

ONTARIO ENERGY BOARD

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| FILE NO.: | EB‑2013-0321 |  |
| VOLUME:  DATE:  BEFORE: | 3  June 16, 2014  Marika Hare  Christine Long  Allison Duff | Presiding Member  Member  Member |

EB-2013-0321

THE ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. 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.

Hearing held at 2300 Yonge Street,

25th Floor, Toronto, Ontario,

on Monday, June 16th, 2014,

commencing at 9:35 a.m.

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VOLUME 3

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BEFORE:

MARIKA HARE Presiding Member

CHRISTINE LONG Member

ALLISON DUFF Member

MICHAEL MILLAR Board Counsel

VIOLET BINETTE Board Staff

TED ANTONOPOULOS

RON TOLMIE

CRAWFORD SMITH Ontario Power Generation (OPG)

CHARLES KEIZER

COLIN ANDERSON

CARLTON MATHIAS

ANDREW BARRETT

DAVID CROCKER Association of Major Power

SHELLEY GRICE Consumers of Ontario (AMPCO)

HAMZA MORTAGE

VINCE DeROSE Canadian Manufacturers & Exporters (CME)

JULIE GIRVAN Consumers' Council of Canada (CCC)

DAVID MacINTOSH Energy Probe Research Foundation

LARRY SCHWARTZ

KENT ELSON Environmental Defence

TAM WAGNER Independent Energy System Operator

JESSICA SAVAGE (IESO)

PATRICK DUFFY

DAVID POCH Green Energy Coalition (GEC)

PIPPA FEINSTEIN Lake Ontario Water Keeper

FRED CASS Ontario Power Authority (OPA)

RICHARD STEPHENSON Power Workers' Union (PWU)

BAYU KIDANE

TRAVIS ALLAN Retail Council of Canada

LAURA ZIZZO

JAY SHEPHERD School Energy Coalition (SEC)

MARK RUBENSTEIN

MICHAEL JANIGAN Vulnerable Energy Consumers

JAMES WIGHTMAN Coalition

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Monday, June 16, 2014

### --- On commencing at 9:35 a.m.

MS. HARE: Good morning. Please be seated.

So we are continuing with panel 1 this morning. Are there any preliminary matters?

# Preliminary Matters:

MR. SMITH: Two small preliminary matters, Madam Chair, first by way of update. Parties will have noticed we filed a number of undertakings on Friday, and I believe there is one to come, but that will be in today, and that will bring us up to speed.

We did notice an error in the headings of one of the undertakings that we had given, JT2.33, and perhaps an error in one of the figures in that rather large table. In any event, we are on it, and we will be filing an updated JT2.33, I expect, at some point today.

MS. HARE: Okay. Thank you. Is that all?

MR. SMITH: That's all.

MS. HARE: Okay. Anything, Mr. Millar?

I see Mr. Thompson has replaced Mr. DeRose. You would have noted from the transcript I was very worried that you weren't going to be here.

MR. THOMPSON: Yes, I appreciated that, just before Father's Day.

MS. HARE: Okay. I think the first cross-examiner is Mr. Stephenson on behalf of the PWU.

MR. STEPHENSON: Good morning. Thank you.

This is sort of a preliminary matter, but clearly there are going to be a number of parties referring to the KPMG report.

MS. HARE: Yes.

MR. STEPHENSON: I am just wondering if it makes sense just to give it an exhibit number now before we get into it.

MS. HARE: Yes.

MR. MILLAR: Exhibit K3.1.

MR. SHEPHERD: Madam Chair, sorry, can I just ask a question? There's actually three documents in the KPMG report. Are they all given the same exhibit number?

MS. HARE: Well...

MR. STEPHENSON: For my purpose, I don't care.

MS. HARE: Well, Mr. Millar, what we think to do -- I think they should have separate exhibit numbers.

MR. MILLAR: Yes, okay. So there is the KPMG Ministry of Energy assessment of benchmarking reports from OPG dated December 7th, 2012.

MS. HARE: Right.

MR. MILLAR: That will be K3.1.

EXHIBIT NO. K3.1: KPMG MINISTRY OF ENERGY ASSESSMENT OF BENCHMARKING REPORTS FROM OPG DATED DECEMBER 7TH, 2012.

MR. MILLAR: And then there is the KPMG Ministry of Energy assessment of organizational and structural opportunities at OPG dated December 6th. K3.2.

EXHIBIT NO. K3.2: KPMG MINISTRY OF ENERGY ASSESSMENT OF ORGANIZATIONAL AND STRUCTURAL OPPORTUNITIES AT OPG DATED DECEMBER 7TH, 2012.

MR. MILLAR: And finally, there is a third report by KPMG entitled "OPG ratepayer impact analysis" dated February 9th, 2013. That will be K3.3.

EXHIBIT NO. K3.3: REPORT BY KPMG ENTITLED "OPG RATEPAYER IMPACT ANALYSIS" DATED FEBRUARY 9TH, 2013.

MR. STEPHENSON: Thank you.

MS. HARE: There are some redactions to the report. Does that affect your cross-examination at all, Mr. Stephenson?

MR. STEPHENSON: It doesn't, unless the panel wants to make reference, but I don't even have the other one here, and I wasn't planning on making reference to it.

# ONTARIO POWER GENERATION - PANEL 1, RESUMED

**Nicolle Butcher, Previously Affirmed.**

**Andrew Barrett, Previously Affirmed.**

**John Mauti, Previously Affirmed.**

## Cross-Examination by Mr. Stephenson:

MR. STEPHENSON: Good morning, panel. My name is Richard Stephenson. I am counsel for the Power Workers' Union.

MR. BARRETT: Good morning.

MR. STEPHENSON: I want to start talking about business transformation, and in particular I want to start talking about what business transformation is not and what it is. And in particular, I just wanted to get some confirmation from you.

Am I right that business transformation is not about running the same business organization with fewer people?

MS. BUTCHER: That is correct. Business transformation is focused on changing the way we do work, what we do, to allow us to operate with fewer people.

MR. STEPHENSON: And absent that changed organization, shall I say, you would not be able to continue, shall we say, in your old ways, your pre-2011 ways, shall we say, with the reduced complement?

MS. BUTCHER: Yes, I think that's fair.

MR. STEPHENSON: And similarly, unless you change the way your organization operates, is it fair to say that the staff reductions will not be sustainable? That is, to the extent that you have reduced complement now, unless you embed a permanent change of philosophy and operation, you are simply not going to be able to sustain that reduced complement.

MS. BUTCHER: Yes, I think that's fair. One of the focuses of BT is to ensure that we are eliminating adequate work from the program to ensure that they are sustainable.

MR. STEPHENSON: The means by which you have done the reduced complement reduction is essentially attrition; fair enough?

MS. BUTCHER: Yes.

MR. STEPHENSON: You have always had attrition, but I take it the difference between what has occurred in the past and what has occurred through the period of business transformation is that there was -- two things have occurred. First, there was a somewhat accelerated pace of attrition caused by some demographic issues; is that fair?

MS. BUTCHER: Yes, I think that's fair.

MR. STEPHENSON: And then, secondly, you simply did not backfill for -- at least in whole for the people that left through attrition.

MS. BUTCHER: Yes, I think the BT -- the business transformation program is largely not necessarily about attrition, but our response to attrition, and ensuring that we control our response and look at other means of eliminating the work such that we don't have to backfill.

MR. STEPHENSON: Okay. Now, I want to talk about some of the constraints that you face in terms of the operation -- the mechanics of BT, if I can put it that way. And one of the challenges that you face is what I would characterize as the mismatch problem, that with attrition you can't control with any degree of precision who chooses to leave the company, fair?

MS. BUTCHER: Yes.

MR. STEPHENSON: And so the problem is, of course, is that sometimes you have people that leave that are in areas where you actually need the bodies, and you have some people in some areas where you have excess bodies and they don't leave, fair?

MS. BUTCHER: Yes, that's fair.

MR. STEPHENSON: Okay. And I take it that that causes at least some transitional issues for you in terms of shortages in some areas?

MS. BUTCHER: It causes a challenge that we need to address through different processes. Depending on which union we are talking about, we have more flexibility. And it allows us to place staff on meaningful work projects to help us, actually, with the BT program. So we actually have some staff where their work has been eliminated that we've taken them and put them on other BT projects so that they can work through actually advancing some of those.

MR. STEPHENSON: I take it that to some degree at least on a transitional basis one of the solutions you have had to implement in order to cover off areas where you have lost some skills is you have actually had to contract out or bring in some contract assistance as a transitional measure.

MS. BUTCHER: Yes, we have seen an increase in our contractors and temp staff. In particular in areas where we are trying to eliminate the work, it's a good short-term solution, rather than bringing in permanent headcount to do work that we anticipate we will be eliminating over the coming years.

MR. STEPHENSON: Am I correct that from OPG's perspective if that contracting in of assistance occurred over a longer-term period, that would be a failure? That there is no -- it's not -- it would not be a success to reduce complement, headcount, and then simply replace it on a semi-permanent basis with contracted-in staff.

MS. BUTCHER: No, that would not be deemed a business transformation success. We are focused on eliminating the work, not just doing the work through a different mix of skill set -- or mix of jurisdictions.

MR. STEPHENSON: In terms of the speed of the reduction -- I take it there's at least two constraints you face, and there may be more; and if there are, tell me -- one of the constraints you face is you don't control the pace of departures?

MS. BUTCHER: That's right.

MR. STEPHENSON: That is one constraint; correct?

MS. BUTCHER: Yes.

MR. STEPHENSON: And a second constraint you face is what I might describe as the management issue, which is there are limits on the speed with which you can change your processes, your structure, your organization on the ground, in order to cope with a reduced complement?

MS. BUTCHER: Yes. When I look at those two constraints I would say that the attrition is happening faster than we had expected. So the second one almost becomes more difficult, because we need to have the capacity to actually be able to do the projects that re-engineer the processes to eliminate the work. So it's a bit of a double-edged sword.

MR. STEPHENSON: If I was -- let me assume for a moment that there would be those in the room that are critical of OPG in terms of the pace of the complement reduction and say it's just not fast enough. You have got to do more, faster. And let's assume somebody suggests that to you.

What's the answer, from your perspective, to that criticism or question?

MS. BUTCHER: I think fundamentally we have a work program that needs to get done, and that work program includes business transformation projects to eliminate the work. And we need to get -- we have to get through that program.

So if attrition gets ahead or if we chose to do it through a means to accelerate attrition, I think we'd still have to get the work done, so we would have to bring in some contractors or temps or some other means of actually continuing the work that we need to continue, and doing the business transformation projects to eliminate the work.

MR. STEPHENSON: Can you just assist us in terms of where OPG stands in the process? I don't know if they have in mind a precise end point or it's an evolutionary thing, but, you know, you projected some numbers out through 2015, which is -- and you've done that obviously for a reason. That's the test period.

But is that sort of a milepost for you, in the sense of you expect the business transformation process to be finished at the end of 2015? Or where are you? Are you halfway done? Are you 99 percent of the way done? Or are you 5 percent done at the end of 2015?

MS. BUTCHER: I would guess we are about 75 percent done. There certainly is an expectation that there is further reductions in work that need to happen in '16 and probably even in '17.

MR. STEPHENSON: Again, if somebody said to you: We think you need to do that work that you are now, in your long-term plan, looking to be done in '16 and' 17 and you need to get that done in '15, what's your answer?

MS. BUTCHER: I guess from a capacity perspective, we don't have the capacity to accelerate the work elimination program. So we would have to carry on doing that.

Or I guess the company could make a choice on prioritizing other things that it has on its plate.

MR. STEPHENSON: Okay. Can I get you to turn up Undertaking JT2.10? We got an updated version of this last week, just in time.

MS. BUTCHER: Yes, I have it.

MR. STEPHENSON: Okay. Am I right that what -- and I am focusing on the chart in the document. Am I right that what this chart is showing us is, in effect, the costs that OPG would have incurred but for the changes that have made from a headcount perspective on BT, and therefore they are the savings?

MS. BUTCHER: Yes, that's correct.

MR. STEPHENSON: I just want to understand this. So if we look at, just as an illustrative example, the 2011 savings, so we see there was a headcount reduction of 348 in 2011, and starting there for a moment, is that number, is that a net number? Or is that a -- you had 348 out the door and then you had a certain number coming back in?

MS. BUTCHER: No, this would be a net number.

MR. STEPHENSON: So that saves you 27 million, and then I see you take that same group of people and you say: That saved us, in 2012, 54 million. I take it that's just sort of you figure it's a half-year versus a full year?

MS. BUTCHER: Yes. We just made to simplifying assumption.

MR. STEPHENSON: Okay. And I just want to know what's in that number. Let's just take the 54 million for 2012, because it's a full-year number.

Obviously that includes direct compensation costs and maybe some attributed overtime costs, but does it include, for example, current service costs on pension for those people?

MR. MAUTI: Yes, it does.

MR. STEPHENSON: And does it also include the OPRB (sic) cost in relation to that number?

MR. MAUTI: Correct. It includes -- we consider to be the burden rate associated with those headcount for that year.

MR. STEPHENSON: Okay. Here is the question I have. And so I see that, again, for that same 2011 cohort -- if I can call it that -- you then have run the 54 million number out through the end of the test period.

The thing I don't quite understand is: Why is that a constant number? Wouldn't there be some escalation associated with those people if they had stayed in the company?

MR. MAUTI: Yes. What we did is for the burden rate associated with these reductions, to avoid any changes or movement in that, we, for the sake of simplicity, assume a standard burden rate associated with the staff.

So the savings calculation for the labour uses the same rate through the balance of this analysis.

MR. STEPHENSON: And is that some kind of forecast average burden rate, then, out through the -- for, in that case, the five-year period? Or is it you simply haven't taken into account escalation at all?

MR. MAUTI: It would have used what the average burden rate was at the beginning of the period, and we held that constant for the balance.

MR. STEPHENSON: So then coming back to where I started, if this is to illustrate to us what you would have spent but for the departure of these people, these numbers are actually too low, because there is escalation?

MR. MAUTI: There would be escalation; there would be changes in the burden rate that would have happened through current service costs of pension and OPEB, which generally would be increasing as well. So if anything, this is probably a conservative estimate of the savings, yes.

MR. STEPHENSON: I take it -- let me ask you the question. If we asked you to do the escalation, what -- is that a manageable task or is that something that's too much to ask by way of undertaking?

MR. MAUTI: It's not impossible, but we would have to go back to each individual year and try to assess any changes in both the burden rate as well as the average labour cost we would have assumed for every one of these years. So it would be a significant effort, but not impossible.

MR. STEPHENSON: Can I leave this way? Can I get an undertaking that you're going to take a look at it? And if you come back and tell us that it's a bigger task than you think, then you will just let us know that way; is that a fair thing to do?

MR. SMITH: Yes, we can do that.

MR. MILLAR: J3.1. And, Mr. Stephenson, could you repeat what it is you want them to do?

MR. STEPHENSON: Update the table contained on Undertaking JT2.10 to reflect the escalation in the costs associated over time with the departures occurring in each of the years.

MR. MILLAR: Thank you.

UNDERTAKING NO. J3.1: TO UPDATE TABLE IN UNDERTAKING NO. JT2.10 TO REFLECT ESCALATION IN COSTS ASSOCIATED OVER TIME WITH DEPARTURES OCCURRING IN EACH YEAR.

MR. STEPHENSON: Okay. I just want to spend one moment, if I can, on the Auditor General's report, which is at -- it's been marked already as KT2.4. If you can pull that up. And in particular I am looking at page 160 and figure 5. There is a chart there.

And am I right, these numbers that appear on this chart, the Auditor General's chart, these came from OPG?

MR. BARRETT: That's my understanding.

MR. STEPHENSON: And am I right that this is -- this chart illustrates in graphic form what I referred to earlier as the mismatch problem, that you've got some areas that are overstaffed, some areas understaffed, and you have got people leaving the company, and it may impact them differentially.

MR. BARRETT: Its does reflect a mismatch issue.

MR. STEPHENSON: And am I right, just to be clear about this, the figures -- or, sorry, the job categories on the right-hand side of the column are those where you are understaffed relative to a benchmark; correct?

MR. BARRETT: Yes, that's my understanding of the chart, but to be fully candid, this is a chart, if you want to explore it in greater detail, that it's better addressed with the nuclear operations panel. They have responsibility for the Goodnight study, which is the underlying data.

MR. STEPHENSON: Okay. Well, let me ask you one more question, and that may be the end of it. The question I have is this: These -- operating on the assumption that these are understaffed and overstaffed relative to a benchmark, the question is, does OPG consider itself -- leaving aside the benchmark for OPG's own operational imperatives and its perceived needs, does it consider itself in fact to be understaffed and overstaffed as reflected on this chart?

MR. BARRETT: I think we have accepted at a general level the conclusions that flow from the Goodnight study, if that's what you are getting at.

MR. STEPHENSON: Okay. And then the last item I just wanted to -- one of the issues is whether or not OPG is understaffed in safety-related functions. And as I see it, I see at least four functions there that are at least -- maybe they are all safety-related, but certainly nuclear safety review, that job is a safety-related function; is that fair?

MR. BARRETT: I think you are starting to get beyond my level of understanding, and probably better addressed with Ms. Swami when she appears.

MR. STEPHENSON: Fair enough.

Okay. I want to go to the KPMG report next. And a couple of general questions firstly. Just to be very clear about this, this is not an OPG-commissioned study; correct?

MR. BARRETT: My understanding, it was commissioned by the Ministry of Energy.

MR. STEPHENSON: And while OPG was the subject matter, if I can put that it way, of this report, this was not a report that was controlled in any way by OPG; is that fair?

MR. BARRETT: Yes, that's my understanding.

MR. STEPHENSON: It is completely independent of OPG, except to the extent that OPG was providing information; is that fair?

MR. BARRETT: Yes, that's my understanding.

MR. STEPHENSON: And in terms of this -- I am looking now at K3.2, and it's indicated as being a draft document. You see that, on the cover?

MR. BARRETT: I do.

MR. STEPHENSON: Am I right that there is no subsequent document, to the knowledge of OPG?

MR. BARRETT: I am certainly not aware if there was a final document.

MR. STEPHENSON: Okay. And was this a document that OPG got to see in an even prior draft for comment before it got to the state that we see it here?

MS. BUTCHER: I don't know whether we did or not.

MR. STEPHENSON: Okay. And was OPG asked by the Ministry or anybody else to respond to this document in written form?

MS. BUTCHER: To the best of my knowledge, no.

MR. STEPHENSON: And was OPG instructed by the Ministry or anybody else to do something as a consequence of this document in response to it in some fashion?

MS. BUTCHER: To the best of my knowledge, no.

MR. STEPHENSON: Okay. If I can then just take you -- and again, I am in K3.2 -- oh, let me ask you this question: What did OPG, if anything, do of its own initiative, having obtained a copy, received a copy of this report in some fashion? Did -- presumably somebody in the organization read it; is that fair?

MR. BARRETT: Yes, I think that's fair.

MR. STEPHENSON: Okay. And was there any action plan or something done as a result of that reading?

MR. BARRETT: I think at a high level the company's reaction was that it was a strong endorsement of the program that we had underway, that it had identified some additional opportunities which were small and kind of at the margins and were really focused on offshoring or outsourcing opportunities, which have a number of challenges associated with them.

MR. STEPHENSON: And if I can just take you for a moment to page 7, and we are here in the executive summary, and in particular I am looking at the last paragraph on that page, and is it fair to say that that -- on your reading at least, and I appreciate this isn't your report, that encapsulates what Mr. Barrett refers to as the endorsement?

MS. BUTCHER: Yes, I think that's fair.

MR. STEPHENSON: And from OPG's perspective, from a dollars and cents -- Mr. Barrett, you referred to some opportunities on the margin, and let's assume for the purposes of this question that in OPG's view that those opportunities were achievable, and we will get to that in a minute, but let's assume they are achievable. By way of order of magnitude, relative to the things you are already doing in BT, I mean, what are we talking about, the order of magnitude of this, the incremental opportunities? Is it an additional 20 percent, 10 percent, 5 percent? What order of magnitude are we talking about?

MR. BARRETT: So we can probably refer you to page 14 of the document.

MR. STEPHENSON: Yes, I was going to get there. Fair enough.

MR. BARRETT: So if you look there, you will see an estimated annual stretch case savings number.

