

ONTARIO ENERGY BOARD

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| FILE NO.: | EB‑2013-0321 |  |
| VOLUME:DATE: | Technical ConferenceApril 23, 2014 |  |

EB-2013-0321

**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 Ontario

Power Generation Inc. pursuant to section 78.1 of the Ontario Energy Board Act, 1998 for an order or orders determining payment amounts for the output of certain of its generating facilities.

 Technical conference held at 2300 Yonge Street,

25th Floor, Toronto, Ontario,

on Wednesday, April 23rd, 2014,

commencing at 8:58 a.m.

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TECHNICAL CONFERENCE

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A P P E A R A N C E S

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BAYU KIDANE Power Workers Union (PWU)

RICHARD STEPHENSON

LARRY SCHWARTZ Energy Probe Research Foundation

JAY SHEPHERD School Energy Coalition (SEC)

RANDY AIKEN London Property Management Association (LPMA)

JAMES WIGHTMAN Vulnerable Energy Consumers Coalition (VECC)

DAVID CROCKER Association of Major Power

HAMZA MORTAGE Consumers in Ontario (AMPCO)

SHELLEY GRICE

VINCE DeROSE Canadian Manufacturers and Exporters (CME)

PIPPA FEINSTEIN Lake Ontario Waterkeeper

JACK GIBBONS Environmental Defence

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 Wednesday, April 23, 2014

--- Upon commencing at 8:58 a.m.

 MR. MILLAR: Good morning, everyone. I think we'll get started.

Welcome to day 2 of the OPG technical conference. Mr.

Keizer, I understand we have panel 3, the Darlington panel, ready for questioning. Why don't I hand it over to you?

 MR. KEIZER: Thank you, Mr. Millar. Yes, we have the

Darlington refurb panel here today. Maybe the best way is just to ask the panellists to state their name and their positions at OPG.

 MR. REINER: Good morning. I'm Dietmar Reiner, and I am senior vice-president of Darlington refurbishment at Ontario Power Generation.

 MR. ROSE: And good morning. I'm Gary Rose. I'm the director of project planning and project controls for the Darlington refurbishment project.

 MR. MILLAR: Mr. Keizer, I understand that we were going to start with Environmental Defence; is that right? You had a response to a letter sent from Mr. Elson last week?

 MR. KEIZER: Yes. Much the same as we did yesterday when we dealt with the nuclear operations benchmarking general nuclear panel. Environmental -- we dealt with Environmental Defence's letter, which was sent from their counsel, Kent Elson, in which they set out various follow-up questions related to their interrogatories.

 And based on discussions with Environmental Defence, what we will do is the same as yesterday, which is to identify within those supplementary questions in Mr. Elson's letter those things that we're prepared to provide an answer to by way of undertaking, and those which we are not going to answer and which we will maintain our original objection stated in the original interrogatory response to Environmental Defence.

 So if I could deal with that now, maybe the easiest way to deal with it is just deal with the questions that we are prepared to provide a response to.

 Mr. Elson in his letter asked a supplementary or effectively a clarifying question that would have been asked at this technical conference, but asked by way of a letter, in respect of Interrogatory 4.7 in Environmental Defence No. 5.

With respect to that question, OPG is prepared to provide a response by way of undertaking.

 MR. MILLAR: So, Mr. Keizer, it probably makes sense to mark these separately at this -- I guess you can provide information on a couple of them; is that right?

 MR. KEIZER: Yes, that's correct.

 MR. MILLAR: Okay. So let's just do it separately to keep it clean.

 MR. KEIZER: That's fine.

 MR. MILLAR: That be Undertaking JT2.1, and that is to

provide additional information with respect to Environmental Defence Interrogatory 5; is that correct?

 MR. KEIZER: That's correct, for Issue 4.7.

 MR. MILLAR: For Issue 4.7?

 MR. KEIZER: As set out in Mr. Elson's letter.

 MR. MILLAR: Thank you.

**UNDERTAKING NO. JT2.1: TO PROVIDE ADDITIONAL INFORMATION WITH RESPECT TO ENVIRONMENTAL DEFENCE INTERROGATORY 5, ISSUE 4.7, AS SET OUT IN MR. ELSON'S LETTER.**

 MR. KEIZER: The other is in respect of the interrogatory-related issue -- sorry, just one second -- related to Issue 4.12, Environmental Defence No. 11. In respect -- as set out in Mr. Elson's letter, OPG is prepared to provide an answer by way of an undertaking in respect of that as well.

 MR. MILLAR: So that is JT2.2, and it is to provide

additional information with respect to Issue 4.12, Environmental Defence Interrogatory 11, as requested in Mr. Elson's letter.

**UNDERTAKING NO. JT2.2: TO PROVIDE ADDITIONAL INFORMATION WITH RESPECT TO ENVIRONMENTAL DEFENCE INTERROGATORY 11, ISSUE 4.12, AS SET OUT IN MR. ELSON'S LETTER.**

 MR. KEIZER: Yes. In respect of the other enquiries and our original interrogatory responses, the objections and responses which OPG put on the record as part of its interrogatory response filing, we will maintain, and we won't provide any further response to the other enquiries set out in Mr. Elson's letter.

 MR. MILLAR: So we can take those as refusals to all of the other follow-up questions as set out in Mr. Elson's letter?

 MR. KEIZER: Yes. And continuing with our stated answers as originally filed in the interrogatories.

 MR. MILLAR: Thank you.

 Mr. Gibbons?

 MR. GIBBONS: Mr. Keizer, just to clarify, so you are also refusing to answer our questions with respect to Issue 2.1? It will be in the corporate panel later today?

 MR. KEIZER: Yes. I figured we would deal with them all at once --

 MR. GIBBONS: Thank you very much. I can leave now. Thank you very much.

 MR. MILLAR: So nothing more, Mr. Gibbons?

 MR. GIBBONS: Well, yeah, I'm...

 MR. MILLAR: Understood.

 MR. GIBBONS: Because of OPG's response, I really can't proceed other than by getting our counsel to bring a motion to the Board. I don't think this is a good way to proceed, but this is OPG's choice.

 MR. MILLAR: Okay. We will look forward to that. Thank you.

 Mr. Poch? Oh, sorry, Mr. Keizer, were there any other -- there is no preliminary matters?

 MR. KEIZER: I have none, no.

 MR. MILLAR: Okay. Thank you.

 Mr. Poch?

 MR. POCH: Thank you.

 **QUESTIONS BY MR. POCH:**

 MR. POCH: Can we start with Exhibit L, tab 4.9, schedule 8, GEC Interrogatory No. 2?

 MR. KEIZER: Sorry, Mr. Poch, what was the interrogatory number?

 MR. POCH: 4.9, schedule 8-2, GEC 2.

 MR. KEIZER: Okay.

 MR. POCH: It is on the screen.

 The question asked for -- basically for a list of contracts for the Darlington refurbishment, looking for the value of the contracts, whether they had been signed or are expected to be signed and so on.

 And you provided us with a table, which I take it is the -- which it actually said is the contracts issued to date, and I guess my question may have been ambiguous, but with the "expected to be signed" reference, I thought we were asking for a breakout of the contracts anticipated as well.

 So first of all, is it possible to extend this to -- this covers about, oh, I think somewhat over a billion dollars in contracts. I assume there is another 9 billion to come after that.

 Can we get an extended version of this table with some

indication of the contracts? I appreciate they won't necessarily have a contractee assigned to them yet, but I assume you've got a plan for how you are contracting for this project? And -- well, let me ask that, first of all.

 MR. REINER: Just maybe a point to make here. There are contracts currently that are in an RFP process. So we wouldn't want to be talking about values of those contracts. And specifically, they're the fuel-handling refurbishment contracts, and you will see in our response to the interrogatory that that's a TBD.

 MR. POCH: Mm-hmm?

 MR. REINER: And also, if you look at balance of plant, that's another one of our work packages that are currently in a procurement process mid-stream with the contractors. So they're identified as TBD as well.

 MR. POCH: Okay?

 MR. REINER: So those are contracts that we would not -- we would not disclose numbers on currently.

 Where I would point you, though, is in our business case that we submitted as part of our evidence. we do provide a breakdown of our estimated cost of the various project bundles, and I would say that's probably the number to reference.

 MR. POCH: Yes, I understand. What I'm -- the point of this interrogatory, if you read on, is we are really looking at this question of how risk is being shared or anticipated it will be shared in the various contracts, and that's what we're after here.

 So it may be there is another format that you could provide that information, but that's what we're looking for. I want to get a sense of -- in fact, we could add a column to this table, perhaps -- it might be simpler -- and then have a section at the bottom for the other contracts still to be put out, which breaks out the percentage of contract value anticipated will be in fixed pricing, target pricing, or whatever other mechanism you're proposing.

 The issue, you know, the issue before the Board is the

compliance with the seven principles in the Long-Term Energy Plan, and that is what this is trying to get some quantification on.

 MR. REINER: Well, there are -- we did also submit as part of our evidence the assessments of our contracts, and there is information in there that speaks to the structures that were utilized, the incentives and disincentives that were incorporated --

 MR. POCH: I appreciate that. Let me interrupt you, because I assume those assessments were done prior to the Long-Term Energy Plan principles. They were also only with respect to the -- what was available to your consultants at that time, and they don't expressly address the questions that are in the Long-Term Energy Plan.

 I think it would be helpful to the Board -- certainly it would be helpful to us -- to have a summary which simply says –- which talks about the major components of work ahead and puts a percentage on the expected value of the contracts, and that will be handled through the various risk allocation mechanisms.

 MR. REINER: Just maybe a point in regards to the

LTEP. Yes, there were contracts that were awarded prior to the LTEP being issued, but our strategy for mitigating risk has not changed.

 So our strategy right from the outset was always the risk allocation needs to go to the entity that is best able to manage it, based on the work that they are performing.

 So those principles were built into the contracts, even for those contracts that were let prior to the LTEP.

 MR. POCH: Right. Is there any reason we can't get a

summary of how it's come out, then, what percentage of contract value is going to be done by, as you say, target pricing, what by fixed pricing? And if there is another category, let's have it.

 MR. REINER: Yes, we can -- for the contracts that have been awarded, we can provide that.

 MR. POCH: Okay. For the contracts that have been awarded, I assume that is this table here. Maybe we could just add a column for that.

But I would also be interested in getting at your

expectation for the future contracts.

 You are before the Board asking for approval of your

contracting strategy, so --

 MR. REINER: Yes. And I would point you to those strategies and, sure, we can provide a breakout of what we expect -- the proportion of contract values that we expect to be fixed price versus target price, with incentives and disincentives.

 MR. POCH: That would be very helpful. Can we get an

undertaking for that?

 MR. MILLAR: Yes, JT2.3. Maybe I could ask the witnesses to state again what they're undertaking to do, just so nothing was lost in the translation there.

**UNDERTAKING NO. JT2.3: TO PROVIDE A PERCENTAGE BREAKOUT OF CONTRACT VALUES BY FIXED PRICE, TARGET PRICE AND ANY OTHER STRUCTURE IN THE CONTRACTS FOR THE TABLE PROVIDED IN RESPONSE TO GEC INTERROGATORY 2.**

 MR. REINER: So what we will undertake to do is the table in the interrogatory that we referenced, GEC 002, we will provide a breakout of the contract values into -- and we will do it on a percentage basis on what is fixed price, what is target price, and any other sort of structures that we've incorporated into the contracts.

 MR. POCH: All right. And additionally, I think I heard you agree that you would undertake to provide that same -- an estimate of those percentages for the anticipated contracts going forward that will be necessary to complete the Darlington --

 MR. ANDERSON: Mr. Poch, I think we would take that on a best-efforts basis, assuming that we have that information and assuming it is readily available.

 MR. POCH: I appreciate that. And if you could, in so doing, if there is a proportion of contracts that you can't at this time predict the form of, if you could just indicate what proportion of the total project value that would represent, that would give us some perspective.

 MR. REINER: Yes. So we would align that with the table in your initial interrogatory. And I would also say that the response to this one is likely to be a confidential response, since it will get into the details on contracts.

 MR. POCH: All right. I am assuming -- well, fair enough. I will have to sign an undertaking. I hope that's clear. Let's move on, then.

 I am wondering if you could turn up tab 4.11, schedule 17, which is SEC Interrogatory 64. It is just one place where this comes up, but it's a convenient reference.

 In here, you're just talking -- you're responding to a question from SEC asking how target pricing works, and target pricing seems to be one of the main approaches you are using.

 And you refer to how the mechanism leaves fees at risk and an ability to earn extra fees with the contractor based on an agreed formula.

I am wondering if you could expand on that a bit, and

explain what you mean by an agreed formula.

 MR. REINER: So essentially the way this target price model works is -- is the actual cost that the contractor incurs, and so that would be the actual dollars paid for labour, hourly wages, materials, cost of materials would be paid for.

 And so that's -- so in this explanation, that's what the actual cost refers to.

 In establishing the target price, we jointly agree with the contractor on what we believe that actual cost to be, and that is based on what the scope of work is, what the actual modifications to the plant are that are needed. We agree on a -- and the time it will take to execute that work; we agree on a target price.

 There is a profit margin that the contractor earns on top of that cost. As well, the contractor has a number of fixed overheads that they need to recover that are above that.

 The combination of the profit and the overhead sets this fee that then becomes the at-risk fee.

 So if the contractor takes longer, or the costs are higher to execute the work than what was agreed to in the target price, that fee pole starts to get eaten away.

 The actual costs of doing the work still gets compensated, because if workers show up and materials show up, obviously the hourly wages need to be paid, the materials need to be paid, but the contractor starts

to lose profit and overheads. If the --

 MR. POCH: Let me interrupt you to say: One-for-one? In other words, for a dollar overrun on actual labour costs, do they contribute a dollar from what would have been their profit margin and overheads? Or is it based on some --

 MR. REINER: There is a formula that gets agreed to in the contract. It varies, based on the contract and the type of work, but there is a formula.

 And I believe -- it is essentially a one-for-one to a

certain point, and there is a profile, and that's all part of the negotiations with the contractor.

 MR. POCH: So there's a band within which the contractor is responsible, and they're going to take it from their bottom line -- or earn on their bottom line. And then beyond that band, I take it there is some -- does the risk revert to OPG, typically, or is it shared or what?

 MR. REINER: If it goes beyond that line, the contractor would essentially be working without profit or overhead, and we would very likely be into a very different situation where the project may have incurred a significant issue.

 And we would be in a position to look at mitigation

strategies that would probably require us to revisit some of the contractual elements.

 So the bands are designed around reasonable assumptions on what it would take to execute that work, and if some major unforeseen event were to occur, we would -- we would be in a situation where, I think, the contractor would be working for zero profit, and they would likely not continue to work at that.

 MR. POCH: I'm assuming that the band, it sounds like you've -– typically, the band is as wide as the contractor's profit and overhead allowance?

 MR. REINER: Yes.

 MR. POCH: And I'm assuming that might be somewhere between 10 and 20 percent, that kind of order of magnitude. I know it is going to vary by contract and you don't want to give us explicit numbers on the record, but are we in that range?

 MR. REINER: In terms of total value, I don't have that in front of me offhand.

 MR. POCH: Okay. But let's just use that as an example, then, for the sake of discussion.

 MR. REINER: Yes.

 MR. POCH: Let's assume you've got contracts and on average, you've got a band plus or minus 15 percent, which is, you know -– or whatever the number is that would be equivalent to their profit margin and overheads.

 Given the history with these major capital projects in the nuclear sector of overruns, sometimes 100 percent, despite that, am I hearing you correctly that the contracts don't explicitly deal with what happens if you -- if the overrun -- if an overrun exceeds that band? That you basically are left with a contract renegotiation at that point?

 MR. REINER: I think so. Maybe a couple of things.

So if you -- if you compare back historically -- and, yes, there have been significant cost overruns and there's been a variety of contributors. In the case of Point Lepreau, there was a technical issue that was a primary contributor. In the case of Bruce Power, I think it is largely not anticipating the scope of work that was required to get the balance of plant job done.

 So an approach we have taken in our project, as you will have seen in the evidence and in our previous OEB hearing, is that we are -- we are working towards a release quality cost and schedule estimate that is going to be issued in October 2015. The target prices for the contracts are also going to align with that kind of a timeline.

 What that then allows us to do is work through the detailed scopes of work, get the engineering done, get the long-lead materials procured, so that we don't find ourselves in a situation when execution of the work starts that there are unknowns around what the job is and what the engineering requirements are and what the materials are that are needed to execute the work.

And all of those things plagued previous projects because they didn't take sufficient time upfront to plan the work.

 And so with that, the strategies for allocating risk tend to differ. Now, there are elements in the contracts, and I will give you an example. The retube and feeder replacement contract, all of the tooling that is being built to execute that job and the estimate in the previous interrogatory that you saw, is largely for that tooling. That is all fixed-price. We expect the contractor to

bear all of that risk. It is 100 percent in their control. So a substantial amount of the contract is fixed, 100 percent of the risk, with the contractor.

 When we get into execution, however, that's where we will get into an agreement on what we believe the time is to execute the work and then put profits at risk to incentivize the contractor to actually achieve those schedules.

 So a very, very different sort of a circumstance.

And I think if we followed an approach to fix-price the entire job, I think you would find that the premiums that the contractors would charge would become unaffordable, and so really this becomes understanding what the scope of work is, understanding what the schedule is, and then having an incentive mechanism that focuses everybody on achieving that objective.

 MR. POCH: I take it that if there is a scope change, either after the initial contract or in the execution phase, that's a cost that OPG will have to bear? It's OPG's, assuming OPG is the one necessitating the scope change?

 MR. REINER: Yes, exactly. It depends on what that scope change is. If there is additional work that needs to be done that wasn't contemplated, that would fall to OPG.

 It would get executed under the same kind of model. We would need to agree on sort of a schedule and a price for executing that work. It would follow a similar kind of model.

 The execution of the work -- so for example, you know, a welder doing welds, we would expect the quality of that work and the timeliness for getting that executed to be risks that the contractor bears.

 In terms of what the actual configuration is, that's

something that OPG would need to determine.

 MR. POCH: But back to my question, in a situation

where there is a cost overrun not attributable to some additional scope change that you have imposed on the contractor, beyond the band that we have spoken of, your contracts don't allocate that risk? It would be

subject to negotiation?

 MR. REINER: If we got into a significant cost overrun that takes us beyond what the contracts contemplate, I think we would be at risk of the contractor walking away from the job, because they're not making any profit or recovering overheads. Nobody works for free. As a matter of fact, they would be working at cost.

 Now, there was -- I think there was an interrogatory that actually looked at scenarios of cost overruns that would give you some indication of where the risk actually lies.

 MR. POCH: Can you point me to that?

 MR. REINER: I will see if we can turn that up.

 MR. ROSE: Interrogatory ED 11, which is a confidential interrogatory response. Actually, it breaks out the impact on the LUEC and the cost of the project for different scenarios of overrun, overrun scenarios.

 MR. POCH: Okay. Is that tab 4-11?

 MR. ROSE: That's tab 4-12.

 MR. POCH: 4-12? All right. Well, I will -- I was unaware of that. I will get a confidential undertaking to you and get a copy of that. Thank you.

 I take it my assumption, though, is correct that from what you just said, you would be at risk of the contractor leaving, and then you are suing them into bankruptcy or whatever? It is up in the air beyond the band, in a case of a major cost overrun?

 MR. REINER: I mean, it would be -- again, I -- it would depend on the scenario, it would depend on the issue, and I think that interrogatory that Mr. Rose referenced here sort of gets -- tries to sort of postulate some scenarios and what would that actually look like, in terms of costs to OPG.

 MR. POCH: All right. And just -- you have indicated in your last answer there that you are trying to do more work upfront than you have done typically in past major contract -- major capital projects, try to get a little more certainty down the line. I just want to get a fix on that.

 In L-4-10, schedule 1, Staff 56, you indicate that of the 12.9 billion, including interest and escalation, currently estimated price for the DRP, some 18 percent has been -- is projected to -- that will be spent by the -- in the definition phase by the end of 2015. I did the math; that comes out at about 2.3 billion.

 And then I looked at tab 4-10, schedule 17, SEC 54, and there the -- you report that in the 2010 to 2013 period, 802 million was spent.

 So just taking the difference, am I correct that

approximately 1.52 billion is expected to be spent, then, in the 2014, '15 period on the DRP?

 MR. ROSE: Yes, that's correct. The difference between the 2.3 billion and the amount spent to the end of 2013 referenced approximately $1.5 billion to be spent in 2014 and 2015.

 MR. POCH: Okay. Thank you.

 And turning to tab 4.9, schedule 8, GEC 1, we were asking for the abandoned DRP alternative that you mentioned -- or you didn't mention in your evidence.

 And you referred us to D-2-2-1, attachment 5, page 46 for the LUECs with and without GHG emission impacts with a range of gas-price forecasts, which is what we were asking for.

 And I have that, if you turn that up, which is, again,

D-2-2-1, attachment 5, page 46. Give the folks a minute to get that up. It's appendix C.

MR. REINER: Yes, we have that.

 MR. POCH: You have that? All right. Let's proceed.

 In the answer, you give a LUEC for CCGT, combined cycle gas turbine, of 7.5 cents a kilowatt-hour in 2013 dollars. That's at median gas prices, and $15 per tonne of carbon prices.

 Can we get an indication of what the median gas price forecast was that you used for that?

You go on to say at low gas prices of $4 per million BTUs, so I assume it is something higher than 4.

 MR. REINER: If you turn to page 45 on that -- in that

evidence, you will see down at the bottom on that table there is some gas price information that aligns with the CCGT analysis.

 MR. POCH: I am just looking at what is on the screen and I am not finding it yet.

 MR. REINER: So if you look in that table, the table at the bottom, figure C-6, the table at the bottom of that figure, you will see that the second row from the bottom has a gas price that was used in the calculation. The low is a $4 per MMBTU, the median is 6, and high is 8.

MR. POCH: Okay. Thank you.

And I take it that with $6 gas, it is 7.5 cents and that includes 0.6 cents attributable to the carbon pricing that you have included; correct?

 MR. REINER: Yes, that's correct.

 MR. POCH: And that compares to the -- so that is 7.5 minus 0.6, that is 6.9 cents versus what you are estimating for Darlington, which is 7 to 7.5 per kilowatt-hour. You note that at the bottom just before the next heading.

 MR. REINER: Yes.

 MR. POCH: And you have included this externality in your consideration of the CCGT cost. I am wondering if you have included externalities in your calculation of the Darlington refurbishment project costs.

 MR. REINER: The Darlington refurbishment cost includes -- it includes, it would include some of those externalities. So, for example, the cost of decommissioning the plant.

 MR. POCH: No, I'm talking externalities, costs that you're not going to bear.

 MR. REINER: Can you give me an example?

 MR. POCH: Well, for example, the uninsured nuclear risk, the risk beyond 75 or 600 million, or whatever the Nuclear Liability Act limits your exposure to.

I take it the answer -- from your silence, I take it the answer is there is no such –- such costs have not been considered.

 MR. KEIZER: I don't know if that is the case, or maybe he is just trying to understand the nature of your question.

 MR. POCH: All right.

 MR. REINER: Specific to the insurance, I believe there was an interrogatory that actually spoke to some of that. We will see if we can turn that one up.

 MR. POCH: My question is simple. It is just whether it is in that LUEC or not, apart from the amount that you actually have to pay in the premium.

 MR. REINER: I don't believe the scenario that you are

talking about is included in the LUEC.

 I mean, just as, you know, the real comparison with CCGT would be carbon-free, right? And so that's also not in the LUEC for gas.

So carbon sequestration would be the apples-to-apples comparison. That's also not in the LUEC for the CCGT.

 MR. POCH: All right, so I take it -- so the only externality that's been included in this analysis is the one that you have broken out and you have given us the amount. We can take off the LUEC from CCGT if we want to exclude that externality?

 MR. ROSE: Sorry, with respect to your question on insurance, I would ask you to refer to Exhibit L, tab 4.7, schedule 8, GEC 14.

 MR. POCH: All right. That's with respect to the actual premiums as opposed to the externality of the uninsured portion.

 MR. ROSE: That is correct. This IR speaks to the fact that we’ve assumed the liability would increase to $650 million, and we have included that in the LUEC.

 MR. POCH: All right. Okay. Thank you.

But you can confirm my understanding a moment ago, which is that you haven't included externalities in either of these LUECs, the Darlington or CCGT, apart from the one that is mentioned there, the carbon price?

 MR. REINER: Yes, that's correct.

 MR. POCH: All right. Thank you.

Now, this may be one that your counsel dealt with this morning, and tell me if you have.

 Tab 4.7, schedule 6, ED -- Environmental Defence –- No. 8.

 And this was asking about looking at LUECs of comparators, including water power imports from Quebec.

 MR. ANDERSON: Sorry, Mr. Poch, can we get that reference again?

 MR. POCH: Yes, tab 4.7, schedule 6, ED No. 8. It is up on the screen at this point.

 MR. KEIZER: Yes, that was one we dealt with this morning.

 MR. POCH: I am not sure this was a question sought, so maybe you can tell me now.

 It was asking for this comparator with water imports, and the ED simply refers to the comparisons made in the Long-Term Energy Plan, which I note it does not include a comparator with that particular option.

 I'm wondering, has OPG compared or looked at the LUEC of water power imports from Quebec?

 MR. KEIZER: Well, first of all, I think that is what this question is actually asking, and we've given the answer in the interrogatory -- is it not?

And our view is that system planning initiatives, or dealing with the imports from Quebec, is an OPA issue and it is part of an issue within the Long-term Energy

Plan, not necessarily with respect to Darlington.

 MR. POCH: All right. So I understand you believe that this is their responsibility. I am just asking if, in fact, OPG has done a comparison, has looked at the price of water power imports from Quebec.

I don't think we have an answer to that question.

 MR. REINER: We have not done a comparison of Hydro Quebec imports to replace Darlington refurbishment.

 We have looked at import capability from Hydro Quebec. I think there were some things in the ED submission that spoke to that.

 I think in general, the import capability today from Quebec could not displace Darlington, because Darlington is base load generation that provides reliable capacity and energy to the power grid.

 So you would need to look at a scenario whereby you

purchased firm power from Quebec that is essentially 100 percent reliable, so that the IESO can use it in their transmission planning scenarios.

 The imports from Quebec are not that, currently. They're subject to change, according to water conditions in Quebec.

 This past winter, for example, the electricity demand in Quebec was so high that Ontario actually exported 500 megawatts of power for several weeks earlier this year, so that Quebec could meet their electricity demands.

You would be into a scenario whereby Quebec would have to construct generation, and then a contract to price that would essentially be based on the alternatives that would be available to us, and we would expect it to be at the same range as a new build, for example, or a gas CCGT option.

 MR. POCH: And I take it you haven't looked at the option of water power from Quebec with existing capacity augmented by standby CCGT in Ontario?

 MR. KEIZER: I think he has already answered the question, in terms of his approach with respect to Quebec.

 MR. REINER: Yes. And it would really be -- I mean, this is something that the OPA and the IESO would need to look at, because it goes beyond just our ability to provide generation.

 MR. POCH: I understand, but it is OPG that is before this Board asking this Board to approve its strategy and eventually asking the Board to change rates, as prudently expended, but let's leave that for the moment.

 MR. KEIZER: Yes, I think we would.

 MR. POCH: Thank you, panel. Those are my questions.

 MR. MILLAR: Thank you, Mr. Poch.

 Ms. Feinstein, I believe you are next?

 **QUESTIONS BY MS. FEINSTEIN:**

 MS. FEINSTEIN: Thank you. Is my microphone working?

 Yes. Okay.

This is Pippa Feinstein on the record for Lake

Ontario Waterkeeper.

Before I start asking my questions, I would just like to take an opportunity to explain that Waterkeeper's interrogatories were classified as falling under Issues 4.9, 4.10 and 6.7.

 In the interrogatory responses from OPG, all of the

responses were addressed under Issue 4.9, and I don't think this is necessarily an issue at the moment. I think each day's questions and responses are on the record, but I would just like to note that Waterkeeper doesn't plan to confine its continuing intervention to Issue 4.9 alone. And so with that raised, I can proceed to ask questions of OPG.

With reference to Waterkeeper Interrogatory No. 1, OPG's response can be found at Exhibit L, tab 4.9, schedule 12, LOW 001. We asked for a detailed budget of expenses related to environmental studies and monitoring for the Darlington NGS, and these studies were required by the environmental assessment follow-up program for the refurbishment project.

 OPG's response included a table with the sum total amount for each follow-up study and what it was expected to cost.

 We're wondering if it's possible to get an elaboration on this answer with a more detailed breakdown of costs for each study and how OPG arrived at the figures that they did.

 MR. KEIZER: Can we just clarify, when you say "level of detail," what do you mean? Do you mean actually -- the studies here have been set out with respect to each year. There is -- so I am not quite sure what you say -- when you say "level of further detail," what do you mean by that?

 MS. FEINSTEIN: Sure. I understand from reading how OPG's designed each of these studies in the follow-up document that the studies seem to involve periodic monitoring and testing activities; is that correct? Yeah.

So if so, a possible breakdown of exactly what amounts will go to specific monitoring, and whether OPG staff will be conducting this testing or monitoring or whether any non-OPG experts will be consulted as part of these studies.

 Those two pieces of information, for example, would be

useful to see exactly where the money is going, if it's in fact being used by OPG staff to conduct the monitoring themselves.

 MR. KEIZER: I guess I am struggling to understand the

relevance of your question, because clearly the totals are here, and those totals either have a factor within the context of the test year expenses or expenditures or they don't, which is what this Board is here to talk about.

 Whether OPG is -- you know, how they further break down doesn't necessarily change the totals. And whether OPG is carrying out the monitoring or who is doing the monitoring or how the monitoring is being done, I think is more of an EA issue, as opposed to actually a cost and payments amount issue, which is what this proceeding is about.

 MS. FEINSTEIN: Well, elaboration would just allow us to understand how these EA testing projects are being conducted and where the money is going.

 We would like to see, through looking at the environmental assessment programs, whether or not the OPG's allocating sufficient funds for fulfilling its environmental responsibilities under the environmental assessment --

 MR. KEIZER: My view is this is not something that is in the ambit of this proceeding, and so I am not -- I am objecting to your question.

 MS. FEINSTEIN: Okay. Well, thank you. I will move on, then, to Waterkeeper Interrogatory No. 2. OPG's response can be found at Exhibit L, tab 4.9, schedule 12, LOW 002.

We asked for a detailed budget of expenses related to all environmental mitigation plans and technologies for the Darlington Nuclear Generating Station.

 And OPG's response simply referred us to the table that they provided in their first interrogatory response, but I would like to clarify that the first and second interrogatories were distinct.

 The first interrogatory concerned the environmental

monitoring that needed to be completed pursuant to the

environmental assessment follow-up program, and this second

interrogatory is supposed to be more broad than that.

 So it was my understanding, from the other interrogatory responses from OPG, that there would be ongoing environmental monitoring and environmental mitigation plans throughout the operation of the Darlington refurbishment, separate from the follow-up planned specifically; is this correct?

 MR. KEIZER: So just to clarify, when I look at your two interrogatory questions, they both ask the same -- request a budget for the test period, as well as one for the continued operations at Darlington, and that is the same question in both.

 So your point is -- is that in your first interrogatory it was around one scope and your second interrogatory is a broader scope; is that right? I'm just trying to --

 MS. FEINSTEIN: Yes. I apologize if it wasn't clear

initially.

 MR. KEIZER: And, sorry, the scope that related to the first interrogatory was...

 MS. FEINSTEIN: Specifically dealing with the studies

that were required under the EA follow-up program.

 MR. KEIZER: And the second relates to?

 MS. FEINSTEIN: Would be broader. So the scope of the

second interrogatory would include whether there were any

physical improvements planned to the Darlington NGS to mitigate impacts on the environment, or whether there were continuing environmental monitoring programs under the environmental management plan for the project or the integrated implementation plan that were distinct from the specific studies required by the EA follow-up plan.

 MR. KEIZER: So I guess if I could summarize, then, the question, your question basically is we have produced a certain cost number for Interrogatory No. 1; you are asking is it the same cost for Interrogatory No. 2 and, if it isn't, how should it be different? Is that --

 MS. FEINSTEIN: Right. And if there are additional

environmental monitoring programs other than those that are

required by the environmental assessment follow-up plan, if there is a budget for what those other monitoring activities would cost.

