mr. Stephens, you were asked some questions by Mr. Thompson, and he asked you about the structures that you were aware of based on your experience looking at the way other utilities might optimize. Do you recall that?

 MR. STEPHENS: I do.

 MR. SMITH: And he asked you some questions about when it's done in-house. Do you recall that?

 MR. STEPHENS: I do.

 MR. SMITH: And he asked you about the asset management structure. Do you recall that?

 MR. STEPHENS: I do.

 MR. SMITH: And can you just, for the sake of the record, deal only with the latter? Because I believe the former is already clear.

 But the latter arrangement, where you have an asset management arrangement, I understand you don't know how it gets divvied up at the bottom line with the customers, but how does it -- to the extent there is an incentive, how does that typically flow out between the various groups?

 MR. STEPHENS: So in terms of the asset management group, what you have is the asset -- third party asset manager obviously has an incentive to create as much value as possible, in order to make the pie as big as possible in order to have their share.

 So their focus is on creating deal structures in the secondary market in order to add value to that market, whereas the utility then shares in that benefit in terms of what's been earned by the asset manager.

 MR. SMITH: How does the utilities portion get shared, to your knowledge?

 MR. STEPHENS: So the utility portion would be shared between the customers and the shareholders.

 MR. SMITH: Mr. Isherwood, I fear to tread in this area because we do have an undertaking, but can I ask you to turn up Mr. Quinn's compendium? I'm going to ask you to turn to page 10 of 16.

 The contracts that we were looking at, 42581 and 42582 at the bottom, do you see those?

 MR. ISHERWOOD: I do.

 MR. SMITH: We have their capacity of 16,000 gJs per day and 64,000 gJs per day. Do you see that?

 MR. ISHERWOOD: I do, yes.

 MR. SMITH: Is this capacity that Union has had available to it in past? In other words, have you been able to get this capacity from TransCanada, to your knowledge?

 MR. ISHERWOOD: It was actually capacity we didn't have historically, and in dealing with TransCanada they suggested that it would be something they would want us to do. We're actually using their system from the CDA or from Parkway to the CDA, and so within November of '11 actually we made these two contracts.

 MR. SMITH: Why would TransCanada suggest that it's capacity you might need?

 MR. ISHERWOOD: We've always considered anytime we got gas to Parkway to be the same as getting gas to CDA, and TCPL's interpretation was Parkway is not the CDA, and we'd actually have to contract from Parkway, which is a point, to the CDA, which is a delivery area. So they requested us to contract up on their system to take gas from Parkway to point to the CDA. Unfortunately, after asking us to do that, the 64,000 was not available long-term.

 MR. SMITH: And that's why it shows up as FT NR?

 MR. ISHERWOOD: That's correct.

 MR. SMITH: What does NR stand for?

 MR. ISHERWOOD: NR stands for "non-renewable", so it was only available for that one year, and we have since replaced it with market-based capacity.

 MR. SMITH: Okay. And then the period of time before TransCanada advised you of the difference between Parkway and the CDA what were you doing?

 DR. HIGGIN: We were just delivering gas to Parkway.

 MS. SEBALJ: Okay. And that volume of gas that was being delivered to Parkway, how does that compare to the volume of gas that's reflected in -- on page 10 of 16?

 MR. ISHERWOOD: It would be the same.

 MR. SMITH: So in that sense do you have more or less or the same amount of gas as historically?

 MR. ISHERWOOD: We would have the same.

 MR. SMITH: The final question I have, Mr. Stephens, is for you. After the various cross-examination that you've heard today, does any of that change your view as to Union's gas supply plan?

 MR. STEPHENS: It does not.

 MR. SMITH: Thank you. Those are my questions.

Procedural Matters:

 MR. QUESNELLE: Thank you very much. Thank you very much, the witness panel. Very helpful today. Your contribution's certainly appreciated.

 I would like to talk about undertakings, Mr. Smith. We've had quite a few over the last couple days, and we know we are going to be completing tomorrow, so I just want to ask if there is any assessment at this time of estimates for delivery of undertakings.

 MR. SMITH: I anticipate we'll have some tomorrow, but I understand that the rates information from Mr. Tetreault takes a little while, and that won't be available until the beginning of next week, and I think we'll try and wrap up all of the undertakings. Obviously we'll do it long before argument. That's the only fair thing to do, obviously. But we'll certainly endeavour do get it in early next week, and as soon as we have them. We're not going to hold them. We'll deliver them -- I think what people like is for us to just deliver them as they are available.

 MR. QUESNELLE: Okay. Thank you for that.

 The Panel also is -- intends to one way or the other let you know where we stand on the treatment of the issue to do with the audited financial statements and how we'll be viewing that and process around that. So we'll inform you either with our conclusion on that tomorrow or when we expect to have a conclusion, so we'll speak to that tomorrow as well.

 MR. SMITH: That would be helpful. Thank you.

 MR. QUESNELLE: Okay. Thank you. We'll adjourn for the day.

 MR. THOMPSON: Just before we break, I can't be here tomorrow, but Mr. DeRose will be taking the dais. That's his bailiwick.

 MR. SMITH: You can't be here? I would like a little confirmation of that.

 [Laughter]

 MR. THOMPSON: But I think he'll be listening in. I don't believe we'll have any questions, but if there is something that we need to plan for, I assume we can set something up with Board Staff.

 MR. QUESNELLE: I'm sorry, Mr. DeRose will be phoning in?

 MR. THOMPSON: Yes.

 MR. QUESNELLE: Yeah, thank you. Okay.

 MR. SMITH: Thanks very much.

 MR. QUESNELLE: Thank you very much.

 --- Whereupon the hearing adjourned at 5:06 p.m.