MR. STEPHENSON: 35 million, give or take.

MR. BARRETT: 35 million, and I think a lot of that is based on offshoring work, which is something that I know the government has taken a policy position in opposition to offshoring. And there is a base case of about $15 million per year.

MR. STEPHENSON: And you put those numbers side by side with the numbers that appear in the document we were just looking at, JT2.10, as an order-of-magnitude comparison; is that fair?

MR. BARRETT: Yeah, if you look at that exhibit, just on the head-count savings alone we are pretty close to $200 million per year in savings, so these would represent on the low case less than 10 percent, on the high case if you --

MR. STEPHENSON: Of 15?

MR. BARRETT: Yes.

MR. STEPHENSON: Okay. Now, in terms of -- I just want to talk for a moment about achievability. Presumably OPG has taken a look at that and considered these opportunities. Is that -- and contemplated whether they should be pursued or not and how vigorously. Is that true?

MR. BARRETT: Certainly we have, as I understand it, taken a position that we will not be offshoring work for OPG employees, given the government's policy position around that and the numerous challenges that we would face related to our collective agreements.

So again, if you want to get into the specifics of that, that's probably best addressed with our comp witnesses.

MR. STEPHENSON: Right. But the big number –- I mean, the biggest number, if we are just looking at page 14 and the chart on page 14, is the supply chain number; you see that? Is that right? I mean, that's the -- by far the biggest item that's been identified.

And that doesn't involve, at least, offshoring of personnel; correct?

MS. BUTCHER: Correct.

MR. STEPHENSON: And my question is: What is the status of that recommendation within OPG? Is it under consideration? Has it been rejected? Has it been implemented? Where are you at?

MS. BUTCHER: I believe that the supply chain organization is looking at this and is advancing strategic sourcing. I think if you are looking for details of exactly where it's at, we would have to defer to another panel.

MR. STEPHENSON: But it hasn't been rejected?

MS. BUTCHER: No.

MR. STEPHENSON: Okay. Fair enough.

In terms of the implementation of even -- forgetting about the offshoring issue, there are a couple of other initiatives that involve, I think, people in the membership of my organization. The facilities maintenance recommendation, that would involve, I think, some PWU staff; is that fair? Or do you want me to talk to somebody else about that?

MS. BUTCHER: I think it is fair it would involve PWU staff.

MR. STEPHENSON: Am I right that, absent the agreement of the union, there is not much you can do about that during the duration of the current collective agreement?

MS. BUTCHER: Yeah, I think that's probably a question that would have to be asked of --

MR. STEPHENSON: Okay. That's fine.

I just want to talk to you about some of the realities that OPG faces as a practical matter at a high level in terms of its constraints that govern the revenue requirement on this application.

One of those constraints is your labour costs; correct?

MR. BARRETT: Yes. We have collective agreements that require us to pay certain rates of pay and provide certain levels of benefits.

MR. STEPHENSON: And am I right that OPG really only has two tools, from a management perspective, while the collective agreement is in place, prior to its expiry? The first tool it has is dealing with the attrition question, the extent to which they backfill for people that leave the company? That is a question that is within the control of the company, subject to its operational constraints?

MR. BARRETT: Subject to the operational and safety and reliability constraints that we have, yes.

MR. STEPHENSON: And then the second tool, management tool that the company has, is on the overtime question, that management has some degree of discretion or flexibility with respect to how much overtime it assigns?

MR. BARRETT: I think that's fair, yes.

MR. STEPHENSON: But am I also right that on the question of overtime -- and I don't want to get granular here, this is very high-level -- there are trade-offs for the company associated with the question of allocation of overtime, and that to the extent over time isn't allocated, it could have a couple of -- at least two other potential impacts?

One is spending money on contractors for work not done on overtime? That's one thing; correct?

MR. BARRETT: Yes, that's correct.

MR. STEPHENSON: And that's not necessarily any cheaper?

MR. BARRETT: Not necessarily.

MR. STEPHENSON: It can impact its operations in some fashion, which may affect the revenue of the company?

MR. BARRETT: Yeah, and I think that's probably most acute in the context of a unit outage when you are trying to get the unit back online as quickly as you can.

MR. STEPHENSON: I suppose the third thing it could do in order to constrain the amount of overtime is to increase regular complement, so that you have people working on regular hours as opposed to overtime hours? That's something else you could, at least in theory, do?

MR. BARRETT: Yeah, although I would question whether that would be economic.

MR. STEPHENSON: And I take it that's entirely contrary to your current strategy?

MR. BARRETT: That's correct.

MR. STEPHENSON: One of the realities -- again, I want to deal with this at a high level -- that the company faces relative to its relationship with the PWU is when it comes time to bargain a new deal, the company has to face the consequences or the alternatives that are available to the company in the event that it is difficult or impossible to obtain a new deal on terms favourable to the company; that's the reality, right?

MR. BARRETT: At a general level, yes, that's right.

MR. STEPHENSON: And at least one of the alternatives which is available in the circumstances is a work stoppage; correct? At least in theory?

MR. BARRETT: In theory, that's correct, yes.

MR. STEPHENSON: A regular employer, a typical employer has the opportunity to lock out its employees at the end of a collective agreement. That's an option available to it; correct?

MR. BARRETT: That's my understanding, yes.

MR. STEPHENSON: OPG must have, in its head, considered the potential consequences of a work stoppage by the PWU in the context of a collective agreement renegotiation? It has thought about that issue; correct?

MR. BARRETT: It has, yes.

MR. STEPHENSON: Okay. And I take it has thought about the probability that it would be able to continue to operate its nuclear operations in the face of a work stoppage? It has thought about that issue?

MR. BARRETT: It has, and I think the conclusion it's reached, as far as I understand it, is that it would not be able to operate its nuclear plants in the circumstance of a PWU strike. It would have to move to put those in a safe shutdown state.

MR. STEPHENSON: That has, I take it, at least a couple of obvious implications.

One implication is on the operation of the electricity system; fair?

MR. BARRETT: I think that follows, yes.

MR. STEPHENSON: And another implication is an impact on OPG's revenue; correct?

MR. BARRETT: Yes. We get paid on the basis of output, so dollars per megawatt-hour.

MR. STEPHENSON: I provided to your counsel a copy of a document, which was Undertaking J9.4 from the 2010 hearing. And I think the panel has copies of it. Do you have that?

MR. BARRETT: I am just going to see if we can turn that up.

MR. STEPHENSON: To be fair, you don't actually need to look at it. What the document does is provide an estimate of the financial cost to OPG of a PWU work stoppage, and it provides you with certain assumptions and so forth.

And what I am going to ask you to do by way of undertaking is to update this document. Presumably, the numbers are not the same today as they were then. And I am going to ask you to do one other thing, which is, to the extent that the assumptions contained in this document are not, you think, the best assumptions and you think there are better assumptions, leaving aside assumption number one, I think, which is that assumption I would ask you to make, but leaving aside any other assumptions, I'd ask you simply to update the document. Will you give me that undertaking?

MR. SMITH: Yes, we will do that.

MR. MILLAR: Madam Chair, we will call Undertaking J9.4 from the 0008 proceeding K3.4, and the undertaking, which is to update Exhibit K3.4 and to discuss the assumptions to the extent necessary, will be J3.2.

EXHIBIT NO. K3.4: Undertaking J9.4 filed in EB-2010-0008

UNDERTAKING NO. J3.2: TO UPDATE EXHIBIT K3.4 AND TO DISCUSS UNDERLYING ASSUMPTIONS.

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

MS. HARE: Thank you. Mr. Shepherd, I understand you are next?

MR. STEPHENSON: Thank you, Madam Chair.

MS. HARE: Mr. Shepherd, I see that you are down for 90 minutes.

MR. SHEPHERD: I am.

MS. HARE: Maybe you could find a suitable place halfway through for a break.

MR. SHEPHERD: I will do, Madam Chair.

MR. SHEPHERD: Witnesses, my name is Jay Shepherd. I am counsel with Mr. Rubenstein for the School Energy Coalition. I know many of you. One of you I don't know, but we will get to know each other today.

Madam Chair, SEC has prepared a compendium which we have filed, and I think copies have been provided to you.

MS. HARE: I don't think we have it.

MR. MILLAR: We have it here, Madam Chair. It will be Exhibit K3.5. It's the School's compendium for panel 1.

EXHIBIT NO. K3.5: SEC COMPENDIUM FOR PANEL 1.

MR. SHEPHERD: And Madam Chair, this document is all previously -- all material from this proceeding except for pages 2, 5, 6, 7, and 8, all of which were provided to my friends from OPG well in advance of the hearing.

MS. HARE: Thank you.

MR. SHEPHERD: I will also be referring to SEC IR number 5, which is Exhibit L, tab 1.2, schedule 17, SEC 005. That's the PowerPoint presentation outlining the business transformation plan.

MS. HARE: And that is not in the compendium?

MR. SHEPHERD: It's a big document, so --

MS. HARE: So should we pull that out?

MR. SHEPHERD: At some point between now and the break you should probably pull it out. I won't be getting to it right away.

MS. HARE: Okay. Thank you.

MR. SHEPHERD: And then I will ask a couple of questions about the KPMG report, Exhibits K3.1 through K3.3, but I don't think you're going to need to bring it out, because I think they are sort of high-level questions, and I will not be referring to the confidential version of that.

If I have time, I will get to the Auditor General's report, which is KT2.4, but my best guess is I won't have time for that, so no need to bring that out right away.

## Cross-Examination by Mr. Shepherd:

I want to start by asking a question about the KPMG report, because I heard you, Mr. Barrett, refer to your conclusion that the KPMG report is essentially an endorsement of your business transformation program. Is that right?

MR. BARRETT: Yes, that's right.

MR. SHEPHERD: And that's because they have identified a bunch of things you should be doing, but one after another they say, but they are already doing this in their business transformation plan; right?

MR. BARRETT: I think that's largely reflected in the report, yes.

MR. SHEPHERD: Okay. Is it your intention now that this report is filed to provide a witness from KPMG who will speak to it?

MR. SMITH: No, that is not our intention.

MR. SHEPHERD: Then I am raising -- I am sort of flagging this, Madam Chair, because if my friends are going to rely on the opinion of KPMG, which they appear to be doing with respect to their business transformation plan, then I think we are entitled to cross the expert that prepared the report, or they can't rely on it, and I heard Mr. Stephenson. It sounds like he is going to rely on it as well as saying business transformation is wonderful and this is an independent report.

So I am not asking at this time that the Board order a witness to be presented. We just got it on Friday, and so we are still really reviewing it to see how important this document is going to be, but I want to flag it as an issue that we may raise at some point down the line, or my friends may say, Lookit, we don't want to rely on it, so we are fine.

MR. SMITH: Well, I think the appropriate response at this time is to say I don't agree with Mr. Shepherd's proposition to the extent it is advanced at a later date. It was a document that was requested -- it was ordered produced by the Board. The document says what it says. Mr. Barrett is reading the document. The Board is perfectly entitled to draw whatever conclusions it wants from the document. We don't intend to call a witness from KPMG. It's not our report. It is a document that we happen to have, and that is the very basis upon which the Board ordered production of it.

Having said that, I don't think it's worth the time to have the debate at this point, because I don't know what Mr. Shepherd is going to say later, but we are certainly not calling anybody, nor do I think we need to.

MR. SHEPHERD: Thank you, Madam Chair. I was just flagging it. I don't want to have a fight about it right now. I want to have some more time to look at the report before seeing whether a witness would be necessary, in which case it would be the Board asking for the witness, not OPG.

MS. HARE: So we would probably have to subpoena the witness at that point, so you will let us know if, in fact, that's necessary.

MR. SHEPHERD: It is true, although I suspect that KPMG is not going to force you to subpoena them. My best guess is that they will be happy to show up, but --

MS. HARE: Well, that's interesting. I don't think anybody is ever happy to show up. We are, we are, but...

MR. BARRETT: For the record, we are as well. [Laughter]

MS. HARE: Let's see how it goes.

MR. SHEPHERD: All right. This is -- this panel deals with business transformation, but it also is the overview panel, so I want to start with some overview questions. And you will agree, won't you, that in this application OPG is making the largest single request to the Ontario Energy Board in history for money from ratepayers; isn't that right? You are asking for $9 billion. Nobody has ever asked for $9 billion before; is that right?

MR. BARRETT: I think that's right. I haven't reviewed the historical records with that question in mind, but I think it's probably a fair assumption.

MR. SHEPHERD: And would you accept, subject to check, that the next largest is in fact one of your sister companies, Hydro One, which just recently asked for $7.8 billion, but that's over five years, and yours is over two years. Would you accept that subject to check? Sound about right?

MR. BARRETT: Certainly Hydro One is a much smaller operation than OPG. I will -- I haven't looked at that, the specifics of their numbers, but it's probably in the ballpark.

MR. SHEPHERD: And will you agree that in this application you're asking each and every man, woman, and child in Ontario to pay you about $340 a year up from 255 last year? That's just taking your revenue requirement and dividing it by the number of people in the province.

MR. BARRETT: I haven't done that calculation, sorry.

MR. SHEPHERD: Would you accept that math, subject to check?

MR. SMITH: Well, I am not sure that that's an appropriate question. If Mr. Shepherd wants to adduce the evidence, he should have adduced the evidence. We have not done that calculation.

MR. SHEPHERD: It will be an argument.

Will you also accept subject to check that your ask, your $9 billion, is about a third as much as the total Ontario personal-income-tax bill last year? Would you agree?

MR. BARRETT: I have no basis --

MR. SHEPHERD: You have no way of knowing that. Okay.

The reason I'm asking these questions is not for drama. I am asking this because I want to know whether at any point during your review of the cost that you are asking for in this application, this historical application, at any point did OPG's executive management or its board of directors or even the shareholder look at whether the relative value of what you were asking for was reasonable relative to the total tax bill in the province for all the services of government? Did anybody ever ask that question?

MR. BARRETT: To the best of my knowledge that particular analysis was not considered.

MR. SHEPHERD: All right. Now I would like to turn to the size of the deficiency that you are asking for, and to do this, we tried to prepare a helpful table on page 2 of our compendium.

And you'll agree that you're asking ratepayers to pay in this test period $2.16 billion more than revenue at current rates; right?

MR. BARRETT: Sorry, sir, it took me a minute to turn it up.

MR. SHEPHERD: All right. You will agree, I trust, that you are asking ratepayers in this application to pay an additional $2.16 billion more in the test period than they would pay at current rates; right?

MR. BARRETT: I think the only point of debate we might have is with respect to the newly regulated hydroelectric, what the appropriate jumping-off point is for measuring the increase.

MR. SHEPHERD: All right. Well --

MR. BARRETT: We have used $30 per megawatt hour in our application as representative of recent experience. But that -- the market prices for those facilities can vary quite significantly, and I would note that in Q1 of this year I think they were in the order of 70 or $80 per megawatt-hour. So they are subject to variability.

MR. SHEPHERD: And it was 28 last year? The average for the year last year was 28, right?

MR. BARRETT: I don't have that figure with me, but I will take it subject to check.

MR. SHEPHERD: Well, take a look at page 4 of our materials. And this is from your 2013 annual report. And if you see unregulated hydroelectric, that is 2.8 cents a kilowatt-hour, which is $28 dollar a megawatt, right?

MR. BARRETT: I think the only issue -- and again, it's at the margins -- is that the 48 facilities would be a subset, I think, of that category. There would be some other unregulated hydroelectric facilities, which are subject to contract, that would be in that mix.

MR. SHEPHERD: Sure, but it's also true, isn't it, that the ones that are being newly regulated are, what, about 95 percent of the production of your previously unregulated? It's a big percentage, right?

MR. BARRETT: I don't know that number. I know that that's something you could probably best address with the hydroelectric panel, which would follow us.

MR. SHEPHERD: Would you agree that the ones that are being newly regulated are the vast majority of your past production?

MR. BARRETT: I think they are a substantial majority, subject to the Lower Mattagami project coming on service, but again, I -- $28 or $30 or $32, I think it'd in that ballpark, so I am happy to have the discussion based on your numbers.

MR. SHEPHERD: All right, so I just want to walk through these components of the deficiency for a second. And we are going to talk about the drivers in a second, but on nuclear, the deficiency is about $1.5 billion, right? That's your most recent from the second impact statement, right?

MR. BARRETT: I will take that subject to check, yes.

MR. SHEPHERD: So that's a 31.2 percent increase in what you are asking the ratepayers to pay, right? Per kilowatt-hour?

MR. BARRETT: As I understand this calculation, it's done -- is this done just on the basis of base rates, or is it rates and riders?

MR. SHEPHERD: Just rates.

MR. BARRETT: Just base rates? Okay. Yes.

MR. SHEPHERD: So that's right?

MR. BARRETT: Certainly it's in the 30 percent range, yes.

MR. SHEPHERD: And for previously regulated hydroelectric, you are asking for $287 million more, which is a 19 and a half percent increase, right?

MR. BARRETT: I will take those numbers subject to check.

MR. SHEPHERD: And in both of those cases, those are because your costs have gone up, right?

MR. BARRETT: I think in the nuclear side of the ledger, there has also been a -- if you look at the drivers of deficiency schedule, you will see that the nuclear production for the test period is lower than the production forecast implicit in the 2011/2012 rates. So there are some cost changes, such as pension and OPEB, but there is also some production changes as well.

MR. SHEPHERD: But these numbers are calculated on a unit basis, right? Because revenue at current rates assumes your future production, your forecast production, right? That's your number?

So these all use the same production numbers?

MR. BARRETT: I guess I am reflecting upon the deficiency schedule that we have in our own evidence, rather than the calculation you have done here.

MR. SHEPHERD: Anyway, it doesn't matter. The point I was going to make is this, that on the newly regulated hydroelectric, you have a 70 percent increase, let's say, in what you are asking to recover for that, an additional $352 million, but that's not because your costs have gone up 70 percent, right?

That's because you were being compensated on market price, and market price doesn't necessarily reflect your costs, right?

MR. BARRETT: That is absolutely correct. I think just on a straight-up comparison, the cost of service rate that we proposed for those assets is approximately $47. And we were receiving prices in the marketplace of 28 or $30, depending upon how you measure it, and those were significantly below the cost of owning and operating those assets, and creating issues in terms of their sustainability.

I think as recently as 2012, if you look at our financial results for that year, you will see there was an actual loss on those operations.

MR. SHEPHERD: And the reason why you are losing money on the newly regulated hydroelectric is not because you're spending too much on it -- I mean, we may discuss that later, but that's not the primary reason; the primary reason is that the market is not sufficiently liquid to reflect real marginal costs of generation of this type, right?

MR. BARRETT: I think there's a number of challenges in the Ontario market price-setting mechanism. It is a measure of marginal cost of some type, but I think the fundamental reality is that the marginal price in the market is below the cost of owning and operating these facilities. And I think one of the -- if you look at the market mechanism at kind of a global level, nearly all of the other generation in the marketplace receives a contract which recognizes that the market price does not work in terms of recovering costs of operations and returning a fair return on invested capital.

So these were the outliers in that market context. They were the last, I think, facilities receiving the market price and nothing but the market price.

MR. SHEPHERD: Okay. And in fact, your other regulated facilities, your prescribed facilities, they are also essentially in a type of contract situation where they get a cost-based rate or a rate that's supposed to recover all the costs, as opposed to a market-based rate, right?

MR. BARRETT: Sorry, I was -- are you talking about our previously regulated hydro --

MR. SHEPHERD: Previously regulated hydroelectric, your nuclear. It's the same thing as the FIT program or the old NUGs or whatever. They are getting a contract price -- in this case, regulated price -- from the OEB? It's the same thing, right?

MR. BARRETT: I would say that there are significant differences between a contract price pursuant to an OPA agreement and OEB regulation.

I think if you look at Exhibit A1, tab 3, schedule 1, page 5 of 8 -- and this is the famous comparison charts that we have referenced a number of times -- I mean, one of the stark differences is that those contract prices are much higher than the regulated rates that we receive for our operations.

MR. SHEPHERD: But they are intended to recover costs, right?

MR. BARRETT: At a high level they are intended to recover costs and provide a return on capital, but they are a consequence of either a posted rate or contract negotiations that reflect individual circumstances between the parties.

MR. SHEPHERD: Wonderful. Now, your deficiency, almost $2.2 billion, that's also the biggest rate increase in Ontario history, isn't that right? Nobody has ever asked their rates to be increased by $2.2 billion in history before, right?