 MR. KEIZER: So can the panel address that from a cost

perspective?

 MR. REINER: This gets into the nuclear operations panel, so I wouldn't be in the best position to address that, but I understand what you're saying.

 You are asking, you know, are there other monitoring

programs above and beyond what was identified here through this. I mean, we would have to take an undertaking, and we would have to go back to the nuclear operations folks to get an answer to that.

 MS. FEINSTEIN: Okay.

 MR. REINER: There are -- now, what I can say is -- is there are projects that we are implementing in addition to the monitoring programs that are specifically tied to the environmental assessment. So for example, they would include installation of a third emergency power generator.

 I mean, these aren't monitoring programs. These were part of the environmental assessment, and achieving the goals that were required by the EA.

 The containment filtered venting system would be another one of those. So those costs are in addition to the monitoring programs.

 But we would have to take an undertaking and go back to operations to see what other programs, if any, above and beyond what is identified here is executed and what the costs for those are. It would be in the nuclear operations filing.

 MS. FEINSTEIN: Okay, if that is possible. Could it be done?

 MR. REINER: We can take that undertaking.

 MR. MILLAR: That will be undertaking JT2.4.

**UNDERTAKING NO. J T2.4: TO OBTAIN COST INFORMATION WITH RESPECT TO OTHER ENVIRONMENTAL BUDGETARY PROGRAMS, IN ADDITION TO ANY MONITORING ALREADY IDENTIFIED IN THE EXISTING INTERROGATORY RESPONSE.**

 MR. KEIZER: Just so we understand what the undertaking is, the undertaking is for us to obtain cost information with respect to other environmental budgetary programs, in addition to any monitoring that we have identified in the existing interrogatory; is that right?

 MR. MILLAR: Is that right, Ms. Feinstein?

 MS. FEINSTEIN: Yes, thank you. That would be very helpful.

 MR. MILLAR: Thank you.

 MS. FEINSTEIN: Moving on, then, to Waterkeeper Interrogatory No. 3, OPG's response can be found at Exhibit L, tab 4.9, schedule 12, LOW 003.

We asked how the environmental management program for

the refurbishment would integrate continuing environmental

studies and monitoring required by the EA and EA follow-up

program.

 So now that it has sort of been clarified for me that there would be other environmental requirements, other than those underneath the environmental assessment follow-up plan, I am wondering if it would be possible to obtain more information about how the EA follow-up plan would relate to those other environmental requirements.

At line 38 of OPG's response, they explain that:

"The elements of the EA follow-up plan that pertain to ongoing performance monitoring will be integrated as applicable, and elements of the EA follow-up plan that are distinct from ongoing monitoring activities will not be integrated."

 I wonder if it is possible to get a clarification of that paragraph, and possibly examples illustrating when follow-up studies would be integrated into other monitoring activities, or an example illustrating when that kind of integration would not be required.

 MR. KEIZER: What I wanted to get an understanding of is are you enquiring about the cost consequences related to the environmental programs, or just what the environmental programs are?

 MS. FEINSTEIN: This would be helpful in understanding the scope of the environmental assessment follow-up plan projects, and if they are very limited in scope and completely distinct from the other requirements or not.

 MR. KEIZER: For what purpose? I am trying to get to the point where I understand what implications it has from a payment amounts perspective, or --

 MS. FEINSTEIN: It would allow us to see whether the costs for the follow-up plan were reasonable. By understanding their scope, we would be better able to understand whether the costs were appropriate for those follow-up programs.

 MR. KEIZER: So what your enquiry is, is to provide some understanding or elaboration on that last paragraph of

Interrogatory No. 3?

 MS. FEINSTEIN: Yes. For example, if the EA follow-up

programs do inform subsequent environmental monitoring that is continuing for the site, this would perhaps be illustrated in the costs for those EA follow-up programs.

 MR. ANDERSON: I guess what I'm wondering is if the answer to the undertaking already taken is going to break out information in respect of environmental monitoring information, incremental to what was already set out in LOW No. 1, how will this provide greater illumination?

 I guess what I'm struggling with is that there are costs that are built into OPG's application that deal with

environmental aspects, and I am not sure where this is going in terms of how detailed it needs to be broken out.

 MS. FEINSTEIN: And the answers may be included in the

undertaking. I wasn't completely sure how the Interrogatory 2 would be answered. So it may well be --

 MR. KEIZER: Can you just give us a moment?

[Mr. Keizer and Mr. Anderson confer]

 MR. KEIZER: So first of all, I think that maybe one part of our struggle is that we think that we have already given you, or will be giving you by virtue of the undertaking that we have already given, an understanding of the monitoring costs and any other additional costs that relate to that or that are part of it.

And where that is is within the context of the application. So it seems that -- I think that what you are asking is the same question again within this context, and I think it is already probably subsumed within that existing undertaking.

 My sense would be that, you know -- is that you would see the undertaking response and, to the extent it is not there, then you have the opportunity to follow up at the hearing.

But my sense is that we have probably already are capturing it within the existing undertaking.

 MS. FEINSTEIN: Okay. If that is the case, then I am fine with that, if it is subsumed under that undertaking.

 With reference to Waterkeeper Interrogatory No. 6, the response can be found at Exhibit L, tab 4.9, schedule 12, LOW 006.

 We asked what compensatory mechanisms OPG will pursue to offset the bio and habitat losses resulting from ongoing

Darlington NGS operations.

 In response, OPG noted that they're still in discussions with the Department of Fisheries and Oceans about this issue.

 I wonder if it is possible for OPG to provide an expected end date for these discussions, and whether there is any indication that offsetting requirements are likely.

 MR. KEIZER: I am not sure this is the panel for that

question, but -- let's deal with that first, whether it is or isn't.

 MR. REINER: Yes, I don't believe this would be the panel. This would go to the operations panel.

 I would say an expected date, we could -- you know, we can take a look at that.

 I would not -- and I don't think that the nuclear operations folks would either -- be prepared to make an assessment. I think the studies are geared towards understanding what compensatory mechanisms may be required.

 I don't think it is something we would speculate about. We would let the studies reach a conclusion and then address the findings.

 But we could certainly -- we can certainly take an

undertaking to get an expected date for when this would be, when the discussions with the Department of Fisheries would

be concluded.

 MS. FEINSTEIN: I only asked to see if it would be during the period 2014 to 2015, to see if it would be included in the budget for operations. That's the rationale.

 MR. ANDERSON: We can take the undertaking to -- again, best efforts to determine if we have an understanding of when that would be. I think that would be the extent of the undertaking.

 MS. FEINSTEIN: Okay. Thank you.

 MR. MILLAR: So that will be JT2.5.

**UNDERTAKING NO. JT2.5: TO PROVIDE AN ANTICIPATED DATE FOR CONCLUSION OF TALKS WITH THE DEPARTMENT OF FISHERIES.**

 MR. MILLAR: And, Mr. Reiner, could I ask you to speak a little bit closer to the mic when you speak? I understand the court reporter is having some trouble picking you up.

 MS. FEINSTEIN: With reference to our final question now, Waterkeeper Interrogatory No. 7, OPG's response can be found at Exhibit L, tab 4.9, schedule 12, LOW 007.

 We asked for a budget of expenses related to planning and implementing adaptive management programs at the Darlington NGS.

OPG responded that:

"Adaptive management will only be pursued if EA follow-up program monitoring results show environmental impacts that are greater than the refurbishment environmental assessment had predicted they would be."

 OPG explained that if this is the case and those impacts are greater than they were expected to be, that they would exercise their discretion to determine whether adaptive management would be required in that kind of scenario.

 My question is whether there is a fund that already exists to cover possible costs for adaptive management programs, and if not, would that mean that additional funds would have to be obtained to cover the costs of any adaptive management?

 MR. REINER: There aren't funds that are set aside for this. So as -- if there are specific things that need to be implemented, the costs for those would get determined as part of our business planning process and would then get budgeted for -- through that annual business planning process.

 MS. FEINSTEIN: Okay. Thank you. Those are all of my

questions.

 MR. MILLAR: Thank you very much.

 Next up we have Mr. Crocker.

 **QUESTIONS BY MR. CROCKER:**

 MR. CROCKER: Thank you. We don't very much left on

Darlington.

 In Exhibit L, tab 1, schedule 1, Board Staff Question Nos. 1 to 8, the Staff asked for and received an updated revenue requirement work form for all nuclear, I believe.

And my question is: We would like to see the same thing for Darlington, and can that be provided?

 MR. ANDERSON: Sorry, Mr. Crocker. So is your question: Can OPG provide a separate revenue requirement work form exclusively for Darlington?

 MR. CROCKER: Yes.

 MR. ANDERSON: That would be a tremendous amount of work, is my understanding, to break that out in such a way. The revenue requirement work form itself was a considerable amount of effort. To extract all that, I think, would be very difficult.

 MR. CROCKER: Okay. We don't want to be responsible for creating work like that, and so I will say thanks, and we will move on.

 The reference is Exhibit L, tab 4.9, schedule 8, GEC

Question No. 2. I think Mr. Poch brought up the issue.

And I apologize for this, but I am going to refer to an OPG news release which is not in the material, and we were going to ask that the -- it be photocopied at the break, and we're earlier than we thought we were going to be.

 And if it's a problem, we will deal with it after the fact. But as part of this news release, which is dated March 1, 2012 --

 MR. KEIZER: I think it would be fairer, though, if the parties had a chance to look at the release, Mr. Crocker.

 MR. CROCKER: I agree, I agree.

 MR. MILLAR: Can you move on to your next set of questions, maybe, Mr. Crocker, and we will see where we are with the break?

 MR. CROCKER: I will, yes. The reference is Exhibit D-2, tab 2, schedule 1, table 1. These are capital expenditures -- there are two tables I'm talking about, table 1, and there is a second table, and I don't know why they're all over the place like this, but the second table comes as one -- in response to one of the interrogatories.

So it is Exhibit L, tab 1, schedule 1, Board Staff Question 2.

 I am just asking for a comparison of the budget for 2013 for the Darlington -- not a comparison, for an explanation of the difference between the budget, Darlington refurbishment project definition phase of 422 million, and the actual, which is in the second table, of 329.7 million.

 MR. ANDERSON: Sorry, Mr. Crocker, can I get the reference for that second table again?

 MR. CROCKER: Yes. Exhibit L, tab 1, schedule 1. It is Board Staff -- it is in response to the Board Staff Interrogatory No. 2. It is in attachment 1. I'm sorry, I forgot to mention that.

 MR. ANDERSON: And the table number is?

 MR. CROCKER: 11.

 MR. ANDERSON: Thank you for that.

 MR. REINER: Do you have it?

 [Mr. Anderson passes binder to Mr. Reiner]

 MR. CROCKER: It is a significant difference. Significant to me, anyway.

 MR. KEIZER: Can you just assist where you are looking at on each of these tables?

 MR. CROCKER: Okay. It --

 MR. KEIZER: I don't think we have the right table.

 MR. CROCKER: I don't think we have the right first table either. It is D-2, tab 2, schedule 1, table 1, is the first table.

 MR. KEIZER: Yes.

 MR. CROCKER: Okay? And I am looking at line 1, "Darlington refurbishment project, definition phase," the 2013 budget number of 422 million?

 MR. KEIZER: Okay.

 MR. CROCKER: And I am comparing that to the same line 1 in the table 11 that we referred to, the actual number of 329.7 million.

 MR. KEIZER: All right. Do the witnesses have that?

 MR. REINER: Yes, we have that.

 MR. CROCKER: Okay. My question is: Is there an explanation for the significant difference, the almost $100 million difference?

 MR. REINER: We are just looking at the evidence. We

believe that was discussed in the evidence, but just give us a moment.

[Pause in proceedings]

 MR. CROCKER: If it takes you guys as long to find it as this, it gives us some comfort that we didn't find it either.

 MR. ROSE: Sorry, it took a little bit of time to find that information. In fact, I'm still having difficulty finding that information.

 Our filing, Exhibit D-2, tab 2, schedule 1, which was filed on September 27th, would relate to the first table you had provided.

 The table provided -- the second table you referenced was submitted on March 19th of 2014, and has been trued up with the actuals in 2013.

 So we have to take an undertaking to provide you a variance explanation. That way we can get, you know, to a reconciliation of the numbers and provide you that explanation.

 MR. CROCKER: That's fine.

 MR. MILLAR: JT2.6.

**UNDERTAKING NO. JT2.6: TO EXPLAIN THE DISCREPANCY BETWEEN BUDGETED AND ACTUAL AMOUNTS FOR DARLINGTON REFURBISHMENT PROJECT, DEFINITION PHASE.**

 MR. CROCKER: Other than the question I have with respect to the news release which has now been copied -- and I don't know whether it has been circulated or not -- we don't have any further questions.

 MR. MILLAR: Thank you, Mr. Crocker.

We will move on now -- I'm sorry, Mr. Crocker, you did have some questions about that press release. We have made copies now.

 MR. CROCKER: Right. I don't know whether --

 MR. KEIZER: I haven't had a moment to actually look at that.

 MR. MILLAR: Would you like to return to that?

 MR. CROCKER: I am comfortable doing it that way.

 MR. MILLAR: It's a one-page presser. If you want to have some time with it, that's fine.

 MR. KEIZER: I think we should have time, because I am not sure this is actually the panel for this question. I just looked at it for two seconds, so I have not really digested the relevance of it, so --

 MR. MILLAR: Why don't we take our break, then? And we will return at 10:30.

 MR. KEIZER: Fine.

 MR. MILLAR: Thank you.

 --- Recess taken at 10:11 a.m.

 --- On resuming at 10:31 a.m.

MR. MILLAR: Welcome back, everyone.

 Mr. Crocker, would you like to finish up with your questions about the press release?

 MR. CROCKER: Yes. I'm going to compare part of the press release to Exhibit L, tab 4.9, Schedule 8. It's a GEC question, No. 2. Mr. Poch made reference to it already.

 MR. MILLAR: And while they're pulling that up, why don't we give an exhibit number to the press release? So this will be Exhibit KT2.1, and it is a news release from OPG, dated March 1st, 2012.

**EXHIBIT NO. KT2.1: NEWS RELEASE FROM OPG, DATED MARCH 1, 2012.**

 MR. CROCKER: On page 1 of the IR response it indicates that the -- under "Retube and feeder replacement", that the expected cost -- I'm sorry. The date is March 1st, 2012, same date as the press release, and the contract value is 702 million, whereas in the second paragraph of the press release the contract price is described as "more than 600 million."

And I just wondered why the difference in price on something which is dated the same day.

 MR. REINER: So in regards to the dates and being dated the same way, the date references, the signing of the contract, the information that's provided in GEC Interrogatory No. 2 is more current information than the press release.

 The press release reflected fixed-price elements of the contract that -- where there was no real need to do any work to come up with an estimate. And thus you will also see words in the press release like "the contract for more than 600 million."

 The 702 now reflects work that has been done since then. It's the fixed-price elements. There are some target-price portions to the contract for which we have landed on target-price estimates.

 There has also been a change in regards to what the contractors execute, what scope. There was an element of scope that, at the time of the press release, the contract for that scope of work had not yet been awarded. It relates to installation of bulkheads in the reactor vault.

 Since that time we have shifted that scope to the contractor that's referenced in the press release. So that added to the contract value as well.

And those were the primary changes based on the current information that we have in the filing versus the press release.

 MR. CROCKER: Just as a point of information, because I am curious, was there a third contractor involved in a piece of this work that isn't identified in the press release? Is that what you're saying?

 MR. REINER: No. Are you speaking in regards to my comment on the scope of work?

 MR. CROCKER: Yes. Yes.

 MR. REINER: There was not a third contractor, but in our planning work we subdivide the scopes of work and bin them into sort of rational groupings of work.

 The work that's being done by the SNC-Lavalin/Aecon joint venture is the retube job. We have a separate project that deals with islanding the units and isolating them from the operating units.

 And so that was in a different bucket of work, and we had not yet, at the time of this contract, determined how best to execute that work.

 The bulkheads that I'm talking about are a direct

interference, if you will, with the retube and feeder replacement job. They're a critical piece of equipment that this contractor needs to rely upon. It made every bit of sense to us to move that scope from potentially a different contractor and shift it to this contractor.

 So there was no contractor yet identified. It was just a scope of work where we hadn't determined the best way to execute it.

 MR. CROCKER: I understand.

 And is the 702 million the final contract price for all of the work?

 MR. REINER: The 702 is definition phase work. It's not execution work.

 MR. CROCKER: Okay?

 MR. REINER: So we still need to negotiate a target price for the execution work, and that's not in that number.

 MR. CROCKER: Okay. Your answer, I should tell you, is much more helpful than saying that 702 million is more than 600-million. Thank you.

[Laughter]

 MR. REINER: I accept that. I just wanted to highlight that at the time of the press release, it was not a definitive estimate.

 MR. CROCKER: Thank you.

 I have nothing further, thank you.

 MR. MILLAR: Thank you, Mr. Crocker.

 We will move now to Mr. Shepherd. Just a heads-up from Mr. Anderson, we're moving through panel 3 more quickly than we'd anticipated. I don't know what the status is of panel 4, but it looks like we will probably get to them before lunch. Are they available?

 MR. ANDERSON: Panel 4 is available in our office upstairs.

 MR. MILLAR: Great. Thank you.

 Mr. Shepherd?

 **QUESTIONS BY MR. SHEPHERD:**

 MR. SHEPHERD: Hi. My name is Jay Shepherd. I am with the School Energy Coalition.

 I want to ask you just, I think, two questions -- no, three questions about this area. The first is 4-10, SEC 58. This is a question about the Holt Bridge, and the question is really a simple one.

It is not just OPG that is going to get the benefit from this bridge, right? It is a public bridge, and the municipality was going to have to build it anyway sooner or later, or the province was, right?

 MR. REINER: Yes. So this lands in the jurisdiction of the province with the Ministry of Transportation. The province did have a plan to replace that interchange. It was sometime in the mid-2020s. We needed to have that advanced in order to mitigate the traffic flows that are going to be coming on and off the Darlington site during the execution phase of the project.

 And so we're in discussions with the Ministry of Transportation to advance that project. There were no plans for the Ministry to do that, and so execution of this project really becomes a cost of the refurbishment project.

 The Ministry of Transportation will do the work, but the cost is borne by the Darlington refurbishment, since we're the primary driver for the need to move that work.

 MR. SHEPHERD: You anticipated my question, which I hadn't asked yet, but that's all right.

 I was going to ask: Aren't you just paying for the

advancement costs? And if you're paying for more than the

advancement costs, why?

 MR. REINER: This is the cost of the interchange. It is not just the cost of the advancement. This is -- it is consistent with what the Ministry of Transportation does. They don't look at, you know, there's an advancement and what is the extra cost for that versus leaving it where it is, because their budgets aren't established that way.

 And there are cases, for example, if a developer were to put in a subdivision next to the 401 and an interchange were needed, the developer is actually on the hook to put an interchange in, and the Ministry of Transportation would then look after it and life-manage it.

 But in cases like this, the Ministry of Transportation does not have any sort of liability in terms of funding this, because --

 MR. SHEPHERD: You asked them for some sort of contribution and they said no?

 MR. REINER: Yes. There has been a lot of discussion with the Ministry on this, yes. Yes.

 MR. SHEPHERD: Thanks.

 The next one is SEC 59, the next one, the next IR response. And we're asking about these component condition assessments, of which there was something like a gazillion of them.

 And I guess we would like to get a little more detail than just the numbers, than just: This is how many we did. Is it possible for us to give us a summary of this stuff that is a little more detailed than just this?

I mean, this is critical to the Darlington refurbishment project, right? This is a critical path item and this is going to drive your budget heavily, right?

 MR. REINER: Yes, that is correct. I mean, the primary -- the primary piece that these component condition assessments drive is the critical safety-related scope that gets identified through the integrated safety review and the integrated implementation plan.

 The details of what is in the integrated implementation plan, that is posted on our website. So you would see all of the scope that came out, probably more detailed than you had asked for, but it is all there.

 MR. SHEPHERD: Precisely.

 MR. REINER: You would have to tell us sort of how you would like that to be summarized --

 MR. SHEPHERD: I wonder if you have done a summary report internally, for example, of this CCA process that says: Okay, we finished it; this is what we did and this is what we found. You know, 10 pages, something like that, for senior management, or for your board of directors, or something like that.

That would be of assistance to the Board, that they wouldn't have to go through all of the details.

 MR. REINER: Offhand, I wouldn't be able to point to a

summary report, but, I mean, it is something -- we've got all sorts of information on these conditions.

 MR. SHEPHERD: I wonder if you could undertake to see if you have something like that.

 MR. REINER: Okay. We can do that.

 MR. MILLAR: JT2.7.

**UNDERTAKING NO. JT2.7: TO PROVIDE A SUMMARY REPORT OR OTHER AVAILABLE INTERNAL DATA REGARDING DETAILS OF COMPONENT CONDITION ASSESSMENTS.**

 MR. SHEPHERD: The next one on this is on target pricing, and Mr. Poch asked you a bunch of questions about target pricing, so I think we have a pretty good handle on it.

But I just want to make sure I understand that -- because he was asking about overruns on the theory that there can only possibly be overruns on these contracts, but my understanding is the target pricing actually isn't just for overruns. You share in cost savings as well; is that right?

 MR. REINER: Yes, that's correct. There is a sharing in cost savings.

 MR. SHEPHERD: Is it symmetrical in each contract?

 MR. REINER: It is not symmetrical. I believe the way the contracts are structured, the overruns are more punitive than the sharing of the savings.

 MR. KEIZER: Mr. Shepherd, is there a particular piece of evidence or the IR that you are referring to?

 MR. SHEPHERD: Sorry, this is 64. This is the same one, SEC 64, which Mr. Poch already took you to.

 MR. ANDERSON: Do you have an issue number on that, Mr. Shepherd? That would be helpful.

 MR. SHEPHERD: 4.11, sorry.

 MR. ANDERSON: Thank you for that.

 MR. SHEPHERD: So what happens is that if their costs go over -- so let's say you have a $10 million contract, plus you have 2 million of overhead and 3 million of profit. So you've got 15 million all told, right?

 So the 10 million of costs is -- they're going to get it. They're going to get whatever costs they have. It's time and materials basically, that component, right?

 But the 2 million of overheads and the 3 million of profit, that's at-risk money, and if there are cost overruns, the amount of that 2 plus 3, that 5 million is going to be reduced, initially dollar-for-dollar, and then as it gets higher, it will be less -- it will be shared, right? Is that how it works?

 MR. REINER: Yes. There is a formula that addresses how, across sort of the quantum of overrun, the sharing would occur.

 MR. SHEPHERD: And the amount that the contractor can lose can never be more than that 5 million, the additional amount, the profit and the overhead, right?

 MR. REINER: That's correct. In the target price concept, that's correct.

 MR. SHEPHERD: Okay. And the other way around now, that's basically an increase to their profit, right?

 So if they come in at 9 million instead of 10 million in costs, then they get some of that million dollar difference as an additional profit?

 MR. REINER: They would get -- so they would get an increase in profit and overhead.

 MR. SHEPHERD: Sure, the 5 million.

 MR. REINER: But not the cost, not the cost. So the

million dollars is the cost for getting to a different point in time. They wouldn't get the cost. The cost is always the actual cost.

 It's profit and overhead that has a formula: Up, if the schedule is met and the price is met in advance of what is in the target price, and down if it is the other way.

So it all goes around that band of profit and overhead.

 MR. SHEPHERD: So then the result is that if the cost goes to 15, after that you pay dollar-for-dollar?

 MR. REINER: We would get back the 5.

 MR. SHEPHERD: Yes.

 MR. REINER: And then --

 MR. SHEPHERD: Well, no. Hang on. You wouldn't get back the –- you still pay 15, but they wouldn't get to keep it, because they would have lost money?

 MR. REINER: No. We start clawing back. That's the at-risk amount, the profit and overhead. So they start to lose profit and overhead, even for -- even for money that was earned up to the point in time where that target price line was drawn.

 MR. SHEPHERD: If the costs are 15 --

 MR. REINER: Yes.

 MR. SHEPHERD: -- you pay 15. If the costs are 10, you pay 15.

 MR. REINER: Okay. You're talking now about the actual cost?

 MR. SHEPHERD: What you actually pay; what the ratepayers have to bear. Right.

 MR. REINER: Yes.

 MR. SHEPHERD: So anything above 10 in costs, up to 15, you pay 15?

 MR. REINER: We pay actual cost, yes.

 MR. SHEPHERD: Well, no. You pay 15, right? In this example --

 MR. REINER: In your example, if that is the actual cost, then we pay 15.

 MR. SHEPHERD: Okay. And then after that, you pay whatever the cost is? If it is higher than that, you pay whatever the cost is?

 MR. REINER: We would pay -- now, it might also be helpful to point you to that interrogatory that I referenced. Now, it is a confidential interrogatory, but that looks at different scenarios, 50 percent cost overrun, a hundred percent cost overrun, and how do things move --

 MR. SHEPHERD: Just give me the reference and I will look at it.

 MR. REINER: -- and that models the dollars.

 MR. ROSE: The reference is Interrogatory ED No. 11. I believe it is part (c).

 MR. SHEPHERD: Under Issue 4.12?

 MR. REINER: I think a point I do want to leave with you on the target price, if the project goes above the target, the contractor does not walk away with the same amount of profit and overhead as they would if they achieved the target.

 MR. SHEPHERD: Oh, no, no, I understand the incentive

component of it. Believe me, it is a very good idea.

 I am looking at it now not from the contractor's point of view, because basically any costs between 10 and 15, ratepayers pay the same, right? You pay the same so we pay the same, right?

 MR. REINER: Well, it's between -- it wouldn't be sort of a -- that's why I need to refer you back to that other

interrogatory. It's not a one-for-one.

 There is an element of time, if the project exceeds the target price, where the contractor still does earn a profit. It depends on how far past the target schedule and target cost the contractor is.

 MR. SHEPHERD: Right.

 MR. REINER: They still do earn a profit, but it becomes a diminishing amount of profit.

 MR. SHEPHERD: In my example, at 10 million, ratepayers pay 15. At more than 10 million, we pay at least 15. That's true, right? Always -- that's always going to be true, because this is about how much of their profit and overhead they lose?

 MR. REINER: I guess -- again, not having a sort of detailed formula -- if the job goes above 10 in cost, there would be the additional cost for that.

So let's say that is 11 or 12, and they reduce profit, which -- call it 3 in your example. So yes, it would be 15 -– a reduced profit, but the actual cost for doing the additional work.

 MR. SHEPHERD: But it would be 15 or more, because sometimes it is shared. Sometimes you have to eat some of that overhead -- overrun, right?

 MR. REINER: Depending on how far out the delay is.

 MR. SHEPHERD: Okay. Then my last question in this area is, 4.9 -- oh, no, this is a corporate panel one. Never mind.

I think I am done on these ones. Thank you.

 MR. MILLAR: Thank you, Mr. Shepherd.

 Mr. Tolmie, I believe you had a question of this panel?

 **QUESTIONS BY MR. TOLMIE:**

 MR. TOLMIE: Yes, thank you very much.

I am Ron Tolmie, Sustainability Journal, and my question relates to Issue 4.11, Exhibit L, tab 4.11, schedule 17 of the SEC Interrogatory 64.

 The question is: Are the strategies reasonable? Specifically, the question I have is whether the strategies will minimize the risk in costs, particularly if the system is in future interfaced with energy storage facilities.

 There are quite a variety of energy storage technologies under development, and the IESO and the OPA have issued an RFP for 50 megawatts of this type of storage in very general terms, but storage could be battery storage, which is useful for dealing with having to switch from source A to source B in the case of a failure of one of the sources, or the storage could be located at the consumer end of the power train.

And both of those types of storage might start with 50 megawatts as it feeds into the store, but both are capable of delivering much higher amounts of power when the demand arises. In fact, they could both theoretically deliver something like 1,000 megawatts of power. So they effectively back up the power supply from Darlington in two very different ways.

 MR. KEIZER: I guess I just don't mean to interrupt, Mr. Tolmie, but you've asked the question within the context of Interrogatory 64 for SEC, which relates to target pricing within the context of the Darlington refurb contracts, which would be with respect to the scope of work to be undertaken to do the refurbishment, to actually put these reactors into a position where they would operate on that basis.

 It is within that context. I'm not sure that the element of storage, which is a system planning function, actually falls into either the ambit of that question or in terms of where -- the context with respect to that, you know, particular interrogatory or in the context of the project itself.

 So I am finding a hard time understanding the relevance of the question.

 MR. MILLAR: Mr. Keizer, I don't mean to -- well, I guess I mean to interject, because I am interjecting. Maybe I can just offer this.

Mr. Tolmie's issue, which is 5.1(a), I believe, was actually added after the interrogatory process. For that reason, it may be difficult for him to tie some of his questions to particular interrogatories.

 All I would suggest is this, and of course you are counsel for OPG and you will make whatever determinations you want. If Mr. Tolmie has a question that falls within the range of the Issues List, whether or not he can tie it to a particular interrogatory, I would ask -- or I'd suggest that OPG may want to do their best to answer the question, whether or not it can be tied to an interrogatory, but I leave that to you.

Obviously, I am not here to make any rulings or decisions. I think that might assist the process in going forward, if only because it might reduce some of the questions at the hearing itself. So I leave that with you.

 MR. KEIZER: Can I have a moment, Mr. Millar?

 MR. TOLMIE: I think personally that it is in fact quite closely tied, because there is an element of risk and an element of costs, and we're dealing now with a very large capacity, a very large facility.

 So if one plans to build the facility on assumption A, that there is no storage available for the system, you have one risk, one cost.

 If in fact storage is available either locally, close to the refurbished reactors, or even remotely located at the consumer end of the chain, then you have quite a different risk and cost and potential costs.

 So I am trying to get at what you could potentially face in the future.

 MR. MILLAR: Mr. Keizer, did you have a -- it looked like you had something you wanted to say.

 MR. KEIZER: Yes. Well, I guess the point being is -- well, as you know, we had difficulties with the issue being placed on the Issues List, but nevertheless we have to accept that it is.

 So maybe if Mr. Tolmie could ask the question succinctly with respect to the linkage between this. It has to at least still be relevant. And if he is going to talk about storage, he's got to talk about it within the context of what we're here to do, which is to consider the expenditures and to consider the contracting practices with

respect to the Darlington refurbishment.

 So I guess I ask him to, if he could, you know, succinctly put his question as to how it relates to storage and the facts -- or the issues that we're dealing with here, then that would be helpful, and then we can decide where we go from there.

 MR. TOLMIE: Starting with a fundamental issue, the big problem with nuclear power in general is matching supply with load. And more specifically, we have the question of whether the plan matches the future needs that we will have in Ontario to match the load.

 So my question is simple: Has this been considered?

 MR. KEIZER: So as I understand it, have you actually

considered the element of load-following within the context of nuclear refurbishment? Is that the idea?

 MR. TOLMIE: Load-following is only one aspect of the whole issue. You've got --

 MR. REINER: Yes. Let me offer an answer, and we will see if it is satisfactory.

 So load-following, as you said, that is only one answer. Darlington is not a -- doesn't load-follow. There are restrictions on Darlington that avoid it from doing that.

Certainly any new-build nuclear would have load-following capability. We've gone through an era recently with economic downturn, and the demand situation in the province where there is a lot of excess base load generation on the power grid, and in the nuclear context, if you aren't able to load-follow, that means you are essentially wasting heat.

 Now, if you were to project forward and you had a look -- if you looked at LTEP and what is happening in the generation mix in the province, this un-utilized base load generation issue essentially begins to disappear as the refurbishments begin at Darlington and Bruce, because you are taking significant amounts of base load generation off the power grid.

 That then quickly gets us to a point in time where the

Pickering station comes to the end of its life. With a refurbished Darlington and a refurbished Bruce A and Bruce B plants, the base load generation is significantly more than what is on the power grid, and the LTEP sort of paints that picture.

 MR. KEIZER: I don't know if that is really addressing Mr. Tolmie's question. I think the question was: Did you, in the context of these plans, contemplate any form of storage or other aspects related to it?