MR. BARRETT: As far as I know.

MR. SHEPHERD: Okay. The $2.2 billion, I heard your counsel say in his opening statement that that's driven by three main things, pension and OPEB costs -- let me stop there.

Madam Chair, I know you asked that we not use acronyms.

MS. HARE: Yes.

MR. SHEPHERD: OPEB is one that -- I am going to use it, like, a lot. May I please have permission to use OPEB instead?

MS. HARE: I would rather you didn't. It doesn't take that much longer to say all the words.

MR. SHEPHERD: All right. Pension and other post --

MS. HARE: I will give you two more minutes in your cross for that.

[Laughter]

MR. SHEPHERD: Pension and other post-employment benefit costs, nuclear liabilities and Niagara tunnel, those are the three areas that your counsel referred to as the primary reasons for your $2.2 billion deficiency, right?

MR. BARRETT: Yeah. That's explained further in Exhibit A1, tab 3, schedule 2, which is the drivers of deficiency evidence.

MR. SHEPHERD: It's interesting you mention that. I was going to get to this later, but I'll get to it now. Because you've updated that, right? And if you -- I just have to find it here. It's in our materials somewhere. At –-

MR. BARRETT: It is -- we have it, so if you look at Exhibit L, tab 1, schedule 2, AMPCO 1.

MR. SHEPHERD: Is that page 24 of our materials?

MR. BARRETT: I don't know.

MR. SHEPHERD: Yes, it is. I am telling you.

And that was updated as of the first impact statement, right?

MR. BARRETT: Yes, that's correct.

MR. SHEPHERD: I looked at the second impact statement. I didn't see an update of the drivers of deficiency in that statement. Is there one?

MR. BARRETT: No, sir.

MR. SHEPHERD: Can you undertake to provide one?

MR. BARRETT: We can.

MR. MILLAR: J3.3.

MR. SMITH: Yes, that's fine.

UNDERTAKING NO. J3.3: WITH REFERENCE TO EXHIBIT L, TAB 1, SCHEDULE 2, AMPCO 1, TO UPDATE DRIVERS OF DEFICIENCY IN SECOND IMPACT STATEMENT.

MR. SHEPHERD: So I wonder if we can talk a little bit about the relative impact of the three main drivers. I know there is a bunch of smaller ones, and we may -- if I have time, we will get to them, but I doubt it.

But let's just talk -- let's start with the Niagara tunnel. I looked around to see if I could find an overall net impact of the Niagara tunnel on the deficiency for the test period, and I don't think I found it.

Do you know whether there is, you know, something that has the cost of capital and the depreciation, less the additional incremental revenue and incremental OM&A, if there is any, those sorts of things? Do you have a summary like that anywhere in the evidence?

MR. BARRETT: I don't know if we have been asked that specific question, but if it would be helpful, a good rule of thumb or reasonable rule of thumb is to apply about 10 percent, as a rule of thumb that I use.

So if you assume that you're bringing into rate base approximately $1.5 billion of capital, the kind of annual carry on that, reflective of depreciation and return on capital, rule of thumb is about 10 percent or, say, $150 million.

MR. SHEPHERD: So that would be for 2015, but 2014 then is a half year?

MR. BARRETT: No, remember, the tunnel came into service in 2013, so it would --

MR. SHEPHERD: Yeah, okay. So --

MR. BARRETT: -- be fully included in 2014 rate base.

MR. SHEPHERD: So it would be 300 million, roughly, impact, which seems a little bit high, because your cost of capital is a little lower than that, but let's say 300 million, but --

MR. BARRETT: It's only a rule of thumb.

MR. SHEPHERD: But then you have as well incremental revenue associated with it, right?

MR. BARRETT: There would be incremental production which would go into the rate calculation, yes.

MR. SHEPHERD: Okay. So I am wondering if you can just undertake -- I am guessing that it's somewhere around 200- to $250 million impact on your deficiency, but I wonder if you can just do that calculation in an undertaking and show us.

MR. SMITH: Yes, we can do that.

MR. MILLAR: J3.4.

UNDERTAKING NO. J3.4: TO calculate the net impact of the Niagara tunnel on the deficiency for the test period.

MR. SHEPHERD: The next one is pension and other post-employment benefits. And we are going to talk about that in more detail later, but do I understand correctly that that's roughly $750 million of your deficiency? Am I in the ballpark there, with your second impact statement?

MR. BARRETT: Do you have a reference, sir, that I can look at?

MR. SHEPHERD: No, I was just looking at the numbers and trying to get a ballpark.

MR. BARRETT: Just one second. Between Mr. Mauti and myself, I think that's certainly in the ballpark.

MR. SHEPHERD: Okay. And the primary reason for that is that in the past when we have talked about pension and other post-employment benefits, we have -- the big problem has been it's so sensitive to interest rates and future returns assumptions; right?

MR. BARRETT: Yes, we have seen -- we have been in a period of declining long-term interest rates, and that has significantly affected the pension costs.

MR. SHEPHERD: But this time the big part of the increase is not so much that as your reassessment of how long your retirees are going to live. Isn't that a key component this time?

MR. MAUTI: I think discount rates compared to the pension and other post-employment benefits that are end rates, the discount rate still is a significant factor, but, yes, the assessment of mortality, which is the length of time you would expect your current and pensioners to live can also have an impact on those calculations.

MR. SHEPHERD: And you don't normally redo that calculation every year, but you did do it last year; right? You had your actuaries do it? The assumption of mortality.

MR. MAUTI: There was an accounting valuation of the pension and other post-employment benefits accounts. That was done as part of that accounting valuation, which is typically not always done on an annual basis, but is part of that. The assessment of mortality, not just for Ontario Power Generation, but just the issue of mortality in general in the Canadian and worldwide estimation of pension obligations, has been an issue that's been under review; and, yes, as part of that accounting valuation, that's when our actuaries did that assessment of mortality and life expectancy.

MR. SHEPHERD: And if I understand correctly, in your revenue requirement now, is approximately $1.35 billion for -- no, yeah, $1.35 billion for pension and other post-employment benefits, right, and if you take a look at -- where I am getting this is page 23 of our materials, is page 4 of your second impact statement.

So I am just adding 1294 on line 1 of chart 2 to 71.8, which is line 10, the -- oh, no, that's wrong. Hmm. So, well, maybe I can ask you: What's the total impact on your revenue requirement? It's 1294, plus or minus an income-tax adjustment; right?

MR. MAUTI: The detailed calculations of the pension and other post-employment benefit costs are -- I am assuming would be discussed in detail at a later panel, but what you are looking at of the first line of chart 2 on your compendium, page 23, is an update as a result of the second impact statement pre-tax of the pension and other post-employment benefit costs.

MR. SHEPHERD: And then there is a tax impact as well.

MR. MAUTI: Correct, and chart 2 would be the calculation of that tax impact.

MR. SHEPHERD: So it's minus 71 million? 1294 minus 71?

MR. MAUTI: I believe that would be correct, yes.

MR. SHEPHERD: Okay. So your total compensation to all employees for 2014 and 2015 is somewhere around 3.4 billion; right?

MR. BARRETT: Do you have a reference?

MR. SHEPHERD: Well, it's actually from JT2.33, which I don't have in front of you, but I do have on page 7 our table that comes from it. And I have 1694.4 in 2014 and 1704.8 in 2015. Sound about right?

MR. BARRETT: Sorry, what page are you on, sir?

MR. SHEPHERD: Page 7 of our materials, or you can look at JT2.33 if you prefer. And you have a line, total compensation, 1694.4 in 2014, 1704.8 in 2015. You see that? So your total compensation bill for the test period is about 3.4 billion; is that fair?

MR. MAUTI: Yes, I believe that includes both regular and non-regular staff, but, yes.

MR. SHEPHERD: Yup.

MR. MAUTI: You're looking at line 41 from JT2.33. Those would be the two numbers on line 41 for the test period.

MR. SHEPHERD: So that includes all your pension costs; right?

MR. MAUTI: I know that it includes the current service component of pension costs, I believe, and the people that were responsible for JT2.23, JT2.33, is the compensation panel, so they would know specifically what's included within these numbers, but I believe some of the, what we call the centrally held pension costs, are not included in this number.

MR. SHEPHERD: Ah, so that JT2.33 then understates your total compensation costs? Is that right?

MR. MAUTI: Again, I believe on the basis of how JT2.33 was requested and put together, it includes the component of burden, but it's probably a question best asked to the compensation panel to get absolute clarity of what is included within that, as to whether the centrally held pension costs are.

MR. SHEPHERD: All right. Still on pension and OPEBs, this $750 million of so impact on your deficiency, the amount you actually have to spend on those items in the test period is actually less than the amount that you record for accounting purposes, right? The accounting amount is higher?

MR. MAUTI: The accounting costs are the costs that are part of our cost of service application.

MR. SHEPHERD: I understand. But the amount you actually pay into the plans or fund the plans is about $200 million less, right? Or so?

MR. MAUTI: Are you doing a calculation that you can help me with or point me to, to confirm that?

MR. SHEPHERD: I am just asking at a high level. This is the overview panel; I'm trying to get a sense of the impacts on the deficiency. A part of the impacts on the deficiency a couple hundred million dollars of money for pension and other post-employment benefits, which you don't actually have to spend in the test period, right? You are accruing it for later; true?

MR. MAUTI: It's a difference between the accounting GAAP costs versus the costs of contributions to the pension plan.

MR. SHEPHERD: All right. And the third main driver of the $2.2 billion deficiency is nuclear liabilities, right?

MR. BARRETT: Yes, that's right.

MR. SHEPHERD: And that one is driven primarily by interest rates and assumed returns; isn't that right? That increase?

MR. BARRETT: No, it's principally driven -- and Mr. Mauti can speak to the specifics about the difference between the ONFA plan, which is in the 2011/2012 rates, which are the jumping off point for the calculation of the deficiency, and the costs that flow from the new ONFA plan.

MR. SHEPHERD: And the change in the ONFA plan is primarily a change in interest rate and return assumptions; isn't that right?

MR. MAUTI: No, I don't believe that to be correct.

MR. SHEPHERD: So what is the main thing that's causing that to increase? Again, just at a high level.

MR. MAUTI: At a high level, it would be -- review of the five decommissioning and waste management programs that were done as part of ONFA included a re-estimation of the baseline costs or the costs to manage each of those programs. So there would be changes as result of those cost estimates, which then would be factored in as part of the Board-approved methodology of calculating impact.

MR. SHEPHERD: So this is --

MR. BARRETT: Sorry, can I just interject? I am sorry for using the acronym.

MS. HARE: I was going to ask you to please say what it is.

MR. BARRETT: I beg your indulgence. It was the Ontario Nuclear Funds Agreement between OPG and the government of Ontario.

MS. HARE: Thank you.

MR. MAUTI: Apologize. Old habits.

MS. HARE: Thank you.

MR. SHEPHERD: So the increase in that agreement, arising out of that agreement, is actually an increase in assumed future costs, right?

MR. MAUTI: It's the present value impact of the assumed future costs. There are economic indices that are used to calculate what those increases would be that would include escalation factors and discount factors, but the main reason for the change is an underlying change in the costs, yes.

MR. SHEPHERD: So -- and the reason for that is because when the last agreement was -- the reference plan was entered into, you had less information and so you had a lower estimate. Basically, you had under-forecast your costs, and now, as you have better information, your forecast has improved, right?

MR. MAUTI: Part of the basis of the Ontario Nuclear Funds Agreement process is recognizing these are very long-term liabilities that would span decades, if not a century, into the future, that it requires a re-estimation based on updated evidence, information and estimates and technology that would be available. And that's done on, typically, a five-year cycle, yes.

MR. SHEPHERD: Okay. Those estimates of costs, they are done by Ontario Power Generation?

MR. MAUTI: They are managed by Ontario Power Generation, and they are done either directly by staff at OPG, Ontario Power Generation, or contracted out to other experts in a variety of different fields that would assist us.

MR. SHEPHERD: And then they are reviewed by the Ministry of Energy, right?

MR. MAUTI: They are reviewed by the Ontario Ministry of Finance, I believe.

MR. SHEPHERD: Ministry of Finance? Do they hire an external expert?

MR. MAUTI: I believe that they do, yes.

MR. SHEPHERD: We don't know any -- we don't have that report anywhere here, the report of an expert reviewing your estimates.

MR. MAUTI: The people that the Ministry of Finance retained to review our estimates, we believe, factor into the questions that the Ontario Ministry of Finance asks of the reference plan update. They submit several dozens of questions that would test the cost estimates that we have put forward, and we believe that those questions arise from the questions and the review done by those third parties retained by the Ministry of Finance.

MR. SHEPHERD: So you don't actually get those, those external expert reports?

MR. MAUTI: They are experts that aren't retained by OPG; they are retained specifically by the Ministry of Finance. And they would report any information to them and not to us.

MR. SHEPHERD: And you don't get copies of those reports?

MR. MAUTI: No, we do not.

MR. SHEPHERD: Okay. Thank you.

Do we have somewhere in the evidence a recap of the net impact of this change in the nuclear liabilities on the deficiency?

We have got the 200 or $250 million from Niagara tunnel. We have got 750 million, let's say, from pension and other post-employment benefits. That leaves $1.2 billion of deficiency, some of which is because of the market problem with the newly regulated, but is all the rest of it for nuclear liabilities? Do we have that calculation somewhere? I couldn't find it.

MR. MAUTI: I believe that calculation of the impact on the revenue requirement of the new ONFA -– sorry, the new Ontario Nuclear Funds Agreement update, is in the evidence. And if you can indulge us after the break, I can find the exact file reference for you.

MR. SHEPHERD: I appreciate it. And you have an updated version of the calculation somewhere, right? Because you have made some changes to your assumptions, right?

MR. MAUTI: Updated from -- from the original filed evidence, I believe not.

MR. SHEPHERD: No? Okay. Well, then, I wonder if you can just check at the break, and I will follow up this question after the break.

And I just want to ask a couple of questions about -- one thing that wasn't mentioned as one of the main drivers of the deficiency was your compensation levels. And you know this has been a subject in past hearings, right?

And so I wonder if you could turn to page 5 of our compendium, and this is a spreadsheet that was sent to you -- pages 5 through 8 was a spreadsheet that was sent to you on Saturday, late Saturday, and -- is that right?

MR. SMITH: I think technically it was Sunday morning at one o'clock.

MR. SHEPHERD: Yeah, okay. One a.m. Sunday, sorry. My apologies. And the data from this is from JT2.33?

MR. BARRETT: That is how you represented it, yes.

MR. SHEPHERD: You haven't had a chance to verify that?

MR. BARRETT: I personally haven't. We had some people looking at it, and I -- my takeaway from the discussion this morning was that it was -- we were largely okay with it.

MR. SHEPHERD: Okay. Wonderful.

And what I -- you know what, Madam Chair? This is going to take about 15 minutes, so I wonder if this is a good time to break.

MS. HARE: It is a good time to break.

And I do want to make a comment just for going forward. So if you sent this one a.m. Sunday morning, you met the 24-hour rule, but I -- and I appreciate you were doing this late, but that's not fair, particularly since it's a Sunday and it's Father's Day. So to send something 24 hours in advance when it's a Sunday, I don't think that's in the spirit of giving advance warning so that witnesses have the chance to review something. Just going forward --

MR. SHEPHERD: I apologize, Madam Chair. This was entirely based on their data, so --

MS. HARE: I understand that.

MR. SHEPHERD: -- it wasn't anything new that they hadn't seen before, except how it was calculated. And I did get a response at about eight a.m. from OPG, but I do apologize.

MS. HARE: I am just saying I don't think that that's really fair to the witnesses.

Let's take a break until 11:15.

### --- Recess taken at 10:55 a.m.

### --- On resuming at 11:21 a.m.

MS. HARE: Mr. Shepherd, are you ready to go forward?

MR. SHEPHERD: I am, Madam Chair.

MR. SMITH: I gather Mr. Mauti may just have a brief comment before the next question, if that's okay. It's a preliminary matter, I advised Mr. Shepherd.

MS. HARE: Okay.

MR. MAUTI: I just wanted to just go back to a second on, I guess, the compendium, page 23 of our Exhibit N211, page 4 of 12. We were talking about the total cost of the pension and other post-employment benefits that was in our application.

Just to clarify the calculation as it should be done, we discussed line 1 were to have the $1294 million as the forecast period for '14 and '15 base pension and other post-employment benefit costs. The tax calculation was not the 72 million reduction on the bottom of that schedule, it's -- the schedule is really just a delta sort of change between impact statements.

The full calculation should be that 1294 minus the two cash contributions, which are deductible for cash purposes, which you see on line 4, the pension plan contributions of 765, and line 5, the updated payments for other post-employment benefits.

So if you take those two numbers, subtract them from 1294, would be the differential of approximately 340 million. The tax impact of that at 33 percent actually would show an increase in the tax component on the revenue requirement of approximately 115 million. So it really should be 1294 plus 115.

MR. SHEPHERD: So the total amount in your revenue requirement for pension and other post-employment benefits is about $1.41 billion?

MR. MAUTI: That's approximately correct, yes.

MR. SHEPHERD: Now, you were going to check at the break about whether we have an analysis somewhere in the evidence of the impact of the changes to nuclear liabilities?

MR. MAUTI: That's correct. The reference that we have is in Exhibit C2, tab 1, schedule 1, Table 5. I am not sure if you want to pull that up, or...

MR. SHEPHERD: Yeah, let me just... Can you give me the reference again, please?

MR. MAUTI: C2, tab 1, schedule 1, Table 5. If you have that, this is a table that we do that compares the revenue requirement both with the current approved Ontario nuclear funds agreement reference plan and compares it to what it would have been without the new approved Ontario nuclear funds agreement reference plan.

MR. SHEPHERD: And you are telling us this is still up-to-date.

MR. MAUTI: Yes.

MR. SHEPHERD: This has not been adjusted by either of the impact statements?

MR. MAUTI: That is correct. So the impact of the new reference plan would be an increase of $442 million --

MR. SHEPHERD: Okay. So what we've got is --

MR. MAUTI: -- over the test period. Sorry.

MR. SHEPHERD: We have 442 million for that. We have got 250, let's say, for Niagara tunnel. We've got 750 for pension and other post-employment benefits. So that adds up to $1.4 billion, and then we have the 350, I guess, from the newly regulated, which is about the difference between market rates and cost, right? Which is a billion-750. We still appear to be short $400 million.

Is there another major thing, or is that a bunch of small things?

MR. MAUTI: If you look at the drivers of the nuclear deficiency that we were referencing on AMPCO 1, I notice that the increase in outage OM&A there is a vacuum building outage in nuclear in 2015 that is driving a large change of that $177 million increase in outage OM&A.

MR. SHEPHERD: That 177.5 million on page 26 of our materials, that's not all the vacuum building outage; right?

MR. MAUTI: I believe it is not 100 percent of that number. It's likely a large component of it, but again, probably the nuclear panel is in the best position to talk about outage cost changes.

MR. SHEPHERD: Okay. All right. We are getting there.

So I wonder if you could go to page 5 of our materials. Can you -- before we start on this, can you tell us what the number was on JT2.33 that was incorrect? I don't care about the headings. We fixed the headings already. What about the number? Which number is wrong?

MR. MAUTI: I believe if you look at line 34, in terms of employee cost, nuclear operations and projects, my understanding, under the actual for 2013 the number says 1242.7. The number should have been 1202.3.

The next cell down on line 35 under the same 2013 actual for DRP and new nuclear says 41.7. Should be 40.3. And then I believe the subtotal on line 41 is impacted by those two, and the new subtotal should be 1724.

MR. SHEPHERD: These are -- this is for 2013; right?

MR. MAUTI: Everything in 2013, yes.

MR. SHEPHERD: 2013 actual.

MR. MAUTI: Yeah. And the other one that was brought to our attention on line 45, EPSCA, again for the year 2013 the correct number should be 26.0.

MR. SHEPHERD: As opposed to?

MR. MAUTI: 67.9.

MR. SHEPHERD: 67.9. Should be 26.0?

MR. MAUTI: Yes.

MR. SHEPHERD: All right. And you are going to refile this.

MR. SMITH: Yes.

MR. BARRETT: Yes, we will be filing a correction.