 MR. REINER: We have not contemplated storage. We see there is a need for base load generation and that the power that Darlington produces is going to be required.

 I mean, the need for storage to make better utilization of what the grid has available, we would leave that to the OPA and the IESO to determine. It's not something that we have factored into our plans for refurbishment. We're not building storage at Darlington.

 MR. MILLAR: Did you have anything further, Mr. Tolmie?

 MR. TOLMIE: No, that covers it. Thank you.

 MR. MILLAR: Okay. Thank you very much.

 We will move now to Board Staff and Mr. Battista.

 **QUESTIONS BY BOARD STAFF:**

 MR. BATTISTA: Good morning. Just -- the witness just mentioned the LTEP, and just as an administrative matter, I think we should get that report on the record. I don't think it is in evidence anywhere. There might be a link in the evidence, but since it is a rather substantial and important document, I think we should get it on the record in evidence.

 MR. MILLAR: We do have some hard copies here, I understand, and I propose just to mark it as an exhibit. So it is KT2.2, and that is the Long-Term Energy Plan.

**EXHIBIT NO. KT2.2: LONG-TERM ENERGY PLAN.**

 MR. BATTISTA: Yeah, I won't be referring to it, but just to save time, I think, at the hearing.

 I would like to take you to Exhibit L, tab 4.7, Staff 31. In the response to question (b), OPG indicates that the contingency component of the forecast has declined by 5

percent as a proportion of the total compared to a previous one.

 I am pretty sure that the contingency numbers are being treated confidentially, so would you please undertake to provide the calculation, the numbers that result in a 5 percent reduction in contingency?

I guess you would use the two business case summaries, the 2009-2013 and --

 MR. KEIZER: Can I -- just before we address the undertaking, just point me, Mr. Battista, to where you actually are in the undertaking question.

 MR. BATTISTA: It’s Board Staff 31, response (b).

 MR. KEIZER: Yes?

 MR. BATTISTA: The last sentence.

 MR. KEIZER: You want to obtain an understanding as to why --

 MR. BATTISTA: Not why. The calculation that results in a 5 percent reduction.

 MR. ROSE: Yes, we can take that undertaking. It will

obviously be a confidential response.

 MR. BATTISTA: That's right.

 MR. MILLAR: JT2.8.

**UNDERTAKING NO. JT2.8: TO PROVIDE, ON A CONFIDENTIAL BASIS, THE CALCULATION THAT RESULTED IN A 5 PERCENT REDUCTION IN CONTINGENCY IN THE RESPONSE TO BOARD STAFF INTERROGATORY 31(b).**

 MR. BATTISTA: The next question -- most of my questions will be short and snappy, but I have a bunch of them. Exhibit L, 4.7, Staff 32 -- I meant Staff 33. I misspoke, sorry.

 In particular, it is the response to the (b) section of the question, and the hours remaining or the projected total hours for the existing tubes.

 If an extension to 235,000 hours isn't approved by the CNSC, does OPG have mitigation plans to manage things if that should occur? And do the plans include any cost mitigation activities?

 MR. REINER: The details around the research coming out of the fuel channel life management and life extension work would be something we would leave to the nuclear operations folks to describe.

 However, based on results to date, our confidence is fairly high that we will achieve those kinds of full-power operating hours.

 Now, that being said, the 235,000 would give us margin on our current schedule, and would really sort of eliminate any potential risk of idling a unit.

 Under a worst case scenario, what we would be potentially faced with is the fourth -– the problem arises in the last unit of refurbishment, because it gets the closest --

 MR. BATTISTA: To the 235?

 MR. REINER: -- to the 235. If for some reason it got beyond 235 -- we don't project it to be there; we project it to be around 228. If, you know, our confidence level in 235 deteriorated and started to eat up that margin, and we couldn't get to its end-of-life, we would be faced with a situation where we would potentially idle the unit.

 There are some -- there are some potential offsets. We have not factored anything into the cost of this project to deal with those. But some of the potential offsets, that being the fourth unit, I think it isn't unfair to assume that when you've done something three times previously, you get better at doing it. And in all likelihood, the scheduled durations would be less by the

time we got to the last unit than the first unit.

 So you are likely to see some natural reductions in the schedule, based on performance of the project. So that would be a natural offset, but we haven't factored anything into this project to deal with that.

If we got into the scenario, I mean, we would look at the potential consequences of advancing that last unit to avoid idle time, could the project undertake that,

versus the consequences of just leaving the unit idle.

 MR. BATTISTA: Right. So a key factor in all of this is getting approval from the national regulator that -- to increase the pressure tube life to 235,000.

 You're saying you are 99 percent sure that is going to

happen?

 MR. REINER: The approvals is based on the results of the research, so it isn't a subjective approval. There is evidence that supports that approval.

 MR. BATTISTA: Fact-based?

 MR. REINER: It is fact-based. And the reason, you know, some of this takes the amount of time it does is because you have to advance the life of those components beyond where they are today, and that requires some of that research.

But it is a fact-based decision, and based on what we are seeing to date, our confidence is growing.

 MR. BATTISTA: So when will you have the direction from the federal regulator?

 MR. REINER: I would have to get the factual -- I

believe it is around end of 2014. But I would have to point you to -- I believe the fuel channel life management and fuel channel life extension business cases are part of the nuclear operations filing, and the answer is in there.

 MR. BATTISTA: If it's in there, that's fine. If it's on the record, that's fine.

 MR. REINER: Yes.

 MR. BATTISTA: Thanks.

I would like to take you to Exhibit L, tab 4.7, Staff 36.

 In the response, in the first line of the response, the $10 billion cost in 2013 dollars includes contingencies for each element, as well as management reserve.

 Can you undertake to provide what that total is, because I think that contingency amounts, management reserve amounts, are confidential. And if those amounts are the same as the amount shown in the business case study from November 2013, then just answer it in that way, because that confidential document is on the record.

 MR. ANDERSON: Sorry, Mr Battista, I didn't understand your question. What exactly is it that you are seeking?

 MR. BATTISTA: What I am seeking is the -– the $10 billion budget forecast for Darlington includes contingencies, as well as management reserve.

So I am asking how much is that of the 10 billion? Now, that number is confidential.

 MR. ANDERSON: So you are asking for a total of

contingencies and management reserve as a component of that 10?

 MR. BATTISTA: Right, right. Now, if it is to be found in your answer, if it is already available in the business case study from November 2013, in your answer you can refer to that.

 MR. REINER: I would point you to that business case of 2013. It is in the confidential filing. You will see the numbers in there.

 If there's something missing when you look --

 MR. BATTISTA: Yeah. I guess -- does the 10 billion include interest and escalation?

 MR. REINER: The 10 billion does not.

 MR. BATTISTA: That's where it starts getting confusing.

 MR. ANDERSON: Given we're dealing potentially confidential information, why don't we take an undertaking to confirm it is in the business case, or if it is not, we will make best efforts to provide.

 MR. MILLAR: JT2.9.

**UNDERTAKING NO. JT2.9: TO CONFIRM WHETHER A BREAKOUT OF CONTINGENCIES, MANAGEMENT RESERVE, INTEREST AND ESCALATION FROM THE TOTAL DARLINGTON BUDGET IS SHOWN IN THE BUSINESS CASE, AND IF NOT, TO MAKE BEST EFFORTS TO PROVIDE IT.**

 MR. ROSE: Before we leave this issue, I believe that Board Staff 49 provides the answer that you are looking for on the confidential.

 MR. BATTISTA: That is confidential?

 MR. ROSE: That is correct.

 MR. BATTISTA: The number's in there.

 MR. ROSE: I believe the answer that you are looking for, yes.

 MR. BATTISTA: And that relates to the 10 billion?

 MR. ROSE: 49 actually relates to the point estimate. So we will keep the undertaking to reconcile the two.

 MR. BATTISTA: Okay. What's a management reserve? How is that different from a contingency?

 MR. REINER: Typically, a contingency is something that is available to the project to utilize, pending changes in execution versus what was planned.

 Management reserve -- so there is, as you work through contingency and management reserve, there is a grading of

authority that gets implemented that allows access to those

funds.

 A management reserve would be held at a CEO level and is not something that would be available to the project to just spend without seeking approvals at the very senior level, whereas contingencies would get rolled down into the project, held at various levels at the senior project manager, down to project managers that have specific scopes of work.

 MR. ROSE: Just to elaborate on that, just give you a little bit of a project management-speak on your question, we refer to contingency as "known unknowns." They are things that are uncertainties with respect to the scope that you have in the project.

As an example, I may think that it costs me $100 to build this table, but because I haven't priced or contracted it yet, it could be as high as $130.

That would be contingency, where management reserve are for what we call "unknown unknowns," things beyond the estimate or the certainty of that estimate that you have for the scope of your project.

 So there may be events that the project hasn't planned into its base amounts.

 MR. BATTISTA: Okay. Thanks.

 In the response on that, for that IR 36, mention is -- and there is a last sentence, the last paragraph, and it says:

"As of February 2014 all major contracts, except for fuel handling, have been awarded, and all estimates remain within the ranges."

 I presume this is as of February. Are there apparent cost reductions as compared to the budgets reflected in the 10 billion, material cost reductions that you actually know about now because it is about three or four months after November? Just material.

 MR. REINER: There aren't material cost reductions since February that would have us change the $10 billion at this point.

 MR. BATTISTA: Or since November?

 MR. REINER: Or since November.

 MR. BATTISTA: Okay.

 MR. REINER: There have been since 2009.

 MR. BATTISTA: Yes, because the numbers have changed, yes.

 And one last thing. On these contracts that have been awarded to February, are these fixed-price contracts, or there's a variable element to them?

 MR. REINER: There will be a mix. And it is again tied to the scope of work and who is best able to manage the risks associated with that.

 MR. KEIZER: And I think that was covered off this morning by Mr. Poch when he looked at GEC 2.

 MR. BATTISTA: All right. Thanks.

 Okay. Next is Exhibit L, tab 4.7, Staff 37. And this has to do with the LUEC and what it captures and what it doesn't, in terms of capitalized interest, future escalation and whatnot.

 In the response (a) -- and this is really for clarification purposes more than anything else -- it says:

"Capitalized interest and LUEC is considered in the application of the discount rate."

 So my understanding is that -- let's say in the 10 billion, there is carrying costs for plant during construction. Right? So interest is in there.

 This interest here is the capitalized interest that would be booked while the project's under construction and not in rate base, right?

 MR. ROSE: That is correct. The capitalized interest in our $12.9 billion high-confidence cost estimate is the

interest related to the cash flows of the direct expenditures of the project during the life of the project.

 When we calculate LUEC, we use the discount rate of the cash flows to determine the LUEC in today's dollars.

 MR. BATTISTA: So -- but it says here:

"Capitalized interest in the LUEC calculation is considered in the application of the discount rate".

 MR. REINER: Yes. Maybe I would suggest giving you a bit of a simpler answer. I think this tried to get into the mechanics of how a LUEC is calculated.

 I think the answer to your question -- your question asked -- to the initial question, does the 7.9 include capitalized interest and future escalation, the answer is yes, it does.

 MR. BATTISTA: Okay. So that last sentence in (a) really --

 MR. REINER: That answer tried to get into how, the mechanics of how that is captured in the mathematics of performing a LUEC calculation, and I think it got into a confusing level of detail.

 MR. BATTISTA: So I should just strike it out?

 MR. REINER: Yes, yes. The answer is yes.

 MR. BATTISTA: Okay. Next is Exhibit L, tab 4.7, Staff 41, and this is really just to confirm what you are saying.

 In the response to (b), just, I guess, to reiterate your answer, does this mean that there is very little regulatory uncertainty reflected in the November 2013 business case summary, in terms of the numbers, that those are pretty firm, you know, with regard to any regulatory snafus?

 MR. REINER: Yes. We believe the numbers in that November business case and the contingencies that are in there capture the remaining uncertainties. The process leading up to final approval for the CNSC is quite -- there is a lot of interaction that occurs with the CNSC and ourselves, and that has occurred over the last four or five years as we have been developing the ISR and the IIP.

 So there is a good understanding of -- by the CNSC, of what we believe needs to be done to address any gaps, and there is fairly good alignment.

 The remaining uncertainty between now and sort of end of the year when the Darlington station licence gets approved, and this essentially -- the IIP essentially gets approved is relatively small, and we have captured that in our estimate.

 MR. BATTISTA: Thank you.

 Exhibit L, tab 4.7, Staff 43, the release quantity estimate for the Darlington project is expected now October 2015. And the IR asked how soon after 2015 will OPG update the Board with the revised cost estimate, which one would expect as a result of the release quantity estimate.

 And secondly, in case for some reason let's say the payments amount application, the next one OPG files, is a year after that, and what this IR is trying to get at is whether OPG would come in, would make a commitment to come in to update the Board as to what these new numbers are, given the fact that the numbers are going to be much more reliable than currently is the case.

 MR. KEIZER: Well, I don't know if this is the appropriate forum to elicit commitments to disclose. I think the interrogatory states what it is, and so I don't

think that it is here where we should discuss that.

If there is any changes or any other issues, it might be something that is either discussed in the context of final submissions or in the context of any settlement discussions or ultimately something else further down the road, but not here.

 MR. BATTISTA: That's your position to the answer --

to the question?

 MR. KEIZER: Yes. Today it is.

 MR. BATTISTA: And Exhibit L, tab 4.7, Staff 45, in the corporate business plan, mention is made of a regulatory asset of about --

 MR. KEIZER: Sorry, Mr. Battista. For some reason we don't have the paper here. It may be that this -- we will see what your question is, but it may be this may not necessarily be the best panel for this question. But we will see.

 MR. BATTISTA: Okay. I don't think it is a tough question, but anyhow...

The regulatory asset of $150 million is mentioned in the business case study, the corporate business plan. And it hopes, I guess, to set it up in 2016 and it is related to the deferral of nuclear rate impacts for subsequent recovery.

 I was wondering whether OPG, as a matter of course, would come to the Board in advance of setting up this --

 MR. ANDERSON: I think at this point, Mr. Battista, it is fair to say that your question is going to be better handled by the next panel.

 This panel is not in a position to answer that question.

 MR. BATTISTA: Okay. My last question is in regard to Exhibit L, tab 4.9, Staff 48.

 This IR is focussed on projects that are underway, and

projects that are closing to rate base and for which recovery is requested.

 In particular, it is the water and sewer project that I would like to follow up on. In the answer to -- in response (d), it says that the water and sewer project is deemed necessary to deal with current adverse conditions, and to meet current codes and regulations and to mitigate environmental concerns, as such.

 And I was wondering why is it part of the Darlington -- why is it treated, from an accounting perspective, as part of the Darlington refurbishment project?

 MR. ANDERSON: Mr. Battista, if the question is

accounting-based, again it is probably more appropriate for the next panel.

 If it was a technical question in respect of what the

project is, then this panel would probably be better suited.

 MR. BATTISTA: Well, the accounting falls out of the -- would you be doing this work if there were no Darlington refurbishment?

 MR. ROSE: In preparing for the Darlington refurbishment, there are a number of projects, water and sewer being one, that due to the extension of the site by an additional 30 years, there were upgrades that were needed to be made to infrastructure.

So in the evaluation of the overall business case, the water and sewer project was included in the refurbishment overall work program.

 MR. BATTISTA: So it is really related to the extension of the life of Darlington?

 MR. ROSE: That is correct. All of our decisions were made under the auspices we were operating Darlington until 2055.

 MR. BATTISTA: That ends my questions.

 MR. MILLAR: Thank you, Mr. Battista. And I think that ends the questioning of panel 3.

 Thank you very much, panel. You have been very helpful.

 We have panel 4 in the room. Maybe we should take five, just so we can switch the panels and if anyone needs a washroom break.

So we will come back in five or six minutes.

 --- Recess taken at 11:25 a.m.

 --- Upon resuming at 11:35 a.m.

MR. MILLAR: Welcome back. We now have panel 4 ready for questioning.

 Mr. Smith, would you like to introduce the panel?

 MR. SMITH: Yes. Thank you, Mr. Millar. This is OPG's corporate panel. Furthest from me is Jason Fitzsimmons; to his right is Andrew Barrett' to his right is John Mauti; and then closest to me, Alex Kogan.

And the panel is ready to be questioned.

 MR. MILLAR: Mr. Shepherd, you had agreed to go first?

 **QUESTIONS BY MR. SHEPHERD:**

 MR. SHEPHERD: Indeed. I have a couple of sort of non-thematic questions that I am going to ask first, just to get them out of the way. The first is with respect to Issue 4.9, Staff 048.

And the question is: Can you just briefly describe what "partial in-service" means and tell me whether there are any amounts in the chart that is attached to this that are partial in-service amounts?

 MR. SMITH: Sorry, Mr. Shepherd. Not related to your

question, but can I ask you to speak up? I don't know about the panel, but I am having a good deal of difficulty here.

 MR. SHEPHERD: Well, you know, I am famously soft-spoken.

 MR. SMITH: As am I.

[Laughter]

 MR. SHEPHERD: Did you hear the question, or you want me to repeat it?

 MR. KOGAN: Please repeat the question.

 MR. SHEPHERD: The question is, first, can you give an

explanation of what the term "partial in-service" means, and can you identify, are there amounts in chart 1 that you see on the screen that are partial in-service amounts? And if there are, can you tell us what they are?

 MR. MAUTI: In terms of what a "partial in-service" means, oftentimes we may have projects that are large and that may have an impact or benefits that are on multiple units, multiple stations, whatever the case may be.

 So "partial in-service" just basically means a portion of that project is substantially complete, that it's providing those benefits that are related not in whole for the whole project but to a portion of the asset base, whether it's a --

 MR. SHEPHERD: So it doesn't mean anything different than "used and useful," right? Things that are partially in-service are still being used for the business. They're just not -- it's not the whole project that is being used. Only part of the project is being used.

 MR. BARRETT: Yes. They would still have to satisfy the "used or useful" test that Mr. Mauti indicated. It is one part of a larger project.

 MR. SHEPHERD: Of course.

 So then the second part is, are there amounts in here that are partial in-service amounts?

 MR. KOGAN: And not having all of the details in front of me, I think the capital evidence for Darlington refurbishment at D -- Exhibit D-2, tab 2, schedule 1 would have accompanying tables that probably could be reviewed showing the total project cost and the in-service amounts.

 So where those in-service amounts would be less than total project cost, I would expect those to be partial in-services.

 MR. SHEPHERD: All right. Then next one is 6.8, Staff 108. And the question is a fairly simple one: Do you track, or do you have any other information on how many PWU and Society employees have left OPG for Bruce Power and vice versa in the last five years?

There must be some movement back and forth. The question is: Do you have data on it?

 MR. FITZSIMMONS: Yeah, I don't believe that we actually track the data. It is not part of formal reporting.

 MR. SHEPHERD: When nuclear plant personnel leave the

company -- I realize they don't do that often, but when they do, do you conduct exit interviews?

 MR. FITZSIMMONS: Yes, we do.

 MR. SHEPHERD: Is there some sort of report -- I am not asking for information on the individual employees, I am asking for -- do you do any statistical analysis or, you know, that sort of thing to understand why people are leaving?

 MR. FITZSIMMONS: Not that I'm aware of.

 MR. SHEPHERD: Okay. The next one is 6.8, CCC 20 -- I am not sure whether it is 20 or 22. 21 in one place and 22 in the other place. No. 22.

 So you provided a table? Yeah. Can you provide this table for regulated operations only? See, the problem is it is not very useful, because it is all blacked out, right? Can you provide one that is for regulated operations only so we can put it on the public record?

 MR. MAUTI: Yes, we could.

 MR. SHEPHERD: Wonderful. Thank you.

 MR. MILLAR: JT2.10.

**UNDERTAKING NO. JT2.10: TO PROVIDE A VERSION OF THE TABLE IN RESPONSE TO CCC INTEROGATORY 20 SHOWING REGULATED OPERATIONS ONLY.**

 MR. SHEPHERD: The next one is 6.8, SEC 115. And so what we want to know is the final survey method -- you provided to stakeholders a proposed survey methodology for this study, the Aon Hewitt study, right?

 MR. BARRETT: That's correct.

 MR. SHEPHERD: And then there is a final survey methodology, and what we would like to know is what changes did you make as a result of stakeholder input between the first one and the last one, the one that you provided to stakeholders you got input on, and the final one that you used.

 MR. BARRETT: Given the passage of time, I just don't recall the changes.

 MR. SHEPHERD: Okay. Can you undertake to identify those changes for us?

 MR. BARRETT: Yes, we can.

 MR. SHEPHERD: Thank you.

 MR. MILLAR: JT2.11.

**UNDERTAKING NO. JT2.11: TO IDENTIFY THE CHANGES TO SURVEY METHODOLOGY MADE AS A RESULT OF STAKEHOLDER INPUT BETWEEN THE FIRST AND LAST SURVEYS.**

 MR. SHEPHERD: The next one is 6.8, SEC 116. So this is the KPMG report, right? This is referring to --

 MR. BARRETT: Yes, that's right.

 MR. SHEPHERD: And you said that you can't -- we can't have it. Do you have a copy of it?

 MR. BARRETT: Personally, no.

 MR. SHEPHERD: No, no. The company. Does OPG have a copy of it?

 MR. BARRETT: I'm not certain of that. I presume so.

 MR. SHEPHERD: Okay. So then we're asking you to provide that copy to us. I understand you don't own it. That's fine. But you have it in your possession.

Under the Board's Rules, you have to give it to us. You can ask for it to be confidential if you want.

 MR. SMITH: And as you will see from the answer, Mr. Shepherd, it is OPG's position that it is not in a position to give you the report. It has made a request of the Ministry of Energy, who owns the report, for permission to file the report as part of these proceedings, and we haven't received a response yet from the Minister of Energy, but if we do, we will certainly advise the Board of that answer.

 MR. SHEPHERD: No. I understand that. And obviously, on any question of whether it is confidential, the Ministry is going to have to -- they're going to have some comments on that.

 My question is not whether you put it on the public record. My question is: Will you provide it to the Board? You have a copy of it. It is relevant. Will you provide it?

 MR. SMITH: And I think you have our position in relation to that.

 MR. SHEPHERD: Well, sorry. I wouldn't have asked the

questions if I thought I had your position. Just say no, if you are not going to provide it.

 MR. SMITH: Okay. No.

 MR. SHEPHERD: Thank you.

My next question is on 118, 6-8-118. This is with respect to a review that was done of your pension and benefit plans -- or one of them, I guess.

 And your answer is it doesn't have any impact on the amounts you are asking for in the test period. I don't

understand that.

 So can you help explain why it doesn't have any impact? What is it about this report that makes it completely irrelevant now?

[Witness panel confers]

 MR. BARRETT: After some discussion, we've concluded as a panel that we haven't seen this report, and aren't in a position to provide much beyond what is in the interrogatory response.

 MR. SHEPHERD: So if you haven't seen it, then presumably you will undertake to provide the answer to the question I have just given you, by way of undertaking?

 MR. SMITH: Yes, we will do that.

 MR. MILLAR: JT2.12.

**UNDERTAKING NO. JT2.12: TO EXPLAIN WHY THE REVIEW OF PENSION AND BENEFITS PLANS HAS NO IMPACT ON AMOUNTS REQUESTED FOR THE TEST PERIOD.**

 MR. SHEPHERD: My next question is on 6.9, Staff 134.

 MR. SMITH: You said 134?

 MR. SHEPHERD: Yes. And the table you provided appears to be all regulatory affairs costs for all applications; is that right?

 MR. SMITH: Mr. Shepherd, do I understand your question to be whether or not the table captures the costs related to this application, or all of OPG's applications?

 MR. SHEPHERD: Yes. Is it all of OPG's applications?

 MR. BARRETT: I haven't looked at this information in some time, so I am not in a position to give you a response.

But over the luncheon break, I can review some materials and respond after lunch.

 MR. SHEPHERD: Well, you know what? I can cut to the chase on this.

 Can you give us a version of this chart that only deals with the costs of this application, if possible?

 MR. BARRETT: If it is not this chart, yes, we can do that.

 MR. SHEPHERD: Presumably it is not this chart because you refer to 2010-008 and stuff like that as well.

 MR. ANDERSON: Mr. Shepherd, I think note C below the table has the information you are looking for, in terms of whether it is this application or broader than that. And I think it is broader than that.

 MR. SHEPHERD: So then can you give it to us just for this application?

 MR. ANDERSON: I think we will need to assess whether we can break that out, and we can take the undertaking on that basis.

 MR. SHEPHERD: There would be some difficulty with

understanding what your costs are of this application?

 MR. ANDERSON: There may be some difficulty in breaking out the line items that we have, application versus application. I am not certain of that. That is why I am taking the undertaking on a best-efforts basis.

 MR. SHEPHERD: Okay.

 MR. MILLAR: JT2.13.

**UNDERTAKING NO. J T2.13: TO MAKE BEST EFFORTS TO PROVIDE DETAILS ON THE COMPANY'S COSTS FOR THIS APPLICATION.**

MR. SHEPHERD: And then I am going to Issue 1.4, SEC 21. What we asked about is benchmarking studies, et cetera, et cetera, and you showed remarkable restraint in deciding not to back up the truck and just give us a pile of stuff.

But I guess what I would like to see, if it is possible, is the material, the stuff that has an effect on material costs.

 So you have some major benchmarking studies that are not in your application, but that deal with material costs in your application, right?

So can we have those, number one? And number two, can we have a list of the other ones?

 MR. SMITH: Mr. Shepherd, I am not sure that I understand how we're to interpret that we have benchmarking studies that relate to material costs of the application. As reflected in the response, there are any number of benchmarking studies which may relate in part, or to some aspect, to some cost that someone may characterize as major.

 So I am not sure that it would be helpful for us to try and engage in this subjective exercise of making that determination.

 MR. SHEPHERD: Well, what you said in your answer is: Tell us which ones you want. But of course, how can we tell you which ones we want when we don't know which ones you have?

 So perhaps I can ask you to provide us with a list.

 MR. SMITH: I think one of the concerns we had with the interrogatory, Mr. Shepherd, is it indicates at the beginning a request for all benchmarking studies, surveys, reports and analyses.

 If the focus of your question is on benchmarking studies and you are satisfied with the production of a list of benchmarking studies, that might be something that we could look at doing.

 MR. SHEPHERD: Well, yes. It is supposed to be benchmarking studies, benchmarking surveys, benchmarking reports and benchmarking analysis. That is what it is intended to say. If it was every analysis you had ever done, I understand that might be more than is reasonable.

 MR. SMITH: It might be. Okay. So if what you're talking about is benchmarking -- we will take a look at the volume of materials that would be captured specific to benchmarking, and we will advise you of our position.

 MR. SHEPHERD: Okay. Can we have an undertaking for that -- this is for the list, right?

 MR. SMITH: Yes.

 MR. MILLAR: JT2.14.

**UNDERTAKING NO. J T2.14: TO PROVIDE A LIST OF BENCHMARKING STUDIES, SURVEYS, REPORTS AND ANALYSIS, OR EXPLAIN WHY IT CANNOT BE PROVIDED.**

 MR. SHEPHERD: Now, there are two specific benchmarking studies that are referred to in the evidence that we would like to see. The one is the IT benchmarking study that is referred to at F-3-1-1, pages 6 and 7. And the second is the electricity utility HR metrics benchmarking study, referred to at F-3-1-1, page

14-15.

 MR. ANDERSON: Sorry, Mr. Shepherd, could I get those two references again, please, because I am not keeping up with you?

 MR. SHEPHERD: F-3-1-1, pages 6 to 7 is the IT benchmarking study. It is the EUCG IT benchmarking study, and it's referred to there, but I don't think it is in the evidence.

 And the second is F-3-1-1, page 14-15, which is the

electricity utility HR metrics benchmarking study.

 Is there somebody on this witness panel responsible for HR? So you have seen the HR metrics study, right?

 MR. FITZSIMMONS: I haven't seen this particular study.

 MR. SMITH: Mr. Shepherd, I am pausing because I am

recollecting the question that was asked by Mr. Rubenstein

yesterday in relation to SEC 84, which had similarly sought

information relating to some EUCG data, which we had declined.

 And just as the exhibit flashed briefly before my eyes, it struck me that the response and the -- the question and the response would be similar, that what we were talking about there was not a benchmarking study, but data that was EUCG data that had been used by OPG, which is different than the production of a benchmarking study.

 MR. SHEPHERD: Okay. This question is actually from him, so I am assuming he is not asking me to ask it again.

 You do have this benchmarking information, right?

 MR. ANDERSON: Mr. Shepherd, I can't find on pages 6 or 7 the reference to the benchmarking study. Perhaps you can help me. There is a benchmarking data services, but I see no reference to a study.

 MR. SMITH: This is the issue that we discussed yesterday, Mr. Shepherd. You will see on Exhibit F-3, tab 1, schedule 1 that, as it says at line 5 of page 6, that IT uses the benchmarking data services of EUCG. And then it goes on to say 2011 EUCG data was used by IT to compare OPG.

 And this was the distinction we drew or that was drawn between data that is made available and work that OPG does with that data which is reflected in the application and the actual provision of a benchmarking study, and we had declined to provide the data on the basis that it is EUCG's data and not OPG's.

 MR. SHEPHERD: You did -- you took the data, the

benchmarking data, and you did an internal report, right? An internal analysis of some sort, which was not simply a spreadsheet, because somebody who didn't understand spreadsheets would have had to read it, right?

 MR. SMITH: Read what?

 MR. SHEPHERD: The results of the benchmarking. You don't do benchmarking and not tell anybody. I hope not.

 MR. SMITH: No, the results are reflected in the application, as I understand it.

 MR. SHEPHERD: Yeah, no, I am asking for your internal document on this. The fact that you put it in the application doesn't mean we can't ask for the internal document. If you have an internal document on this, it is relevant, and in fact, the fact that you put it in your application means it has to be relevant.

 [Mr. Smith and Mr. Anderson confer]

 MR. SMITH: If there is an underlying report that was

generated, then, yes, we will produce that.

 MR. SHEPHERD: Okay. And then the same thing with the HR metrics. You are involved in this group that has data that is provided to you on a benchmarking basis.

 MR. ANDERSON: Again, Mr. Shepherd, if I could get a

reference to the evidence, that would be helpful for turning it up.

 MR. SHEPHERD: I have already given it now four times.

 MR. ANDERSON: And I need it a fifth, Mr. Shepherd.

 MR. SHEPHERD: F-3-1-1, page 14-15. It was on the screen before.

 MR. ANDERSON: Thank you.

 MR. SHEPHERD: Now, what I would like is -- obviously, if you participate in this group, then you must prepare some sort of report for management as to how you are doing on these metrics. I would like the latest one of those, please.

 MR. SMITH: Why don't we take that in stages by asking the witness if there is such a report before presuming that there is?

 MR. SHEPHERD: Okay.

 MR. FITZSIMMONS: I am not aware of any report that is

derived from this.

 MR. SHEPHERD: Well, how do you use this benchmarking

information?

 MR. FITZSIMMONS: So I am not in a position to answer that right now. That benchmarking is obviously conducted at a nuclear level. I would have to understand further where that information is used, but I am personally not aware of a report that is generated from this.

 MR. SHEPHERD: But you are not aware of a report, because you don't know anything about this benchmarking, right? You don't do it? You have nothing to do with it?

 MR. FITZSIMMONS: That's correct.

 MR. SHEPHERD: So there may well be a report. You're not saying there is no report?

 MR. FITZSIMMONS: I am not aware of any report.

 MR. SHEPHERD: It is a straightforward question. Are you saying there is no report? Or are you saying you don't know anything about this benchmarking?

 MR. SMITH: He's saying that we don't know one way or

another whether there is a report.

 MR. SHEPHERD: If there are any reports on that, can I have them, please?

 MR. SMITH: We will do it in parts. We will, first, undertake to enquire as to whether there is a report. And if there is a report, we will advise you of our position, including either the reason for not producing the report or we will provide the report.

 MR. SHEPHERD: Perfect. Thank you.

 MR. MILLAR: That is JT2.15, but Mr. Shepherd, I think

earlier -- okay. So 15 will be to provide -- they agreed to provide a report, and the name escapes me.

 MR. SHEPHERD: The IT benchmarking.

 MR. MILLAR: The IT benchmarking.