MR. SHEPHERD: So I am going to ignore those changes, because none of them are material enough to affect the higher-level stuff I am going to talk about on this table, but I will correct this table as well when we get to the compensation panel.

I just want to ask you a couple of things about this. The -- let's start with page 5 of our materials. You will see that lines 1 to 4 of our spreadsheet are the FTEs for nuclear; right?

MR. BARRETT: Yes, we see that.

MR. SHEPHERD: And that's showing a decrease of 1,086 FTEs, 11.66 percent, from 2010 to 2015; do you agree?

MR. BARRETT: Yes, I see those numbers.

MR. SHEPHERD: But then when we go down to total compensation for nuclear, which is lines 5 through 8, we see that the total compensation actually goes up from 2010 to 2015 by 5.6 percent.

MR. BARRETT: I see that number, yes.

MR. SHEPHERD: That's right, right? Now, that total compensation includes some of your pension, but not all of your pension, right, and some of your other post-employment benefits, but not all of it.

MR. BARRETT: Yes, that's correct.

MR. SHEPHERD: Do we have somewhere how much of that is pension and other post-employment benefits and how much is not?

MR. BARRETT: I don't believe that's in the record, but we are working on kind of what we call a normalized version of this table, which would strip out the changes in pension and OPEB, so if you just want to look at the comp change over this period, we will be able to strip that out.

MR. SHEPHERD: I am actually going to ask you for a specific undertaking about that in a second, but we are thinking along the same lines here.

So if you look at line 9 here -- this I nuclear compensation per FTE -- in 2010, the average compensation of a nuclear employee, of these -- what is it, 9,300 nuclear employees, was $152,365, right?

MR. BARRETT: Sorry, which line was that?

MR. SHEPHERD: Line 9 on our page 5.

MR. BARRETT: Oh, okay. Yes, I see it.

MR. SHEPHERD: And that's now increased by 20 percent to 2015 to 182,123, right?

MR. BARRETT: Yes. And as we've explained, the increase is mostly due to changes in pension and OPEB costs.

MR. SHEPHERD: And we are going to follow that up.

I actually tried to do these calculations for the various components, tried to get the information that would help understand what's the increase in your average compensation without the change in pension and other post-employment benefits, but that information isn't actually available in the application anywhere, is it?

Let me rephrase that.

MR. BARRETT: Yes.

MR. SHEPHERD: It's not possible to the take this table with the information that's in the application and strip out, entirely, pension and other post-employment benefits, because we don't know what those numbers are, broken down.

MR. BARRETT: I am not sure that's correct, sir. Yeah, there is -- you really would have to look at the numbers that are in the compensation and benefits exhibits, F4, tab 3, schedule 1.

You are starting to get into an area where you are probably better to discuss the specifics of the math with the comp and –- and people who specifically developed this schedule.

MR. SHEPHERD: Certainly that's what we want to do. And the reason I am raising it now is I have some general questions I want to ask about it.

MR. BARRETT: Sure.

MR. SHEPHERD: But the specific thing I want to do is -- because we want to divide up the impact on compensation without pension and other post-employment benefits, and with. So -- and we want to have that available to us when we cross-examine your comp panel.

MR. BARRETT: And we are working on that schedule as we speak.

MR. SHEPHERD: Here is what I am going to ask you to do. Can you undertake to take this spreadsheet which we provided to you and put the numbers in without any pension and other post-employment benefits? Just strip it out entirely?

MR. SMITH: We can do that. I do note that at Exhibit F4, tab 3, schedule 1, page 2 of 43, there is a separate line in that table that takes out pension and OPEB costs since 2010.

All of which is to say that we can do the undertaking.

MR. SHEPHERD: Yeah, I -- that is not for each component, right? That's only total?

MR. MAUTI: That is a total amount for all compensation.

MR. SHEPHERD: I'm asking you to do it for each component. So we can see, for example, your nuclear personnel; how much did their compensation increase, separate from the pension and other post-employment benefit increase?

MR. BARRETT: I think we understand what you are seeking, and that work is underway, sir.

MR. MILLAR: Pardon me, Mr. Shepherd.

MS. HARE: We will give that an undertaking number.

MR. MILLAR: Yes. J3.5.

UNDERTAKING NO. J3.5: TO UPDATE SEC SPREADSHEET FOR EACH COMPONENT EXCLUDING PENSION AND OPEB COSTS.

MS. HARE: And I think it is good that you are working on it, but we want to make sure that that is filed in advance of the panel, so that people have an opportunity to review it before the cross-examination.

MR. BARRETT: We will absolutely ensure that.

MS. HARE: Thank you.

MR. SHEPHERD: Now, if you go to page 7 of our materials, this is the same description, but it just happens to be that -- we are now down at the bottom -- these are the totals for the entire organization.

And these totals show that you're forecasting that your total compensation per person -- per FTE, which is per person -- in 2015 is $181,445.

MR. BARRETT: I see that number, yes.

MR. SHEPHERD: Is that a fair reflection of the compensation cost to you of each employee on average in 2015?

MR. BARRETT: As I understand how this calculation is done, I think it's in the ballpark, sir.

MR. SHEPHERD: And is it fair to say that about, give or take, 40 percent of that is pension and other post-employment benefits and the rest is all other compensation?

MR. MAUTI: I believe the number may be closer to 50 percent, but...

MR. SHEPHERD: 50 percent?

MR. MAUTI: Somewhere in that range between 40 to 50, yes.

MR. SHEPHERD: So each employee on average is costing you 90,000 a year in pension and other post-employment benefits? 90,000?

MR. MAUTI: Over the years, in the range of 40 to 50 percent. Maybe in the mid-40s, but...

MR. SHEPHERD: Is that something that we can find out? A, what it is now, what you are forecasting for 2014 and 2015, and what the percentage has been of total pension and other post-employment benefit costs for each previous year from 2010 to 2013? Is that something we can find out?

MR. MAUTI: You want the component, the percentage of the burden related to pension and other post-employment benefits from 2010 to 2015?

MR. SHEPHERD: That's right.

MR. MAUTI: Yes, that's...

MR. SMITH: We can do that.

MR. MILLAR: J3.6.

UNDERTAKING NO. J3.6: TO PROVIDE percentAGE OF BURDEN RELATED TO PENSION AND OTHER POST-EMPLOYMENT BENEFITS FROM 2010 TO 2015 FOR EACH COMPONENT.

MR. SHEPHERD: Obviously we will see that in time for the compensation panel, but in the meantime, has that be been increasing? It has, right?

MR. MAUTI: General average since 2010, given the lower discount rates experienced and the impact that would have on those costs, yes, they have generally been increasing.

MR. SHEPHERD: And the mortality tables too, right? The change in the mortality?

MR. MAUTI: The change in the mortality would be as a result of our first and second impact statements, so yes, the final number for revenue requirement would include those.

MR. SHEPHERD: Okay. And just offhand, do you know what sort of range it was in 2010? It wasn't 40 percent, right? It was, like, 30 percent or 35 percent, and now it's closer to 50?

MR. MAUTI: I can't remember back in 2010, off the top of my head.

MR. SHEPHERD: We will wait for the undertaking.

You will recall at the technical conference we asked you about the sunshine list; you are familiar with the sunshine list?

MR. MAUTI: We are.

MR. SHEPHERD: And in JT 2.18, you provided by way of undertaking confirmation that in 2013 approximately 8,000 OPG employees were paid compensation in excess of $100,000; is that right?

MR. BARRETT: Let me just turn that up, sir. What was the reference number again?

MR. SHEPHERD: It's actually on page 12 of our materials. It's JT2.18.

MR. BARRETT: Yes. I have that.

MR. SHEPHERD: So you will agree that approximately 8,000, just under 8,000, were on the sunshine list in 2013?

MR. BARRETT: Yes. The number we have in the undertaking is 7,958.

MR. SHEPHERD: And can you tell me or can you undertake to confirm whether the calculations of what people are paid when you do the sunshine list includes the full cost of pension and other post-employment benefits, or whether it is only the current service cost?

I thought it was the current services cost, and obviously it makes a big difference, right?

MR. MAUTI: Again, perhaps the compensation panel can better explain it, but from my understanding is what makes it on to the sunshine list is based on someone's T4'd earnings in the previous year. Those T4 earnings don’t include an accrued cost for pension or other post-employment benefits.

MR. SHEPHERD: Ah. So it's even lower? It's not even all the current service costs that are in, right?

MR. MAUTI: There would be components of burden, but specifically for the accrual for pension and other post-employment benefits, no, they are not included in the T4'd costs.

MR. SHEPHERD: So then we look at these 8,000 employees or 7,958 employees that are making over 100,000; we shouldn't sort of mentally adjust it by saying, well, yeah, but half of that is pensions, because it's not, right? This is actually what they got paid and paid tax on?

MR. BARRETT: This is their T4 number, as we understand it.

MR. SHEPHERD: Okay. Now, we asked you to -- we put to you a list of people that made more than $200,000. Same calculation, right? All still from the sunshine list.

And in JT2.19, which is at page 13 of our materials, you provided us with a sort of sorted list of the people in 2013 that made more than $200,000 at OPG; you see that?

MR. BARRETT: I do, and I think one of the issues around that undertaking was to identify people still with the company or people that had left the company.

MR. SHEPHERD: That's right, and in fact, of the -- you will agree there is 520 names on this list. 520 people at Ontario Power Generation in 2013 made more than $200,000,right? Will you accept that subject to check? I actually counted it.

MR. BARRETT: I will accept that subject to check. I haven't done that counting.

MR. SHEPHERD: All right. And of that 39 are on the list but are no longer with OPG.

MR. BARRETT: As of April 24th, 2014.

MR. SHEPHERD: All right. In 2014 would you forecast that the number of employees on the sunshine list would go up or down?

MR. BARRETT: As far as I know, we don't do that forecast. So I have no basis for --

MR. SHEPHERD: You can't speculate.

MR. BARRETT: I can't speculate on that, sir.

MR. SHEPHERD: That's fair enough. Do you know how many people were on the list from 2010, '11 and '12?

MR. BARRETT: No, sir.

MR. SHEPHERD: You have those lists, right? You have big spreadsheets that have those lists. Can you just count and advise us how many were on the list in each of those years?

MR. BARRETT: Sorry, this is on the list above 200,000?

MR. SHEPHERD: Actually, I was going to ask for both, but compared to the 7,958, I would like to know was it lower or higher in the last three years, the previous three years, and compared to the 520, was the over 200 lower or higher? We are trying to assess the direction of compensation. Can you do that?

MR. SMITH: Well, Madam Chair, this was a question that was asked at the technical conference. We obviously did the work as it was requested. The sunshine list is public. I understand the request, but at a certain point these things are going to take the witnesses' time during the hearing. I don't think it's an appropriate request, given that the information is not -- it's publicly available to anybody. Mr. Shepherd could have got it --

MS. HARE: That's fine. Mr. Shepherd could do it. Then he will put it to the witnesses to confirm, and they will say they need to take time to review it, so why not have them do it in the first place? It won't take long.

MR. SHEPHERD: Madam Chair, it's actually easier than that. They prepared originally as an Excel spreadsheet. All they would do is count the lines. The problem is that if you take it from the Ministry's website it's difficult to download it in Excel format without getting it all messed up, and so you can't count.

MS. HARE: I think it's an appropriate question for OPG to respond to.

MR. SMITH: Okay.

MR. MILLAR: J3.7, and that's for both total and over $200,000, Mr. Shepherd?

MR. SHEPHERD: That's right.

UNDERTAKING NO. J3.7: TO PROVIDE THE COMPARISONS OVER THE YEARS FOR TOTAL AND OVER $200,000 AMOUNTS.

MR. SHEPHERD: Now, the reason I took you to the sunshine list is because we see in the tables on page 7 of our materials this -- these high average compensation numbers, and I was trying to get a sense of whether that's skewed badly by the pension and other post-employment benefits. Clearly it's not, right? You still have very high compensation levels on average for your employees; is that true?

MR. BARRETT: We have the compensation levels that are reflective from our collective agreements for our represented staff, and we have various compensation levels for our management staff which we think are appropriate.

MR. SHEPHERD: Well -- so let me turn to then page 8 of our materials, because I do have some questions about that. And this is -- again, this information is from JT2.33, in which we have now calculated the compensation per FTE, full-time equivalent, for each of the categories, and I just want to ask you a couple of questions about that.

If you see on line 38 on page 8 of our materials, this is compensation per full-time equivalent for the management category.

Can you confirm that the management category is not just management, it's all non-union staff?

MR. BARRETT: That is how we organize our information, sir.

MR. SHEPHERD: Okay. So this includes, like, administrative support and things like that, lower-paid people, as well as Mr. Mitchell and yourself and others; right?

MR. BARRETT: It includes all non-represented staff.

MR. SHEPHERD: And what we see is that over the period from 2010 to 2015 you are only reducing the numbers of those people by 2.3 percent, but their average compensation is only going up by 7.2 percent. Is that because there was some sort of freeze in effect?

MR. BARRETT: Yeah, management has been subject to a pay freeze for an extended period. I am not sure if we are in year 3 or year 4 of that period. This was subject to government policy statement. But again, those specifics are probably best addressed with the comp panel.

MR. SHEPHERD: But what I am trying to get at the high level is that then you have -- you still have a 7 percent increase, and that would be because of pension and other post-employment benefits and things like that increasing which you can't control; right?

MR. BARRETT: Certainly that would be a driver pushing the costs up.

MR. SHEPHERD: Okay. Now, I am going to skip the Society, not because I don't like them, but just because I only have so much time. And I want to go to the Power Workers' Union, and that's lines 42 to 44. And you will see that on average the compensation for a member of that union in 2010 was 136,523; you see that?

MR. BARRETT: I do see that number.

MR. SHEPHERD: You are now forecasting that it is going to be up to 172,217 as of 2015.

MR. BARRETT: Yes, I see that number.

MR. SHEPHERD: You see that? So those numbers are correct, as far as you know?

MR. BARRETT: As far as I know, sir, yes.

MR. SHEPHERD: So that 26 percent increase, that's not primarily pension and other post-employment benefits, is it?

MR. MAUTI: Yes, a significant portion of that increase would be pension and other post-employment benefits.

MR. SHEPHERD: Well, it can't be that much, because management, which is under a freeze, had only 7 percent, right, increase over five years, so clearly you are not enriching the Power Workers' Union's pensions at the expense of management, are you?

MR. MAUTI: Well, the 7.28 percent you reference is a net --

MR. SHEPHERD: Yes.

MR. MAUTI: Again, that's stripping out the component of that that would be pension and OPEB, which we are in the process of doing. It's --

MR. SHEPHERD: I understand. What I am wondering is, is there some significant component of line 44, the compensation per full-time equivalent for the Power Workers' Union members? Is there some significant component of that that is increased over time or things of that nature?

MR. MAUTI: It would reflect the negotiated collective-agreement changes that are embedded as part of the compensation for PWU.

MR. SHEPHERD: Understood. And so that was about 2.7 percent a year or something like that? 2.75? Is that a -- I seem to recall that.

MR. MAUTI: The schedule goes back to 2010, so there would be various increases from 2010 onwards that are compounded to get to a portion of that number that you are looking at.

MR. SHEPHERD: So that 26 percent, though, would be -- let's call it 15 percent through scheduled agreement -- scheduled increases, in that range?

MR. MAUTI: Over a five-year period, 3 percent a year, you get into your 15 percent, that's probably somewhere in the range.

MR. SHEPHERD: Okay. And what I am driving at here is, is there any significant component of that that is increased over time; do you know?

MR. MAUTI: Sorry, I don't follow your question, "increased over time".

MR. SHEPHERD: Yeah, so you are going from 136,000 to 172,000 per employee? One of the reasons you can do that is because they got more overtime in. You are expecting to pay them more overtime in 2015. Is that one of the reasons?

MR. BARRETT: As far as I know, that's not a driver of this increase. I think the two biggest drivers will be the percentage increases reflected in the collective agreements and in the cost related to increasing pension and other post-employment benefit costs over this period.

MR. SHEPHERD: All right. I want to turn to another area, and Madam Chair, I have about -- I think I have about 15 minutes left, plus my extra two minutes for acronyms.

MS. HARE: Yes, that's fine.

MR. SHEPHERD: I will have to drop some stuff in any cross, but I will finish on time.

MS. HARE: Actually, by my calculation you have got until quarter after 12:00.

MR. SHEPHERD: Oh, really? Oh, amazing. I won't have to drop as much. Your math is better than mine.

Ontario Power Generation has a history of problems with cost control; is that fair?

MR. BARRETT: I don't accept that, sir.

MR. SHEPHERD: So for example, your predecessor, Ontario Hydro, basically went bankrupt because of cost overruns on capital projects, right?

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

MR. SHEPHERD: Well, they couldn't pay their debts, and so they debts had to be offloaded. That sounds like bankruptcy, right?

MR. BARRETT: Again, I don't think that is accurate. There was a financial restructuring as a consequence of a government policy decision to move from a regulated power cost model to a market model. And as part of that transition, the government undertook an analysis of what costs or what asset level would be sustainable in that new market environment.

But absent that policy decision, Ontario Hydro was financially sound, and I think in the last few years of its operation was making significant payments against its outstanding debt levels.

MR. SHEPHERD: All right. In your first payment amounts case, the Board expressed concern about your high compensation levels, right?

MR. BARRETT: If you have a specific reference, but I think -- if you want to get into it we could probably look at a specific reference, but I think that's generally a fair characterization.

MR. SHEPHERD: And in fact, in the last payment amounts application in EB-2010-0008, the Board disallowed $145 million of compensation costs, right?

MR. BARRETT: That is correct, sir.

MR. SHEPHERD: And that is currently before the Supreme Court of Canada, the issue of that?

MR. BARRETT: Yes, that is right, sir.

MR. SHEPHERD: Okay. And I just want to ask a little bit about that. We asked you a little bit about that in the technical conference, which I won't go to again, but if you take a look at JT2.10 -- which is at page 27 of our material -- now, I understand that you updated this last week and I don't have the updated one in here, but I don't think the numbers for the years that I am dealing with are much different. So if you -- you can correct me if you want, but I think that it's true, isn't it, that for the period covered by your last payment amounts application -- which has ended up being 2011, '12 and '13, right? Because it was originally '11 and '12 and then you didn't come back in for 2013, so you had three years --

MR. BARRETT: Yes, those rates continued into 2013.

MR. SHEPHERD: So in those three years, you saved $216 million, under your business transformation, on compensation costs, right? You add up the three in those years -- and I am actually using your corrected numbers, which I think is 216 million.

MR. BARRETT: That looks about right, sir.

MR. SHEPHERD: And the disallowance was actually $72.5 million a year for two years, so you actually saved almost exactly what they disallowed, right?

MR. BARRETT: Yes, sir. Those numbers are in the same ballpark, yes.

MR. SHEPHERD: You have had numerous benchmarking studies over the past several years, and many of them have found components of your cost levels to be higher than they should be?

MR. BARRETT: They have found --

MR. SHEPHERD: Not all of them.

MR. BARRETT: Pardon me?

MR. SHEPHERD: Not all of them, but many of them?

MR. BARRETT: The benchmarking analysis in the current filing shows, relative to various peer groups, that our compensation levels for our represented staff are higher than certain measures of those peer group compensation levels.

MR. SHEPHERD: Just -- we are going to ask more about benchmarking in the other panels, of course, but can you tell me, have you changed -- in the last two or three years, have you changed your policies with respect to how you benchmark costs or whether you benchmark costs?

MR. BARRETT: I wouldn't necessarily say we have a policy. There is individual benchmarking analyses that are done that you would be familiar with. Like, there is the Scott Madden methodology that we employ in our nuclear organization, and that methodology has been consistently applied since we started that approach, with a few minor adjustments.

MR. SHEPHERD: What I am really trying to get at here is I see the KPMG report has a list of benchmarking studies going back to 2002/'3, like that, and you have in one of your interrogatory -- or your undertaking responses, JT2.14 -- which I think is in the material somewhere, although I can't find it offhand -- you have a list of benchmarking studies since 2010?

MR. BARRETT: A list of major benchmarking studies, yes.

MR. SHEPHERD: And it appears to me -- and tell me whether this is a fair conclusion –- that -- this is -- JT2.14 is at page 9 of our materials. That in recent years, anyway, most of your major benchmarking has been in response to the Ontario Energy Board telling you to benchmark; is that fair? The big ones are because the Board asked you to, or told you to?