 MR. SMITH: Sorry, I should say we didn't do in relation to the IT benchmarking report what we ought to have done, which is to take it in stages. We will do the same in relation to the IT benchmarking.

 MR. MILLAR: That's okay. So that'll -- JT2.15 is the IT one.

**UNDERTAKING NO. JT2.15: TO CONFIRM WHETHER A REPORT EXISTS RELATED TO THE IT BENCHMARKING DATA, AND PROVIDE IT OR EXPLAIN WHY IT WILL BE PROVIDED.**

 MR. MILLAR: And JT2.16 is the one in relation to electricity utility HR metrics group.

**UNDERTAKING NO. JT2.16: TO CONFIRM WHETHER A REPORT EXISTS RELATED TO THE ELECTRICITY UTILITY HR METRICS DATA, AND PROVIDE IT OR EXPLAIN WHY IT WILL NOT BE PROVIDED.**

 MR. SHEPHERD: That's right. So what you are going to do is first figure out whether there is a report, then figure out whether, if there is a report, whether you can provide it, and if not, why you can't provide it. And if you can provide it, then you will provide it, right?

 MR. SMITH: That's correct.

 MR. SHEPHERD: Awesome. This is good.

 All right. I want to move to Issue 1.0, AMPCO No. 1, page 3. And you might want to turn up at the same time 6.3, SEC 85, because this is sort of a follow-up to that question.

 So I am looking at page 3 of the AMPCO interrogatory, and then the SEC 85, which is under tab 6.3.

 MR. BARRETT: Just give us a minute to turn the second

document up.

 MR. SHEPHERD: Yes.

 MR. BARRETT: Yes, we have those two documents.

 MR. SHEPHERD: So in this deficiency document, what you do is you go from your previous revenue requirement -- or approved requirement to your current request for a revenue requirement and show what your deficiency is, right? This is a nuclear, right?

 MR. BARRETT: That's right. We identify the largest drivers of the deficiency.

 MR. SHEPHERD: Okay. And so one of those drivers is that you have added back 145 million that is the disallowance in the EB-2010-0008 for compensation, right?

 MR. BARRETT: That's part of the driver of the deficiency, yes.

 MR. SHEPHERD: Okay. So we asked you: Does this mean that you are reversing that? You're saying: Well, that was fine for the last period, but now we don't have a disallowance. Now we're claiming everything.

Is that right?

 MR. BARRETT: We are claiming the costs under our collective agreements. As you will recall, the issue around the $145 million disallowance is whether those are committed costs or not. And we say they are committed costs by virtue of the collective agreements. So we cannot not pay them.

 So in setting the revenue requirement for '14 and '15, we have to include the costs pursuant to those collective agreements.

 MR. SHEPHERD: So I take it that the -- it is reasonable to conclude from that that when the Board said you can't recover this, you didn't take any action to reduce your costs to cover that $145 million. Because if you had done that, then you wouldn't have to adjust for it, right?

 MR. BARRETT: I don't think that's entirely accurate.

Certainly following the Board's Decision, we took steps to

control costs and find efficiencies, as we always do.

 But as the $145 million was a committed cost, we were not able to eliminate that amount from our cost structure. We were obligated to pay it, and remain obligated to pay it.

 MR. SHEPHERD: All right. I thought you had this business transformation thing where you were getting rid of 2,000 employees or something, right?

 MR. SMITH: Do you have a specific question in relation to business transformation, Mr. Shepherd?

 MR. SHEPHERD: I don't have a lot, but I am asking about this right now.

 MR. BARRETT: Yes, we do have a business transformation that is realizing significant savings for the company from, among other things, attrition. And the cost savings from the BT initiative are reflected in the proposed requirements.

 MR. SHEPHERD: So they're in this list here somewhere?

 MR. BARRETT: They're certainly reflected in the

requirements at the bottom of these tables.

 MR. SHEPHERD: Well, no. This is the difference between the 2010 approved revenue requirement and the new one. So somewhere in there has to be your business transformation, right?

 MR. BARRETT: That's right.

 MR. SHEPHERD: Where is it?

 MR. BARRETT: What I'm saying is the requirement for 2014 and 2015, which is at the bottom of this table, reflects all of the savings forecast from BT during the test period.

 MR. SHEPHERD: Okay. Where is it on the list? All of the changes from the last one to this one are on this list. Where is that business transformation?

 MR. BARRETT: It is not broken out as a specific category. But since the savings are principally from attrition, so across all of the cost categories of the company where there is attrition, there would be savings.

 MR. SHEPHERD: I'm sorry. You are confusing me here.

The 5,251 had to go down by some amount because of your

business transformation.

 That amount that it went down must be in these numbers

somewhere, because they add up, right? Where is it in these numbers? Is it in the 120 and decreased base OM&A? I don't understand.

 MR. BARRETT: You have to think of BT as offsetting other cost pressures during this period.

 So the net effect of those cost pressures and the BT savings is in the revenue requirement at the bottom of this table. The BT savings haven't been broken out as a specific category in this chart.

 MR. SHEPHERD: Could you do that?

[Witness panel confers]

 MR. BARRETT: This is a potentially difficult thing to

respond to. I mean, certainly we track BT cost savings. We don't categorize them in the categories shown on that table.

But we can undertake to consider your question and see if we can provide information that is responsive.

 MR. SHEPHERD: That's great. But let me be clear that the key thing I am looking for is not: Here's what we saved in BT.

 The key thing I am looking for is how do those claimed savings integrate with this table, with the drivers of your

deficiency, because it should be a driver, a thing that is

driving your deficiency down.

 So the Board is going to want to know: How is it driving your deficiency down? Where do we see that?

Can you do that, or do the best you can?

 MR. BARRETT: We will do what we can.

 MR. SHEPHERD: Thank you.

 MR. MILLAR: JT2.17.

**UNDERTAKING NO. JT2.17: TO MAKE BEST EFFORTS TO PROVIDE INFORMATION ON HOW BT SAVINGS INTEGRATE WITH DRIVERS OF THE DEFICIENCY.**

 MR. SHEPHERD: My next question is with respect to -- I am skipping some -- tab 1.2, AMPCO 6.

If you look at page 2 of that, page 2 of 4, you will see in the response to (b), you will see the actual headcount reductions from ongoing operations in 2013.

 And this just happens to be one example where this is

discussed, because you have this in a number of places, And the thing I want to focus on is from ongoing operations.

 Do I understand correctly that the BT reductions are not total reductions in the organization, but are headcount reductions from ongoing operations only? Is that right?

 MR. BARRETT: They're across OPG, but the numbers exclude any hiring related to the Darlington refurb project.

 MR. SHEPHERD: Only Darlington? That's the only one?

 MR. BARRETT: Or new nuclear, of which there is probably not very much.

 MR. SHEPHERD: Right now, yes.

 So the actual number of people working at OPG hasn't gone down, right?

 MR. BARRETT: That's not true.

 MR. SHEPHERD: Oh, it has gone down?

 MR. BARRETT: Yes, sir.

 MR. SHEPHERD: Do we have somewhere a table that shows headcount, total headcount somewhere? I looked around and I saw ongoing operations, and I saw components in various places. I couldn't find one that said: Here's how many we dropped over here, but here's how many we increased over here, and here's what the totals are.

 Maybe it is in there. There is lots of stuff, so I could have missed it.

 MR. MAUTI: I guess one area where you may get an indication of the number of people related to the Darlington refurb is in the 2013-2015 business plan, Exhibit A-2-2-1, attachment 1, page 7 of that attachment.

 MR. SHEPHERD: I guess what I am looking for is -- we have this number, this 10,375 -- which is your target headcount, right? Which you didn't quite get to as of the end of -- or maybe you did quite get to at the end of 2013, right? Did you get to it?

 MR. MAUTI: Sorry, I am not sure what your question was. I thought you wanted to know what the indication is of the number of people in refurb or --

 MR. SHEPHERD: No, no. I am talking -- I am trying to get at total headcount. You have this target number, 10,375, right?

 MR. ANDERSON: Where is the reference for this, Mr.

Shepherd?

 MR. SHEPHERD: It is all through your business

transformation evidence. If you guys don't know this number, then business transformation isn't working.

 MR. ANDERSON: I don't think it is unfair for us to ask for a reference. I apologize now for asking for the sixth time, but I have to ask you for a seventh.

 MR. SHEPHERD: Tab 1.2, SEC 5, attachment 2, attachment 4 -- I think it is in attachment 3, too.

 MR. BARRETT: While people are turning that up, there is actually quite a useful chart in the BT prefiled evidence at Exhibit A-4, tab 1, schedule 1, page 6 of 9, which shows the trend in total hires and staff levels within OPG.

MR. SHEPHERD: Okay. And that is what I am trying to get at. This is the thing I am trying to understand, Mr. Barrett, is: Is that all headcount, or is that only operating -- ongoing operations headcount?

 MR. BARRETT: This is all of OPG's.

 MR. SHEPHERD: All headcount? Good. So that is where I can get the information I am looking for right there, right?

 MR. BARRETT: It is a source of information, yes.

 MR. SHEPHERD: Okay. Good.

 That number, by the way, the 10,375, you are familiar with that number, right?

 MR. BARRETT: I haven't committed it to memory, no, but I can turn it up if you'd like.

 MR. SHEPHERD: Well, why don't you turn up tab 1.2, SEC 5, attachment 2?

 MR. BARRETT: Can I just get that reference number again, please?

 MR. SHEPHERD: Tab 1.2 -- it is on the screen. Tab 1.2, SEC 5, attachment 2. Okay? And if you go to the second page of that, you will see the dashboard at the bottom, and this dashboard comes up in every BT document, right? You are familiar with this, right?

 MR. BARRETT: Yes. Where we track our progress.

 MR. SHEPHERD: All right. So that is the target, 10,375, right?

 MR. MAUTI: That is the 2013 target for staff from ongoing operations, yes.

 MR. SHEPHERD: Understood. And that target is all headcount, or ongoing operations headcount?

 MR. MAUTI: It indicates it is for ongoing operations.

 MR. SHEPHERD: Good. Are you familiar with the Sunshine List?

 MR. BARRETT: I think we are all familiar with it.

 MR. SHEPHERD: That, you have committed to memory, Mr.

Barrett?

 MR. BARRETT: Not all of it, but most of it.

 MR. SHEPHERD: Okay. So I provided to your counsel -- and there are copies -- of a subset of the OPG Sunshine List, which is the ones over $200,000. And we did that only because a list of 250 pages, we thought was too long.

 But the question I want to ask about that is: Of those 10,375 headcount, it is correct, isn't it, that more than 80 percent of them are on the Sunshine List? Isn't that right? I am going to ask you to undertake.

 MR. FITZSIMMONS: We will undertake to see what percentage is on that list.

 MR. SHEPHERD: Thank you.

 MR. MILLAR: Mr. Shepherd, that will be JT2.18.

**UNDERTAKING NO. JT2.18: TO ADVISE WHAT PERCENTAGE OF THE 10,375 HEADCOUNT APPEARS ON THE SUNSHINE LIST.**

 MR. MILLAR: And you have provided copies of the Sunshine List. I was going to mark that as an exhibit, so that will be KT2.3.

**EXHIBIT NO. KT2.3: COPY OF THE OPG SUNSHINE LIST.**

 MR. MILLAR: And you've stated this is the Sunshine List for OPG for people earning over $200,000?

 MR. SHEPHERD: That's right. That is all it is.

 And so with respect to that, to KT2.3, I am going to ask you to do two things.

First, I am going to ask you to make sure that we haven't screwed up our transfer of the information from the list to this sub-list. So it should be fairly easy for you to do, but I just want to make sure that you are happy that this is actually the Sunshine List.

 But the second thing is I am given to understand that there is a bunch of people on this list that aren't actually at the company as of the end of 2013, that in fact one of the reasons they're on the list is because they got severance payments.

 And is it possible for you to go through and do a version of this that removes the ones that are not in complement at the end of 2013?

 MR. FITZSIMMONS: I think it is more -- I think it is more feasible to do a point-in-time reconciliation using some form of common denominator, rather than go through and pick out individual-by-individual who is not with the company any longer. That's going to be more feasible, more practical, for what you are asking.

 MR. SHEPHERD: I don't understand what you mean. What I was asking for was a point in time.

 MR. FITZSIMMONS: Yes. So we can do a point in time -- we can do a point-in-time reconciliation, but I think the easiest thing, more practical thing to do, would be to base it on the numbers that were in the company at the time the list was produced.

 MR. SHEPHERD: That's fine. When was that? That was in February?

 MR. FITZSIMMONS: I believe, yeah, it would have been

earlier in the year. Published in March, so...

 MR. SHEPHERD: Well, it would have been after December, obviously.

 MR. FITZSIMMONS: Yes. So it will be based on whenever we provided -- whenever we created that list and produced it, what the numbers were in the company at that time.

 MR. SHEPHERD: Excellent. Thank you.

 MR. MILLAR: So that is part of JT2.18.

 MR. SHEPHERD: No. This would be 2.19.

 MR. MILLAR: Okay. So we will assign that a separate number, JT2.19.

**UNDERTAKING NO. JT2.19: TO PROVIDE A RECONCILIATION OF THE OPG SUNSHINE LIST WITH THE PEOPLE ACTIVELY EMPLOYED BY THE COMPANY AT THE TIME THE LIST WAS PRODUCED.**

 MR. SMITH: Sorry, what is -- oh, I understand, yes. Okay. That's fine --

 MR. SHEPHERD: We are just going to get this list not

including the people who are gone.

 Now, I just have a few questions on business transformation. Well, actually, let me ask for a couple of other things first.

 I am looking at 1.2, SEC No. 2. And in this interrogatory -- this is a refusal, right? In this interrogatory we weren't asking for communications with the shareholder, which is -- you referred to CCC 6, which was communications with the shareholder.

We are not asking for communications with the shareholder; we are asking for: What are your performance targets?

 You have -- you are required to have certain performance targets and key measures as part of your shareholders' direction, right? Your memorandum? And so what we would like is we would like what those targets are, because those are binding on you, right?

 MR. MAUTI: If I believe I understand your question

correctly, and as the interrogatory suggests, the key performance measures and targets are as provided in the OPG business plan, both the '13 and '15 and the '14 to '16, which is in the evidence.

 MR. SHEPHERD: You have taken the information that -- the targets that you have reported to the government, and you have then included them in your business plan. I understand that. That's fine.

 I am now verifying that what the government has approved as your targets is the same as what's in your business plans, and so I want that document to do the verification.

Can I have that, please?

 MR. SMITH: No.

 MR. SHEPHERD: Okay. So that is a refusal? On what basis, Mr. Smith?

 MR. SMITH: On the basis that you already have the information reflected in the application.

 MR. SHEPHERD: So we can't have the verifying document?

 MR. SMITH: You have our position, sir.

 MR. SHEPHERD: All right. Then the next one is 1.2, SEC 4. And this asked -- you are required in your shareholder memorandum to provide reports and information on major developments and issues.

 And so we asked, well, can you give us the last five of those, and you said they're not relevant. So my question is: Are you spending any money on any of the things you reported in your last five reports in 2014 and 2015? Is there any money included in this application for any of those things?

 MR. SMITH: And the relevance of that is?

 MR. SHEPHERD: Because if you are spending money and asking for the ratepayers to pay for it, then we're entitled to see your reports on those issues.

 MR. SMITH: I don't agree with the premise of that.

 MR. SHEPHERD: You don't?

 MR. SMITH: You are entitled to the evidentiary support in the application and to ask questions in relation to the application.

 MR. SHEPHERD: Sorry, I can't hear you.

 MR. SMITH: You are entitled to probe the evidence in the application and to ask questions in relation to it. I think you are a step removed from it at this stage.

 MR. SHEPHERD: Sorry, sorry, are you taking the position, Mr. Smith, that we're not allowed to ask for documents in the applicant's possession that are relevant to the application that they filed because you didn't put them in the application?

 MR. SMITH: No. Mr. Shepherd, I don't see this as qualitatively different than the Board Decision in the 0008 case, where the request was made for presentations made by management to the board of directors of OPG about the application, and the Board determined that those presentations were not relevant, as reflected in one of the other interrogatories, which we will no doubt come to.

 And I don't see this as qualitatively different. This is -- you are simply asking, instead of to the board of directors, to the shareholder, but I don't see that as being a distinction to depart from the Board's prior Decision in the 0008 case.

 MR. SHEPHERD: All right. So it is a refusal, right?

 MR. SMITH: It is a refusal.

 MR. SHEPHERD: Thank you.

I am now going to your presentation, which is 1.2, SEC 5, attachment 1. This is the -- tell me whether this is right. This is your original presentation to a committee of the board of directors on the BT project, right? In 2011?

 MR. BARRETT: Yes, this is the BT plan that was presented to OPG's board of directors.

 MR. SHEPHERD: Mr. Barrett, was it you who made this

presentation?

 MR. BARRETT: No, it was not.

 MR. SHEPHERD: Do you know who it was?

 MR. BARRETT: I wasn't present at the meeting, so I don't.

 MR. SHEPHERD: I am looking now at the fourth slide, and the first bullet talks about creating an integrated operating model.

 Now, do I understand -- well, maybe you can describe to me: What is that integrated operating model and how is it different from the way you were doing things before? Just give us the brief summary.

 MR. BARRETT: The central feature of this new model is the movement to what we call a centre-led organization, to realize scale efficiencies and to promote greater alignment and accountability.

 MR. SHEPHERD: So that is different from an organization which is -- in which you have sort of one group that operates semi-independently, semi-autonomously, to run Darlington, let's say?

 MR. BARRETT: Not quite. Perhaps a way to understand it is by way of example.

 So in the prior world, we would have had a corporate public affairs group and we would have had public affairs staff in the hydrothermal business unit, and in the nuclear business unit.

 In the centre-led organization, there is one public affairs organization and kind of direction is given largely from the centre to promote consistency. By moving to the centre-led organization, we're realizing scale efficiencies.

 MR. SHEPHERD: All right. So then a little farther down it says: "Ownership of the execution transitions to the ELT."

 And "ELT" is executive leadership team?

 MR. BARRETT: That's correct.

 MR. SHEPHERD: So what does that mean, "ownership of the execution transitions to the ELT"?

 MR. BARRETT: One of the things that makes these type of initiatives successful is to move it from the project initiating team into the real business. So you need to make the real business leaders accountable for the execution and success of –-

 MR. SHEPHERD: Oh, so this is not part of your integrated operating model; this is actually how you are going to roll out BT? And the answer is that it is not going to be a project group; it is going to be ELT that runs it?

 MR. BARRETT: Not quite. There is still a project group, but again, to make it real for the business, the senior leadership team has to buy in and drive the business transformation through their own business units.

 And they're accountable for the success of BT within their business units.

 MR. SHEPHERD: All right. So then on the next page, you have a sort of a schematic of this. And the only thing I want to ask about this is -- it looks to me like what you're saying is you got some people who build stuff and you've got some people who run stuff, and you've got a group of people to provide support to them, right?

 Am I over-simplifying, or is that about right?

 MR. BARRETT: Sorry. You are looking at slide 5 or slide --

 MR. SHEPHERD: Yes, 5.

 MR. BARRETT: Slide 5.

 MR. SHEPHERD: Slide 6 is too complicated for me.

 MR. BARRETT: Yes. I would think of it as we have operating units and we have support units, and then we have a senior executive organization over both of those elements.

 MR. SHEPHERD: But your operating units are in turn split up into people who build things and people who run things, right?

You've got operating people, you've got project people?

 MR. BARRETT: That's right.

 MR. SHEPHERD: Okay. Now, if you could just go to No. 9, this is the key risk summary. So you have to tell your board of directors: Well, if we do this, what are the bad things that could happen?

 Could you just give us a brief description of which of these risks actually happened, and how?

I don't need a long description, but just sort of brief summaries on -- in each case.

 MR. BARRETT: Give us a moment, please.

 MR. SHEPHERD: Sure.

[Witness panel confers]

 MR. MILLAR: Mr. Shepherd, while they're conferring, we're close to where we would be taking a lunch break. If you're close to done, we could finish. If not, maybe we could find an appropriate place to take a break.

 MR. SHEPHERD: I could probably be finished in 15 or 20 minutes and I would prefer to continue. But if you want to break --

 MR. SMITH: I would prefer that we push through, if the reporter is okay.

 MR. MILLAR: Okay. If you can do it in 15 minutes.

 MR. SHEPHERD: It will also make me faster, which is why Crawford agreed.

 Mr. Barrett, do you want to do that by

undertaking? Would that be easier? I know it is a lot to ask off the cuff.

 MR. BARRETT: We are almost there.

 MR. SHEPHERD: Oh, okay.

 MR. BARRETT: I am ready to take a shot.

 MR. SHEPHERD: Okay.

 MR. BARRETT: On sustained leadership alignment, there has not been an issue; there has continued to be very good alignment.

 Staff engagement has been a risk; that has been realized. Significant change in any organization can be difficult for people, and we have seen some of that.

 MR. SHEPHERD: Were there particular areas of the

organization where staff engagement was a particular problem?

 MR. BARRETT: Not that I am aware of. I would characterize this as a more general issue.

 Skills retention is a risk that we're dealing with. There has been a large number of senior people who have attrited from the organization, so this is an ongoing challenge.

 MR. SHEPHERD: That's something that is a challenge at the executive level, but you are not losing your nuclear operators, right?

 MR. BARRETT: I would say it is a challenge throughout the organization. You have people with specialized skills who are able to retire and leave the organization, and some of those are very well-trained and very experienced operational people.

 MR. SHEPHERD: Okay?

 MR. BARRETT: In terms of gains not as projected due to the planning level, we have advanced our planning so we're feeling better about this -- although I will observe that people are -- there's a lot of people leaving the organization and it is difficult to change the organization fast enough to deal with that attrition. And that is a challenge that we're dealing with.

 MR. SHEPHERD: So this point, "attrition not as projected," is actually -- that was about you won't get enough attrition, but you are actually getting more, right?

 MR. BARRETT: We are ahead of the plan as we sit here today.

 MR. SHEPHERD: Okay.

 MR. BARRETT: So attrition not as projected is not an issue.

Labour relations complexity, that continues to be a risk that has to be managed.

 Change capacity, again, it is a very significant change in the organization. We're making great progress there, but it continues to be an ongoing issue.

 And in terms of stakeholder influence, I think the first two are fine. The third one remains to be seen.

 MR. SHEPHERD: The Canadian Nuclear Safety Commission,

that's CNSC, right?

 MR. BARRETT: Correct.

 MR. SHEPHERD: They're onside with what you're doing? They're happy with what you're doing?

 MR. BARRETT: As far as I know.

 MR. SHEPHERD: They would have had to review any changes you make in the organization, right?

 MR. BARRETT: In the nuclear organization.

 MR. SHEPHERD: Yes. They haven't given you any stoplights?

 MR. BARRETT: As far as I know, they have not.

 MR. SHEPHERD: And the shareholder is still onside with this as well?

 MR. BARRETT: Yes. They're concurring with the business plan, and the business plans reflect the BT initiative.

 MR. SHEPHERD: Okay. I wonder if we could go to No. 11. These are challenges in the change component. They're sort of a standard set of challenges, but I think I want to ask some specific questions about it.

 The first one relates to whether people think that there's sufficient urgency, right? "Burning platform" is a reference to urgency, right?

 MR. BARRETT: That's correct.

 MR. SHEPHERD: And did you find that people have got it, that they understand it is urgent? Or is there still some resistance to that? It is like: Ah, yeah, okay. We have to do this, but we don't really want to?

 [Witness panel confers]

 MR. FITZSIMMONS: I just think generally in any change -- and, I mean, there has been a lot written about this -- there are always people that are going to resist on every level. They have seen things before, you know; they don't believe messages.

 So, I mean, that is a standard -- a standard consideration when any organization is going through a change.

 MR. SHEPHERD: Well, normally when you do something like this, particularly with a big organization, some people have to leave, right? You have to show some people the door? Have you had to do this?

 MR. FITZSIMMONS: Well, I think, you know, as indicated previously, we do have a lot of people that have been leaving the organization. So for one reason or another, people are leaving, chiefly as anticipated, with attrition.

 MR. SHEPHERD: But is some of it because they don't like this change?

 MR. FITZSIMMONS: Sure.

 MR. SHEPHERD: Okay. The second one is -- says there is a question if the executive leadership team is really aligned. And so if that was true, then is it now true still? Or has that been resolved?

 MR. BARRETT: That's been resolved.

 MR. SHEPHERD: Okay. There are obviously challenges to communicate. Was there a communication plan for this roll-out?

 MR. FITZSIMMONS: Yes, there was a communication plan rolled out.

 MR. SHEPHERD: It is not on the record here, right?

 MR. FITZSIMMONS: Not that I'm aware of.

 MR. SHEPHERD: Okay. Is it a big or is it a confidential-type of document? Is there any reason why we

couldn't see it?

 [Witness panel confers]

 MR. FITZSIMMONS: Yes. I think because a lot of these

communications were, you know, tailored specific to work groups, businesses, we could give you a representative sample of the types of things that we communicated around this.

 MR. SHEPHERD: No, I am not looking for the communications. I am -- you had a plan, right? For how to communicate this within your organization?

 MR. FITZSIMMONS: Yes.

 MR. SHEPHERD: That is what I was asking about. It is the plan I am asking about. Could we see the plan?

 MR. FITZSIMMONS: Just -- the plan about how we would roll out communications?

 MR. SHEPHERD: Yes.

 MR. FITZSIMMONS: Yes, I can undertake to get you that.

 MR. MILLAR: JT2.20.

**UNDERTAKING NO. JT2.20: TO PROVIDE THE COMMUNICATION PLAN FOR ROLL-OUT OF BT PROGRAM.**

 MR. SHEPHERD: The next one talks about the concern with trusts and accountability. And you say those things are not currently present. Can you expand on that, help me understand what that means?

 MR. MAUTI: Sorry, which one are you referring to?

 MR. SHEPHERD: No. 4.

 MR. MAUTI: No. 4?

 MR. BARRETT: My understanding of this point is that anytime you are making significant changes in an organization, you are dealing with changes in, you know, people's span of control and authority within an organization. There can be challenges around that, whether I'm losing out to so-and-so, in terms of my authority or position in the organization.

And that is something you have to work through.

 MR. SHEPHERD: Okay. All right. I am sort of more focussed on the question of lack of trust. Organizations that have a lack of trust, particularly between executive and line personnel, like, especially unionized personnel, can have serious challenges.

 Is this what we're talking about? A lack of trust between executive and everybody else?

 MR. BARRETT: No.

 MR. SHEPHERD: No? So what is that lack of trust that this is referring to?

 MR. BARRETT: Again, I think it is trusting that as we move through this significant change, that, you know, everybody is going to be treated fairly and that everybody is pursuing the same goals on behalf of the company.

 MR. SHEPHERD: I see. Okay.

 And then the last question I have on this thing is the absence of clear understanding of OPG's identity and future vision. And I guess -- I understand that. I mean, obviously you are in a state of flux because you are sort of hostage to the Long-Term Energy Plan, which can change at any given point in time.

 What did you do to change this? Do you have a different vision now that -- and if so, is it in here somewhere?

 [Witness panel confers]

 MR. BARRETT: I think what I would say in respect of that is that, you know, key to OPG's future success is things like the Darlington refurb project, which is advancing well, and also pursuing financial sustainability, and that is part of what this proceeding is all about.

 So it is about letting people understand that the company does have a future.

 MR. SHEPHERD: Was there a sense at the time this was being done that -- within the organization, within people who worked in the organization -- that they might be playing out the string and that people were not looking to OPG to be the sort of generator of choice in Ontario anymore?

 [Witness panel confers]

 MR. BARRETT: You have to remember the context here, because we're closing a significant part of our generation fleet.

 MR. SHEPHERD: I understand.

 MR. BARRETT: So again, people -- that creates uncertainties about the future of any organization.

And as well, if you look at the financial returns that we've been able to generate, they're not particularly robust. And again, that raises concerns about the long-term viability of the organization.

 MR. SHEPHERD: Did you have any analysis of whether your staff complement was attriting, at least in part, because of sort of despair about the future? You must have studied this, right?

 MR. FITZSIMMONS: I mean, I think, you know, back to my previous response, I think it is generally accepted that when staff aren't aligned with the changes in the organization, they leave. I think that's a universal response for change.

 MR. SHEPHERD: I am asking a different question.

 MR. FITZSIMMONS: So I am going to respond to your question. So we didn't have any, you know, detailed specific analysis that we did to predict how many employees we thought might leave as a result of this change.

 MR. SHEPHERD: Yeah, that is not the question I am asking, though. I understand that you do a big change, some people just are not going to be able to handle it. I get that.

 But before the change, you had a problem -- I think you had a problem -- that you had staff who felt like they were just sort of playing out on a string, that there was really no future in OPG. You were going to keep closing things until you had nothing open anymore. That is essentially the feeling of some people, right? Were you losing people because of that?

 MR. FITZSIMMONS: That is a difficult question to answer. I don't think we have analyzed it on that basis. I just think that is a given as a general proposition.

 MR. SHEPHERD: All right. I am looking at tab 1.2, SEC 5, attachment 3 now. And this is the second page of that.

 MR. BARRETT: This is the document dated August 14th, 2013?

 MR. SHEPHERD: Yes, that's right. This is the Q2 BT

update.

 And my question about this is just about one thing. You see under "Transforming the way we work," there is a reference here to the 29 key initiative milestones referred to in the BT corporate scorecard. See that?

 MR. BARRETT: I do.

 MR. SHEPHERD: Is that corporate scorecard, is that in the evidence somewhere? That is not your general corporate

scorecard, right? That is a specific one for the BT project?

 MR. BARRETT: We think so, but we are going to double-check over lunch.

 MR. SHEPHERD: Okay. Well, I wonder if you can just -- if you can undertake to either provide it or give us the reference.

 MR. BARRETT: We can.

 MR. MILLAR: JT2.21.

**UNDERTAKING NO. JT2.21: TO PROVIDE OR GIVE THE REFERENCE TO THE BT CORPORATE SCORECARD.**

 MR. SHEPHERD: My next question is with respect to

attachment 4 to that same IR response. And it is on the third page, at the top.

Because this whole BT project really was about leadership, right? If you got the leadership right, you can make it happen. Otherwise, it is pretty hard to make it happen, right?

 MR. BARRETT: You can't succeed in this without strong

leadership.

 MR. SHEPHERD: Okay. So you refer to a document here

called: "A Leader's Guide to Culture," which presumably is an OPG-specific document, right? It is about how you do things?

 MR. BARRETT: I don't think I have seen that document.

 MR. SHEPHERD: Okay. What I would like is I would like you to undertake to file it, if you could, please.

 MR. BARRETT: That's fine.

 MR. MILLAR: JT2.22.

**UNDERTAKING NO. JT2.22: TO FILE THE DOCUMENT ENTITLED "A LEADER'S GUIDE TO CULTURE."**

 MR. SHEPHERD: Now I am going to 1.2, SEC 13.

The reason I want to ask you about this is because what this shows is that in nuclear operations and nuclear projects, you have reductions in -- this refers to FTEs, but I guess that means headcount, right? In both dollars and in FTEs?

 MR. MAUTI: It is in FTEs, not necessarily headcount.

And we know the differences between the two, depending on when people leave, and the point in time --

 MR. SHEPHERD: I thought OPG didn't use FTEs; I thought you only used headcount?

 MR. BARRETT: We use FTEs in certain circumstances, and certainly the Board is encouraging us to use it more and more.

 MR. SHEPHERD: Anyway, here is what I am trying to

understand.

 This is reductions in operations and projects, but then increases in corporate support. It appears there is a net increase in the number of people.

 But I thought that you were supposed to be losing people because of this. I am trying to understand -- maybe there is something not in this table that I don't see.

 MR. BARRETT: You are looking at the redacted version of the table --

 MR. SHEPHERD: Yes.

 MR. BARRETT: -- where the totals are blacked out?

 MR. SHEPHERD: Well, yes, but I can still see operations and projects are 1,100 FTEs down, but the corporate support is 1,240 up. That doesn't seem like an improvement to me. That is why I am asking.

 MR. MAUTI: Given the redaction you see here for, in part, unregulated operations, you can't draw that conclusion.