MR. BARRETT: If you look at the list in JT2.14 --

MR. SHEPHERD: Sure.

MR. BARRETT: -- the nuclear staffing benchmarking analysis was certainly in response to a Board directive.

The specific approach under the other nuclear benchmarking process was certainly informed by the OEB, as was the uranium procurement program. That was a direction from the Board.

MR. SHEPHERD: Before you get too far, you skipped over Scott Madden. Scott Madden was also because the Board asked you to do it, right?

MR. BARRETT: Yeah, that's the nuclear benchmarking reports in the first line.

MR. SHEPHERD: Well, and then the second one, Goodnight, was also the Board asking you to do it, right?

MR. BARRETT: Yes, that's correct, sir. And then the third one, which was the uranium procurement, that was again pursuant to a Board direction.

I think the next four or five are things the company did as a matter of course in terms of reviewing its operations and looking for insight to improve.

I think that's also true for lines 9, 10 and 11.

Line 12 was something that was directed by the OEB and has been filed.

And line 13 was something that the company undertook on its own.

So I think it's a mix. Certainly I would accept the proposition that as a consequence of regulation and the Board's directions, we are doing more benchmarking than we have done historically.

MR. SHEPHERD: The reason I ask that is because prior to your being regulated, you did benchmark a number of things, right?

MR. BARRETT: Yes, that's correct.

MR. SHEPHERD: And then we saw those in the KPMG report, where they assess some of those older studies, right?

So I am asking did you change your approach and become more sort of: We benchmark if the Board tells us to, as opposed to: We benchmark for management purposes?

MR. BARRETT: No, I don't think that's -- that would be my sense of the situation. I think that -– so, for example, let's look at the Scott Madden. I think that the company has, as we said in the last case, you know, seen the value of doing that analysis, and has taken that to heart.

So we use that as part of our regular business planning and operational planning, and we see significant value from that. And we see significant value from adopting a standard methodology and applying that methodology on a consistent basis.

So we do a Scott Madden-type analysis each and every year, and we use that as part of our top-down business planning.

MR. SHEPHERD: This list of major benchmarking studies that you have in JT2.14, these are all on the record in this proceeding; is that right?

MR. BARRETT: Most of them are. Some of them are not. So for example, item 4 is not in the record, as far as I understand it, nor is 5, "Recharging our work force," or number 6, "Review of the dam safety program."

But I think the majority of these are in the record.

MR. SHEPHERD: Okay. I am still on cost control issues; I just sort of segued there.

You did have a cost overrun on Niagara tunnel? We heard about that the last couple of days, right?

MR. BARRETT: We did, sir.

MR. SHEPHERD: And indeed, pretty well all of your past capital projects have had some significant cost overrun? They -- all the big capital projects?

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

MR. SHEPHERD: Can you name a capital project that was more than a billion that didn't have a major cost overrun?

MR. BARRETT: My understanding is the second Pickering unit that was returned to service was returned very close to the final approved budget for that project.

MR. SHEPHERD: Yeah, but the final approved budget was after several iterations and it went up a lot, right?

MR. BARRETT: There was some significant learnings from the first return to service, and those were reflected in the budget estimate that went forward for final approval.

I think there was also the safe storage project within the nuclear operations, which is in the order of about $300 million, which was brought in more or less on budget or slightly below.

MR. SHEPHERD: Correct me if I am wrong, but it is true, isn't it, that the Darlington refurbishment project, your upcoming big capital project, now has a significantly higher budget than it did the last time you were in for rate approval; right?

MR. BARRETT: I don't think that's correct, sir. Can you help me understand how you got that?

MR. SHEPHERD: Well, I thought your range the last time you were in was something like 6- to 10 billion, and you are currently saying 12.9; is that right? I am just doing this off the top of my head, but I...

MR. BARRETT: I believe those were an apples-to-oranges comparison. I think the 6 to 10 was overnight costs and the 12.9 is inclusive of escalation and interest. So -- and again, these are numbers probably best addressed with the Darlington refurb witnesses who are much more familiar with it than I am --

MR. SHEPHERD: It'll certainly come up, I'm sure.

I would like to know, though, is it true that you already have cost overruns on the Darlington refurbishment project? Is that factually correct?

MR. BARRETT: I think there are projects that are beyond the original approved budget in some of the projects that are attendant to that Darlington refurb project.

MR. SHEPHERD: So you are currently spending more than you expected to be.

MR. BARRETT: On certain projects. I don't know whether that's true in aggregate for the list of projects which are currently underway. Again, that's probably something that you could probably get better evidence from Mr. Rose and Mr. Reiner, who will be up later.

MR. SHEPHERD: Well, we are presumably going to get that sort of information in the update on Darlington anyway; right?

MR. SMITH: Well, I am not in a position to advise beyond what I said at the outset of the hearing, which is that that work is underway, so what's specifically included in it I don't know, but I do expect that Darlington refurb panel will be in a position to discuss Darlington refurb-related costs.

MR. SHEPHERD: Madam Chair, I am flagging a concern so that when they prepare this updated information, if there are cost overruns, they know now, we would like to see the details and we are going to ask about them.

MS. HARE: Yes, I think that's fine. But I also don't think you got an answer to your question, which was, do you have any major projects that were not in a cost overrun position from the original budget, never mind that then the budget was changed, updated, and, you know, increased.

From the original budget, do you have a record of how many were not then over budget?

MR. BARRETT: I don't, sitting here. That is something that could be reviewed and provided.

MS. HARE: Is that of interest to you, Mr. Shepherd?

MR. SHEPHERD: That would be a great undertaking, a list of projects that came in at or under the original budget.

MR. SMITH: The question was in relation to capital projects over a billion dollars. Is that what the undertaking is?

MR. SHEPHERD: It is whatever is helpful to the Board. I was just trying to make it easy.

MR. BARRETT: We will consider the general theme of the request and see what information that we can provide that would be helpful.

MR. SHEPHERD: Excellent.

MS. HARE: Well, just a second. If the original budget was under a billion it wouldn't be on the table, so I don't think you want to agree to a billion.

MR. SHEPHERD: No, I was thinking of a billion final cost.

MR. BARRETT: What I would suggest, Madam Chair, is that we look at large projects, which might be in the order of a couple hundred million dollars, and that might provide a big enough population to be meaningful.

MS. HARE: Okay. That is fine, thank you.

MR. SHEPHERD: That would be useful.

MR. MILLAR: J3.8.

UNDERTAKING NO. J3.8: TO PROVIDE A RECORD OF HOW MANY Large PROJECTS that came in at or under the original budget.

MR. SHEPHERD: Now, I asked these questions about cost control because in the last payment-amounts case my recollection is that you -- in fact, I think it was you, Mr. Barrett -- discussed at some length your solution to that, which was top-down budgeting, right? You were going to go from -- instead of budgeting from a bottom-up point of view -- people ask for money and you decide yes or no -- you were going to set an envelope and force people to budget within it; is that right?

MR. BARRETT: We certainly have adopted a top-down budgeting in parts of the organization. Perhaps Mr. Mauti can speak to the budgeting process in greater specificity.

MR. MAUTI: Sure. In general, in terms of cost control, since business transformation is the largest component of our change in our organization, we are specifically removing dollars from people's budgets and envelopes, tracking to the lower headcounts through our redesigned organization that we are moving towards, and as attrition happens and as the work force shrinks and reduces, we are taking dollars away from people's budgets and envelopes and ensuring that as they restructure and look at their work that they have less and less dollars to do so.

MR. SHEPHERD: See, that doesn't sound like top-down to me. That sounds actually like bottom-up. It's, well, if your costs are going to go down, we are not going to give you any more money, but that's cost-driven. That's not reasonableness-driven.

My understanding of top-down budgeting was that management sets reasonable cost levels and then says to the departments, Give us a budget within this envelope, right? MR. MAUTI: Correct. And I thought I was trying to describe that somewhat.

MR. SHEPHERD: Okay. So how is it that changes in the costs that a department actually has changes the reasonable level of their cost? Help me understand that. I don't understand this. That sounds like bottom-up to me.

MR. MAUTI: Well, again, from a corporate wide perspective we look at what expected trends are, in terms of reducing headcount. We look at the organization design and what we feel to be a sustainable long-term sort of view of what the costs should be within each one of those organizations, and as the initiatives are ongoing to try to get to that change, we, for example, do not allow for just a simple replacement of people as they leave. We are challenging the business units to derive and to come up with initiatives and shed costs in a way that would actually match the attrition levels, and we selected attrition, as we thought that would be the most appropriate way to manage this given our demographics and the expected reduction of staff over a period of time. We thought that was the most cost-effective and appropriate way to reduce expenditures within each one of the business units and challenge them to get down to those lower levels of cost and to still achieve the key work they had to.

MR. SHEPHERD: So your fundamental budgeting methodology continues to be top-down, as it did in the last payment case; right?

MR. MAUTI: The last payment-amounts application would have been based on the 2009 to '14 business planning process and cycle. I think we have progressed since that point, and I think we have more of that top-down emphasis, looking at the finances, the organization, sustainability, cash-flow measures, and ensuring that we can manage to that point.

MR. SHEPHERD: But if you are still using top-down, then I assume that means that someone in your organization, whether it's executive management or your board of directors or somebody, sat down and said, Okay. A reasonable budget envelope for the 2014/'15 period is a 30 percent increase, 2.2 billion more dollars. Somebody sat down and decided that was the reasonable envelope to use; is that right?

MR. MAUTI: Well, again, if you are referencing the drivers of deficiency, I think we have gone through what some of those changes would be and some of those factors, including impact on pension and other post-employment benefits, or change in discount rates from putting into service a key asset in the Niagara tunnel that will provide electricity for the next 90 years and the impact of revision of the nuclear liabilities.

MR. SHEPHERD: That didn't answer my question. I am sorry, Mr. Mauti, the -- I asked a simple question. Did somebody sit down, somebody senior in the organization, or the board of directors sit down and say, Before you do your budget, a reasonable level would be a 30 percent increase, another $2.2 billion? Did somebody make that judgment? That is how top-down works; right?

MR. BARRETT: Well, I would say in response, that is not how it operates within OPG, based on my understanding. I mean, the focus is from the top-down business unit -- top-down business planning process is to focus on the costs that we need to do the work to safely and reliably operate our facilities. Then you would layer on top of that some of the regulatory constructs, things like deemed capital structure, rates of return allowed by the Board, et cetera. Those things ultimately produce a rate increase, but the focus of the --

MR. SHEPHERD: That sounds an awful lot like bottom-up.

MR. BARRETT: No, I would say that there's -- I am really speaking to the sequence of things. So the focus is on creating a business planning envelope that reflects the work that needs to be done in order to safely and reliably operate the plants. There's a couple steps between doing that and ultimately calculating the rate increase that flows therefrom.

MR. SHEPHERD: So if you're -- I was going to use BlackBerry as an example, but probably they are a bad one.

If you are Apple, you can look at the marketplace and say: We can charge $800 for an iPhone, let's say -- I don't have an iPhone; I don't know how much they cost -- and we think we can sell at $800 dollars, we can sell X number of them, so we have a budget of $3.7 billion. That's how much we have to spend. You don't do that, right? You do nothing like that?

MR. BARRETT: I think the parallel I would draw between ourselves and Apple is that -- there is not a parallels, but one of the parallels I would draw is that everybody who is in business is trying to lower their costs in every way that they can, and we are engaged in that every day and through our business planning process.

So I suspect with Apple they have to take a view about what kind of revenues they can earn, but even if they think they can make lots of money, they are still probably very focused on lowering their costs. And we are no different than them in the that respect.

MR. SHEPHERD: I only have a couple of minutes left, but I do want to talk about your business transformation initiative. And that's described in a presentation to your board of directors on December 14th, 2011, which is included in the evidence as attachment 1 to SEC Interrogatory No. 5, which is L1.2-17.SEC 5; is that correct?

MS. BUTCHER: Yes, that's correct.

MR. SHEPHERD: And by the way, let me just ask you, that presentation, is that the actual plan or is that a presentation of the plan?

MS. BUTCHER: This was the presentation to a committee of the board at the time --

MR. SHEPHERD: So is there an actual plan somewhere as well?

MS. BUTCHER: A plan as far as implementation?

MR. SHEPHERD: Yeah -- no, you are presenting your initiative, right?

MS. BUTCHER: Yes.

MR. SHEPHERD: Is there a document behind that presentation which is your actual plan for the initiative?

MS. BUTCHER: There are many different components, so no, there is not one consolidated plan.

MR. SHEPHERD: Not one document? Okay.

And the concept of business transformation is to move to what you called, Mr. Barrett, at the technical conference -- and we have included this quote in our materials -- a "centre-led organization," right?

MR. BARRETT: Yes, that's correct.

MR. SHEPHERD: And basically, if I understand this correctly -- I will be sure to cut to the chase here -- you had many functions that were duplicated around the organization, so the plan was to centralize those functions, which would save money, and operate with less people?

MR. BARRETT: That was one of the key features of business transformation.

MR. SHEPHERD: So each business unit would have its own public affairs department, and you would have a central one?

MR. BARRETT: Not -- not every business unit would have a public affairs department.

MR. SHEPHERD: But you had multiple?

MR. BARRETT: We had multiple, yes.

MR. SHEPHERD: So you said: Well, we don't need a whole bunch of those. We need one, and that will mean we need less people?

MR. BARRETT: That is one of the benefits of centralizing. It also allowed for more consistency of message.

MR. SHEPHERD: Well, that's right. I was going to get to that. It's not just a question of being able to do it with less people, right? It's also a question of being able to do it better because you are more consistent and because you can get people with higher levels of expertise doing it, right?

MR. BARRETT: I am just noodling on the issue of "better." I mean, companies go through debates about centralization versus decentralization, whether or not it's better to have people in central corporate departments providing services, or have people providing services at the work face. And there are different times in an evolution of a company where a decentralized model may make more sense than a centralized model, but generally speaking we are in a -- we're of a view that moving to this centre-led organization, even though we might still have public affairs people embedded in nuclear or embedded in hydroelectric and providing services at the plant site, is a way of saving money, promoting kind of a greater consistency of message, and developing expertise.

MR. SHEPHERD: And you can also rely more on new technologies when you are doing that, because you can, if you have -- for example, one of the areas was training, right? You centralized training?

MR. BARRETT: Yes, we did.

MR. SHEPHERD: And one of things you can do, then, is you can say: Well, now that we have a central training operation, we could have one person who is getting the new technologies and deploying them out to all the various training needs we have, right?

MR,. BARRETT: That may be something we are looking at. Certainly there are scale efficiencies from centralizing training.

MR. SHEPHERD: So what was the genesis of this plan? Why did you start this in the first place?

MS. BUTCHER: I think in 2010, the board and executive recognized we were going to see some substantial reductions in our production over the coming years, and we needed to the ensure that our costs were in line with that.

MR. SHEPHERD: So this was responsive to the Board's criticisms of your costs, right? And the Board's recommendation that you put more emphasis on cost control?

MS. BUTCHER: I imagine that was a component of the consideration. I think the other key component was the significant production reductions that we expected to see.

MS. HARE: Ms. Butcher, just to clarify, you said "the board and executive." When you said "the board," you meant the OPG board?

MS. BUTCHER: Yes, sorry.

MR. SHEPHERD: Oh, you don't you didn't mean the Ontario Energy Board?

MS. BUTCHER: No, sorry. The OPG board of directors.

MR. SHEPHERD: So somebody at the board said: This is a problem. We have to fix this?

MS. BUTCHER: No, I think the OPG executive had early discussions with the board about the need to do this.

MR. SHEPHERD: So it was internally generated? It wasn't external criticism of your costs?

MS. BUTCHER: That is my understanding. No, it was not.

MR. SHEPHERD: Interesting. And the most obvious question about this plan -- and we are going to talk about some of the details in other panels, I am just trying to get a high-level thing here -- is why weren't you doing this stuff before? It seems sort of self-evident that you don't have six training departments in one organization, or six finance departments or whatever you had. I don't know.

Why did it take some sort of special initiative to change it?

MS. BUTCHER: As Mr. Barrett discussed, I think there's benefits to being decentralized and benefits to moving towards a more centre-led organization. I believe a key consideration was the fact that the production was reducing, and what -- we needed to ensure we had the flexibility to align staff with where we actually needed the work to be done.

So as we brought some of the coal units out of production, it made more sense to have a centre-led supply chain, for instance, where, if you had more significant nuclear supply chain projects, you could align the staff there, versus continuing to have a separate function in hydrothermal and maybe not need a staff there.

MR. SHEPHERD: But the question I am asking is -- this seems pretty obvious, and so I am asking the question: Wasn't it obvious ten years ago? Five years ago?

MR. BARRETT: Yeah, again, I think that it's not necessarily obvious, because there is always a tension between centralization and decentralization. My sense is that as you centralize people, you move them away from people on the plant floor and on the working face, and you lose some of the benefit that comes from that, from local control and direction and providing local services.

As Ms. Butcher indicated, as cost became an increasingly important part of the tension between decentralization and centralization, we had to the sacrifice some of that, benefits from decentralization, and move to a centralized model.

MR. SHEPHERD: Was there some sense in which the -- where you were in 2010 had sort of evolved without sufficient control, so you had -- people had built up a training organization at Darlington, let's say, and another one somewhere else, and it had sort of evolved without any overall review? And when you looked at it, you said: Whoa, wait a second, we have to stop that? is that fair?

MS. BUTCHER: I don't think that was fair.

MR. SHEPHERD: No?

MS. BUTCHER: No, I don't think that was a consideration in moving to centre-led.

MR. SHEPHERD: So the fact that you had all this duplication, that was intentional?

MS. BUTCHER: I think that was the structure that we thought best worked, given the situation at the time. And I think in 2010 we looked and we reassessed that.

MR. SHEPHERD: I know I have gone over my time, Madam Chair. I have one more question, if the Board will indulge me.

And I see that the actual presentation is up on the screen. I wonder if you can -- whoever is doing it can go to page 8 of that -- sorry, page 139, 8. That's page 9. One back.

So tell me whether I am understanding this right. Your business plan already had in it, you see in the top bullet, headcount reductions of 1,000 people. Right?

MS. BUTCHER: Yes, that's correct.

MR. SHEPHERD: You said -- and that was the 2012 to '14. You say then in the second-last bullet you can get an additional reduction of 1,500 in late 2014, early 2015 in this program; right?

MS. BUTCHER: That was our expectation at the time this was written, yes.

MR. SHEPHERD: So that's a total reduction in headcount of 2,500.

MS. BUTCHER: Yes.

MR. SHEPHERD: As of the end of 2015 you are expecting it to be around 1,000; is that right?

MS. BUTCHER: No, at the end of 2015 we expect it to be at 2,000.

MR. SHEPHERD: Okay. Because I am looking at page 7 of our materials -- now, this is FTEs, but the FTE and head-count numbers are pretty close, and I am seeing that your total FTEs reduction from 2010 even, not even from 2012, is only 1,085.

MS. BUTCHER: I think there is a couple things that aren't comparable here. One is the FTE to head-count comparison. So the reductions that we expect in 2015 would only reflect in here as half.

MR. SHEPHERD: Well, yeah, except that your PowerPoint says early 2015, which means that it would be pretty close to FTEs, right?

MS. BUTCHER: Which was our expectation in 2012.

MR. SHEPHERD: That's no longer your expectation.

MS. BUTCHER: No, we do not expect that by early 2015 we will have head-count reductions of the 2,500.

MR. SHEPHERD: So you also expected to save $250 million a year through this program, and you no longer expect that in 2015, right, or you do?

MS. BUTCHER: The -- I would guess that the 250 million is based on the full savings of the 2,500.

MR. SHEPHERD: Okay. I have no further questions. Thank you for your time --

MS. HARE: Thank you, Mr. Shepherd.

Okay. Mr. Thompson, you are up next. You are last.

MR. THOMPSON: I guess I'm up.

MS. HARE: And Mr. Thompson, we would like to break around one o'clock or some suitable time that works, in terms of your cross-examination, and then you'll resume after lunch.

MR. THOMPSON: Thank you. I did circulate a compendium -- at least I intended to circulate a compendium. We did have some difficulty with OPG getting it downloaded. But I have a few copies here to be marked.

MR. MILLAR: Madam Chair, this will be Exhibit K3.6, and we will bring copies up for you.

EXHIBIT NO. K3.6: CME AND CCC COMPENDIUM.

MS. HARE: Also, Mr. Thompson, do I understand you are going to be asking questions on behalf of both CME and CCC?

MR. THOMPSON: That is my understanding. Ms. Girvan is here, and she can jump in in case I don't perform as anticipated --

MS. GIRVAN: Yes, that is correct.

MR. THOMPSON: -- which is a very high probability. So that was K3.6, was it, Mr. Millar?

MR. MILLAR: Yes, thank you.

## Cross-Examination by Mr. Thompson:

MR. THOMPSON: So panel, I would like to start, if I might, just with your responsibilities, and I understand that you are here to provide an overview to speak to -- as well as to speak to regulatory issues and to business transformation. That's the heading of the panel? Does that capture the scope of your responsibilities?

MR. BARRETT: It does, sir.

MR. THOMPSON: Thank you. And perhaps I could start with OPG, the entity and its interrelationship with the Province of Ontario. And we do have in the compendium at tab 1, it's the memorandum of agreement between OPG and the Crown. And that dates back to several years ago. Am I correct? 17th of August, 2005?

MR. BARRETT: Yes, that's correct, sir.

MR. THOMPSON: Now, this indicates that OPG is wholly owned by the Government of Ontario; is that correct?

MR. BARRETT: Yes, it's an OPC -- sorry, Ontario Business Corporation Act corporation, and its sole shareholder is the Government of Ontario.

MR. THOMPSON: And the document indicates that the Government of Ontario is represented in its relationships with OPG by both the Minister of Energy and the Minister of Finance in some areas. Is that fair?

MR. BARRETT: Yes, I think that's fair.

MR. THOMPSON: And can we agree that the Government of Ontario is itself a legal entity separate from OPG?

MR. SMITH: Yes, that's correct.

MR. THOMPSON: Thank you. Now, I see in the second paragraph of this memorandum which is at tab 1 that OPG is to operate as a commercial enterprise with an independent board of directors. Can you tell me, Mr. Barrett, what you understand that to mean?

MR. BARRETT: Well, as I said earlier, we are an Ontario Business Corporation Act company, and the commercial enterprise aspect of it is that we are directed towards achieving commercial returns from the investment in the company to act as a commercial enterprise would. And an independent board of directors is, as I understand, independent from members of the government.

MR. THOMPSON: So you understand that to mean independent from the Government of Ontario? Is that correct?

MR. BARRETT: Yes. So our board is appointed by the Government of Ontario, but the membership on that board is independent of the government.

MR. THOMPSON: Thank you. Now, in terms of the functioning of OPG, we see, I think, in section B on the second page of the document the governance framework, and then on C it's generation performance and investment plans. And when I read that and read your prefiled evidence I got the impression that OPG's planning, business planning, does not become operative until the Government of Ontario has concurred in it. Have I got that straight?

MR. BARRETT: Can you just explain what you mean by "operative", sir?

MR. THOMPSON: Well, without the concurrence of the Government of Ontario, your business plans would not be implemented. That's what I mean.

MR. MAUTI: I am not sure I would typify it that way. The board of directors approves the business plan for Ontario Power Generation. As part of the requirements by the province, they follow a process that results in concurrence of that, but that does not prohibit OPG from acting, implementing the business plan on an ongoing basis.

MR. THOMPSON: So is concurrence a condition precedent or not? What happens if you don't get it?

MR. BARRETT: We continue to operate the company pursuant to the business plans that are approved by the OPG board of directors, Ontario Power Generation board of directors.

MR. THOMPSON: So have you ever had a situation where the plan was not concurred in by the Province of Ontario but you went ahead with it in any event?

MR. MAUTI: I believe every business plan that has been submitted has ultimately been approved or concurred with by the Province of Ontario in some form.

MR. THOMPSON: Right. But can it be an iterative process where the Province says, for example, 30 percent is too high; go back and cut it? Didn't that happen the last case where you were asking for an increase which the Government of Ontario thought was too high?

MR. BARRETT: I don't think that's quite my recollection of it, sir. We did receive a letter from the Minister encouraging us to undertake efforts to reduce the rates that we were proposing to charge to customers. But my recollection of the sequencing of things is that management -- OPG management had already made a decision to defer the application for a period of time to see if there were things that could be done to reduce the rate increase before that Minister's letter was issued and received.

But more generally, I would say that in order to direct the company in the way that you are contemplating, the government would have to issue a shareholder directive under the Ontario Business Corporation Act.

MR. THOMPSON: All right. Well, let's just talk about the last go-round.

What is your recollection of the initial -- the level of the revenue requirement increase that was initially being sought and to which the government had a pause reaction? I thought it was in the order of 9 percent and then you refiled and came back with something in the order of 6 percent.

MR. BARRETT: That's generally true, sir. We had talked in the stakeholders about a 9.6 percent weighted average increase inclusive of rates and riders, and we subsequently filed on the basis of a 6.2 percent increase, again inclusive of rates and riders.

MR. THOMPSON: And the outcome of that case was -- in terms of increase, was it zero percent? Or in that order of magnitude?

MR. BARRETT: It was actually a negative increase for the company, in the order of 0.8 percent.

MR. THOMPSON: So in this case, when the -- well, let's just get the chronology in terms of the business plan that the government was asked to concur in. There is evidence on the record where -- I think it's your 2013 to '15 business plan was, if I am not mistaken, completed sometime in 2012; have I got that straight?

MR. MAUTI: The business plan, the '13 to '15 business plan was approved by OPG's board of directors in May of 2013.

MR. THOMPSON: I thought in the initial filing, there was a business plan of an earlier date. And maybe I am missing something here.

I thought it was in the business planning and budgeting section, A2, tab 2, schedule 1, and there is a document in the initial -- oh, I see. You are right. So it's May 16, 2013 that was presented.

MR. BARRETT: If it's helpful, we subsequently filed the 2014-'16 business plan, which I believe was approved in November of 2013, and it was also provide as part of the record.

MR. THOMPSON: Okay. So that's where I'm confused. You presented the 2013 to '15 in May 16, 2013. That was approved by -- the government concurred in that presentation; have I got that straight?

MR. MAUTI: Yes. The government did concur with the '13 to '15 business plan.

MR. THOMPSON: And then there is also in the record a reference to the 2014 to '16 business plan, Mr. Barrett says. I think that's in an interrogatory response, if I am not mistaken.

And what impact has that had on this application?

MR. BARRETT: We actually filed an impact statement; that was the first impact statement that looked at the material changes to the revenue requirement flowing from the '14 to '16 business plan.

MR. THOMPSON: Okay. And so is this application now based on the' 14 to' 16 business plan?

MR. BARRETT: It's not that straightforward. The application --

MR. THOMPSON: Nothing is straightforward.

MR. BARRETT: The application is principally based on the 2013 to '15 plan. However, as you aware, we have obligation to update our materials to reflect material changes in circumstances. As a matter of practice, we do that through impact statements.

So we filed the first impact statement in December of '13, reflecting material changes from the 2014 to '16 business plan. And we filed a second impact statement in May of 2014, reflecting some material changes from the first impact statement. And we wanted to do that so there was an up-to-date record in advance of the start of the settlement conference.

So that is what really drove the timing of that second impact statement.

MR. THOMPSON: Okay. So just to nail this down, it started with the 2013 to '15, in May of 2013, right?

MR. BARRETT: Yes, that's right.

MR. THOMPSON: Your application was filed with this Board, I think it was in September?

MR. BARRETT: September 27th, 2013.

MR. THOMPSON: So you must have been waiting on something. Were you waiting on concurrence from the government?

MR. BARRETT: No, the timing of that filing was principally driven by the regulation of the newly regulated facilities. As I testified to on Friday, we began to understand in the spring of 2013 that the government was contemplating making that policy change, and on that basis we began to gather information to put together a filing that would include the additional 48 hydroelectric stations.

And we worked on that through the spring and into the summer, to be ready to file that application as soon as the government gave a public signal that they were, in fact, going to make that policy change. And that public signal was the posting of a draft regulation or commentary about a draft regulation on the regulation -- government regulation website, which happened on September 13th, 2013.

MR. THOMPSON: Okay. So was -- what prompted that policy change, or the consideration of that policy change in the spring of 2013?

MR. BARRETT: It might be worthwhile to look at the posting itself, because there is some commentary from the government in that posting.

MR. THOMPSON: It's probably in our compendium, I think.

MR. BARRETT: Let's just have a look.

MR. THOMPSON: I think what you are looking for, you will find at tab 10.

MR. BARRETT: I don't actually have tabs in my version, but... yes, we have that.

MR. THOMPSON: Is that what you are referring to?

MR. BARRETT: Yes. So if you look at -- I guess there is one, two, three -- the fourth paragraph down in the "Summary of proposal" section.

MR. THOMPSON: Right.

MR. BARRETT: You will see that they say:

"Prescribing OPG's unregulated non-contract hydroelectric assets would improve OPG's ability to properly plan for and maintain these important hydroelectric assets. These facilities are critical to the operation of Ontario's electricity market as they represent approximately 3,000 megawatts of reliable, clean generation that are able to respond to changing load demands in the province."

And I think in the previous paragraph there is a recognition that these facilities represent the last significant generation assets in the province that rely entirely on the Ontario hourly -- Ontario electricity market price.

And my takeaway from these two paragraphs is that there was a recognition on the part of the government that the market price in Ontario was too low and was not at a level that would allow OPG to properly plan and maintain these assets in the long run. And they wanted to address that deficiency.

MR. THOMPSON: Okay. So just, again, to get the context clear, these assets had been operated within the ambit of -- or outside the ambit of regulation since 2005 or since -- I guess since Ontario Hydro was broken up; is that right?

MR. BARRETT: Yeah, since the -- again, the history is a little bit more complicated, but since the market was opened they were receiving market prices, and prior to that they were subject to other pricing regimes.

MR. THOMPSON: Okay. And was HOEP always lower than cost, or was that a new development?

MR. BARRETT: It's certainly in the last few years there has been very low market prices. I don't know if during that entire period whether the market price was below the cost of owning and operating these facilities.

I mean, most recently in Q1 of 2014 market prices were quite high as a consequence of a very cold winter and very high gas prices, very high demand, and during that first quarter these assets received a market price which was well above the $47 that are in the rate application.

MR. THOMPSON: All right. Well, Mr. Shepherd's pointed out that in the average in 2013 it was $28, and you used $30, I think, in your estimates, and you are asking for payment amount north of $47, I believe, for these assets.

MR. BARRETT: Yeah, again, to me that highlights the deficiency that arises from just relying on HOEP, because the $47 is basically a cost of service, so it's recovering the cost of operation plus earning a return at the Board's approved levels on the assets.

MR. THOMPSON: So did OPG go to the shareholder, the government, and say, we are not making our costs here. You have to do something? Or was it the government's initiative?

MR. MAUTI: It was part of the review of the business plan that we have and the briefings that we do and updating on business plan progress. OPG is an Ontario Business Corporations Act company, was charged with earning appropriate amounts of return for the shareholder. They were able to see that the operations of our unregulated business was substantially below what the expectation would be and in some quarters actually generating a loss, so there was concern about the impact of that part of the operation on OPG as a whole, and we did reiterate that the ability to maintain and to operate these assets in the future was dependent currently on the prices of the Ontario hourly electricity price and the volatility that that would cause, and that might impact our ability going forward.

So we did lay that out for the province, and they saw the impact on our financials, and I think the response and how they have acted accordingly in terms of putting them under regulation would be, I would assume, their response to that risk we laid out for them.

MR. THOMPSON: So playing that back, what I hear you saying is you asked to be -- have these assets put into regulation, and the government concurred; is that fair?

MR. MAUTI: We identified the current impact those assets would have based on the current prices and the risks involved with that, and I think as a response to that as our shareholder and their ability to set policy they took the actions they took.

MR. THOMPSON: But the impact on consumers or ratepayers is an increase in the cost of that production by more than 50 percent, compared to the $30 that you used in your prefiled evidence.

MR. BARRETT: Yeah, but I think you can appreciate, sir, that it would not be possible to continue to operate these facilities and recover less than their full costs. It wasn't possible for OPG to continue to subsidize their operations indefinitely.

MR. THOMPSON: Well, when we are talking about OPG and its shareholder, are we not really talking about allocating costs between ratepayers and taxpayers?

MR. SMITH: Maybe it's just me. I am not sure I understand the question, Mr. Thompson. Perhaps you could just rephrase it.

MR. THOMPSON: Well, if the government has to pick up costs of carrying these assets, that's a taxpayer burden, in my parlance, whereas if the ratepayers have to pick them up then that's a ratepayer burden.

And so my question is, when we are dealing with OPG and its shareholder and the question of who picks up these costs, is it not essentially an allocation issue as between ratepayers and taxpayers?

MR. BARRETT: I wouldn't say it quite that way, sir. I think within the four corners of OEB regulation there is an acceptance of the stand-alone principle, and under that regulation is done without regard to ownership of a company. I think that's well-accepted, and the principal view that's been applied to OPG since it was regulated by the OEB.

Again, there was -- we were in a situation where we were operating assets. We were not recovering the costs of those operations, we were not able to return the capital that was invested in those facilities, and something had to change.

That could have been a contract with the OPA, that could have been regulation by the OEB, that could have been us deciding not to operate certain of those facilities anymore because we were losing money.

Ultimately the government made a policy choice about how they wanted to respond to the circumstances.

MR. THOMPSON: Okay. Well, in this document that you referenced us to, the proposed amendments, it talks about HOEP being a wholesale market price, and you have used that phrase "it's market price"; is that fair?

MR. BARRETT: It is, with a little asterisk on the word "market" --

MR. THOMPSON: What do you mean by that?

MR. BARRETT: Because other than these assets everyone else in Ontario gets a contract. So for example, we used to have plants, the Mississagi plants, which we subsequently sold or decontrolled to Brookfield. Brookfield operates those plants pursuant to an OPA contract, and as far as I know the published price that they receive is $69 per megawatt-hour, so --

MR. THOMPSON: But that's your shareholder off on a frolic, right, doing its own thing through the OPA.

MR. BARRETT: I have no response to that, sir. But I think the salient point is that market is -- the situation in Ontario is that we have a very unusual market, and a circumstance where only these set of assets are receiving the market price, the market price is well below the cost of operating those facilities, is untenable in the long run.

MR. THOMPSON: Was HOEP intended to be a surrogate for a competitive marketplace?

MR. BARRETT: I think the original philosophy of moving to a market in Ontario was to have all of the generation in the province paid under the Ontario market clearing price. There was consideration earlier about whether or not you would overlay that with a capacity market as you see in other electricity markets, but to date we haven't adopted a capacity market.

MR. THOMPSON: So does this regulation that the government has passed, that you asked them to pass, in effect deprive ratepayers of a competitive market price and require them to pay a higher regulated price? Is that not the effect of what is happening here?

MR. BARRETT: Yes, I think that is the bottom-line effect in the most recent period. If you look at $30 as being what these facilities were earning on average in the market at the proposed regulated rate of $47 -- but again, I come back to another bottom line, that it would not be possible for us to continue to subsidize the operation of these facilities and not recover our cost and return the capital that we have invested in these facilities.

MR. THOMPSON: I understand that, and the question is who is going to pay.

So what does this make of the competitive market for electricity, this new regulation? Is it basically dead?

MR. BARRETT: It certainly has a number of very significant challenges and has had for many years, so it may not be dead, but I would suggest it's --

MR. THOMPSON: It's on life support, if it's alive at all.

MR. BARRETT: That's probably not an unfair characterization.

MR. THOMPSON: Now, coming back then to this question of independence that we were discussing, back to the memorandum, I just want to, again, get a better feel for OPG's interaction with its shareholder. And I see down in C1 that you are to establish three- to five-year performance targets and key measures are to be agreed upon with the shareholder and the Minister of Finance.

Can you give me an example of what those key measures are in this business plan that's before the Board that would require the agreement of the Minister of Finance?

MR. MAUTI: I am sorry, I was just turning back to the reference. Can you repeat your question?

MR. THOMPSON: Yes, the -- so you have the reference there, the section C of the memorandum?

MR. MAUTI: Yes, I have that.

MR. THOMPSON: Paragraph 1? And it says:

"Key measures are to be agreed upon with the shareholder and the Minister of Finance."

My question was: Could you give me some examples of the key measures in the business plan that you have presented to the government and with which it concurs and you are asking this Board to approve, that had to -- that required the agreement of the Minister of Finance?

MR. MAUTI: The key measure that is used is the net income of Ontario Power Generation and its impact on the government's consolidated financial results. So that would be the primary measure.

The province also looks to the amount of payments we make to them through a variety of means, including income taxes, gross revenue charges on its hydroelectric operations, and basically the cash flows that are going to the province.

Those are the two key measures.

MR. THOMPSON: The paragraph goes on and says -- it talks about:

"... performance targets that will be benchmarked against the performance of the top quartile of electricity-generating companies in North America."

Do those remain as key measures?

MR. MAUTI: Through the submission of business plans from our key business units, including nuclear and hydroelectric, that are also part of the materials in evidence, they also are reviewed by and are subject to review in terms of the performance objectives of those key generators. And...

MR. THOMPSON: Okay. And does OPG come within the top quartile in most measures? I have understood it was pretty low on the totem pole.

MR. MAUTI: Again, probably a better question to talk to the hydroelectric and nuclear panels specifically, and their business plans, but the measures themselves are not just cost-related; they span the whole gamut of operations, including safety measures, reliability measures and whatnot.

MR. THOMPSON: Thank you. Now, down in section E, this is "Communication and reporting," and it looks like OPG has to make sure the Minister of Finance receives timely reports, that its shareholder receives timely reports. The OPG board meets with the Minister of Energy four times a year.

That is my paraphrase of the first three paragraphs; is that the way it works?

MR. BARRETT: Not entirely.

MR. THOMPSON: Could you describe how it works in practice?

MR. BARRETT: Well, just with reference to the quarterly meetings, as a matter of practice those meetings do not happen. They happen occasionally, but not as -- four times a year.

MR. THOMPSON: Okay, well, the next paragraph, 4, talks about:

"OPG's chair, president and CEO and the Minister of Energy will meet on a regular basis, approximately nine times per year."

Does that happen?

MR. BARRETT: To the best of my knowledge, no, it does not.

MR. THOMPSON: So what does happen? This agreement calls for communication and reporting. Just describe to me what takes place, please.

MR. BARRETT: I think the practice that has evolved over time is that the kind of principal communication and approval mechanism is through the concurrence with the business plan.

There is also periodic communication based on significant developments within the company that our shareholders indicated that it would be interested in. And I think this kind of -- that communication happens in various levels within the company and through various departments and individuals.

MR. THOMPSON: Okay. Well, let's just go over, then, to paragraph 5. It says:

"The chair, president and CEO and the Minister of Finance will meet on as as-needed basis."

Does that meeting take place? Have meetings to that effect taken place in the past 24 months?

MR. MAUTI: To the best of my knowledge, they have not.

MR. THOMPSON: 6 says:

"OPG's senior management..."

Of which you folks are a part, I understand.

"...and senior officials of the Ministry of Finance will meet on a regular and as-needed basis."

Does that happen?

MR. MAUTI: Yes, those meetings do happen. Myself, as part of the business planning process, likely have several meetings, three to six, during the year with various staff from the Ministry of Energy, in terms of providing briefings and status on the progress on the business plans. And there is regular communication between senior Ministry staff and people in my group in terms of follow-up questions and following up on as-needed issues.

MR. THOMPSON: How about you, Mr. Barrett? Are you a participant in those meetings as well?

MR. BARRETT: Not typically, sir.

MR. THOMPSON: Could you give me an estimate of the number of meetings of the type you've described that took place in the last 12 months? Would it be one a month? Once every couple of weeks? What's the approximate frequency?

MR. MAUTI: I would say probably between once a month -- perhaps more than one time a month, depending on the time of year and whatever issues might be of interest.

MR. THOMPSON: And is the Ministry -- is this the purpose of these meetings, to just communicate to the Ministry what you are doing? Or is it to get their concurrence? In other words, is it a co-operative type of exercise or simply information transmission?

MR. MAUTI: I would say it's co-operative. The process for obtaining concurrence for our business plan would go through a new process that the province has instilled, where it has to go to a meeting of the Treasury Board of Cabinet, where the Minister of Energy would table the business plans of the agencies under his control, and so there would be a fuller, more formal process to obtain concurrence. That process has been in place for the last 12 to 14 months, I believe.