 MR. BARRETT: The "Hydrothermal operations" line is also blacked out on this chart, so there is a reduction there, a transfer from the hydrothermal business into these corporate groups.

So to see that -- you really have to look at the

confidential version of this table to understand the numbers.

 MR. SHEPHERD: Well, hydrothermal is partly regulated and partly not regulated, right?

 MR. BARRETT: Yes.

 MR. SHEPHERD: Okay. You're saying that that total,

whatever is in there, would be -- would match up to that 1,241?

I don't want to go in-camera, so I want to get the information without going in-camera.

[Witness panel confers]

 MR. BARRETT: Our concern is if we respond to the question you are asking, we will inadvertently disclose confidential information. Again, my advice would just be to have a look at the confidential document.

 MR. SHEPHERD: All right. Next is 1.2, SEC 15. I am looking particularly at (b) in this. This is this apparent cause of valuators, and it looked like you had 1,100 of them, which is more than 10 percent of your entire work force. That seems like a lot of people.

 But I take it that, from the explanation -- tell me whether this is right. I am going to ask you to explain it some more. That what this really is that people who have other jobs are trained to be -- to qualify for this task?

 MR. BARRETT: Correct.

 MR. SHEPHERD: So you are saying: Well, we don't need as many people trained for this task. We can have a smaller number who each do more of them?

 MR. BARRETT: That's correct. One of the things we're doing in business transformation is looking at the level and amount of training we're doing in the organization, and seeing if we can find places where we no longer need to do that training.

 MR. SHEPHERD: What was the reason why 1,100 people were trained in this in the first place?

 MR. BARRETT: I can't really add to the reason given in the first line, which is for reasons of redundancy and flexibility. I have no further information.

 MR. SHEPHERD: Okay. I guess what I am trying to drive at is: Did you train people in this because they would be less likely to make mistakes in their normal jobs if they're familiar with how to analyze the cause of problems?

 MR. BARRETT: I don't know the answer to that question.

 MR. SHEPHERD: Okay. So my last question relates to your 2013 balance scorecard, and this is in 1.2, SEC 17.

 You will see on page 2 of 6, this is your 2013 balance

scorecard. Can you provide -- and also it goes through pages 3 and 4 and 5, I guess.

 And I wonder if you could provide, by way of undertaking, what your final performance was on each of these metrics.

The balance scorecard produces a calculation at the end, right? Can you provide the calculation?

 MR. MAUTI: We definitely have evaluations for these metrics and measures that we can review, just to ensure there is no confidential information in that report out of those results, and provide it for you.

 MR. SHEPHERD: Like, you had to actually report this, right? You have to report against your scorecard, right?

 MR. MAUTI: That's correct.

 MR. SHEPHERD: So there is a report that does that, right?

 MR. MAUTI: Yes, there is.

 MR. SHEPHERD: So if we could have that, subject to any confidentiality issues, that would be great.

 MR. MAUTI: That's what I said, yes.

 MR. MILLAR: JT2.23.

**UNDERTAKING NO. JT2.23: TO PROVIDE INFORMATION ON FINAL PERFORMANCE UNDER EACH OF THE METRICS IN THE 2013 BALANCE SCORECARD, SUBJECT TO CONFIDENTIALITY ISSUES.**

 MR. SHEPHERD: I do actually have one more question, but I think it will be quick.

 This is with respect to Bruce lease net revenues. You are smiling.

 MR. SMITH: We have to keep them engaged.

MR. SHEPHERD: This is 1.3, SEC 18. My question is -- on the first page, we asked the question:

Is the effect of the change to US GAAP to decrease revenues recognized after April 1, 2008, and increase revenues recognized before 2008?"

 I couldn't find the answer to that. Can you confirm that that's the effect of the change to US GAAP?

 MR. KOGAN: The reason I am hesitating is maybe it is the terminology that -- I think it is not the amount of revenue recognized.

I think it is with respect to the calculated amount, is how I would characterize it, because revenue can only be recognized, and that period has already elapsed.

 MR. SHEPHERD: No, no. I guess the change to US GAAP meant the amount you recognize, now and going forward since you went to US GAAP, is reduced, right?

 MR. KOGAN: Yes, the amount recognized going forward

under US GAAP is lower than Canadian GAAP.

 MR. SHEPHERD: And the reason is because you have to treat that as revenue that you had already received prior to 2008?

MR. KOGAN: We treat that as an adjustment to our retained earnings on transition to US GAAP.

 MR. SHEPHERD: And that adjustment, the reason for that adjustment is because you've changed the timing of when those revenues are treated as coming in from now until then, prior, right?

 MR. KOGAN: If we were under US GAAP from the inception of the lease, the amount we would have recognized for the pre-'08 period would have been higher.

 MR. SHEPHERD: And that means that the amount you have left to recognize after 2008 is lower?

 MR. KOGAN: That's correct. And --

 MR. SHEPHERD: And am I right that that amount is $59 million from attachment 2? SEC 19 -- sorry, 1.3, SEC 19, attachment 2?

 MR. KOGAN: From starting in January 1, 2011, yes.

 MR. SHEPHERD: So that's -- the 59 million is the amount that the ratepayers would have got credit for in the future, but they're not going to now. It is going to be treated as having already happened prior to US GAAP, right?

 [Witness panel confers]

 MR. KOGAN: The first part of the response would be that for the period that we are still having Canadian GAAP set rates, which is at least 2011 to the end of 2013 at this point, we are continuing to -- the rates continue to credit ratepayers with Canadian GAAP-based lease revenues.

 MR. SHEPHERD: Of course, of course.

 MR. KOGAN: But subsequent to that, the rates would reflect amounts determined in accordance with US GAAP for Bruce lease.

 MR. SHEPHERD: Which is the lower amount?

 MR. KOGAN: That are lower than the amounts that would be --

 MR. SHEPHERD: And so that $59 million adjustment is

actually an increase to your retained earnings as of the time you went to US GAAP, right?

 MR. KOGAN: Yes. That entry was recorded as a credit to retained earnings in our consolidated financial statements.

 MR. SHEPHERD: Thank you. Those are my questions.

 MR. MILLAR: Thank you, Mr. Shepherd. I will --

 MR. BARRETT: I am just wondering, before we break, we were asked earlier about the BT corporate scorecard, or the BT scorecard, and when we were dealing with the subsequent question we turned it up.

 So that is Exhibit L, tab 1.2, schedule 17, page 3 of 6. So that page within the corporate balance scorecard is the BT scorecard.

 MR. SHEPHERD: Okay. Thank you.

 MR. MILLAR: Thank you. We will take our lunch break and return at 2:00 o'clock.

 --- Luncheon recess taken at 12:54 p.m.

 --- On resuming at 1:58 p.m.

MR. MILLAR: Good afternoon, everyone. Let's get started again. We are continuing with panel 4 and Mr. DeRose is up.

 **QUESTIONS BY MR. DeROSE:**

 MR. DeROSE: Thank you, Mr. Millar.

 Panel, I am going to -- my questions are entirely focussed on a single IR that we asked, so it will be -- I won't be jumping around.

If I could have you turn it up, it is Issue 1.0, schedule 3, CME No. 1, and if I could have you turn to the attachment, which is a backgrounder.

So first of all, panel, this is dated December 10th, 2013. As I understand it, the Auditor General's report was issued on the same day. Can we agree on that?

 MR. FITZSIMMONS: I am not certain of the exact date the Auditor General's report was issued. I am sure it is easy to find, looking at it publicly.

 MR. DeROSE: I guess what I am really asking is: If we assume that it was released on December 10th, I am assuming that you received the Auditor General's report some time in advance, so you were able to review it and prepare this backgrounder to be released.

 This is not something that you whipped up within an hour of receiving the Auditor General's report.

 MR. FITZSIMMONS: We would have seen the findings of the Auditor General in draft, and would have had a sense on the areas where there would be findings.

 There are simply a lot of things that were easy to respond to, because things that had been identified where -- there were undertakings already underway.

 And the remainder of it would have been things that we had to respond to, once we had the report in final.

 MR. DeROSE: Okay. So if I then take you down the

document, what you say is:

"The following is a summary of key actions OPG is taking or has taken to address the findings."

 And I would like to just get an understanding of -- I want to take you through some of these findings and get a better understanding as to whether the extent to which these were already underway prior to you receiving the AG's report, and which of these are a response directly to the AG's report.

 So if we start with the first one, decreasing your management headcount in proportion to overall headcount reductions, and you have indicated it is reduced by 6 percent since 2012.

 First of all, was this something that was already underway before you received the AG's report?

 MR. FITZSIMMONS: Yes, it was. The findings in the AG's report again reflect back over a period of 10 years.

 What was noted was, though, that there have been undertakings, and I believe it was from the period 2012 on, to reduce staffing levels in the company.

 MR. DeROSE: Okay. Thank you.

In that same box, it is the third bullet, so it is now on the second page, it says:

"Reduce headcount by a further 830 for a total reduction of 2,330 and a $1 billion savings by 2016."

 Again, was this something that was part of that reduction since 2012? Or is that in response to the AG's recommendations?

 MR. FITZSIMMONS: No, that's something that was in play at the time.

 MR. DeROSE: Okay.

 MR. BARRETT: Just to add to that, this is the BT

Initiative, so this is the 2016 target number.

 MR. DeROSE: Okay. And so -- and I may have just not been able to track it. But I tried to find -- sorry.

 So your evidence on the BT -- I'm sorry, there is heads and I can't see you, but I don't want to feel like I am being rude to you.

 That initiative is already covered in your evidence;

correct?

 MR. BARRETT: Yes. We have evidence on BT.

 MR. DeROSE: And does that evidence -- I tried to look for -- I saw the 1 billion savings by 2016. I was trying to look for those type of large savings. Where would I -- can I track that in your evidence?

 MR. BARRETT: What you will see in the evidence is our

targets for the end of 2015. So that is the 2,000 headcount reduction and the $700 million in savings.

 MR. DeROSE: Okay. And so under your current target, do I take it, then, that in 2016 is when you are expecting to reduce the additional 330, and that would result in about $300 million?

 MR. MAUTI: Yes. The additional reductions through the end of the 2014 to 2016 business plan would equal the total of 2,330, and compounded since 2011, which is where the span of looking at these decreases comes from, would equal the billion dollars.

 MR. DeROSE: Okay. Thank you.

 And then if we can take the benchmarking of staffing levels at nuclear facilities -- again, I realize this is out until 2016 -- your goal is to define continuing actions to move from current 8 percent over benchmark to benchmark.

 Again, are you able to say how much are you -- are those improvements -- what are the improvements you are going to achieve in 2014 and 2015, and what is going to be achieved in 2016?

Can you give us a percentage? I mean, are you going to be what percentage over benchmarking by '15 with the remainder to be in 2016? Do you know that?

 MR. BARRETT: We don't know the targets. I mean, this is really, like a lot of these issues, focussed on attrition.

 MR. DeROSE: Okay. Again, am I right that this initiative was underway before you received the AG's report?

 MR. FITZSIMMONS: Yes. The benchmarking has certainly been something that predates any review by the Auditor General.

 And the move to reduce staff has been ongoing for some time now.

 MR. DeROSE: Okay. Then again moving down into the

recruitment practices and requirements, the second bullet, you have:

"Amend code of conduct to clarify expectation regarding hiring policies."

 And that's Q1 of 2014, which -- has that been achieved?

 MR. FITZSIMMONS: Yes. That is something that was

responsive and has been done.

 MR. DeROSE: Is that something that would have been

completed after you filed this application?

 MR. FITZSIMMONS: What was the day of the filing?

 MR. BARRETT: We filed the application in September of 2013.

 MR. FITZSIMMONS: Yes. So it would have been completed after.

 MR. BARRETT: Yes.

 MR. DeROSE: Okay. Is there any reason why you wouldn't want to file that amended code of conduct for hiring in the context of this case?

 MR. FITZSIMMONS: It wouldn't be an issue to produce the code of conduct.

 MR. SMITH: We will do that.

 MR. MILLAR: JT2.24.

**UNDERTAKING NO. JT2.24: TO PRODUCE OPG'S AMENDED CODE OF CONDUCT.**

 MR. DeROSE: Then if I can take you down to the

compensation and incentive awards, again, the second bullet, that is the same headcount that we have just talked about; is that correct?

 MR. FITZSIMMONS: That's correct.

 MR. DeROSE: And the reductions that have occurred since the time that you filed the application to present -- and I appreciate that you projected certain headcount reductions in your application. Have you been tracking them? And are they close to what you projected that they would be to date?

 ]Witness panel confers]

 MR. MAUTI: I think if you turn to the interrogatory, AMPCO 6, I think that talks about our staff reductions at the end of '13, which would have been subsequent to our filing. It is tab 1-2, schedule 2, AMPCO 6, subsection (b), at the bottom of that page.

 MR. DeROSE: I think my question was slightly different, or perhaps you can explain to me how that answer shows it to me.

 At the time that you filed your application, you would have had certain -- in order to achieve a reduction of 2,330 between 2013 and 2016, or 2012 and 2016, you had certain reductions planned. What I am really asking is, I guess at a high level: are you on track to hit the 2,330?

 MR. MAUTI: Yes, we're on track to hit the 2016 targets.

 MR. DeROSE: And are the reductions generally occurring at the pace which you had anticipated as of 2012?

 MR. MAUTI: At the end of 2013, they're a little bit ahead of the projections and targets we had. The interrogatory CCC 22, the confidential version does have

a breakdown of the expected reductions that are consistent with the '13 to '15 plan.

 MR. DeROSE: Okay. And you remain confident, I take it, that you can still hit the 2,330?

 MR. MAUTI: Yes. Yes, we are.

 MR. DeROSE: Then if I take you to the third bullet, it says:

"Reduce all management AIP for 2013 by 10 percent and board to review AIP program for 2014 and beyond."

 That was to be accomplished as of first quarter of this year. Has that been done?

 MR. FITZSIMMONS: With respect to the first sentence, the reduction of 10 percent, yes. With respect to the second sentence, I am not certain about that.

 MR. DeROSE: Okay. And again, this was something that had been undertaken or AN initiative that had started prior to the AG's report?

 MR. FITZSIMMONS: Yes. There have been reductions in AIP over a series of years. It is a discretionary-based reduction that has to be made.

 MR. DeROSE: But just to be clear, the target of reducing it by 10 percent for -- well, actually, I will move on.

 Then if I can turn you to the next page, so this is the fourth page, the first two bullets refer to certain relocation policies for employees, again, to be accomplished by quarter 1 of this year. Has that been completed?

 MR. FITZSIMMONS: So with respect to the bullet 1, in terms of the adoption of the public service relocation policy for management employees, yes, That has been completed.

 With respect to number 2, about the reviews of the practices and controls, related to the employee relocation, that is ongoing and active right now.

 MR. DeROSE: Okay. And again, these were actions, I take it, that OPG was taking or looking at and trying to implement before the AG's report? This is not something that is exclusively in response to the AG's report?

 MR. FITZSIMMONS: On this particular item, this is an item, I believe, that was responsive to the AG's findings.

 MR. DeROSE: Okay. And so this is something that would have been implemented after you received a draft copy of the AG's report?

 MR. FITZSIMMONS: That's correct.

 MR. DeROSE: And are there cost savings associated with the adoption or the change of the relocation policies?

 MR. FITZSIMMONS: I'm not certain, the answer to that

question.

 MR. DeROSE: Is that something that you could -- that

someone would know in OPG? I am assuming that if you change the relocation policies, that you aren't offering higher guarantees for housing changing, I am assuming it is going to result in some sort of a reduction in costs, not an increase.

 MR. MAUTI: Yes. The changes that were made as a response to the Auditor General report deal with some specific, very targeted issues of compliance and reasonability. The amount of dollars we have for relocation are fairly small. We tend to do it on an estimated amount of people that would relocate, so it is not as if those dollars would necessarily change by adopting some of these practices here.

 MR. DeROSE: Okay. So we aren't talking about hundreds of millions, we're talking about hundreds of thousands?

 MR. MAUTI: If that, and it is really just to ensure the compliance to the OPS directives.

 MR. DeROSE: I will just move on, then.

 I am going to skip the security clearance requirement section and go right to pensions and benefits. The first bullet:

"Begin implementation of board-directed management pension and benefits reforms."

That's to take place by first quarter of this year. Has that taken place?

 MR. FITZSIMMONS: Yes. There has been an announcement about what the prospective changes are for management in terms of pension reform, and then there is work that is underway right now to review benefits.

 MR. DeROSE: Okay. And those changes, I take it, would not be -- that have been announced in the last few months would not have been incorporated in your application as it is currently filed; is that right?

 MR. FITZSIMMONS: Not that I'm aware of.

 MR. DeROSE: Do you have any sense or can you provide us with any sense of what the cost savings associated with that -- with those changes would be?

 MR. MAUTI: The changes for the -- that were announced for the management group employees alone, which is about 10 percent of our employee base, would probably be in the neighbourhood of a million to $2 million per year in savings.

 And also important to note, the requirements to provide notice for the changes of the pension and benefit plans and the notice period would likely mean those savings would be outside of the test period, likely to start in 2016.

 MR. DeROSE: Well, that's helpful. Would you expect any of the savings to be seen in '14, '15?

 MR. MAUTI: Again, given the statutory requirements to

provide notice to employees, likely not, no.

 MR. DeROSE: Okay. Thank you.

 And then if I take you to the next box, "Managing contractors and overtime", again, there is a comprehensive assessment for contractor control framework and the implementation of a time-tracking system for contractors to be -- one in first quarter of 2014 and one in second quarter of 2014.

 Can you just give us an update where you are on that?

 MR. MAUTI: Regarding the first bullet about a comprehensive assessment, there has been an external body of -- retained to review our practices and compare them to other large industrial sort of organizations with similar sort of profile to OPG. So that is in progress.

As to whether that can be completed by the end of June or into Q3 is, I think, the only issue, in terms of timing.

 MR. DeROSE: Just on those two, do you have any sense of -- I mean, are we talking small dollar savings here, or are we talking potentially significant dollar savings?

 MR. MAUTI: I think part of their task is to come up with a review of how it is that we're managing contractors, in terms of how we retain them, how we contract for them, release their work, how they track their time, so that it is a comprehensive review of all the controls around contractor management. Whether that is going to conclude on savings or either confirm that we're taking appropriate steps in those control practices is part of what they have been asked to do.

 MR. DeROSE: Okay. Thank you for that.

 Now, you have identified that the employee housing and moving allowance was one of the actions which OPG has implemented directly in response to the AG's report.

 Are any of the other bullets that you have identified

actions that were actually in response to the AG's report, as opposed to actions already underway that you could point to that address some of the findings?

 MR. FITZSIMMONS: I would need to go through these

line-by-line to make that determination, if that is what is

required.

 MR. DeROSE: That's something that I would like, thank you.

 MR. SMITH: Maybe you are speaking at cross-purposes. I thought, Mr. DeRose, you had asked that question in respect of the items that you were actually concerned about. You did not cover all of them.

 MR. DeROSE: I have. I guess really what I am trying to do is allow the panel an opportunity, that if security clearance requirements or use of non-regular staff is something that was in response to the AG directly, because my next set of questions is going to be what have you -- well, what have you done since.

 That is where I am going. Because, to be blunt, it

appears to me that a lot of these key findings which OPG

identifies as taking or has taken to address the findings of the AG were already well underway before you got the AG's report.

So it is something that presumably is already incorporated in your application, and is not in response directly to the AG's report. It just happens that it shows that you were already taking some steps.

 So that was an opportunity for the panel -- quite frankly, if the panel doesn't think it is worthwhile, or you don't want to put that on the record, I am not worried about it.

 MR. SMITH: Well, I mean, if you’re -- I took from your questioning that you weren't concerned about security clearance requirements. If you are now saying that you are --

 MR. DeROSE: Believe it or not, I was trying to be fair to your panel, to allow them to --

 MR. BARRETT: We do appreciate that. I think in an effort to provide a complete response, we will accept the undertaking to kind of go line-by-line and identify underway or responsive to.

 MR. DeROSE: That is all that I was asking for.

 So let me now, then, take you --

 MR. MILLAR: Mr. DeRose, I will give that an undertaking number, JT2.25.

**UNDERTAKING NO. JT2.25: TO IDENTIFY WHICH ACTIONS WERE TAKEN IN RESPONSE TO THE AUDITOR GENERAL'S REPORT AND WHICH WERE ALREADY UNDERWAY.**

 MR. DeROSE: So then can I take you back to page 1 of the backgrounder?

And again, this is the paragraph just before the boxes that we walked through, and you say:

"A more detailed lest of actions will be posted on our website later this week."

So stopping there, since receiving the AG's report and publishing this backgrounder, has OPG identified additional actions that it is going to implement, either start to implement or completely implement in 2014 and 2015, in response to the AG's report?

 MR. FITZSIMMONS: Yes, we have.

 MR. DeROSE: And is there a list of all of those actions currently in the record? I don't believe that there are.

 MR. FITZSIMMONS: In the record of the filing?

 MR. DeROSE: Correct.

 MR. FITZSIMMONS: No, not that I'm aware of.

 MR. DeROSE: Is there a document, or is that something that you could provide to us?

 MR. FITZSIMMONS: There is a document of the ongoing

actions.

 MR. DeROSE: Okay. If we could get a filing -- if we could have an undertaking for that, but before we give it an undertaking number, I would like to ask one -- I am anticipating that the document that you have that identifies the actions doesn't or might not quantify what the potential value is of the actions.

 And to the extent that you can do that in the undertaking, it would be appreciated.

And let me give you an example. So when you said reduce headcount by a further 830 in the 2330, you were actually able to say that will be savings of approximately $1 billion, whereas a lot of the other bullet items

didn't have a cost associated with it.

 And we would just like a sense of -- I don't need it down to dollars and cents, but we would like a sense of what the potential savings are.

 MR. FITZSIMMONS: We can undertake to look at that. A lot of this with respect to the AG is about bolstering internal controls.

 And that is where a lot of the -- and that's where a lot of the focus and the effort is.

 MR. DeROSE: Okay. Fair enough. To the extent that there is cost savings with the internal controls, if you could identify that, that is really what we're looking for.

 MR. SMITH: Yes, we will do that.

 MR. MILLAR: JT2.26.

**UNDERTAKING NO. JT2.26: TO PRODUCE A LIST ADDITIONAL ACTIONS OPG WILL IMPLEMENT, PARTIALLY OR FULLY, IN 2014 AND 2015 IN RESPONSE TO THE AUDITOR GENERAL'S REPORT, AND ESTIMATE ASSOCIATED COST SAVINGS FOR EACH, IF ANY.**

 MR. DeROSE: And then if I can take you back to the

interrogatory proper -- I will preface this by saying I think this is probably a question more to your counsel, so you will probably want to let him answer it first -- in the answer, you say:

"Many of the actions are still being developed. Moreover full implementation of these actions would require changes in OPG's collective agreements. Even for non-represented employees, notice may be required before the most significant changes could be made. Thus OPG declines to produce the requested materials on grounds of irrelevance."

 I guess either panel or counsel, to the extent that you have changes or actions that you have identified to be implemented in 2014 and 2015 that do have cost consequences, which were not contemplated at the time that you filed this application but are contemplated now, are you going to update your evidence to reflect that?

 MR. SMITH: Well, I can answer with respect to whether we're going to update the evidence. No, it wouldn't be our intention to update the evidence.

 But if there are cost savings anticipated during the test period as a result of items arising from the Auditor General's report, then I think you already have our undertaking to look at what we're doing and see if we can point those out.

 MR. DeROSE: Thank you very much. Those are all of my questions. Thank you.

 MR. BARRETT: Can I just add one additional comment? Excuse me one second.

 I was going to say it has been OPG's practice to

periodically file impact statements, which provide an update to the evidence to reflect material changes in circumstances.

 We filed one of those in December. We are anticipating filing an additional impact statement in advance of the settlement conference, as has been our practice. But again, those updates are subject to a materiality threshold.

 MR. DeROSE: Fair enough. Can you just advise us, do you have a rule of thumb materiality threshold?

 MR. BARRETT: We have used 10 million per annum, but sometimes we have used slightly higher numbers.

 MR. DeROSE: Thank you.

 MR. MILLAR: Thank you, Mr. DeRose.

Mr. Crocker?

**QUESTIONS BY MR. CROCKER:**

 MR. CROCKER: Thank you. I have a follow-up question on the Auditor General's report to Mr. DeRose.

 In recommendation 3, the Auditor General suggests that

OPG conduct an open competitive process for outsourcing its

information technology services before the current contract

expires.

 MR. SMITH: Sorry, Mr. Crocker. Do you have a reference for the Auditor General's report?

 MR. MILLAR: Mr. Smith, if it assists, I was going to file the Auditor General's report just so we would have something to look off of. I do have the page reference for what Mr. Crocker is discussing.

I don't want to interrupt his examination but

perhaps we could --

 MR. CROCKER: Interrupt away.

 MR. MILLAR: Perhaps we could file that now.

 MR. CROCKER: Sure, that's fine.

 MR. MILLAR: We do have some hard copies to the extent

people need it. But Exhibit KT2.4 will be the Auditor General's report with respect to OPG human resources.

**EXHIBIT KT4.2: AUDITOR GENERAL'S REPORT WITH RESPECT TO OPG HUMAN RESOURCES.**

 MR. CROCKER: While this is being done, the references to the recommendation I cited is page 173.

 MR. SMITH: You're going to have to bear with -- oh, it's up in the upper right, yeah. Yeah. No, it is...

 MR. CROCKER: So are you with me? It's the second bullet under recommendation 3 in the right-hand column, about just over half of the way down the page. I won't repeat myself.

 My question is: Can you tell me when the current contract expires, first of all?

 MR. MAUTI: I am pretty sure it is in the evidence

somewhere. We're just trying to find it, to not misquote.

 MR. MILLAR: I believe on page 172 of the Auditor General's report, it specifies that that runs until January 31st, 2016. Does that sound right?

 MR. CROCKER: It sounds right. I didn't notice it being there. I knew it was someplace else, but I didn't realize it was there. All right. Mr. Millar's answer is correct.

[Laughter]

 MR. CROKER: My next question then becomes: What are OPG's plans with respect to implementing the suggestion in the test period?

 MR. SMITH: Sorry, Mr. Crocker, I don't mean to be obtuse. Which suggestion are you talking about?

 MR. CROCKER: Sorry. The suggestion or recommendation to conduct an open, competitive process for outsourcing its

Information technology services before the current contract

expires. That's the contract that expires on January 31st, 2016.

 MR. FITZSIMMONS: And we are preparing to engage in an open and competitive process, which will include a request for proposals.

 MR. CROCKER: But what does that mean, in terms of -- what are you doing and what physically are you doing, what planning is going on, et cetera?

 MR. FITZSIMMONS: Well, in the most basic of terms, we will put out for competitive tender to look at proposals for our IT services that are currently contracted.

 MR. CROCKER: And how far in advance of January 31st, 2016 do you propose to do that --

 MR. FITZSIMMONS: I am not certain of the exact dates.

 MR. CROCKER: Okay. Thank you.

 The reference to my -- with respect to my next question -- and I don't know whether it is necessary to turn it up -- but it is Exhibit L, tab 1, schedule 1. It is Board Staff Question 2. And --

 MR. SMITH: Sorry, just a second.

 MR. CROCKER: I will read part of the question while -- before it comes up on the screen:

"To the extent that 2013 actual results are available, please update the evidence accordingly. Updated tables should consist of a new column, '2013 actuals', beside '2013 budget.'"

 As I understand it, what OPG did was to provide the actuals, but not in the same place as the budgeted numbers, and it has made comparisons difficult and, more importantly, prone to error. And I wonder whether the information can be provided as asked for; that is, tables with one beside the other.

 MR. SMITH: No. We're not prepared to do that for the

reasons identified in the answer to the interrogatory. That would be a huge undertaking.

 MR. CROCKER: So that was a no.

 The reference is Exhibit L, tab 1.2, schedule 2. It is AMPCO Interrogatory No. 4. You've said in answer to the

interrogatory at line 26 on page 3 -- and I don't think I need to read the question -- OPG sets three-year business plan targets for each business unit on an annual basis.

 And my question is: Does OPG set customer rate impact

targets when you are doing your application for your payment amounts?

 MR. MAUTI: I am just confirming you said page 3 of 4, line 26?

 MR. CROCKER: I thought that -- yes, I thought that was what I was reading from, (h). That just gave me the -- just to give you the context of the question. The question may stand alone from that a bit.

 MR. MAUTI: Sorry. I had the wrong reference. Can you repeat your question again, please?

 MR. CROCKER: That is always a challenge, but all right. My question was --

 MR. SMITH: Reference is unnecessary.

 MR. CROCKER: -- does OPG set customer rate impact targets when developing your application for these payment amounts? The only references there was to describe what you did say your targets were.

 MR. BARRETT: No, we do not.

 MR. CROCKER: I am now at AMPCO Interrogatory 5. And we asked for OPG, in the second paragraph of the preamble, to discuss longer-term 10-year business-plan outlook.

And the response was no, that you weren't going to provide anything beyond 2014 test period.

 I wonder, in light of the fact that your business plan goes farther than the test period, into 2016 -- has been discussed pretty widely even at this stage of things -- whether you would like to reconsider that answer.

 MR. SMITH: We would not.

 MR. CROCKER: Next question, my reference is AMPCO 6, the next AMPCO interrogatory. If I could ask you to turn to page 3 of 4, answer to question (f) at line 17.

And my question is: In that context, how does OPG track vacancies? And are vacancy dollars in the budget?

[Witness panel confers]

 MR. BARRETT: So I am advised that we do not track

vacancies. And there is no vacancy money, as you characterize it, in the revenue requirement.

 The revenue requirement costs are based on a forecast work program, so it is the cost to do a certain amount of work over those two years.

 MR. CROCKER: Okay. I would like to go, please, to AMPCO Interrogatory 58.

 MR. SMITH: Which issue, Mr. Crocker?

 MR. CROCKER: 6.8.

 MR. SMITH: Thank you.

 MR. CROCKER: I am reading the question at line 41. The question is:

"Please provide examples of the broader public sector employers that OPG reviews to understand the external labour relations landscape."

 And in response to that, you provided a table which is over the page. And my question is: Am I correct -- and I think I am -- are we correct in noting that the Ontario Public Service is not included on this list? And if so, and I think it is pretty obvious it's not, could you tell me why?

 MR. FITZSIMMONS: With respect to the typical employers, that's what's submitted in our evidence; that is the document that you reference.

 These are the employers that are relevant in the utility sector. We do consider the aggregate impact of wage settlements in the broader public sector, but don't necessarily break that down to specific agency. We look more at the trends.

 MR. CROCKER: Okay. Thank you. The same issue, the next AMPCO interrogatory is the next reference., Interrogatory 59.

The question I am going to follow up on is at line 24. The question is:

"For a new employee, please discuss when employee benefits become effective."

 And your answer was on the next page:

"For a new employee, health and dental benefits coverage become effective on the first day worked."

 And my question is, does OPG not have a probationary period for new employees?

 MR. FITZSIMMONS: Yes, we do. Yes, we do.

 MR. CROCKER: But first of all, how long is that

probationary period?

 MR. FITZSIMMONS: It is three to six months, as the case might be.

 MR. CROCKER: Okay. However, you do provide benefits during that period; is that my understanding?

 MR. FITZSIMMONS: I believe the response to this question is when they become a regular employee, that is past the probationary period, but I would need to clarify that for you.

 MR. CROCKER: Please do.

 MR. FITZSIMMONS: Yes.

 MR. CROCKER: Could we have an undertaking?

 MR. SMITH: Yes, we will do that.

 MR. MILLAR: JT2.27.

**UNDERTAKING NO. JT2.27: TO CLARIFY WHETHER FIRST-DAY HEALTH AND DENTAL BENEFITS COVERAGE APPLIES TO NEW EMPLOYEES DURING THEIR PROBATIONARY PERIOD.**

 MR. CROCKER: I am sure that you didn't mean in your answer that employees aren't working when they are on their probationary period. And you don't have to answer that. That was a rhetorical question.

 MR. FITZSIMMONS: I understood that to be the case.

 MR. CROCKER: In Board Staff Interrogatory 103 -- it is still the same heading as 6.8 -- I'm sorry, the same issue. You say at line 23 that you have a 24-month health and dental benefit claim window.