MR. THOMPSON: So coming, then, to some of the specifics of this application, the Niagara tunnel, was specific Ministry approval for that project sought and obtained?

MR. MAUTI: For the in-service of the tunnel or the --

MR. THOMPSON: Well, the project. We know the board of directors approved something for 900-and-some-odd million a few years ago, and then there have been further approvals. But I am just curious as to the role of the Ministry in that particular project.

MR. BARRETT: Probably that's a question better asked of Mr. Mazza when he -- when he comes up next.

Certainly the government was very involved in the final decision to proceed with the tunnel project. I just don't recall whether or not there was a specific directive issued, or what form that might have taken.

I certainly do recall the Premier being at a ribbon-cutting ceremony for the project, so there was, at least at that level, a very strong endorsement for it to proceed.

MR. MAUTI: In terms of the business plans themselves, they would have had expenditure forecasts for spending in the Niagara tunnel project and communication about its in-service. So as those ones have been concurred with, there was knowledge and acceptance of that as part of our business plan.

MR. THOMPSON: Okay. On the nuclear side, there has been discussion of your business transformation plan, compensation type of issues, headcounts. Was the Ministry in on that?

I know they commissioned the KPMG study, but that was in 2012. Were they in on it from the outset?

MR. MAUTI: I know there were briefings provided to the Ministry of Energy and Finance on our business transformation program, so they were well aware of the program and the objectives and the time frame and the magnitude of changes. So they were aware of, and again, as embedded in our business plans, they concurred with those plans and the progress we were making on business transformation.

MR. THOMPSON: Would it be fair to characterize the government and its relationship to OPG as being tantamount to a parent entity; i.e., like Enbridge Inc. to EGD or Spectra to Union? Does that analogy apply? There seem to be a lot of similarities here.

MR. BARRETT: I don't think so, sir. I think that it has the role of an interested shareholder, so for example, I think one of the distinctions that I would draw is that parent companies often provide services to subsidiary companies, like treasury function or HR or IT services, and that's not the circumstance here.

But I think they are an interested shareholder, and that's not surprising, given that OPG supplies 60 percent of the electricity in the province and represents an investment of tens of billions of dollars.

MR. THOMPSON: Well, I suggest they are more than an interested shareholder. They have a lot of rights that an OBCA shareholder doesn't have under this memorandum of agreement, like concurring in business plans.

MR. SMITH: Well, if the proposition is that in the instance of a wholly owned company it's not open to a wholly owned -- to the parent of a wholly owned company to enter into a memorandum of agreement, that's a legal question, but we don't agree with the conclusion. Of course, they can under the OBCA.

MS. HARE: Mr. Thompson, is this an appropriate time to break?

MR. THOMPSON: Yes. Very appropriate, thanks.

MS. HARE: Thank you. So we will take a little bit longer today. The Panel has some other business to attend to, so we will come back at 2:15.

MR. SMITH: Madam Chair, if I just might ask briefly, you had indicated at the conclusion of the day, I believe it was on Friday, that the Board was leaning towards a Wednesday attendance, and I just wanted to know whether you had further thoughts in that respect.

MS. HARE: Yes. We are available to sit Wednesday until one o'clock, subject to any objections from the people having conflicts, in particular your witnesses.

MR. SMITH: Okay. Thank you.

MS. HARE: Thank you.

### --- Luncheon recess taken at 1:04 p.m.

### --- On resuming at 2:27 p.m.

# DECISION:

MS. HARE: Before we resume, Mr. Thompson, with your cross-examination, the Board would like to take care of a few outstanding confidentiality matters.

The Board has reviewed the submissions of OPG and other parties with respect to the confidential treatment of a number of undertaking responses and evidence filed more recently by OPG. Based on the review of submissions and the Board's judgment, the Board has determined that the following should receive confidential treatment and available in unredacted form only to those parties who filed the declaration and undertaking.

And these include: Undertakings JT2.2, JT2.3, JT2.8, JT2.9, JT2.34, attachment 1. I just want to say a little bit more about that one in particular.

We understand that the Society of Energy Professionals has not signed the declaration and undertaking, but should they do so, this document would not be available to it without further submissions to the Board.

Continuing along which other exhibits, then, would receive confidential treatment, they include Exhibit D2-2-1, attachments 6.5, 6.6 -- I think it's a dash -- 6-7, 7-7, 7-5; is that right, Violet? Point? Okay. Let me go back.

Attachments 6.5, 6.6, 6.7, 7.4 and 7.5. Exhibit N2-1-1, tables 2 and 3.

In terms of what we don't find to be confidential, would be the response to School's Interrogatory No. 84, which is the CD of hydroelectric benchmarking data. Other than OPG, individual participants' data are not identifiable. The Board sees no reason for this study not to be on the public record.

OPG takes the position that it participated in the survey subject to confidentiality provisions. However, these provisions do not bind the Board. The Board has made it clear on previous occasions that it values benchmarking studies and is confident that such studies will continue despite being placed on the public record.

With respect to the KPMG report filed on June 12th, which today was given Exhibit No. K3.2, the Board will hear oral submissions, if there are any, at end of day tomorrow, as to whether or not the items proposed to be redacted and kept confidential should be.

Secondly, the Board requests OPG to the file with the Board a red-lined version of the material requested, to be treated as confidential.

Are there any questions arising from the Board's decision?

MR. SMITH: No, Madam Chair.

MS. HARE: Thank you.

Mr. Thompson, then if you are ready to proceed?

# Continued Cross-Examination by Mr. Thompson:

MR. THOMPSON: Yes. Thank you, Madam Chair.

Panel, just with respect to the tunnel -- and this may be a question that is more properly put to another panel; I am not sure, but I wanted to get some idea of the impact of the regulatory issue of the extent to which some of those expenses might be disallowed.

And there is an exhibit in the record, L4.4, schedule 1, Staff 21, which puts the difference between the initially approved budgeted amount of the 985 million by the board of directors and the final costs in the order of $491.4 million. Are you folks familiar with that exhibit, that amount, roughly, sort of big picture?

MR. BARRETT: That sounds about right, sir. If you'd like, we can turn the exhibit up.

MR. THOMPSON: I think it's on the screen there now. A little further down, I think, is the number. Yeah, it's in the answer to subparagraph (a) in that response.

MR. BARRETT: Yes, I see that number.

MR. THOMPSON: Okay. And just asking myself what's the impact of a disallowance of some or all of that amount, am I right that part of that project, if not all of it, has been financed by the Ontario Electricity Financial Corporation?

MR. BARRETT: They have provided financing for the project, yes.

MR. THOMPSON: And would it exceed 500 million? Do you know the answer to that, by any chance?

MR. BARRETT: I am pretty sure that it does.

MR. THOMPSON: Okay. So to the extent there was a disallowance of some or all of that amount, would that 500, in effect, just go into the stranded debt category?

MR. BARRETT: No, that's not my understanding. If there was a disallowance of capital that had been spent by OPG, then it would be reflected in OPG's financial results; it would have to write that amount off, and there would be a net income impact for OPG.

MR. THOMPSON: Okay. So it wouldn't pop up in the stranded debt category?

MR. BARRETT: Not directly. I think there potentially is an indirect impact, in the sense that stranded debt gets satisfied through payments from OPG and others. So to the extent that those payments might be reduced as a consequence of that, there might be an impact there.

MR. THOMPSON: Okay. Thank you. Just coming back to the discussion you had with Mr. Shepherd, you were using, I think, a 10 percent factor to roughly estimate the value of the consequences of that project?

MR. BARRETT: The 10 percent is my rough rule of thumb in terms of calculating a revenue requirement impact from an in-service capital amount. So again, $100 million in rate base over the course of a year, roughly a $10 million impact on revenue requirement.

MR. THOMPSON: Okay. Thank you very much.

Okay. Moving, then, to the newly regulated hydroelectric, and we had some discussion about this before the break and I wanted to probe a little further in terms of the consequences of this measure in terms of revenue requirement.

And you had this discussion with Mr. Shepherd, I believe. And his numbers, using the $28 per megawatt-hour measure, show an increment to revenue requirement in the order of $350 million. Do you recall that?

MR. BARRETT: Yes. That can be found on page 2 of Exhibit K3.5. That's the SEC compendium.

MR. THOMPSON: And that is, as I understand it, is a consequence of moving the assets on OPG's balance sheet into rate base, assets pertaining to the unregulated hydro; is that right?

MR. BARRETT: Yes. It's the revenue requirement impact of prescribing the additional 48 hydroelectric stations.

MR. THOMPSON: Now, am I correct that -- you did circulate last week, I believe, an updated version of A2, T-1, S-1, which shows a new attachment 6, which is the financials for the newly regulated hydroelectric facilities; do I understand that correctly?

MR. BARRETT: Sorry, are you looking at Exhibit A2, tab 1, schedule 1, attachment 6?

MR. THOMPSON: Well, schedule 1, page 6, I guess, is what I have here. There is a blue sheet, and then there is -- attached to it is schedule 1, attachment 6, page 1 of 7.

MR. BARRETT: Yeah, this is a document entitled "schedule of select assets and liabilities of OPG's newly regulated hydroelectric facilities as at December 31, 2013"?

MR. THOMPSON: Right.

MR. BARRETT: Yes, I have that.

MR. THOMPSON: And in the documents that we were discussing this morning, where you were -- there was a discussion of presenting the 2014 to '16 business plan, which I think was presented to Hydro One's board in May of 2013?

MR. MAUTI: No, the 2014 to '16 business plan, you said?

MR. THOMPSON: Yes.

MR. MAUTI: That was November of 2013.

MR. BARRETT: It was the earlier business plan in May? It was the 2013 to 2015 business plan in May?

MR. THOMPSON: Yes. And I am looking at Exhibit L1.2-2, AMPCO 4, attachment 1.

MR. MAUTI: Yes, that is the cover page that accompanied the business plan that went to the board of directors.

MR. THOMPSON: Okay. And in the third paragraph of this document, it talks about, an extraordinary one-time gain of 300 million is to be expected as a result of this transaction in 2014.

MR. MAUTI: That's correct.

MR. THOMPSON: And could you just explain what that is all about, please?

MR. MAUTI: This is the income-tax impact of moving the 48 facilities under regulation. It is the difference between the book value and the tax value of the assets and the expected -- the timing differences to be recovered through a regulatory process into the future. Those had always been sort of understood as a future tax impact and what you are able to do when you move the assets under regulation, since you have a defined stream and recovery process of those. We were able to book them through a one-time change and extraordinary gain in 2014.

MR. THOMPSON: Okay. Now, is that the number that appears on Exhibit L, tab 9.7, schedule 17, SEC 138?

MR. BARRETT: Can we just have that reference again, sir?

MR. THOMPSON: Yes. Exhibit L, tab 9.7, schedule 17, SEC 138. What is shown there is the net book value of PP&E, the undepreciated capital cost, and then the future income-tax liability amount is calculated at 25 percent, and the number is not quite 300 million, but it's close. 280.7 million.

MR. MAUTI: Yes, that was the estimate at the time. It's a forecast of what those differences would be on the date of regulation, which is targeted for July 1st, 2014.

MR. THOMPSON: Okay. And so there is what I call a cumulated deferred tax component of this balance sheet that you are moving into regulation in the order of 300 million?

MR. MAUTI: That's correct.

MR. THOMPSON: And then there are the other hard assets, which you are moving in at their net book value; right? Have I got that straight?

MR. MAUTI: Yes, the book value for those assets as demonstrated in the audited statements that you started this questioning on, yes.

MR. THOMPSON: And are -- is OPG assuming that all of those assets will attract a full rate-base return?

MR. BARRETT: Yes.

MR. THOMPSON: Are we correct that no incremental capital has been issued by OPG with respect to these assets?

MR. BARRETT: No, that's not correct.

MR. THOMPSON: What is correct? Describe what's happened then, please?

MR. BARRETT: Well, the establishment of OPG at the conclusion of the financial restructuring of Ontario Hydro, OPG received a package of assets from the government in exchange for debt and equity that was equivalent to the value of those assets as determined through that financial restructuring process. So from OPG's perspective, those are real assets that we purchased with debt and equity.

MR. THOMPSON: Was equity raised in the capital markets for this, or was it just the -- I had assumed it was on the stranded debt side of the ledger, but you are telling me something different, I think.

MR. BARRETT: Well, the equity was provided by the Government of Ontario, who is the sole shareholder of the company.

MR. THOMPSON: Yes, but is it not -- are not all of these assets within the stranded debt category now, on which ratepayers are currently paying 7 cents, I think, per kilowatt-hour?

MR. BARRETT: You are talking about the debt retirement charge?

MR. THOMPSON: Yes.

MR. BARRETT: My understanding of the debt retirement charge is that it is to de-fees (ph) the residual stranded debt from the financial restructuring of Ontario Hydro, but I would say these assets are wholly separate from the DRC and the residual stranded debt.

MR. THOMPSON: Where is the return on capital coming from -- well, there isn't any return on capital, because you are not making your costs on the unregulated side; is that right?

MR. BARRETT: Yes, as we've indicated earlier as recently as 2012 we had a net loss on the operation of these facilities.

MR. THOMPSON: Well, have you ever made a full equity allowed return on these assets since they were folded into OPG?

MR. MAUTI: I believe during the early days after the market opened in the early 2000s the market price was somewhat volatile, and it actually was at a rate that was probably approaching upwards of $60 a megawatt hour as late as 2008, so during those early periods there would likely be an argument that we were making at least the regulated return on those assets until that period of time, if not more, but the market price has changed dramatically since around 2009, and as we have indicated, it tends to be hovering around the high 20s, low $30 megawatt-hour range currently.

MR. THOMPSON: Let me tell you where I am going with this, and you can tell me -- we can cut to the quick here. In our brief we had included excerpts from the Board's initial decision pertaining to nuclear waste management, the decommissioning. That was at tab 5 of Exhibit A3.6, and the issue in that case was whether you could get a full rate-base return on the ARC component of nuclear liabilities, as I recall the issue, in any event. And the debate turned on whether it should be a full rate or something different.

If you go to page 89 of this decision, the Board said:

"It would be inappropriate, in the Board's view, to award OPG a rate-base type of return unamortized ARC when OPG has not had to raise the full amount of ARC as new debt or equity."

I thought that analogy applied to this item, the previous state -- the newly regulated hydro assets. Does it?

MR. BARRETT: I don't think it does, sir. I think a more useful and on-point precedent from the 0905 hearing process is the treatment of the previously regulated hydroelectric assets. So those are assets that went through the same financial restructuring processes as the newly regulated assets, and the Board determined there that they should receive the full standalone return on capital based on the book value that they were required to accept under Regulation 53/05.

So I think the parallel with those assets is very much on point, and the parallel with the nuclear ARC is not on point.

MR. THOMPSON: Okay. Now, was there a deferred tax component in the first go-round? Because the Board has traditionally treated deferred taxes as zero-cost capital, and you are asking them to treat it as full rate base capital.

MR. BARRETT: Just to be clear --

MR. MAUTI: I believe there was a deferred tax component associated with the first establishment of the previously regulated hydro assets, yes.

MR. THOMPSON: Well, we can check that. Okay. So from your perspective, you don't see a cost of capital issue related to this folding in of the newly regulated hydro?

MR. BARRETT: No, given the requirements of Regulation 53/05, that the Board accept the asset and liability values for purposes of regulation, given the Board's own precedent with respect to the treatment of the previously regulated hydroelectric assets, which are directly and almost exactly analogous, and also given the Board's legal requirement to observe the fair return standard on capital.

MR. THOMPSON: Okay. Well, I will save more ammo for that in argument.

The other issue, though, is -- that we think is there and raising it because you are the regulatory issues panel, is capital structure.

What you are rolling in is hydroelectric stuff, which is much less risky than nuclear, but you are proposing to keep the 47:53, I believe it is, capital structure ratio for the whole; have I got that straight?

MR. BARRETT: Yes, that's correct. We engaged Ms. McShane to look at that question directly, and her recommendation was that the capital structure remain in its current level, with a view that this set of assets was somewhat less risky than nuclear and more risky than the currently regulated hydroelectric, but on balance, the capital structure for the aggregate should remain at the current Board-approved amounts.

And there is a report from Ms. McShane, which has been filed, which I can take you to, that explains her thought process and reasoning in coming to that conclusion. And the company has adopted her advice.

MR. THOMPSON: Okay. I will take that up with her, then. Thank you.

Do you happen to know what the interest rate is on stranded debt? In other words, what does the 7 cents per kilowatt-hour represent in interest rate?

MR. MAUTI: No, sir. I do not know.

MR. THOMPSON: In our material we did include some financials. I think it was the annual report of the Ontario Electricity Financial Corporation. It's at tab 19. And at page 18 of that document, the effective rate of interest on its debt portfolio was apparently 5.86 percent.

Would you take that, subject to check?

MR. BARRETT: I see that on page 18, as the first line of that page.

MR. THOMPSON: All right. Thank you.

And now in terms of the, again, just facts pertaining to the introduction of the government's plan to -- and the introduction of the amendment to Regulation 53/05 to bring new hydro under the umbrella of regulation, we discussed this morning that -- I think that started in September and concluded in November/December 2013; is that...

MR. BARRETT: There was posting in September, September 13th, of the government's intent. Part of the process that they use is to post proposed regulations and solicit comments from the public, and then make a final determination after a comment period.

And I think the regulation amendment received Royal assent in November or December of 2013.

MR. THOMPSON: We've included in our material some information pertaining to an announcement by the government, I think around the same time or perhaps a little bit later, of the plan to eliminate the stranded debt for residential customers at the end of 2015.

You will see a document describing that at tab 18 of the brief, and I think we may have other documents to a similar effect.

My question is: Were you folks made aware of that plan? And are -- my real question is: Are the rolling in of new hydroelectric into regulation and this debt requirement charge elimination for residential users part of a package of policy changes by the government?

MR. BARRETT: Not to my knowledge, sir. I will observe, though, that the financial consequences from regulating these hydroelectric assets, including the tax pick-up that Mr. Mauti referenced, would be ultimately consolidated in the books of the province, since they're the sole shareholder of the corporation, but whether or not they were part of a package, I have no idea.

MR. THOMPSON: So you weren't consulted on that? It wasn't brought to your attention as part of this communication that you had with respect to the province -- with the province, pertaining to moving unregulated hydro into regulation?

MR. BARRETT: As far as I know, it was not, sir.

MR. THOMPSON: Does anybody else on the panel have any information on that?

MS. BUTCHER: I do not.

MR. MAUTI: I do not either, no.

MR. THOMPSON: Turning to nuclear, just briefly, if I might -- and we have had considerable discussion with Mr. Shepherd about this, so I don't want to go over that again, but I wanted to just get a few facts about the discussion he was having with you about the compensation disallowance back in the 2010-0008 proceeding.

That decision is in the brief at -- it's tabs 6 and 7; 6 is the index of the Board's decision and then 7 is the section of the Board's reasoning where the disallowance was made based on references to the benchmark that's described there.

You are familiar with that decision, I am sure?

MR. BARRETT: I am, sir.

MR. THOMPSON: And that decision was dated March 10, 2011. And I understood you to -- that the witness panel told Mr. Shepherd this morning that prior to that decision having issued, OPG's directors anticipated the need to transform the organization and scale it down, words to that effect. That was sometime in 2010. Do I understand that correctly?

MS. BUTCHER: Yes, my understanding was there was discussions with the executive prior to -- in 2010.

MR. THOMPSON: So is it fair to say that the Board's decision, which pointed to problems with your compensation levels, staffing and whatnot, in the spring of 2011 didn't come as any surprise? The company had already anticipated they were overloaded and had started initiatives to downsize, is the way I understand your testimony.

MS. BUTCHER: I think the company had understood that because the production forecasts were declining over time that we needed to do something to ensure that our costs remained in alignment with our production forecasts.

MR. BARRETT: And just to put a more blunt point to that, as you will understand, the government had made a policy decision to close down the coal plants, so OPG had about -- at one time about 7,000 megawatts of operating coal facilities.

So a large part of the thinking around BT or early on was a recognition that we are going to be closing a number of very large facilities and we are going to have to adjust our cost profile to recognize that significantly lower production. So we had to trim our sails to the new winds.