 MR. BARRETT: Sorry, could we just have a minute to turn it up?

 MR. CROCKER: Sorry. I don't want Mr. Millar to ask me about my time constraints here, so I am rushing. We okay?

 MR. BARRETT: Okay. Yes.

 MR. CROCKER: You say at line 27 that you have a 24- month health and dental benefit claim window. How long has that been the case, and what was the window prior to that? What was the period within which one could claim before that?

 MR. FITZSIMMONS: So there had not been hard rules

established about this previously. So I believe this was

established in 2013 or thereabouts, which basically tightens up, obviously, the rules under which an employee can submit a claim for health and dental benefits.

So if you are not within the 24 months, you cannot submit a claim.

 MR. CROCKER: My understanding -- and I may be wrong, but I thought many claim windows were shorter than that. It was a year, not two years. Do you know whether that is right or not?

 MR. FITZSIMMONS: I do not know whether that is right or not.

 MR. CROCKER: Can you tell me what the savings were in

tightening up that window, or in establishing the fixed period?

 MR. FITZSIMMONS: I do not have that number floating around with me.

 MR. CROCKER: Can it be provided? Can you find it? Is it something you can quantify?

 MR. FITZSIMMONS: I can undertake to look at whether we have that broken down in a meaningful way.

 MR. MILLAR: JT2.28.

**UNDERTAKING NO. JT2.28: TO PROVIDE AVAILABLE INFORMATION ON SAVINGS RESULTING FROM ADOPTION OF 24-MONTH WINDOW FOR FILING DENTAL AND HEALTH CLAIMS.**

 MR. CROCKER: Thank you.

 Same issue, the reference is Exhibit L, tab 6.8, schedule 17. It's Schools Interrogatory 120, and I am at page 2 of 2.

 MR. FITZSIMMONS: Okay.

 MR. CROCKER: The graph that you have there represents the sick days, allowable sick days without any confirmation, I guess, for five days. And I gather that you have limited that to four days; is that correct?

 MR. FITZSIMMONS: You say "without any confirmation." I wouldn't agree with that statement. The distinction is whether it engages a formal process of medical follow-up.

 MR. CROCKER: We're describing the same thing in different words, but okay. And you have limited that to four days now, I gather?

 MR. FITZSIMMONS: That's correct.

 MR. CROCKER: Okay. Can you provide the same graph, or the same type of graph since you have limited it to four days?

 MR. FITZSIMMONS: I would have to look at whether or not we've reproduced that graph with the imposition of this new standard.

 MR. CROCKER: Okay.

 MR. MILLAR: So JT2.29. I guess that is on a best-efforts basis.

 MR. SMITH: Yes. We will see what we can do.

 MR. CROCKER: Yes, depending on -- yes. We can decide once we get an answer to that whether we need to follow up.

**UNDERTAKING NO. JT2.29: TO MAKE BEST EFFORTS TO PROVIDE INFORMATION ON SAVINGS RESULTING FROM CHANGE FROM FIVE TO FOUR CONSECUTIVE SICK DAYS PERMITTED WITHOUT MEDICAL FOLLOW-UP.**

MR. CROCKER: And have you done the same thing with respect to the Society of Energy Professionals? This is a PWU sick-leave graph, and I wonder whether you have done the same thing with your -- with the other "union".

 MR. FITZSIMMONS: Sorry, is your question have we imposed the same rule, or have we produced the same graph?

 MR. CROCKER: Both.

 MR. FITZSIMMONS: Both? So the answer is, to whether or not we have reviewed the statistics, the answer to that is yes. Whether we have imposed the same rule, the answer to that is no, given that we did not view that we had the same issue with management of sick leave with the Society of Energy Professionals as we did with employees who are represented by the Power Workers Union.

 MR. CROCKER: Have you graphed the -- or could you graph, then, the information with respect to the Society of Energy Professionals then, please?

 MR. FITZSIMMONS: I believe that graph is in our evidence in the following pages.

 MR. CROCKER: Okay. Well, let me just clarify. Do the Society of Energy Professionals not have to have a doctor's note at any point?

 MR. FITZSIMMONS: They do. On the same previous marker that was in place for the Power Workers, which was for five days or greater, there was a formal process that is engaged in for medical follow-up.

 MR. CROCKER: Okay. Thank you.

 Same issue. The reference is Board Staff Interrogatory 104. So it is Exhibit L, tab 6.8, schedule 1, Staff 104.

 MR. FITZSIMMONS: Okay.

 MR. CROCKER: You say in answer to the question:

"The majority of OPG work force, approximately 60 percent, work a 40-hour work week."

 And then you go on to say -- I'll read the whole thing:

"Consideration has been given to moving the entire work force to a 40-hour work week, and in instances the unions have sought the adoption of a 40-hour work week. OPG has reviewed and considered these requests and have determined that the current mix of 35-hour and 45-hour [sic] workers is appropriate."

 And I would like to understand what you -- on what basis you have made the determination that that is appropriate.

 MR. FITZSIMMONS: Sorry, where were you reading from, that -- that response? The response I have reads as follows:

"The majority of the work force (60 percent) work a 40-hour work week. Consideration has been given to moving the entire work force to a 40-hour work week, and in instances unions have sought the adoption of a 40-hour work week."

 MR. CROCKER: Okay. Now, I hate to say this, and maybe I didn't read that, but that is what I thought I read. No? What did I read?

 MR. FITZSIMMONS: Sorry. I thought I heard you say that the mix was appropriate. That was the part I was confused about.

 MR. CROCKER: I'm sorry. That's -- continue reading.

 MR. SMITH: Why don't we just read it to ourselves, then ask a question?

 MR. CROCKER: You just didn't read the last sentence.

 MR. FITZSIMMONS: No, sorry, I have a different version from my text that I am reading from.

 MR. CROCKER: Okay. Well, I will read you -- the last line says:

"OPG have determined that the current mix of 35-hour and 45-hour [sic] workers is appropriate."

 And I guess --

 MR. SMITH: Four-zero.

 MR. CROCKER: What did I say? I was hopeful. Sorry. 40. Sorry, 40.

 I wondered on what basis you determined that this was an appropriate mix?

 MR. FITZSIMMONS: Yes. So I think there's been two factors considered in the past, and that is whether or not the 35-hour work week is appropriate in circumstances to have the work programs completed, and the other factor that would be associated with this would be the cost associated with moving a 35-hour worker to a 40-hour work week, which would be a 14 percent increase in salaries and the associated pension costs with that.

 MR. CROCKER: Okay. Go to AMPCO -- back, I guess. I think we have been there once before -- AMPCO 58. Same issue.

We asked for an FTE table for regulated facilities to -- maybe I should give you another reference. The reference is -- there is another reference that I am going to give you, and I am going to ask a question based on both. The reference is F-4-3-1, attachment 6. It is appendix 2-K. We asked for FTE actuals to be added to that table for actuals for 2013.

 MR. BARRETT: Sorry, just -- sorry to be a bother, but could we get that reference again? We're having difficulty tracking it.

 MR. CROCKER: F-4-3-1, appendix 6. I'm sorry, attachment 6. It is appendix 2-K.

 MR. BARRETT: We have it now.

 MR. CROCKER: Okay. We have asked for actuals for 2013 for FTEs, and it hasn't been provided, and we would ask for it again, please.

 MR. KOGAN: Sorry, this is in relation to part (b); is that correct?

 MR. CROCKER: Part (a).

 MR. SMITH: No, we're not prepared to do that, having regard to the volume of work necessary to do it.

 MR. CROCKER: Perhaps I could hear from the panel whether there is a volume of work involved.

 MR. BARRETT: There is.

 MR. CROCKER: I suppose I shouldn't be surprised with that answer. Okay. We will take that under advisement.

 I have a question with respect to -- a clarification

question. We understand that the -- that headcount is the

staffing level at the end of a year, whereas FTEs represent the number of hours worked converted to a full-time equivalent; is that correct?

 MR. MAUTI: Yes, it is.

 MR. CROCKER: Okay. Is an FTE calculated by multiplying a 35-hour work week times 52 weeks, or a specific number of weeks, and a 40-hour work week by 52 weeks or a specific number of weeks?

And is overtime included? Are overtime hours included, and how does that mix work?

 MR. MAUTI: As a general rule, your 35- and 40-hour week multiplication would work. I am just not sure whether overtime is included in that calculation or not. We can find out.

 MR. CROCKER: Please?

 MR. MILLAR: JT2.30.

**UNDERTAKING NO. JT2.30: TO CONFIRM WHETHER OVERTIME IS INCLUDED IN CALCULATION OF 35-HOUR AND 40-HOUR FTEs.**

 MR. CROCKER: Sorry, if you could go to answer (g), OPG provided overtime costs in a table and it shows 2013 budget amounts, a budget amount of 134.4 million.

 And my ask is whether we could get actuals for 2013

overtime dollars.

 MR. MAUTI: In terms of tracking the actuals to that, I am not sure how difficult an exercise it would be to get down to individuals or allocations and things like that. So it is not readily available, and I am not exactly sure how long it would take to put together.

 MR. CROCKER: Can we ask you then to give us a response after looking at things, whether it is doable? And if not doable, we will consider what steps we take. And if doable, can you do it?

 MR. SMITH: Yes, we will do that.

 MR. CROCKER: Thank you.

 MR. MILLAR: JT2.31.

**UNDERTAKING NO. JT2.31: TO CONFIRM WHETHER 2013 ACTUAL OVERTIME AMOUNTS CAN BE QUANTIFIED, AND ADVISE WHETHER THEY CAN BE PROVIDED.**

 MR. CROCKER: I have a question with respect to business transformation. As I understand it, your business transformation uses headcount, since the business plan is -- business plan targets are not set on an FTE basis. Am I correct in that assumption?

 MR. MAUTI: Yes, in general we look at headcount through business transformation, and people leaving the organization as a basis to set the targets.

 MR. CROCKER: Okay. And your headcount reduction targets apply to ongoing regulated operations and regular employees; is that also correct?

 MR. MAUTI: Our overall business plan targets would be total ongoing operations, and not just the regulated part.

 MR. CROCKER: Okay. I am going to ask you to provide some tables with a breakdown of -- okay.

I am told I have a preliminary question to ask, and then I will ask for the tables.

 Your headcount numbers -- let me ask it as a question. Do your headcount numbers apply to non-regular employees, and not apply to Darlington refurb and new nuclear projects?

 MR. SMITH: I am not sure I followed that, Mr. Crocker.

 MR. CROCKER: Okay. Am I correct in assuming that your headcount reduction numbers do not apply to non-regular employees, do not apply to Darlington refurb, employees involved in the Darlington refurb, and do not apply to employees involved, however many there are, to new nuclear projects?

 MR. SMITH: Sorry. What do you mean by "non-regular

employees"?

 MR. CROCKER: Part-time. I think it is something that is -- it is a category you provided, I thought.

 MR. MAUTI: You used the phrase "do not apply to." I think by definition, ongoing operations excludes the Darlington refurbishment project.

 MR. CROCKER: Okay. I just wanted to confirm that. All right. This is the information we would like and are asking for, in tabular form if you can, for the years 2010 to 2015.

 Can you provide, once again in tabular form, the number of OPG employees in ongoing regulated regular employees, non-regular employees, Darlington refurb employees, and new-build nuclear employees?

[Witness panel confers]

 MR. SMITH: Mr. Crocker, what we will do is consider what we have already provided, and we will consider the incremental work associated with your request relative to its probative value, and we will provide you with our position, which may or may not include the table you have asked for.

 MR. CROCKER: All right. And just for the purposes of

quantifying the probative value, it is to help us understand the headcount reduction issue.

 MR. SMITH: There is a lot of information in the filing already --

 MR. CROCKER: I understand, I understand.

 MR. SMITH: -- about BT and what is happening with FTEs, in particular in the form 2K which the Board directed OPG to prepare, along with the chart that Mr. Barrett took Mr. Shepherd to earlier today.

 MR. MILLAR: We will give that Undertaking JT2.32.

**UNDERTAKING NO. JT2.32: TO ADVISE WHETHER IT IS POSSIBLE TO PROVIDE A TABLE SHOWING END-OF-YEAR NUMBER OF ONGOING REGULATED REGULAR EMPLOYEES, NON-REGULAR EMPLOYEES, DARLINGTON REFURB EMPLOYEES, AND NEW-BUILD NUCLEAR EMPLOYEES.**

 MR. MAUTI: Just a clarifying question. When you talk about non-regular employees and headcount, by their very nature they're somewhat cyclical, and depending at a point in time. So are you talking about an end-of-year number?

 MR. CROCKER: That's fine.

 Can you tell me, please, or can someone tell me, please, the status of Bill C-22?

 MR. KOGAN: So what's the reference for that, please?

 MR. CROCKER: Exhibit L, tab 6.10, schedule 1, Staff 138. The question is there on page 1. Then the response which references Bill C-22 is the beginning of page 2.

 MR. KOGAN: The website I checked a couple days ago, government of Canada said it is in second reading.

 MR. CROCKER: Do you know if it's going to go to committee? Do you know?

 MR. SMITH: We don't know.

 MR. CROCKER: Okay. I would like to go to AMPCO

Interrogatory 73, please. Exhibit L-6.10 is the issue, schedule 2.

 2014 and 2015 have the same actual and forecast grid withdrawals, and in light of the VBO in unit 4 at Darlington in 2015, I wonder how those numbers can be the same.

 MR. ANDERSON: To start with, Mr. Crocker, the panel that would have been better suited to respond to this question would have been the nuclear panel. I doubt this panel would have that information for you.

 MR. CROCKER: Okay. Can they tell me that, please?

 MR. KOGAN: No, we don't have that information.

 MR. CROCKER: The reference is Exhibit L, Issue 8.1. This is probably not yours either, but I will ask and you can tell me that. Exhibit L, tab 2.1, schedule 6.

 MR. SMITH: 6.1 or 8.1?

 MR. CROCKER: I'm sorry? I missed your question.

 MR. SMITH: Sorry. It was at tab 8.1?

 MR. CROCKER: No. It's Issue 8.1. Tab 2.1 -- Exhibit L, 2.1, schedule 6.

 MR. SMITH: I'm not sure I follow you.

 MR. ANDERSON: Sorry, to be clear, the tab is 2.1? Is that --

 MR. SMITH: Yes.

 MR. ANDERSON: Which is the issue number. Okay. Thank you.

 MR. CROCKER: And it is Environmental Defence. It is

Question 3. I am looking at attachment 1.

 And my question is related to -- my question is related to the decommissioning segregated fund. And you can tell me before I ask the question whether this should have been asked of the nuclear panel.

 MR. ANDERSON: No, nuclear liabilities is appropriate for this panel.

 MR. CROCKER: Okay.

 MR. BARRETT: Sorry, we are looking at the wrong reference, then. We are looking at Exhibit L, tab 2.1, schedule 6, ED 3. We're obviously looking in the wrong spot.

 MR. CROCKER: Take a look at page 2, attachment 1. I'm sorry, attachment 1.

 MR. BARRETT: Oh, it's the attachment? Okay.

 MR. CROCKER: Sorry. Sorry, attachment 1. And I am looking at page 2 of that. And I am going to read the paragraph -- the second paragraph under "Business segment generating and operating performance" and ask questions as I go here.

 You said:

"The regulated nuclear waste management business segment recorded a loss before interest and income taxes of 122 million in 2013, compared to a loss before interest and income taxes of 68 million in 2012. The lower earnings were primarily due to a higher accretion expense and lower recognized earnings from the decommissioning segregated fund. The decommissioning segregated fund is over-funded due to market performance. As a result, OPG is required to limit the earnings recognized from the decommissioning segregated fund to 5.15 percent."

 And my question is: How do you do that? How do you limit the earnings?

 MR. MAUTI: The way this would work is the segregated fund itself has earnings based on its investments when the fund is in an over-funded position, and by "over-funded" that means the value of the segregated fund is higher than the balance to complete all future obligations.

 So when there is more money in the fund than the

future obligations, instead of recording the actual earnings, our accounting policy has us record an amount in the fund equal to the targeted long-term rate of return of 5.15 percent, and the difference basically goes into an account due to or due from the province of Ontario.

 So we basically split the earnings between the 5.15 percent and the excess.

 MR. CROCKER: And --

 MR. MAUTI: It effectively forms a cushion against any

future changes in the funds.

 MR. CROCKER: And is it the same thing with the used fuel segregated fund?

 MR. MAUTI: Generally the same, but there is a little

nuance to that. The used fuel fund is split into two portions, one portion that relates to, we call, the first 2.23 million used fuel bundles, and then a portion of the fund that relates to the bundles in excess of 2.23.

 The agreement we have with the province related to the

Ontario Nuclear Funds is that the 2.23 million portion of that fund is guaranteed at a real rate of return plus 3.25 percent, so equivalent to that 5.15 percent, yes.

 MR. CROCKER: And do you transfer funds between the two accounts?

 MR. MAUTI: As a general rule, no. There's requirements within the Ontario Nuclear Funds Agreement that may provide for that when certain conditions are met, but as a general practice we do not.

 MR. CROCKER: What are the conditions, please?

 MR. MAUTI: In that same attachment 1 that you are referencing on the financial statements, page 36, under the "Decommissioning fund" heading -- I can just read it -- it does say:

"Under ONFA, if there is a surplus in the decommissioning fund such that liabilities, as defined by the most-recently approved ONFA reference plan, are at least 120 percent funded, OPG may direct up to 50 percent of the surplus over 120 percent to be treated as a contribution to the used fuel fund...'

And it continues on.

 MR. CROCKER: Are you over-funded now? And if so, by what percent? Do you know?

 MR. MAUTI: We are over-funded, but I am fairly certain it is under 120 percent.

 MR. CROCKER: Fine. Thank you.

I have another nuclear question, and once again, if I am asking the wrong panel, I am sure you will tell me.

 It has to do with nuclear waste management and it is Issue 8.2, and I am referring to Staff Interrogatory 181.

 MR. MAUTI: Yes, we have it here.

 MR. CROCKER: And my question is: In column 2, the cost of -- I'm sorry. I am referring to the chart, chart 2 on -- I'm sorry, chart 3 on page 2, I think. Yes.

 In the second column, the disposal cost for Pickering A, B and Darlington is constant, but the storage charge for each is different. And I wonder if you could tell me why, why the variability in the disposal -- I'm sorry, in the storage costs.

 MR. MAUTI: Probably two ways to describe this. The used fuel disposal program is a -- we call it a centralized waste management program. In other words, there's going to be one disposal facility for all used fuel bundles in the country, and not just for OPG.

 Such that --

 MR. CROCKER: You're hoping. You're hoping. Sorry.

 MR. MAUTI: That would be the reference plan, yes, such that the used fuel disposal rate is constant among the three, whereas the used fuel storage rate, there are different storage facilities that are operated, one at the Pickering site and one at the Darlington site.

So that would be the main reason for differences.

 MR. CROCKER: Okay.

 MR. MILLAR: Mr. Crocker, how are we doing for time?

 MR. CROCKER: I have one more question.

 MR. MILLAR: Thank you.

 MR. CROCKER: I am heartened that you asked.

 MR. MILLAR: You're welcome.

 MR. CROCKER: We're the at Exhibit C-2, tab 1, schedule 1. I am at page 4 of 7.

 MR. MAUTI: Can we have that again, please?

 MR. CROCKER: Yes. Exhibit C-2, tab 1, schedule 1.

 MR. BARRETT: We have it.

 MR. CROCKER: Page 4, the first paragraph on that page, I just need to know how you calculated some of these things.

At line 7, you talk about a discount rate of 3.5 percent, and I would like to know how you calculate that. And as a secondary question, what is your inflation rate?

 MR. MAUTI: The discount rate of 3.5 percent is the discount rate in effect when we have a change of the ONFA reference plan, where you are effectively recalculating all of your future costs related to the variable program and you discount it at the rate that is appropriate when you're making that change.

 So that rate of 3.5 percent is based on a long-term, I

believe, government of Ontario bond, similar to the cash flows represented by the liability. But since that liability oftentimes takes several decades, we tend to try to find the longest market-traded security.

 MR. CROCKER: So it is a long-term Ontario bond rate; is that what you used?

 MR. MAUTI: Yes. In accordance with GAAP, we're to try to find the longest bond out there that is available, and we do use the longest benchmarked government of Ontario bond.

 MR. CROCKER: Okay. The follow-up question: The inflation rate?

 MR. MAUTI: The long-term inflation rate in general within the -- is it within the estimate of the waste liability calculations or --

 MR. CROCKER: Yes.

 MR. MAUTI: I believe it is 1.9 percent.

 MR. CROCKER: Thank you. I have nothing further.

 MR. MILLAR: Thank you, Mr. Crocker.

We will take our break and return at 3:45, and I think it is just Staff left.

 MR. BARRETT: We just have one update to provide before we break.

 MR. MILLAR: Go ahead.

 MR. FITZSIMMONS: The question earlier with respect to the update of the code of conduct to include transparency in the hiring practices, that is actually found in our submission under SEC Interrogatory 002.

 So the most recent version of the code of conduct is

included in that -- sorry, being SEC Interrogatory 012.

 MR. ANDERSON: Which issue number is that under, Mr.

Fitzsimmons?

 MR. BARRETT: The full reference is Exhibit L, tab 1.2, so Issue 1.2, schedule 17, SEC 12.

 MR. ANDERSON: Thank you.

 MR. MILLAR: Thank you. 3:45.

 --- Recess taken at 3:26 p.m.

 --- On resuming at 3:45 p.m.

MR. MILLAR: Welcome back, everyone. We're still with panel 4, and we are on to Board staff. We have a number of eager staffers here today who have a series of questions.

 **QUESTIONS BY BOARD STAFF:**

 I am actually going to start, so good afternoon, panel. My name is Michael Millar. I am counsel for Board Staff.

 I apologize for being up here. I wouldn't normally sit at the dais to conduct an examination, but this is where all of my stuff is, and I don't have anywhere else to sit. So I am sure Mr. Smith has explained to you in your preparations that I have no actual power, so I am nothing other than another questioner here who happens to be sitting at a different elevation.

 Let me start with something that Ms. Binette and I have sort of whipped together in what I hope is an attempt to bring some -- a bit of clarity to an issue. So we will see where we get with this.

 I have just provided to your counsel and Mr. Anderson a chart to be populated that lists headcount, FTE, and compensation under a whole list of headings for several years.

 I recognize that at least some of this information is

already on the record, but perhaps not all in one place, and other things may be spread here and there.

 So what we're attempting to get at is, first, I think we've heard questions on this topic from a number of people, Mr. Shepherd and Mr. Crocker today, some interrogatories from Staff and from others. I think Mr. DeRose may have touched on it as well. There does seem to be some confusion amongst the parties as to when we're talking about FTEs versus headcount; for example, the business transformation talks about headcount, whereas the information presented to the Board in 2K is done for FTEs.

 I recognize there is a lot of data that we are seeking here, and some of it you may just not have. You may not be able to get. But I guess what I'm seeking is an undertaking for you to make a best-efforts attempt to populate this based on information that you have or that is relatively easily obtainable. And to the extent that there is information that is just not available or can't be produced, you could provide a brief explanation as to that.

 MR. SMITH: Well, I have a few responses in relation to this, as you might imagine. There are, as you have identified, Mr. Millar, for a number of the categories that are listed here already the information is already provided in the application or in answer to interrogatories.

 I don't think it is a reasonable request for OPG to do the work from the ground up. I think it would -- particularly given the tight timeframe in which answers to undertakings are due. In other words, we would be doing the work of reproducing information that we have already provided, and I don't think that that is a reasonable

request in the circumstances. One of the things...

 Why don't we do this? Perhaps what we could do is, if Staff completed the table with the information that has already been provided and sent it to OPG, OPG will

review it. We will confirm it. And to the extent that there are categories that are not complete, we will see what we have. And we would be prepared to provide that in advance of the settlement conference, but not by the May 2nd deadline.

 MR. MILLAR: Thank you. I think that is a useful suggestion. So we will do that.

 Mr. Smith, since it is going to have a different deadline, I wouldn't propose we give that an undertaking

number here, but I have heard your statement that you will make your best efforts to provide it to us before the settlement conference.

 MR. SMITH: And I can tell you the one column that we will likely not be providing is the 2016 out-of-test period column.

 MR. MILLAR: And I haven't given it an undertaking number. It will be filed?

 MR. SMITH: Yes. We would be prepared to file it.

 MR. MILLAR: Okay. Would it assist you if I just gave it an undertaking number with a different deadline so it is easier to find it?

 MR. SMITH: Yeah, that's --

 MR. MILLAR: Why don't I do that? So JT2.33. So what we have undertaken is Board Staff will populate this, to the extent we think we have the information. We will provide it to OPG, and they will do what they can with the rest of it and provide it before the settlement conference.

 MR. SMITH: That sounds sensible, Mr. Millar. It would be probably helpful -- well, certainly helpful from our perspective if you did footnote the references, and that way we can easily -- more easily confirm it.

 MR. ANDERSON: And perhaps, Mr. Millar, you could give us an indication of when that would be replied back to OPG so that we would have an adequate time to do the work that we needed to do.

 MR. MILLAR: Knowing Ms. Binette, I think it will be sooner than later, but we'll give you an estimate.

 MR. SMITH: Thank you very much.

**UNDERTAKING NO. JT2.33: TO REVIEW AND CONFIRM A TABLE BY BOARD STAFF REGARDING FTEs AND HEADCOUNT, AND PROVIDE INFORMATION FOR MISSING CATEGORIES AS APPROPRIATE, BEFORE THE SETTLEMENT CONFERENCE.**

 MR. MILLAR: I have a few follow-up questions to some of the interrogatories and a bit of follow-up related to the Auditor General's report in relation to some of the interrogatories as well.

 All of my questions, unless I specify differently, are under Issue 6.8, and I would like to start by going to Board Staff 101. So Issue 6.8, Staff 101, and in particular page 3 of that undertaking response.

This was a question relating to the increases that had been negotiated with the PWU in the most recent collective bargaining.

 And I understand that the annual increase is 2.75 percent, but there were a number of offsets that were negotiated as well, or concessions -- if I can call them that -- from the PWU. And you've set those out in a table on page 3 of that response.

My question is: Have these offsets been quantified? Is there a monetary number associated with this table?

 MR. FITZSIMMONS: Yes. Yes, there was.

 MR. MILLAR: Is that in the evidence, or could we have that?

 MR. FITZSIMMONS: I would have to go back and break it down.

 MR. MILLAR: Okay. Are you prepared to provide that?

 MR. FITZSIMMONS: There is one element of this I want some guidance on.

 [Mr. Fitzsimmons consults with Mr. Smith]

 MR. SMITH: Would it be sufficient to provide the bottom-line number? As you might imagine, the specific breakdown by item could impact how concessions are viewed in negotiations on a going-forward basis.

 MR. MILLAR: Well, why don't we start with that? You can provide that by way of undertaking. If we need to follow up on it, I guess we will do so through the oral hearing.

 MR. SMITH: Thank you.

 MS. BINETTE: JT2 -- am I on? JT2.33 [sic].

**UNDERTAKING NO. JT2.34: TO PROVIDE THE BOTTOM-LINE NUMBER ASSOCIATED WITH THE TABLE IN RESPONSE TO BOARD STAFF INTERROGATROY 101.**

 MR. MILLAR: Your goal in the negotiations was a net zero increase. Did you achieve that?

 MR. FITZSIMMONS: Yes, we did.

 MR. MILLAR: And that is set out in table 2-K, essentially; is that right? You showed the requirement associated with the PWU through the test period, and it is, if not flat, it doesn't move very much?

 MR. FITZSIMMONS: I'm not aware of whether that is

reconciled in table 2-K or not.

 MR. MILLAR: Can you show me how you arrive -- will the undertaking show how you arrived at the net zero conclusion?

 MR. FITZSIMMONS: It will basically show the aggregate

savings associated with these cost savings, and that will

reconcile against the increases that were given at the time.

 MR. MILLAR: Okay. So it will show that it is a net zero?

 MR. FITZSIMMONS: Yes.

 MR. MILLAR: Thank you.

 Can I ask you to turn to Staff 102? Again, this is Issue 6.8. And I guess page 1 is fine.

I think Mr. Shepherd had some questions about this as well, but this is where Staff was asking you to provide certain information, included in which was all benchmarking materials that were prepared by OPG or relied on by

OPG in your negotiations with your unions.

 Helpfully, you have provided a list of the types of

information that you consider, but I am not sure that that was quite responsive to the question.

 The question is -- as you will appreciate, for the Board to assess what you had done, we need to know what you had before you at the time you were in these negotiations.

 And I take it that this list of 14 things is not everything you considered in preparing for your negotiations with your unions?

 MR. FITZSIMMONS: No, it's not, but it is certainly

representative of the last round of negotiations. Information changes from round to round depending on what the issues are, and this is a healthy representation of the information that was relied upon in the last round of negotiations.

 MR. MILLAR: We asked you specifically about benchmarking information. I don't see on this list, for example, the Scott Madden phase 1 and phase 2 reports. Would that have been something that would have been in your possession at the time?

 MR. FITZSIMMONS: I recall a question about the Aon Hewitt reports.

 MR. MILLAR: I'm not talking about Aon Hewitt. These were reports that were before the Board -- in fact, in the last payments proceeding -- that had some benchmarking information.

 MR. SMITH: The question asks -- the question asks not whether OPG had those reports, but whether OPG relied upon those reports in its collective bargaining with the unions in question.

 MR. MILLAR: Did you rely on Scott Madden?

 MR. FITZSIMMONS: For the most recent round of negotiations, we did not.

 I cannot speak to the previous round of negotiations. I wasn't present during that round.

 MR. MILLAR: I am only talking about the current round, the one for the test period.

 MR. FITZSIMMONS: Yes, for the current round.

 MR. MILLAR: What about the Goodnight Consulting report?

 MR. FITZSIMMONS: The Goodnight Consulting report came

afterwards.

 MR. MILLAR: I am recalling a discussion in the last

payments case that sometimes OPG looks to information, data

provided by Towers Perrin, that shows, I guess, comparables in salaries for similar positions.

 Did you look at any of that for the last round of collective bargaining or the arbitration?

 MR. FITZSIMMONS: No, we did not. With the mandate for the last round of negotiations, which was a zero mandate, the focus was on broader public sector settlements, and that is information that was relied upon.

 MR. MILLAR: You refer in your prefiled evidence -- if you want to pull it up, that's okay. It is Exhibit F-4, tab 3, schedule 1, page 20. Again, F-4, tab 3, schedule 1, page 20.

 MR. FITZSIMMONS: Yes.

 MR. MILLAR: You will see under the second bullet point, and I am looking at about line 22, it says:

"The increases were below general market increases, which ranged from 2.3 percent to 3 percent as reported by major salary surveys."

Have you provided those salary surveys?

 MR. FITZSIMMONS: I don't believe we have. I believe we listed the companies that were included in those salary surveys.

 MR. MILLAR: And where is that?

 MR. FITZSIMMONS: It is in a -- in one of the responses, in the one where the survey was referenced. Just give me a second.

 MR. FITZSIMMONS: I don't actually see it in the Board's interrogatories.

 MR. MILLAR: How about an effort -- to save time, maybe you could take an undertaking if you could point me to the reference.

 MR. FITZSIMMONS: Certainly, yes.

 MS. BINETTE: J T2.34 [sic].

**UNDERTAKING NO. JT2.35: PROVIDE REFERENCE TO COMPANIES USED IN SALARY SURVEYS IN MOST RECENT COLLECTIVE BARGAINING PROCESS.**

 MR. MILLAR: Just finally on this point, in the AG's report -- I don't know if you need to pull it up, but if you want to see it, it is at page 162 -- it says -- and this is your response to the Auditor General:

"OPG has conducted extensive benchmarking of its nuclear and other operations."

 MR. SMITH: We'll have to take a look at the transcript after this, because we have -- not that we're looking for more undertakings, but we're up to 35, not 34.

 MR. ANDERSON: Ms. Binette, did you include 2.33 for the Board Staff?

 MS. BINETTE: No, I didn't.

 MR. ANDERSON: I thought that is what we had decided, but if that's the case, then that is the discrepancy.

 MS. BINETTE: That's 33, and 34 is the --

 MR. ANDERSON: 34 is Staff 101, and 35 is --

 MS. BINETTE: Okay.

 MR. MILLAR: OPG stated in its response to the Auditor

General that:

"OPG has conducted extensive benchmarking of its nuclear and other operations."

Did you rely on any of that benchmarking, or make reference to that benchmarking in any of your negotiations with your unions?

 MR. FITZSIMMONS: Not in this round of negotiations.

 MR. MILLAR: So you have given us all of the benchmarking analysis that you conducted that was relevant to your negotiations with your unions?

 MR. FITZSIMMONS: I believe I provided a healthy sample.

 There may be one illustration that comes to mind. I am not certain whether it is in the material or not, but it was the Ontario broader public sector averages.

 MR. MILLAR: Is that filed in this proceeding?

 MR. FITZSIMMONS: I'm not certain that it was.

 MR. MILLAR: Why don't -- we can either add this to 35 or not. Could you provide a reference for that, if it is in the evidence. And if not, can it be provided?

 MR. FITZSIMMONS: I can go back and look at the material and provide that, if necessary.

 MR. MILLAR: Okay. Thank you. Why don't we mark it

separately just so it doesn't get confused?

 MS. BINETTE: JT2.36.

**UNDERTAKING NO. JT2.36: TO PROVIDE BROADER ONTARIO PUBLIC SECTOR AVERAGES USED IN BENCHMARKING ANALYSIS IN MOST RECENT COLLECTIVE BARGAINING PROCESS.**

 MR. MILLAR: Let's move on to Issue 6.8, Staff 121. This relates to the findings in the Auditor General's report related to the employer/employee contribution ratio, which the Auditor General calculated at between 4:1 and 5:1.

 In your response under (b), you state -- well, if I can paraphrase, by your calculation the ratio is in fact

3:1, and you talk about things -- current service costs is what you reference.

 Can you provide me the calculation of how you got to

3:1? Or can you support that number somehow?

 MR. FITZSIMMONS: I would have to -- so on that, I think the answer is why there is a difference. It's that it was using two different measures, and that being on the current service costs of the pension plan, not all of the -- the past service costs.

 I will undertake to go and look at how that calculation was arrived at, but the explanation between the differences in the ratio was that it was looking at the different components of pension obligations.

 MR. MILLAR: So the undertaking will be to show us how you got to the 3:1, and I guess, to the extent you can, explain how your methodology is different than that of the Auditor General?

 MR. FITZSIMMONS: Yes.

 MR. MILLAR: Thank you.

 MS. BINETTE: JT2.37.

**UNDERTAKING NO. JT2.37: TO EXPLAIN HOW THE RATIO OF 3:1 IN RESPONSE TO BOARD STAFF INTERROGATORY 121(b) WAS ARRIVED AT, AND EXPLAIN HOW THE METHODOLOGY DIFFERED FROM THE AUDITOR GENERAL'S.**

 MR. MILLAR: I note in the very first line under the answer to (b), you say:

"The Auditor General's report includes both payments for the current service costs and special payments related to plan deficits in the calculation."

 Are special payments the same thing as solvency payments? Or are they something different? What are special payments?

 MR. FITZSIMMONS: My understanding is that the special

payments are the amounts that are above and beyond your minimum payments required by your valuation.

 MR. MILLAR: So that would include solvency payments, but might include other things as well?

And again, don't let me put words in your mouth.

 MR. MAUTI: I think the best way to describe it is that I think the Auditor General just basically took total contributions that OPG made and total contributions that employees made, and just did a simple ratio on that basis.

 And those total payments that we make would include the required obligations under the most recent funding valuation, in terms of contributions to the plan. That would include both the current service portion as well as -- I don't believe there is solvency payments, but they're going-concern payments required as part of the funding valuation.

 MR. MILLAR: Perhaps when we see the response to the

Undertaking, I will have a better sense of exactly what's included by you versus what is included by them.

 MR. MAUTI: In order to try to save an undertaking, I can try to describe how I came up with the 3:1 ratio.

 MR. MILLAR: Well, I would still like to see -- I would like to see it in an undertaking form. If there is anything you can add right now I am happy to hear it, but I would like to have it written down in an undertaking so I can actually see how that calculation was derived.

 So why don't we move on, in the interests of time?

 MR. MAUTI: All right.

 MR. MILLAR: With the same interrogatory, again the AG comes up with a number between 4:1 and 5:1. And indeed, by the example they provide I got something like 5.2:1. So I am assuming, though I could be wrong, that the employer/employee contribution ratio is different between, for example, the PWU and the SEP and non-represented employees; is that correct?

 MR. MAUTI: I think the represented groups have certain provisions in their collective agreements that determine the amount of payments. How the Auditor General came up with their number, I am not privy to their calculation.

 MR. MILLAR: Are the contribution ratios the same for the PWU and the SEP?

 MR. MAUTI: Sorry?

 MR. FITZSIMMONS: With the PWU, there is a distinction below what is called the year's maximum permissible earnings, which is a lower rate. Once that maximum personal earnings is achieved, the contribution amount goes up. I believe it is to a cap of 7 percent, and with the SEP, the contributions are 7 percent, I believe.

 MR. MILLAR: Let me put it this way. The ratio that you have calculated is 3:1. Is that an average? Or is that for -- or is it the same for every grouping of employees?

 MR. FITZSIMMONS: I believe the ratio is just simply looking at the aggregate employee contributions versus the employer contributions, and does not, you know, break it down further by the specific represented groups.

 MR. MILLAR: Can it be broken down in that fashion? You would have the numbers, I assume?

 MR. FITZSIMMONS: I'm not -- I'm not sure that that is

meaningful, but we can undertake to look at that.

 MR. MILLAR: Okay. Well, whatever you can provide would be helpful.

 MR. SMITH: But if it is not meaningful, I'm not sure

that we should be undertaking to do it.

 MR. MILLAR: I guess I'm not clear if the ratio is

3:1 for all employees or if that is an average across the company. It sounds to me like it is an average.

 MR. FITZSIMMONS: So let me try this once more. So it is an aggregate figure, and it doesn't matter who is contributing what from where. There is a total employee contribution pot versus what the employer is contributing, and the average would be based on those simple data points.

 MR. MILLAR: But do all -- do all employers, employees, contribute at the same ratio?

 MR. FITZSIMMONS: They contribute at, as I explained earlier -- with the distinction between below and above -- they contribute at different rates at different times. They also derive, you know, a different -- a different benefit.

 So what is important for the sake of this ratio is the

amount of the pension plan that is funded by the employees and the amount which is funded by the employer.

 MR. MILLAR: Okay. Thank you.

 I assume at least for your unionized employees, the contribution ratios are negotiated as part of the collective agreements?

 MR. FITZSIMMONS: That's correct.

 MR. MILLAR: And all of the benchmarking data or other

information you relied on in determining that the current ratio is appropriate is already filed with the Board, I understand?

 MR. FITZSIMMONS: With respect to pensions?

 MR. MILLAR: Well, yes. They're part of the collective agreements, and we already went through all the benchmarking data you had before you when you negotiated the collective agreements. So I assume there's nothing else.

 MR. FITZSIMMONS: That's correct.

 MR. SMITH: Sorry, that's not quite right, as it was phrased, Mr. Millar. You indicated that all of the information was filed, and I think, as Mr. Fitzsimmons was clear to indicate, we've provided a representative sample.

 The volume of material that OPG had available to it that would have been responsive to the question is at least a full filing cabinet worth of material. And so it was for that reason that it was felt that a representative sample was a more meaningful response, having regard to the Board's Rules on proportionality.

 MR. MILLAR: Thank you. Let me put it a different way

then. Have you -- the Auditor General has some critiques about your employer/employee contribution ratios.

 Is everything that OPG relied on in arriving at that in your last collective agreement, is all that on the record? Everything that supports the -- whether it is 3:1, 4:1 or 5:1, whatever the current employer/employee ratio is, is that on the record, or will it be filed as part of the undertakings that we have already given?

 MR. FITZSIMMONS: On the record with respect to the

information -- I am not sure I understand your question.

 MR. MILLAR: Well, somehow you arrived at the employer/employee ratio. Let's say it is 3:1.

 MR. FITZSIMMONS: Right?

 MR. MILLAR: The AG doesn't seem to think -- well --

 MR. SMITH: Sorry, is there a portion of the AG report that you think we should go to?

 MR. MILLAR: Sure. It is the whole section on the pensions, and it is at page 166, I believe is where it starts. I could be mistaken. Let me pull it up.

 If you look at page 166, for example, the first bullet point says:

"OPG's contributions to the pension plan have been disproportionately larger than those of its employees every year."

 2005 it was 4:1, 5:1, significantly higher than the 1:1 ratio at OPS.

 And doubtless OPG has strong rationale for that, and I am just asking if all of your rationale for your current

employer/employee contribution ratio is on the record in this proceeding?

 MR. SMITH: Mr. Millar, are you asking whether or not all of the information that OPG had available to it at the time that it bargained with the PWU and the Society has been filed in this proceeding?

And I recognize that this aspect of your question happens to be directed towards the pension aspect of the collective agreement. Because I think the answer, based on the earlier answers, has got to be no, because we filed a representative sample of the information.

 So your question says: Has everything been filed on the record. And we know the answer to that is no, because we filed a representative sample of the material.

 MR. MILLAR: Let me put it this way. I don't see anything in the prefiled evidence that speaks to why the

employer/employee contribution ratio is 3:1. Is there anything in there that speaks to that issue?

 MR. FITZSIMMONS: No.

 MR. MILLAR: Okay. Thank you.

 Can we turn to CCC 24, again under Issue 6.8? And I am actually referring to -- I think it is attachment 5, which is at the -- or is it attachment -- pardon me. Schedule 4, attachment 5. So it is Exhibit L, tab 6.8, schedule 4, attachment 5. It is CCC 24, attachment 5, I guess.

 MR. KOGAN: Is that the incentive payments table?

 MR. MILLAR: Yes. I think that's it on the screen right now, and it's just a quick question.

 Do you have data -- would you be able to complete this chart for the 2014 and 2015 forecasts? Is that data available? Obviously forecast data.

 [Witness panel confers]

MR. MAUTI: I don't know if we have this level of detail for planning going forward to the lines in the specifics that you see in the historical information, or if it is just a high-level number that we may have.

 MR. MILLAR: You have the totals; is that right?

 MR. MAUTI: There would be a total amount that would be budgeted for incentive payments in the business plan for 2014 and 2015.

 MR. MILLAR: I think we have that. But are you saying you don't know if it is broken down to the level of granularity that is shown in this table, or that it is not?

 MR. MAUTI: I do not know.

 MR. MILLAR: Could I ask you to check? And if it is

available, to populate this table for 2014 and 2015 based on forecasts?

 MR. MAUTI: Yes, we will do that.

 MS. BINETTE: JT2.38.

**UNDERTAKING NO. JT2.38: TO CONFIRM WHETHER DATA IS AVAILABLE TO POPULATE THE TABLE IN CCC 24, ATTACHMENT 5 FOR 2014 and 2015 BASED ON FORECASTS, AND IF SO, TO UPDATE THE TABLE WITH THOSE NUMBERS.**

 MR. MILLAR: Moving quickly, Issue 6.9 now, Staff

Interrogatory 135.

This relates to the NHSS contract. Mr. Crocker touched on this so I will be very quick. I just want to make sure I have the timeline correct.

 As I understand it, before you entered -- before you renewed the contract, you had an independent consultant provide you with market-based cost savings targets; is that correct?

 MR. BARRETT: That's what the response indicates, yes.

 MR. MILLAR: Then some time after that, you actually

executed the extension with NHSS: is that correct?

 MR. BARRETT: That's right.

 MR. MILLAR: Then after that, you retained two other

consultants to -- I guess to opine on the prudence of that decision; is that correct?

 MR. BARRETT: And prove-up the savings, yes.

 MR. MILLAR: So why did you do that after you renewed the contract, instead of before?

 MR. BARRETT: Well, they were assessing the results of the contract achieved.

 MR. MILLAR: Those haven't been filed, have they?

MR. BARRETT: I don't know.

 MR. MILLAR: If they're not, could they be filed, the two consultants reports that discuss -- the after-the-fact consultants' reports?

 MR. BARRETT: Yes, we can have a look at that.

 MS. BINETTE: JT2.39.

**UNDERTAKING NO. JT2.39: TO PROVIDE THE TWO CONSULTANTS' REPORTS DONE AFTER THE CONTRACT RENEWAL WITH NHSS.**

 MR. MILLAR: Thank you.

Just a couple of other questions about the AG report, and these relate to essentially OPG's responses since it has received that and how it might impact the test period, similar to what Mr. DeRose was discussing under CME 1.

First of all, the report, as I understand, was

released December 10th, 2013. Obviously, you had it beforehand because your responses are included, or at least you had the draft.

 Mr. DeRose asked you about that, but I don't think he got a date as to when you received it, or at least an approximate date.

If I missed that, I apologize.

 MR. BARRETT: Again, you're talking about the draft?

 MR. MILLAR: Well, yes. I guess you received a draft because your responses are in the final report, so whatever you got that allowed you to make your responses.

 MR. MAUTI: The first draft of the findings which would have been the basis for us deriving our responses was likely in the late summer, probably the August-September timeframe.

But we do not get a copy of the final report until -- I believe it was the day before, or the morning of the final issuance, to see the final wording of it.

 MR. MILLAR: Thank you.

Page 156, very quickly, and just touching on Mr. DeRose's area, in the second column, I think this is under OPG's response, it says:

"OPG will report to the office of the AG the actions taken to address the report's recommendations."

 Has that happened yet?

 MR. FITZSIMMONS: There are monthly updates that are

provided with both the Minister of Finance and the Ministry of Energy.

 With respect to any official follow-up with the Auditor General in the periodic findings, I am not aware of those as we sit today.

 MR. MILLAR: Thank you.

If you could flip to page 159, this is where, in the Auditor General's report, there is a discussion on the numbers of executives and senior management.

 Again, just to provide a high-level summary, it notes that there were 152 of these positions in 2005, and 238 in 2012.

Do we have that broken down for the test years? I apologize if it is there. I couldn't put my finger on it, the numbers of executives and senior management that you are forecasting for the two test years.

 MR. MAUTI: Can you tell me where on the page you are

reading that? There are lots of numbers on the page.

 MR. MILLAR: It is all over the place. Well, if you look at -- I guess it is the --

 MR. ANDERSON: Top right?

 MR. MILLAR: Yes, the top right column. You will see about the fourth line down, it says there are 152 in 2005, 238 in 2012.

And I understand the number has actually dropped a little already for 2014.

 I am just wondering if the numbers for 2014 and 2015 are on the record. And if not, if you could provide the forecasts.

[Witness panel confers]

 MR. MILLAR: Or you could just put it in our table.

 MR. MAUTI: As part of doing business planning, we don't generally forecast to the level of granularity you get with some of the data they selected, in terms of who they considered to be senior management.

So we don't generally have that breakdown and don't plan to that detail. We have headcount and target organization structures, and attrition numbers that we use for planning, but not to this level of detail.

 MR. MILLAR: So you don't have a headcount number for

2014-2015 on the basis that the AG did it?

 MR. MAUTI: No.

 MR. MILLAR: You don't know if the number is higher or lower than 238?

 MR. MAUTI: Well, again, I believe we may have responded and the number has already gone down from 238.

 MR. MILLAR: I thought I saw that as well, which led me it believe you knew what the number was. But why don't I leave that for the time being?

 There was a significant increase from 152, as the Auditor General reports, to 238 -- and a little bit less than that now, perhaps, but I still think it is above 152.

 Just as a general question, when you create a new position for an executive or a senior manager, is a business case prepared? Or what documentation would there be prepared that would support the creation of a new position?

[Witness panel confers]

 MR. MAUTI: I guess a business case in a traditional sense is not performed. But understanding and coming up with an organization structure as part of the organizational redesign, it would require us to evaluate the proper positions and the numbers that would be required to operate.

And I know in some cases, they have merged two manager positions to eliminate one body, and perhaps amalgamating that work, you create what is considered a higher-level position.

So I know several of those instances did

happen as part of transformation.

 MR. MILLAR: So there wouldn't be a business case per se supporting all of the executive and senior management positions?

MR. MAUTI: No, not a business case, but a rationale and justification for each of those positions and the ratings that they're evaluated at.

 MR. MILLAR: For the increases since 2005, so for all the new positions since 2005, do we have that documentation on the record or is that available?

 MR. SMITH: No. We certainly don't have it on the record.

 MR. MILLAR: Okay. So if the Board is attempting to evaluate the prudence of having a 58 percent increase in management staff, we wouldn't find anything on the record to support that?

 MR. SMITH: Well, the Board is not going to be asked to make that evaluation for '14 and '15 unless the Board is also going to make a disallowance for earlier years, which I don't think the Board would be doing.

 MR. MILLAR: The Board can't make disallowances -- well, let's not argue. So the answer is no. Thank you.

 MR. SMITH: Well, I certainly don't think it is an

appropriate question at a technical conference. You have our position.

 MR. MILLAR: Okay. I will move on. Thank you.

 Thank you. Those are my questions. I think Mr. Ritchie had some additional questions in this area. Thank you very much, panel.

 MR. RITCHIE: Thank you. Keith Ritchie for Board Staff.

First, actually, I am going to follow up on

behalf of one of my colleagues, Mr. Battista, from yesterday. And this is going back to pages 70 and 71 of the transcript from the technical conference yesterday, where he was asking, I think it was the hydroelectric panel, with respect to 4.4, Board Staff 24. And this is with respect to calculating LUECs on the Niagara Tunnel project.

 The reason that I am just following up here is because, in fact, in the discussion he posed a question, which would have been an undertaking, and it was sort of punted to the corporate panel today.

 MR. MAUTI: Can you specifically take me to the

interrogatory or the transcript reference that you're talking about?

 MR. SMITH: This was the question to perform the LUEC, to determine whether or not a LUEC could be performed on the cancellation of the Niagara Tunnel project.

 MR. MAUTI: Okay.

 MR. RITCHIE: Yes. Pages 70 and 71. And really, the question, it is really starting at the top of page 70. And again, with respect to the Niagara Tunnel, really -- or the interrogatory response, really the question is with respect to the second page of the interrogatory response, and where Mr. Battista was effectively wanting a variation on the response to part (c), but basically including the $463 million in incurred costs and the $100 million in shut-down costs, but removing the replacement energy of 1.56 terawatt-hours.

 Could you undertake to provide a response to calculate the LUEC under that sort of scenario, please?

 MR. MAUTI: So as I understand the question, if you have incurred approximately $500 million of costs and then you do not continue with the project and do not put the tunnel in-service, to calculate what a LUEC would be in that situation?

 MR. RITCHIE: Yes. Basically to include the first two

bullets but to exclude the third bullet.

 MR. MAUTI: Well, in simple terms, doing a LUEC is you're looking at the total lifecycle cost divided by incremental generation, and if you shut down and stop the project and don't put any incremental energy in service, it would be impossible to do a LUEC calculation, because you would be dividing a series of costs by an incremental energy of zero, so it would kind of give you infinity.

 MR. RITCHIE: Okay. There was some, again, lower amount for, I guess -- you know, again I am just trying to follow up on the question that Mr. Battista and the scenario -- and again, as I said, this was sort of punted from yesterday to today.

 MR. ANDERSON: That's correct. Questions on LUEC were

punted, but certainly even after yesterday we had discussed it, and "infinity" is the appropriate answer in this case. You have a cost on top. You have zero energy on the bottom. The answer is "infinity." That is just the way the math works.

 MR. RITCHIE: Okay.

 MR. ANDERSON: I did not recognize that at the time that I punted it, but when it was set out for me, I did.

 MR. RITCHIE: Okay. Thank you.

 I guess I've only got a very few questions, because things have been canvassed.

 I would like to refer to 6.8, Staff 111. And this is, I believe, on pages 2,957 and 2,958 of the consolidated PDF file, and really going back to the first page on that one, and again, where I'd quoted from the evidence exhibit, F-4-3-1, basically the second sentence was that OPG uses the final year and the most recent forecast from a publicly available economic report, you know, subject to adjustment, if the rate is outside of the Bank of Canada's target

range for inflation.

 And then in the response, basically, you're saying that, in the second bullet, that it is a proprietary economic forecast prepared by Global Insight.

 And then at the top of the second page it says:

"The report consulted by OPG is proprietary and therefore is not publicly available. The information was provided in June 2013."

 I am wanting to clarify. Is it a publicly available report, or is it a proprietary report that OPG pays for or commissions Global Insight to do?

 MR. KOGAN: This is a proprietary report, and I believe we will consider that as a potential blue-sheet correction and file those in our prefiled evidence.

 MR. RITCHIE: Okay. Now, I would also like, really as a follow-up on this one, to make a reference to 3.2, Staff 17. And that is, I believe, at page 477 of the PDF file.

 MR. BARRETT: We have that.

 MR. RITCHIE: Okay. And there are, I guess, three attachments to that file. Attachments 2 and 3 are actually copies of IHS Global Insight Canadian forecast executive summary for, basically, April 2013 and February 2014.

 MR. FITZSIMMONS: That's correct.

 MR. RITCHIE: Is that the same report or is that a different report than what OPG is using in -- or referring to in the Staff 111?

 MR. KOGAN: No, that's not the same.

 MR. RITCHIE: Okay. Thank you.

 And then I think really I just have one final question, and it is referring to Board Staff Interrogatory 3.1, Staff 15, and that would be at pages 431, 432.

 MR. BARRETT: Yes, we have that.

 MR. RITCHIE: Okay. And in this response -- just one second here.

Basically OPG has responded that it's basically wanting to maintain the approach that was approved in the previous payments orders of updating the ROE with data three months in advance of the effective date, rather than sort of going to the new Board policy that was announced in the Board's letter of 25th November, 2013, whereby, say for 2014, there would be the one ROE for rates effective in the 2014 test year.

 MR. BARRETT: By happy coincidence, three months prior to the effective date would be that same number.

 MR. RITCHIE: Yes, that is for the -- actually I guess for the existing hydroelectric and the nuclear.

But isn't -- under your application, you have a -- also a different payment order for the newly regulated hydroelectric of July 1, 2014?

 MR. BARRETT: I wouldn't describe it as a different payment order. There is the regulation of the newly regulated hydroelectric assets starts on July 1st.

 But for purposes of simplicity, we would be fine to adopt the same methodology for establishing a 2014 ROE for those set of assets, that is the three months prior to January 1st, 2014.

 MR. RITCHIE: Okay. And I guess for the 2015 estimate -- no, I guess they use -- you're using the same -- no. You actually are using a different data source?

 MR. BARRETT: We're using the Global Insight information, as we did in the last case, and it would be the information, again, that would be available at that same time as the 2014 information was established, or the 2014 number was established.

 MR. RITCHIE: Okay. Thank you. That is all of my questions.

 MR. MILLAR: Thank you, Mr. Ritchie.

Mr. Skinner?

 MR. SKINNER: Good afternoon, panel. My name is Duncan Skinner, Board Staff. Could you go to Issue 6.8, Staff No. 112, which is at PDF page 2,452?

You have provided an updated forecast of pension and OPEB costs in answer to this interrogatory. Am I right in the assuming -- or the fact that the current payment amounts include the impact statement pension and OPEB dollars?

 MR. BARRETT: Could you rephrase that question, please?

 MR. SKINNER: Sure. The current payment amounts, do they include the impact statement pension and OPEB costs?

 MR. BARRETT: They do.

 MR. SKINNER: And you have called this an update to those costs. When would you expect to include those in payment amounts?

 MR. BARRETT: As I indicated earlier this afternoon, it is our intention to file a second impact statement in advance of the settlement conference.

And what we're doing now is canvassing for material changes since the last impact statement. Obviously, one of material changes will be the year-end update to pension and OPEB costs.

 MR. SKINNER: Thank you.

The next question deals with the expected rate of return on the plan assets.

I'm not sure you need to turn up the exhibits just yet, but in the impact statement, the actuary's report shows 6.25 percent. In your audited financial statements it is 6.25 percent.

 But in the attachment 1 to Staff 112, which appears at page 2,456, I couldn't find the expected rate of return and I was wondering if you knew what that was. I assume it is 6.25 percent, but I am just asking.

 MR. KOGAN: I can confirm that it is 6.25 percent.

 MR. SKINNER: Thank you.

Could we go to Staff 116 at page 2,511? It is page 2, paragraph (c).

You answered the interrogatory and told us that the actual return was 9.2 percent, your benchmark is 8.5 percent, and that OPG is satisfied with the performance of the pension plan.

 I was wondering why, for forecasting amounts to be recovered in rates for the test period, that you would not have used either 8.5 percent or 9.2 percent to forecast the return on the assets in the calculations.

 MR. MAUTI: Yes. The expected rate of return for the plan should be a long-term rate. The fact that 9.2 percent was achieved in 2013, against a benchmark return after the fact for 2013 of 8.5 percent, doesn't necessarily indicate that is a long-term expected return on the fund assets.

 MR. SKINNER: How realistic do you think the

6.25 -– obviously, you do because it appeared in your audited financial statements.

 It seems to be, I would say, significantly lower than your actual achieved rate of return and your benchmark.

 MR. MAUTI: The 6.25 percent is based on the asset mix within the pension plan, and as we probably all know, individual year performances of a basket of investments don't necessarily play out the same way year after year.

 MR. SKINNER: Is that an average of historical returns? Or is it a forecast of future returns?

 MR. KOGAN: Probably a useful reference would be at Exhibit F-4, tab 3, schedule 1 at page 29. Lines 29 through 22 talk about the -- how the expected rate of return is derived, lines 19 to 22.

I think, in answer to your question, there is probably

consideration given to both historical trends and future

expectations, but the return is calculated by the actuary. And just so the record is clear, we do believe it is the most appropriate rate of return to use.

 MR. SKINNER: Okay. Thank you.

Could we turn to Issue 9.1, which is SEC No. 132, which is on page 4,035 of the PDF list?

 MR. BARRETT: Could we have that again, please?

 MR. SKINNER: SEC No. 132, Issue 9.1, the table on page 3.

 MR. BARRETT: Yes, we have that.

 MR. SKINNER: Okay. Does the actual amount in the year-end balance 2013 include the actuarial and accounting numbers used in the audited financial statements, and as used in reply to Staff 112?

 MR. KOGAN: Yes.

 MR. SKINNER: Thank you.

Am I correct in looking at this table that lines 8, 9 and 10, and lines 23, 24 and 25 relate to pension and OPEBs, and there are no other lines I should be looking at?

 MR. KOGAN: Yes, subject to the fact that the impact from the GAAP deferral account continues to amortize at historical long-term disability cost, but there would be no additions.

 MR. SKINNER: I added up the numbers that appear in those six lines for the year-end balance. Subject to check, I got 667.1 million. And in the projected year-end balance I added up the same numbers on the six lines and I got 662 million.

 And there doesn't appear to be much change, which surprised me, because when I looked at the impact statement, there was a substantial change in your forecasted costs that were submitted in December.

 MR. KOGAN: So the costs that are captured by the variance account for 2013 are largely set using assumptions as at the beginning of the year, as is normally the case with pension and OPEB costs under US GAAP, whereas the year-end assumptions and the liabilities that you're seeing in the financial statements are the ones that actually

inform the 2014 and '15 costs.

 MR. SKINNER: Okay. So just so I understand, these are not the 12-month numbers for 2013; this is based on January 1, 2013? Did I understand you correctly?

 MR. KOGAN: Yes. As is the case under GAAP, you would

calculate those costs using your opening-year assumptions that are used to value your liabilities.

 MR. SKINNER: Thank you.

 This is a hypothetical question, but do you ever see being able to forecast your pension and OPEB costs tightly enough that you would no longer need the variance account?

 MR. SMITH: Why don't we put it this way? Do you foresee the need for it during the test period?

 MR. BARRETT: Yes, we do.

 MR. SKINNER: So you expect the forecast that you have just given us to change? I think that is what you're saying.

 MR. BARRETT: Remember, as Mr. Kogan indicated, the forecast information essentially nails down the costs for 2014. The 2015 costs will be kind of nailed down based on information that is available at the end of '14 and the beginning of '15. And as we've seen, a relatively small change in discount rates can have a very significant impact on pension and OPEB costs.

 MR. SKINNER: Thank you.

 If you go back to Staff 116, and that is page 2,511 --

 MR. KOGAN: Is that Issue 6.8?

 MR. SKINNER: Yes, 6.8, Staff 116. The last sentence in your answer on the page that is on the screen says:

"There is a plan to add additional diversifying strategies to the portfolio with a focus on managing downside risk in the funded status of the pension plan."

 And I was wondering if you could give us an idea of what your diversifying strategies are.

 MR. MAUTI: In general, as we're evaluating our asset

liability mix, movement into other kinds of strategies such as real estate holdings or infrastructure projects would be

generally an example of the kind of change we would be looking at.

 MR. SKINNER: And do you have a list of them, or you're just studying them? Like, is this prospective? You are going to be studying changes, or do you already know what those changes are?

 MR. MAUTI: I guess the finalization of an updated asset liability study is still outstanding, but the general trend is to move towards some of these asset portfolio types that we currently do not have a high proportion of. So we will take a period of time in several years to slowly sort of migrate to that path.

 MR. SKINNER: Okay. Thank you.

 Could we go to -- it is Issue 6.8, Staff 120, page 2,516. Sorry, you've already answered that, and the last one, 116, had the same answer as 117. I apologize. I already asked you about the diversifying strategies. Staff 120, 2,516. Thank you.

 What is the "Rule of 90"?

 MR. FITZSIMMONS: It is typical for eligibility, to be in receipt of a pension, that you use the sum of someone's age and years of service, and the "Rule of 90" is simply that established criteria for retirement eligibility.

 MR. SKINNER: And when you say that you would apply the criteria on a go-forward basis from January 1, 2016, that just means at that time you would have to have the sum of age and years of service to equal 90?

 MR. FITZSIMMONS: That's correct.

 MR. SKINNER: Okay. Thank you.

 Staff 123, Issue 6.8, which is on page 2,519, you expressed concern in the last payments case when we presented something in our submission, and you said it

really should have been brought up in discovery.

 And you make a comment here, one is on the fund, and we asked you that question, and you gave us a legal answer, saying that it is -- the OEB's jurisdiction is derived from statute. And the second sentence:

"Board Staff's argument is silent on this question, as well as how such a fund would be structured, managed and paid for."

 In response to your concern, we asked if you could provide the costs to create and operate such a fund, and you replied you don't have a cost estimate.

 And I was wondering if you would be willing to undertake on a best-efforts basis to find out what it would cost to set up such a fund, to operate it, and what the operating costs would be.

 MR. BARRETT: We're going to decline, because we have no plans to set up such a fund.

 MR. SKINNER: You may not be aware in the Enbridge case this issue came up in the oral part of the hearing, and Enbridge replied to the Board that they felt a generic proceeding would be better than trying to do it on a company-by-company basis.

 Do you think a generic proceeding is a better way to do this than within the context of your proceeding?

 MR. SMITH: And I guess our answer to that is if it were to be considered by the Board, then it would be better to consider it in a generic form.

 MR. SKINNER: Okay. Issue 6.8, Staff 124, you gave us a table in answer to our interrogatory, and I was wondering if you could undertake to add a "Total" column, drop the "2007" column, because it's got two N/As in it, cross-add from 2008 to 2015, and foot that "Total" column?

 And I have done it manually, and the sum of the recoverable costs, minus the benefit payments, is a total of 1 billion, 28 million?

 MR. SMITH: Every instinct in my body tells me to say

no to this, but, yes, we will do it.

[Laughter]

 MR. MILLAR: Thank you for your generosity, Mr. Smith. JT2.40.

**UNDERTAKING NO. JT2.40: TO ADD A "TOTAL" COLUMN TO THE TABLE IN RESPONSE TO BOARD STAFF INTERROGATORY 124, REMOVES THE "2007" COLUMN, AND CROSS-ADD FROM 2008 TO 2015 TO THE "TOTAL" COLUMN.**

 MR. SKINNER: Now, we already spoke about the variance

amounts in the table that was filed with SEC.

 And are those amounts recoverable under the same kind of definition as your recoverable amounts on this table, chart 1 in answer to Staff 124?

 MR. SMITH: I'm sorry, you're going to have to help us out. There is a series of confused looks on this side of the table.

 MR. SKINNER: All right. In SEC 9.1, 132, the chart that was there that we just talked about, you have variances posted at 2013 year-end.

 I understand that the differences arise from what is in rates, what is in payment amounts, and what your actual accounting costs are. Do I understand that correctly?

 MR. KOGAN: Yes, on an appropriate GAAP basis, because

we CGAAP -- the rates are in CGAAP, and there are also tax impacts in there as well. But otherwise, yes.

 MR. SKINNER: Is it the same definition as line 2 on chart 1?

 MR. KOGAN: Yes, it is, again exclusive of tax impacts. And in fact, you can see that by virtue of the first and second lines being the same. The reason they are the same in 2013 is because it reflects the actuals, including variance account entries.

 MR. SKINNER: So in order to get the total recoverable

amount, would we have to take the OPEBs and SPP amounts out of the variance account by year it arose, and add it to the amounts on chart 1?

 MR. KOGAN: Sorry if I wasn't clear. I meant to say that we actually would have done that.

 MR. SKINNER: I'm sorry?

 MR. KOGAN: That's why you see that the recoverable number and the actual number are the same. Normally, in the absence of a variance account, you would expect those to be different by virtue of forecast variances, but we have taken into account the variance account.

 MR. SKINNER: Okay. Do you know what the average remaining service lives of your employees are? I had a look at the actuarial valuation and I couldn't see that number.

 MR. KOGAN: I don't know the exact number right now, but I would expect it to be more or less in the range of the 12 years that we have, I think, roughly talked about in the EB-2012 hearing, plus or minus a couple of years.

 MR. SKINNER: Okay. The reason I ask, if I take that

billion dollar number from chart 1 that I have added up, that when you complete the table you will probably see as well, and if I take the 2015 benefit payment of 69.6 million and divide that into the 1 billion, 28 million, I get 14.6 years of future benefit payments already in your bank.

 We've had this discussion before, whether the appropriate cost would be recovered is the cash basis or the accounting basis.

 MR. KOGAN: Sorry, so what is the question?

 MR. SKINNER: Well, is there a need to continue to recover OPEBs and SPP when you already have a billion, 28 million in the bank, which would cover 14 years of payments?

 MR. KOGAN: I think our position is that we are recovering based on the basis approved by the Board, and that they are prudently incurred costs and should be recovered.

 MR. SKINNER: Thank you. Those are my questions.

 MR. MILLAR: Thank you, Mr. Skinner. Thank you, we just have one lucky staffer left, Mr. Baksh.

 MR. BAKSH: Good afternoon, panel. My name is Ben Baksh, Board Staff.

 Could I ask you, please, to turn up Exhibit L-1.3, Staff 6? It is about a response to this interrogatory.

OPG indicated that accounting standards qualification does not require OPG to reflect a regulatory accounting described by the regulator in its financial statements.

 My question is with respect to regulatory policy prescribed by a regulator. If, for example, the regulator were to disallow a portion of depreciation expense proposed for the test period, how would the rate-regulated entity account for that financial difference in its audited financial statements?

 MR. KOGAN: So I think it may depend on the exact nature of the disallowance. Is it an outright disallowance? Or is it a timing difference?

 MR. BAKSH: I believe it is essentially a timing difference.

 For example, if a scenario -- for example is where a depreciation study is filed and the Board doesn't agree with that study, or may say: Well, we're not going agree with the new rates; use the previous rates you had in the previous test period.

You have a financial difference going forward with respect to your depreciation, and accrued depreciation going forward as well.

[Witness panel confers]

 MR. MAUTI: If, as in the situation you describe, it is just a timing difference and the assurance of recovery through a regulatory process exists, we would use a regulatory asset.

 MR. BAKSH: Okay. Thanks.

Now, in order to not create two sets of books, one for financial accounting and, say, another for regulatory reporting, is it true that a rate-regulated entity could choose to adopt its regulator's accounting policies -- for example, capitalization -- as its financial accounting policies in its financial statements?

 So perhaps I can give you an example. Say your

capitalization policy is tweaked slightly; it is not a major shift, but it was a tweak in the policy. So obviously, say the overheads were reduced for regulatory purposes as to what you can capitalize in PP&E, how would you deal with that scenario?

 MR. KOGAN: Were the costs otherwise allowed for covering the period, if the capitalization went down?

 MR. BAKSH: Yes, it would be through the normal depreciation expenses, per se.

 MR. KOGAN: Sorry, just to be clear, so if the costs that were going to be capitalized are not going to be allowed to be capitalized by the regulator, they would be allowed right away in rates for the year incurred, since they would now be pure expenses?

 MR. BAKSH: You have a difference between your financial accounting, PP&E, versus what you have for the regulatory books with respect to your PP&E.

 MR. KOGAN: No. I appreciate that. I am just wondering the other side of that -- so the amount that is not allowed for capitalization, is it otherwise allowed for recovery in the -- as a period expense?

 MR. BAKSH: Yes.

 MR. KOGAN: I think this, I guess, goes back to what I would call a concept in my mind of -- there are two separate units of accounting.

One is you determine what is your appropriate capitalization policy, as you would if you are unregulated, in accordance with GAAP.

 Then you would overlay on top of that, if you met the criteria, as Mr. Mauti said, of the regulatory asset or liability, and that would be how you would account for that difference.

 Whether for presentation purposes on the financial

Statements, you could add that or net that against the fixed asset balance in all of the circumstances, I am not sure. I know of certain circumstances where you cannot do that.

But they are, in my mind, two separate transactions; one capitalization and one a regulatory decision.

MR. BAKSH: Just as a follow-up, as a

Clarification, then, if the company were to adopt the prescribed regulatory accounting policies for financial reporting, assuming that is within the agreement of GAAP, then that is one way to avoid the two sets of books concept. That is what I am trying to get at.

MR. KOGAN: Yes. With the exception that you would need to have an appropriate reason to change the policy for financial accounting purposes, and there are restrictions, in terms of changing that without a change in a circumstance, because otherwise you are into a change of a policy that, A, could either be retroactive restatement of financial statements which would cause reconciliation problems, or there may even be some prohibition around

changing policies if they don't provide -- if they're not, quote unquote, "better policies" under GAAP.

 MR. BAKSH: Okay. Thank you.

 In response to question part (c), the response provides various regulatory ways upon which approval could be sought, but the answer did not confirm whether or not approval must be provided first.

So just let me restate the question, then.

 Should a rate-regulated entity regulated by the Board first seek approval of any changes to its regulatory accounting policies from the Board before making these changes?

 MR. BARRETT: No.

 MR. BAKSH: The answer is no?

 MR. BARRETT: The answer is no.

 MR. BAKSH: Okay. Could I now move to Exhibit L-2.1,

Staff 11?

In relation to Ontario Regulation 3.12.13, OPG has confirmed that its most recent audited financial statement before the making of the OEB's first payment amount or order for the newly regulated hydroelectric facilities are OPG's 2013 audited financial statements.

 The concern I have, however, is that in respect to the 2013 financial statements, they do not separately identify or provide audited figures for the newly regulated hydroelectric facilities.

 So may I request through an undertaking for OPG to

provide the Board for 2013 audited financial -- sorry, let me restate that. An undertaking to request for OPG to provide the Board 2013 audited figures for the newly regulated hydroelectric facilities that include balance sheet and income statement information similar in format as provided at Exhibit L-2.1, schedule 1, Staff 8, attachment 1, table 1?

 MR. KOGAN: Sorry, what was the last reference again?

 MR. BAKSH: Yes. Sure. In the format as provided at Exhibit L-2.1, schedule 1, Staff 8, attachment 1, table 1.

 MR. KOGAN: There is a couple of parts to this response. With respect to asset liability values that I believe the regulation section refers to the Board having to accept, we've set out what those are unaudited in Environmental Defence 3. And I apologize, the issue escapes me.

 But that outlines -- the attachment there outlines the asset and liability values we believe the Board should accept, and it is our intention to have those audited and filed with the Board.

 There are other values that are set out in the Exhibit L, tab 2.1, schedule 1, Staff 8, attachment 1, such as the P&L information, income statement information, the top chart, that we have assembled using best efforts, as we note on page 1 of the interrogatory at line 23, and so we don't have audit-quality information for that. We did this for illustrative purposes, basing it on what we had largely in evidence.

So we simply don't have that information going back to 2012.

 MR. BAKSH: In terms of a reference I provide you, that's a 2012, but the question -- or the request is with respect to 2013, because apparently that's the benchmark financial statement the Board needs to use in order to prescribe -- or set the new payment orders for the newly regulated hydroelectric facilities.

 So I guess my concern would be, for example, if the genesis of this table I referred to arises from the segment disclosure in note 15, which doesn't have a distinct separation for this new category of assets that will be rate-regulated starting July 1st.

 So one can say you can rely on the financial statements, but we can't point a figure -- for example, I think within the evidence interrogatories, I believe the assets -- PP&E, for example -- was 2 million -- 2 billion, 525-million was the amount you had quoted as at 2013 values.

 However, when I look at the segment reporting in your 2013 financial statements, note 16, I believe that amount is at 3.3 billion. So there is a difference of about $800 million. So I am not sure if they ought to rely on that, say, the 3.3 billion, and say: Well, that is the amount that would be equivalent to a starting point of rate base calculation and the opening balance in 2014, for example.

 MR. KOGAN: So as I mentioned, the regulation requires the Board to accept asset and liability values, not prior-year income-statement values, and we will have those audited as of the end of 2013, the ones that are set out.

And I now have the full reference: L, tab 2-1, schedule 6, ED 3, attachment 2.

 MR. BAKSH: Okay. So you agree on the assets, but you cannot do it for the income statement. Is that what I am gathering from your response?

 MR. KOGAN: Given the requirements of the regulation, it's not necessary to audit income statement figures for the prior year.

 MR. BAKSH: Okay. Just to clarify, however, you're saying you can do audited figures for the PP&E, the balance sheet figures? So in other words, the assets and liabilities would be -- provide us a schedule based on audited figures?

 MR. SMITH: I think we are going to have the assets and liability figures audited, and we are not prepared to audit the income statement figures.

 MR. BAKSH: Okay. Thank you.

 Could I please ask you to go to L-4.7, Staff 45? This is a clarification, and so in terms of a clarification to the response, will OPG get prior approval from the Board before it establishes and records the $150 million regulatory asset, as discussed in this interrogatory

response?

 MR. MAUTI: That value is outside of the '14/'15 period that this application relates to.

 MR. BAKSH: Okay. So I guess the question is: Are you seeking prior approval before you are recording January 1st, 2016, $150 million?

 MR. SMITH: There are no approvals being sought in this application in relation to that.

 MR. BAKSH: Okay. Thank you.

 May I ask you to please go to Issue 6.11, Staff 141?

 MR. KOGAN: We have that.

 MR. BAKSH: Can you please describe to me what was the -- your previous treatment for gains or losses regarding the asset retirements, say, prior to 2011?

 MR. KOGAN: I would refer you to Exhibit F-4, tab 1,

schedule 1, page 4 starting at about line 7; I think that should answer your question.

 MR. BAKSH: So if I understand this correctly, in terms of treatment of gains and losses with respect to asset retirements, in the case where you have premature retirements, that would just be booked right to your income statement as a gain or loss -– or in this case as a loss, as a premature retirement, as contrasted to your normal retirements that, I guess in a pre-2011 period, you would

have recorded as against accumulated depreciation, effective on, say, January 1, 2011; you have elected to the income statement to record those losses.

 Is that the treatment I understand as described in the

evidence?

 MR. KOGAN: At a high level, yes, with just maybe one or two clarifications.

 One, you may or may not have a loss -- you may have a loss or you may have a gain on retirement, depending if there is a scrap sale and so on. Just so that is clear, it could go either way.

 And the second point, just to reiterate our evidence that the impacts have been immaterial -- in fact, in my mind almost de minimus -- accumulating to less than a million dollars of net amounts sitting in accumulated depreciation as noted -– sorry, as of the end of 2010, as noted in F-4, tab 1, schedule 1, page 4, line 21.

 MR. BAKSH: In respect to that $1 million that goes to the income statement, I presume that is a loss? So that would be a loss on disposition?

 MR. KOGAN: It was a net loss. And it was for all of OPG's operations.

 MR. BAKSH: That would be the reclassification, say, because you have stricken out the accumulated depreciation and it goes to income statement as the one-time adjustment?

 MR. KOGAN: Yes. That amount would have been debited to the income statement and credited to accumulated depreciation.

 MR. BAKSH: Does this type of accounting treatment for the retirement of assets also impact the value of the regulatory rate base?

 MR. KOGAN: Again theoretically, yes. But like I said, that amount is less than a million dollars and it is for all of OPG's operations. So I expect the regulated amount would be de minimus.

 MR. BAKSH: Could I ask you now to go to Exhibit L-6?

 MR. SMITH: Can I just ask for an estimate how long we are expected to be? The witnesses have been going for a long time now.

 MR. MILLAR: Mr. Baksh?

 MR. BAKSH: I think probably 20 to 30 minutes, depending on the responses.

 MR. MILLAR: We're going to need to take a break for the court reporter, and maybe that will give us an opportunity to consolidate as we can. Can we take --

 MR. SMITH: Can we give some thought to the materiality of the information that is being sought? We just spent five minutes on information that was related to an amount of less than a million dollars.

And as the Board indicated very clearly to OPG in the

last case, it encouraged parties to think about the cost benefit.

 MR. MILLAR: Let's take 10 minutes and we will see what we can look at.

 --- Recess taken at 5:19 p.m.

 --- On resuming at 5:32 p.m.

MR. MILLAR: Okay. We're into the final stretch here. Mr. Baksh?

 MR. BAKSH: Thank you.

 Could I ask you now to go to L-6.12, Staff 147?

The company has acknowledged that equal life method --

 MR. SMITH: Just give us a second to pull it up.

 MR. BAKSH: Okay? Yes. So my question is with respect to the fact that the company has acknowledged that the equal life method provides for a superior matching of the depreciation compared to the average service life procedure.

 However, OPG doesn't have the data required to use the equal life method due to changes to the asset's revaluation in 1999.

 And my question is: How many years' data would you need in order to adapt the equal life method?

 MR. SMITH: Sorry, just with respect to the preamble to your question, where were you looking, about the company's acknowledgment?

 MR. BAKSH: Well, I just generalized the response. If you go to response (b), in the view of Gannett Fleming, the OGF procedure provides a superior match of the consumption of service values of the assets to depreciate expense.

 So that that is -- you agreed with the findings, I believe, of the consultant, and I am just surmising what I guess the conclusion was.

 So the question essentially is that you don't have the data to adopt this technique or procedure, and my question is: How many years would you normally need to be able to perform or to use this type of technique?

 MR. KOGAN: So just before launching into a response, I would just clarify that the Gannett Fleming report did not necessarily speak to the fact that the ELG procedure is superior. It is their view that we have canvassed separately from their report that was expressed here in part (b), and their report, in fact, in subsequent italics, discusses reasons that it is not applicable to OPG.

 And furthermore, the full quote in part (b) goes on to say:

"It is superior in the circumstances where sufficient information exists and where the original vintage of the investment is known."

 Turning to your question, I don't know the exact answer of how many years you would need. However, I would think that given that we're talking about long-lived assets -- and some of these assets are quite long-lived -- and since OPG has been in existence, legal entity, since 1999, it would seem to me that that is an insufficient period, and I think that is indicated here as such.

 And coupled with that, we actually don't have a lot of

retirements, we have only a few retirements, so we don't think that that would be applicable in the circumstances right now.

 MR. BAKSH: Okay. And by way of undertaking in respect to the asset revaluations in 1999, formation assets classes, can you please provide useful lives pre-1999 OPG changeover -- so I presume that would be March 31st, 1999 -- and post-OPG changeover, which would be effective April 1st, 1999?

 And the basis of this question is to recognize that if you have a revaluation, the notion is that you do not have the underlying data and the right inputs with respect to number of issues, obviously, including depreciation, cumulative depreciation, and you would not be able to evolve and use this so-called technique which Gannett Fleming has recommended in other jurisdictions as being a better match for depreciation.

 But what I am trying to get at as well is the issue of -- in terms of that revaluation, that is one concern, but what were the changes in useful lives arising from that change in the revaluation?

 And I can give you an example of where I believe it was another interrogatory response where -- I believe it is 160. Let me just confirm that.

So it is Staff 160, so that is Exhibit L-6.12, Staff 160, where in response to the original Niagara Tunnels -- Niagara Falls Tunnels, which had a service life -- sorry, which commenced operation in 1955, in 1999 the useful lives were extended to 2074. So that's an additional 75 years. That's from 1955 to 2074. The service lives would have been about 120 years.

 So that is the reason I need to understand for one asset you had moved the valuation, but you also have extended the useful lives. I think the Board would be better informed as to know what has been the changes overall in respect to -- I am not asking for all calculations. I am asking for the major asset categories, in terms of the pre- and post-1999 asset useful lives.

 MR. SMITH: No, we're not prepared to do that.

 MR. BAKSH: Could I ask you to go to Exhibit 6.12, Staff 149?

The Board in its previous proceeding, which was the EB-2010-008 Decision with Reasons, directed OPG to file

independent study for -- independent depreciation study at its next proceeding.

 In response to this direction, the company has filed two studies, the first dated December 2011, and the second was dated November 2013, by Gannett Fleming.

 The two studies recommend changes to depreciation rates, or concurred with changes to depreciation rates made by OPG's management.

 The question is: Was OPG directed by the Board to adopt and implement any of these -- any recommendations in respect to the depreciation arising from the study prior to the next proceeding, which is this current proceeding?

 MR. SMITH: I'm sorry. Is there a question of

clarification?

 MR. BAKSH: Yes. Was OPG directed by the Board to adopt and implement any recommendations for changes to depreciation arising from the study prior to this proceeding?

 MR. SMITH: Well, I don't have the direction in front of me, but I take from the preamble to the question that the direction was to file an independent depreciation study in this proceeding, which OPG has done.

 MR. BAKSH: And therefore the clarification I am seeking is: Was the company asked to implement any of these changes prior to the Board first reviewing the information in the studies?

 MR. SMITH: As I indicated, we may be missing each other. I understood the direction to be only to file an independent depreciation study at the next payment order proceeding, which OPG has done.

 MR. BAKSH: Okay. Could I ask you to go to L-6.12, Staff 151, and also Exhibit F-4-1-1, table 2?

 MR. KOGAN: I have that.

 MR. BAKSH: In response to part (e) of the question, OPG indicated Exhibit F-1-1, table 2, line 6 for the nuclear assets provided the total forecast amount of gains and losses as an expense of 6.7 million in 2014 and 7 million in 2015.

 I cannot find those numbers on the table. Was that a

reference that was correct and provided, or it should be a

different table referenced?

 MR. KOGAN: So I think maybe there is one too many commas in the sentence, but turning to Exhibit L, tab 6.12, schedule 1, Staff 151, starting at line 27, we're saying that the previously newly regulated hydroelectric amounts can be found at tables 1 and 2 of F-4, tab 1, schedule 1, and that those are the amounts of 6.7 and 7.0.

 The nuclear amounts are nil. I think it is just the way the sentence is structured with the commas that you were thinking those are hydroelectric amounts.

 MR. BAKSH: But are those amounts reflected in table 2, in line 6?

 MR. KOGAN: No. They're reflected in Exhibit F, tab 1, schedule 1, table 1, some on line 4, and line 10 for the 2014 and 2015 years.

 MR. BAKSH: Okay. Thank you.

The next reference is L-6.12, Staff 160.

I referenced this Staff 160 previously, and it is in the context of where it was mentioned that given that the useful life of the two existing -- or two original Niagara Falls Tunnels were extended to 2074 in 1999 by an additional 75 years, the useful life now is approximately 120 years.

 In contrast, the new Niagara Tunnel useful life is only 90 years. So I would like to know, was this information in respect to the two original tunnels considered for the accounting depreciation in the context of the new tunnel and its useful life?

 MR. KOGAN: So I think this interrogatory may outline that there is a number of differences between the new tunnel and the old tunnels, relating to how they were constructed, where geologically they are located. In fact, probably the first line at part (c) is, as I understand, important in terms of the location.

 And the assessment with respect to the depreciation life of the new Niagara Tunnel was made based on the evidence that we have, and I think Exhibit L, tab 6.12, schedule 1, Staff 161 outlines and provides some of this evidence, including the design life in the DBA, and the concurrence of Gannet Fleming that that is the appropriate life for the new Niagara Tunnel.

 MR. BAKSH: In terms of a benchmark, wouldn't this be sort of useful information to consider? I mean, companies usually benchmark if they don't have an equivalent asset to compare with.

 In this case, you have one that is almost side-by-side, recognizing there could be some slight differences in the structure of the formation of the rocks, which is detailed in evidence and the response to the interrogatory itself.

But wouldn't this be a good benchmark to make a case that the 90 years is really not appropriate, based on the company's own experience with respect to the two original tunnels?

 MR. KOGAN: The short answer is no, and I don't think it is at all accurate to characterize that they are slight differences between the tunnels.

 I understand that there are significant differences between the location, the manner in which the tunnels were constructed, and other such technical matters, which unfortunately I can't speak to.

 MR. BAKSH: Okay. Thank you.

Can we now move to Exhibit L-6.13, Staff 166?

 In response to question (a), OPG indicated that the 2013 actual ordinary tax loss is 153.8 million.

 In response to part (b), which asked if the net loss has been applied as a loss carry-forward to reduce the regulatory taxable income in 2014, the answer was no.

 Starting at line 29, the company states:

"This principle of attributing the tax cost or benefit between the ratepayers and OPG's shareholders was established by the Board in EB- 2007-0905."

 Can you please explain to me how does this tax attribution principle work?

 MR. KOGAN: I believe it's, simply stated, benefits follow costs.

 MR. BAKSH: Okay. OPG also indicated that a shortfall of, in 2013 in respect to the nuclear production, approximately $325 million was a main contribution to the regulatory loss of 153.8 million.

 Can you please explain the statement at line 43, which states:

"As OPG has incurred an operating loss, it should retain the benefit of the associated tax losses."

 MR. KOGAN: As OPG's actual production for 2013 was lower than that assumed in the setting of the payment amounts in EB-2010-0008, OPG did not recover all of its costs as a result of lower production. So OPG experience an operating loss for which the ratepayers have not compensated OPG, and therefore the associated tax benefit of the loss also falls to the shareholder.

 MR. BAKSH: Just one quick clarification. Would it have mattered whether the loss arises from the loss in production? Or, say, for example, it was an increase in expense, say for nuclear fuel?

 MR. KOGAN: It wouldn't matter, as long as the loss arose as a result of the cost that was -- or a shortfall borne by the shareholder.

 MR. BAKSH: Can you provide -- sorry, the question is: Did OPG 2013 payment order amounts include an income tax provision?

 MR. KOGAN: Could you just clarify the years there? I'm sorry, I didn't --

 MR. BAKSH: Yes, sorry. Did OPG's 2013 payment order amounts include an income tax provision? Sorry.

In other words, your rates in 2013, did it include a provision for income taxes?

 MR. KOGAN: The short answer is yes, but the rates were established in EB-2010-0008, and as they continued, the assumed provision in those years therefore continues in the ensuing rates, if you will, continued rates.

 MR. BAKSH: Yes. Do you know what that figure was in your 2012 rates with respect to your tax provision?

 MR. KOGAN: No, but I am sure it can be found in the payment amounts Order.

 MR. BAKSH: Okay. Can you confirm that this amount was 91.1 million approved for the 2012 test year, which was the amount that was -- also underpinned the 2013 payment amounts you just mentioned?

And the reference I have for that is payments amount Order EB-2010-0008, appendix A, table 7.

 MR. KOGAN: So if that is the figure that is stated in the payment amounts Order, then that is the figure for the payment amounts Order.

But just for clarity, it is more of an average-type number of the '11 and 2012 were approved that would

effectively continue or --

 MR. BAKSH: You're saying it is the average of the 2011-2012 combined total that does really, in effect -- in the 2013 rates as a provision for the income taxes?

 MR. KOGAN: That would be a reasonable assumption, yes.

 MR. BAKSH: Okay. Thanks. I am requesting an undertaking for OPG to provide a copy of its 2013 federal tax return -- that is, a T2 corporation income tax return -- and also a reconciliation of tax return to regulatory income tax calculation for the year ended December 31st, 2013, in the format of table 6 at Exhibit F4-2-1.

With respect to the 2013 tax return, it may be filed as confidential information.

 MR. SMITH: We will consider that request. The information wouldn't be available until after June 30th in any event.

 MR. MILLAR: JT2.41.

 MR. BAKSH: Can I just ask one clarification?

 MR. SMITH: We will consider it, but -- well, actually, sorry, as I think about that, it doesn't make any sense. We don't have it. It is not going to be available until June 30th. We can't undertake to do it. Anyway, it is obvious. We're not going to do it.

 MR. MILLAR: So no undertaking?

 MR. BAKSH: Okay. Could I ask you to go to L-6.13, Staff 169?

And I just want to clarify. What the IR was seeking to get was the capital cost allowance amounts with respect to the SR&ED qualifying capital expenditures.

 The reason for that is because the tax rule has changed, and these amounts are now carried forward and used for capital cost allowance purposes.

 And I was trying to get a quantification as to what was included in the 2014 and 2015 test period. So the question wasn't the fact that you can't forecast it; it was: How have you used the new tax rules to now apply that against the capital cost allowance in those two years?

 MR. KOGAN: I think we did interpret the question the way you have restated it now, and I think we don't have that information because we no longer need to forecast it, since you no longer need to separately identify SR&ED capital expenditures, since they now have the same treatment as all other capital expenditures.

So as a result, I can't tell you what we no longer do.

 MR. BAKSH: Okay. Just one clarification. Is the tax rule essentially saying that you can now move these expenditures into CCA because they are no more an item of capital? Because that's the rule itself, right? That's the change in the rule?

 MR. KOGAN: The change in the rule is that those expenditures received, quote, "special treatment", that they were immediately deductible. That special treatment no longer applies, and they become just like all other capital expenditures, subject to the capital cost allowance and other rules.

 MR. BAKSH: So have you then, in fact, applied the tax advantage of using CCA in 2014 and 2015 in respect to the change in the rules?

 MR. KOGAN: Yes, we have forecast capital cost allowance on all eligible capital expenditures.

 MR. BAKSH: And can you provide those amounts, please, for 2014 and '15?

 MR. KOGAN: The -- in aggregate, our capital cost allowance information is, I believe, part of our forecast tax provision in Exhibit F-4, tab 2, schedule 1, and there is specific accompanying tables that show a schedule of the capital cost allowance calculations.

 MR. BAKSH: Okay. Can you perhaps help me by pointing out what class this would belong to, what capital cost allowance class it would belong to, so I can find that?

 MR. KOGAN: I think we may not be crossing each other here, in that it is implicitly part of a pool of capital expenditure for which we have forecast capital cost allowance.

Before we needed to go into that pool and identify how much are these SR&ED expenditures, so as to give them separate immediate deductible treatment. Since I no longer have to do that, whatever it would otherwise be is already part of that pool.

 You're effectively asking me: Tell me what it otherwise would be, and tell me how much more CCA you've claimed as a result, and I'm saying we haven't done that analysis because we didn't have to, since they no longer have to be separately identified --

 MR. BAKSH: So you're saying basically it is embedded in -- the residual amount is within the CCA?

 MR. KOGAN: Yes. Any of these eligible expenses are within CCA --

 MR. BAKSH: Okay. Thank you.

 Could I ask you to go to 6.13, Staff 170?

 MR. KOGAN: I have that.

 MR. BAKSH: Now, in light of the changes OPG has made to the newly regulated hydroelectric 2014 UCC, opening balance from 1,277.8 million to 1,590.9 million -- an increase of 113 million to UCC -- did OPG make adjustments to increase CCA for the 2014 and 2015 test years in respect to this increase in the UCC?

 MR. KOGAN: I don't think we have in general made any

changes based on our date for actual 2013 information. And as Mr. Barrett indicated, we are canvassing for information that would be part of an update that exceeds certain thresholds, so presumably that would be part of that consideration.

 MR. BAKSH: Okay. Thank you.

 Can you please go to Exhibit 9.7, Staff 195, as well as Exhibit H-1-3-1, page 3?

 MR. KOGAN: Sorry, what was the second reference?

 MR. BAKSH: Yes, it's Exhibit H-1-3-1, page 3. So I realize we are getting closer to the end of time. I will try and -- this is the last question. I will try to be quick.

 It's the -- you have indicated in terms of the proposed sub-account for the newly regulated hydroelectric facilities, we have asked for an analysis to provide a comparison of forecast production to actual production in the past recent years, and this is in respect to the sub-account of the hydroelectric water conditions variance account.

 And from my understanding is that -- from your response was that you cannot have performed this type of comparison, and I would like to know why not.

 MR. KOGAN: So as we describe in this interrogatory and elsewhere in Exhibit H-1-1-1, for the hydroelectric water conditions account there is a separate model that is set up and analyzed whereby only water condition/water flows are varied to determine the variance, as there could be other factors impacting the forecast to actual variance.

 And since we have not had to do that analysis, we haven't undertaken it in the past for the newly regulated assets, and I do believe it would be a lot more complicated, certainly a lot more work-intensive, to do so, given that we're talking about 48 facilities, as opposed to several that are previously regulated.

 MR. BAKSH: Well, just to clarify, I was just talking with respect to the 21 facilities for which you are seeking the sub-accounts of the respective accounts you already have in place.

 MR. KOGAN: Fair enough, but 21 is still bigger than the couple we have now.

 MR. BAKSH: Yes. Well, and just to clarify, does that mean, then, at this point in time you don't really have a -- you don't really know the amounts which would be recorded potentially into the sub-accounts? Like, you don't have an idea with respect to the variance that would arise potentially?

 [Witness panel confers]

 MR. KOGAN: Could you restate the question?

 MR. BAKSH: Sure. What I am trying to determine is that -- does it mean, since you can't perform this analysis currently because of the restrictions you have provided, that doesn't mean, then, that you can't determine the variance that will be recorded in the account?

Because I guess the idea is that you need to have a forecast first, and then you need to have an actual that comes into place afterwards to determine that variance.

 MR. KOGAN: No, no, that doesn't mean that. We are working on developing a model specifically for these facilities in time for the July 1st date.

 MR. BAKSH: But at this point in time, as we stand, you don't have an idea as to how material these amounts would be potentially. Like, you don't have a historical trend to say: Well, last year it would have been $5 million differential that we would have recorded in the sub-account in, say, 2013 or 2012?

 MR. KOGAN: We don't have a historic record, but certainly from our experience, overall water flows do fluctuate and can fluctuate significantly.

MR. BAKSH: Okay. Thank you very much, panel. Those are my questions.

MR. MILLAR: Thank you very much, Mr. Baksh.

And thank you very much, panel 4. That concludes the examinations and that concludes the technical conference.

Just some final housekeeping matters. As per Procedural Order No. 5, I understand that OPG will be

working diligently to complete the undertakings, and will file them progressively as completed, but not later than May 2nd, with the exception of JT2.33, and that is the one we discussed earlier.

 Mr. Smith, are there any final matters?

 MR. SMITH: No, I think that closes it off from our

perspective.

 MR. MILLAR: Thank you very much, panel 4. I know it has been a long day for you, and we are adjourned.

--- Whereupon the conference adjourned at 6:03 p.m.

EB-2013-0321

Ontario Power Generation Technical Conference

Wednesday, April 23, 2014

ERRATA

Page 61, line 13 "to alive" now reads "tube life"

Page 119, line 12 "create" now reads "credit"

Page 204, line 23 "without it changing" now reads "without a change in"

Page 204, line 24 "you interchange a policy" now reads "you are into a change of a policy"

Page 204, line 25 "statement, or" now reads "restatement of"

Page 212, line 23 "OGF procedure" now reads "ELG procedure"

Page 212, line 23 "Canada" now reads "canvassed"

Page 216, line 19 "new" now reads "nil"

Page 226, line 15 "Doesn't mean that we are working..." now reads "Doesn't mean that. We are working..."