And obviously the Board's decision in the 2011 and 2012 case created some additional urgency to do what we could to address our costs.

MR. THOMPSON: Okay. So are you telling me that the initial anticipation by the OPG board of directors to transform the organization related to the coal plant closures primarily? Is that what you are telling me?

MS. BUTCHER: I think that was a significant indicator that things needed to change in OPG.

MR. THOMPSON: All right. But was there some anticipation that things might be a little bit bloated on the nuclear side too?

MR. BARRETT: We certainly had seen benchmarking information, and that was a -- we were aware that that was a big part of the discussion in the '11 and '12 case. Certain of our facilities don't benchmark very well for a number of good reasons, but -- so that was a point that we were sensitized to as well.

MR. THOMPSON: And then with Mr. Shepherd, he took you to the presentation of the business transformation initiative, I think it was dated December 14, 2011, so it was a few months after the Board decision. You recall that? It's in the interrogatory responses.

MS. BUTCHER: Yes, I have it here.

MR. THOMPSON: Okay. And yet I guess what puzzles me is, between the issuance of the Board decision and the presentation of that plan, OPG appealed the Board's decision. So you were, in effect, downsizing. The Board issued a decision that said you are a little overweight, and you carry on with your downsizing, but you appeal the decision.

Was that an OPG initiative, a Ministry initiative? Did it require Ministry approval?

MR. BARRETT: It was an OPG decision to proceed with the appeal. And that appeal was really focused on an issue of principle, as far as the company was concerned. That was the treatment of committed costs, where we had a view around how those costs should be treated in a regulatory context.

MR. THOMPSON: Was the Ministry asked to concur and did it decline, or what happened?

MR. BARRETT: Certainly there was no formal concurrence. My recollection of the time was that they were certainly advised, which is what the company does with important developments in its operations, and also, we would have appreciated that this might have a public dimension, a government-owned utility appealing a decision of a government regulator. So we certainly were sensitive to that point as well.

MR. THOMPSON: All right. Thank you.

Now, so we had the initial presentation of the transformation plan, December 14, 2011, and then in our brief at tab 8 we have the initial court decision, Divisional Court, dismissing OPG's appeal with one dissent. That is shortly after February 14, 2012; right? You will see that date on the last -- well, it's the second-last page. It actually says it was released Valentine's Day, appropriate, February 14th, 2012.

MR. BARRETT: Yes, I see that on the top line.

MR. THOMPSON: And by now you are into your business transformation plan. It's not merely presentation, it's implementation, fair?

MS. BUTCHER: That's correct.

MR. THOMPSON: But you still appealed?

MR. BARRETT: Yes, again, as I indicated, there was in our view a very important regulatory principle around the treatment of committed costs, and I think we were heartened by the split decision at the Divisional Court level and decided to proceed further.

MR. THOMPSON: And so we move forward. Business transformation is in full swing now, and the Court of Appeal -- that decision you will find at tab 9 of our decision -- allowed your appeal on June the 4th of 2013; right?

MR. BARRETT: Yes, that's the date.

MR. THOMPSON: And now the matter is up before the Supreme Court of Canada; is that right?

MR. BARRETT: Yes, sir, that's correct.

MR. THOMPSON: Do you know if the hearing date has been scheduled?

MR. SMITH: The hearing date has been tentatively scheduled for December 3rd.

MR. THOMPSON: In terms of this application, I wanted to find out what implications the 145 million has for this case. And if you look at the drivers of efficiency evidence -- that's Exhibit A1, tab 3, schedule 2, at page 4, there is words that describe one of the drivers of the deficiency, and this -- I am looking at the original text. I know you have updated this once, and it is going to updated again, but it's -- I think for my purposes this item is going to remain in all presentations.

But at this point as at the initial filing, at line 2, the $180 million reference is a deficiency driver. This increase captures the EB-2010-0008 disallowance of nuclear compensation costs of $145 million.

And if you look at the chart 2 that -- which is at page 6 of this same exhibit, and it's been updated, you will see down in the box "other", and it says "includes the 145 million disallowance".

Can you tell me what that means?

MR. BARRETT: Yes, these deficiency calculations are really describing the difference between two points of measure. The first point of measure would be the OEB-approved revenue requirements in EB-2010-0008 and what is in our revenue requirement in this application, and trying to explain at a high level the big differences between those two sets of revenue requirements.

So the 145 was removed from the revenue requirement approved by the Board in 2010-0008, but as -- you can appreciate the discussion around that. At the point in time, the company was still committed to the collective agreements that had already been signed. It was committed to the rates of pay and other benefit costs that were part of those collective agreements.

So while it took steps to reduce its costs, it wouldn't be in a position to satisfy that $145 million deficit directly.

So it's one of the things that's in the mix between point A and point B. I don't know if that's helpful or not, sir.

MR. THOMPSON: I mean, let me play it back to you. What I think you are saying is the Board determined a revenue requirement in that case we have been talking about, right?

MR. BARRETT: EB-2010-0008, the '11/'12 rates. Yes.

MR. THOMPSON: And it disallowed $145 million?

MR. BARRETT: Yes.

MR. THOMPSON: And you're -- what I hear you saying is you have added 145 on to that, and then are measuring the spread between what you are claiming now and the higher number? Or have I got it wrong?

MR. BARRETT: No, that's not quit it, sir. The first line in the deficiencies table will be the revenue requirement that was approved in the Board's decision.

So you can appreciate we get a decision on one day; the next day we are not able to reduce $145 million in compensation costs. We have collective agreements, we have these costs and rates of pay and benefits which are committed for the duration of those collective agreements, so we can't just not pay those amounts. They are committed to our employees, pursuant to those collective agreements.

MR. THOMPSON: All right --

MR. BARRETT: So –-

MR. THOMPSON: I'm sorry. Carry on.

MR. BARRETT: So that's really the starting point, that you measure the revenue requirement again.

So one of the things that is in that mix between the starting point and where we are is a recognition that, at least at the outset, that 145 was still there and we have been working through BT and other cost saving initiatives to realize savings as part of this application.

MR. THOMPSON: Which, as Mr. Shepherd has pointed out, are more than 145 million, right?

MR. BARRETT: Over the course of the intervening period, yes, it's been more than 145 million.

MR. THOMPSON: Okay. So what happens if the Supreme Court grants the Board's appeal? Do we knock 145 off your revenue requirement?

MR. SMITH: Well, Mr. Thompson, as you have recognized, the decision of the Court of Appeal provides for the matter to be re-determined by the Board, presumably in a separate proceeding, based on the decision of the Court of Appeal.

As to what the Supreme Court of Canada does, I don't know. I mean, they may uphold the Court of Appeal's decision; they may not. They may give a different decision with respect to how the Board treats it.

As matters now stand, it would return to the Board for a decision of what to do. Because the Court of Appeal didn't say add 145 million. What the Court of Appeal said was go back and look at these costs, having regard to the test of prudence, as we have laid it out in our decision.

MR. THOMPSON: I understand that. I am trying to ascertain what happens, if anything, to the revenue requirement you are asking the Board to approve in this case, in the event that the Board's initial decision is upheld.

We have to deal with two scenarios here, that scenario -- and your application seems to be premised on the fact that the appeal in the Supreme Court is going to be dismissed.

I want to look at the other side: it's granted, and the Board's decision is approved.

MR. SMITH: I am sorry, Mr. Thompson, I don't mean to be obtuse. Is your question: Does the proposed revenue requirement for 2014/2015, as reflected in the middle column, third row from the bottom, vary dependent upon the Supreme Court of Canada's decision? Is that the specific question you are asking?

He is asking you whether your revenue requirement for this upcoming test period depends upon the result in the Supreme Court of Canada.

MR. BARRETT: And I would say no, that we have put forward a revenue requirement based on our business plan and work program for the '14 and '15 year.

If there was subsequent court decision that caused the Board to take a view that the rates that were approved pursuant to this application were no longer just and reasonable, then I think the Board would have the ability to address that in a way they thought was appropriate.

MR. THOMPSON: So is 145 a driver of your 2014/'15 deficiency or not? What you telling me is it's not a driver.

MR. BARRETT: Well, it's a driver in the sense that it goes into the establishment of the starting point for measuring the deficiency. So that's the starting point for measuring what we are proposing. So to that extent, it influences the calculation in this table.

So let me try to -- obviously I am not connecting with you, so let me try again.

So pursuant to the Board's decision, we took steps to control our costs. We didn't have a particular target of $145 million in mind. We were focused on doing what we could, all that we could, to reduce our costs, both pursuant to the Board's decision, pursuant to other business challenges that we faced around coal closure, and pursuant to the financial realities of the company, wherein we have continued to earn returns in the 3, 4 and 5 percent range. And we need to do better financially, and part of that is a strong focus on cost control.

MR. THOMPSON: I get that, for sure. Let just ask this one last question in this area.

Let's assume that the Court of Appeal decision is upheld. Does OPG plan, then, to come back to the Board to seek from ratepayers another $145 million with respect to the 2011 and '12 test period?

MR. BARRETT: I don't think we have made a final decision on that matter, sir. I think we would need to see the court decision and we would need to see how the Board responded to that decision.

MR. THOMPSON: How much has been spent on this exercise of a matter of principle? Do you know, big picture?

MR. BARRETT: I don't know the legal costs. It would -- I don't imagine it would be more than -- I am really taking a flyer here. Honestly, I don't know.

MR. THOMPSON: Crawford's going rate?

MR. BARRETT: I don't know the legal tab so far, sir.

MR. THOMPSON: All right. Pension and other benefits, you've discussed that at length with Mr. Shepherd.

My question is: How can you get these costs down? What are you doing to get them down? Can you change your pension policies of some sort?

I mean, they are out of sight.

MR. BARRETT: This is probably an issue best addressed with the compensation panel, but I can think they'll tell you that we have already announced plans for changes to management and that we have been pursuing this issue through the collective bargain process, or if there is a government-orchestrated process to this issue for the sector.

MR. THOMPSON: Is there a government-orchestrated approach to it?

MR. BARRETT: I believe there was an announcement in either a budget or two budgets ago, but again, that is probably something that the compensation people can better speak to.

MR. THOMPSON: Two other areas, briefly.

Deferral and variance accounts, it's mentioned in one of the overview pieces of evidence. Can you tell us in 25 words or less how much is not being cleared from deferral accounts, and why?

I am more interested in the big picture number and the concept.

MR. BARRETT: Probably a good place to look is the second impact statement. If you have that, that's Exhibit N2, tab 1, schedule 1. And if you look at the last two pages of that exhibit, Table 9 and Table 10.

MR. THOMPSON: Yes.

MR. BARRETT: You can see the balances in all of the accounts.

MR. THOMPSON: Okay. So am I reading this correctly that you are leaving unrecovered $1.2 billion? I am looking at the Table 10, last column.

MR. BARRETT: That's at -- that's a projection to the end of 2015, sir. Probably a better way to look at it is look at the actual balance as at December 31, 2013 and --

MR. THOMPSON: That's more.

MR. BARRETT: Yes, but you will note that the Board has already approved amortization during 2014 of $213 million, and we have an existing rider that's been approved to cover that amount for -- during '14, and that gets you to a total of 1.265, and we are proposing to recover probably on the nuclear side of the ledger about $120 million through this application, and some different amount on the -- sorry, I think I might have that reversed, that it might be 60- to 80 million on the nuclear and $120 million on the hydroelectric side.

MR. THOMPSON: In terms of the impact on the consumer, shouldn't we be looking at that deferral account number as something that's there? I mean, it's another big number.

MR. BARRETT: We have indicated in our application that we will be filing an application probably in the fourth quarter of this year to look at the disposition of year-end 2014 balances. So there is a potential customer impact that comes from that subsequent proceeding.

MR. BARRETT: What does that do to the 30 percent if you layer that on top of it? Does it move it up to 50 percent?

MR. BARRETT: Just to be clear, the 30 percent number which has been bandied around, as I understand it, is nuclear base rates to nuclear base rates. So if you look at rates and riders together on a weighted average basis for the currently prescribed nuclear and hydroelectric facilities, the increase is around 21 percent. And if you fold in the newly regulated hydroelectric it's about 23 percent.

But in terms of the next application, quite honestly, we have not looked at what disposition period we would be proposing, so I am not in a position to advise on the rate impact that may be part of that application.

MR. THOMPSON: Okay. Well, I guess we can do the math. It takes it up about this 23 percent that you mentioned.

MR. BARRETT: Yes, if we were to get everything that we asked for in this application and then there was a subsequent amount related to the remaining deferral and variance accounts, yes, the aggregate would be greater than 23 percent.

MR. THOMPSON: Are you asking in this application that the uncleared amount be approved?

MR. BARRETT: No, we are not.

MR. THOMPSON: And do you happen to know -- I will ask the deferral account -- variance account panel when they come if you don't know -- but how much of -- what proportion of OPG's revenue requirement is protected by deferral accounts? If you went through the line items and listed those that had deferral account protections and those that did not, the embedded amounts, would it be 50 percent of the revenue requirement, 20, 30, 10, 5? Do you know?

MR. BARRETT: I haven't done that calculation, so I don't know, sir.

MR. THOMPSON: Okay. Well, I will ask the other panel. Maybe they can come prepared to answer it.

MS. HARE: Perhaps, Mr. Thompson, you ask it as an undertaking now so you have the answer before the other panel.

MR. THOMPSON: That's a good idea. Could I have an undertaking to prepare that?

MR. BARRETT: Yes.

MS. HARE: If you prefer.

MR. MILLAR: J3.9.

UNDERTAKING NO. J3.9: TO PROVIDE THE PROPORTION OF OPG'S REVENUE REQUIREMENT THAT IS PROTECTED BY DEFERRAL ACCOUNTS.

MR. THOMPSON: All right. The last topic is effective date. And my understanding is that you're seeking an effective date for this increase for the existing hydroelectric and the nuclear of January 1, 2014?

MR. BARRETT: Yes, that's correct, sir.

MR. THOMPSON: And so let's assume you don't get a decision until the beginning of September. What's the impact of that on ratepayers? You would then want eight months of retroactive recovery on this huge deficiency. Right?

MR. BARRETT: We would be seeking recovery of the deficiency back to January 1 over the balance of the test period. So a rider to recover that retrospective amount.

MR. THOMPSON: So what's the justification for that request, given the Enbridge situation recently, where such large retroactive amounts caused quite a furore? This would be quite a substantial number, nine months of your annual deficiency.

MR. BARRETT: It will be a material customer impact, I would concede that, as is the application itself on the stand-alone basis. But these really are our costs for the '14 and '15 period --

MR. THOMPSON: Right. Well --

MR. BARRETT: -- and we need to recover our costs in order to operate our business in a safe and reliable way.

MR. THOMPSON: Could you undertake to calculate the impact of that request? Assume a September 1 implementation date? What that -- what impact that would have in dollars for the eight months that are going to be part of retroactive relief? And then also what adding it for recovery over 16 months does to the percentage increase.

MR. BARRETT: Yes, we can do that.

MR. MILLAR: J3.10.

UNDERTAKING NO. J3.10: TO CALCULATE THE IMPACT OF THE REQUEST SEEKING RECOVERY OF THE DEFICIENCY BACK TO JANUARY 1 OVER THE BALANCE OF THE TEST PERIOD, SO A RIDER TO RECOVER THAT RETROSPECTIVE AMOUNT, ASSUMING A SEPTEMBER 1 IMPLEMENTATION DATE, WHAT IMPACT THAT WOULD HAVE IN DOLLARS FOR THE EIGHT MONTHS THAT ARE GOING TO BE PART OF RETROACTIVE RELIEF, AND THEN ALSO WHAT ADDING IT FOR RECOVERY OVER 16 MONTHS DOES TO THE percentAGE INCREASE. ALSO, TO PROVIDE A CALCULATION OF THE IMPACT OF THE TWO MONTHS' RETROACTIVITY, SIMILAR TO THE ONE JUST DESCRIBED FOR THE OTHER ASSETS.

MR. THOMPSON: And with respect to the newly regulated hydro, the proposal is, as I understand it, July 1, 2014; is that right?

MR. BARRETT: That's what the regulation requires, yes.

MR. THOMPSON: The regulation requires that rates be set with an effective date of July 1, 2014? Is that what you are saying?

MR. SMITH: Yes, that's the date under which the regulation requires the prescription of the prescribed assets.

MR. THOMPSON: Okay. So you will be recovering -- if we assume a September 1 start update, you will be recovering what you're asking for over 16 months rather than 18 months; right?

MR. BARRETT: Yes, that follows.

MR. THOMPSON: Okay. And so could I have a calculation of the impact of that two months' retroactivity, similar to the one we've just described for the other assets?

MR. SMITH: Yes, we will roll that into the same undertaking if that's acceptable.

MR. BARRETT: Yes, we can do that.

MR. THOMPSON: Thank you. Now, do you have any communication strategy to notify the customers of this aspect of your request for relief? I know you don't communicate with customers, but perhaps you should give it some thought. Do you have a strategy?

MR. BARRETT: Our public-affairs people might. I am not aware if they do or not.

MR. THOMPSON: So it hasn't been given any thought yet; is that fair?

MR. BARRETT: Not by myself.

MS. GIRVAN: Can I just follow up, sorry. Can you go back and ask if there has been any strategy developed, explaining the increases to Ontario consumers?

MR. BARRETT: I can certainly make those inquiries, yes.

MS. GIRVAN: Okay, thanks.

MR. MILLAR: J3.11.

UNDERTAKING NO. J3.11: TO DETERMINE IF AN INTERNAL COMMUNICATIONS STRATEGY HAS BEEN DEVELOPED TO EXPLAIN THE INCREASES TO ONTARIO CONSUMERS.

MR. THOMPSON: Those are my questions, Madam Chair.

MS. HARE: Thank you.

I think the Panel has some questions. Maybe, Ms. Duff, if you would like to go first?

# Questions by the Board:

MS. DUFF: I just want to follow up on a few questions Mr. Thompson had, and also Board Staff, regarding the decision to delay the filing.

So you filed on September 27th. And based on the Board's performance standards, there is usually 235 days for a distribution rates hearing. And I am referring, if this helps the panel at all -- it was Board Staff's compendium, K2.4, and it was on page 3 of that document, page 2 of 2, "Performance standards for processing applications," and for an oral hearing for distribution rates, it estimates 235 days. So that would have been around the end of March 2013.

So was the regulatory affairs department of OPG prepared to file its rates application for the nuclear and previously regulated -- the hydro assets at the end of March? And then you made the decision, I take it, to delay it.

So I just want to know what happened at what juncture. At the end of your March, had your work back schedule -- were you ready to go?

MR. BARRETT: We were not prepared to file an application in March of 2013.

MS. DUFF: What would have been the earliest date that you would have been ready?

Or I could put it another way. When did you decide to delay the filing when you were ready? And said: No, we are going to wait until we have direction with respect to the newly regulated assets?

Because from what I understood, you wanted to combine the application with all three parts.

MR. BARRETT: We had a view that it wouldn't be workable to file pieces of an application, given the need to deal with the allocation of central costs.

So again, my recollection of developments was that in the spring of 2013, there was a view within OPG that this was something the government was seriously considering. And on that basis, we finalized our 2013 and '15 business plan, incorporating that assumption that these assets would be regulated.

I would note I think the business plan actually assumed at that point that they would be regulated January 1, 2014. So we didn't have perfect information, by any measure.

And then once we had made that decision, we worked diligently over the spring and summer to pull together all of the necessary information and studies in order to be ready to go.

I think that application probably -- probably in the best of circumstances might have been able to be filed in August of that year, but again, we were waiting for -- to move from a circumstance where the government was indicating they were intending to do this to some kind of public demonstration that they were, in fact, going to regulate these assets.

So it was really the posting of the intent to make a regulation regulating these 54 stations which was important to us in terms of the timing of our actual filing.

MS. DUFF: So did you ever consider filing the nuclear portion and the previously regulated, and then later, subsequent to that, perhaps in an impact statement or something, then file the newly regulated?

MR. BARRETT: I think we just had a view that that would not be practical, given the interactions of all of the moving pieces. We thought that that would just be a mess of an application, and it wasn't a practical option that was open to us.

MS. DUFF: Mr. Mauti, when you were talking on a monthly basis to the Ministry of Energy, were you advising them of the status of this application, and the dollars involved and the decision to actually delay the filing of this application until there was resolution about the newly regulated assets?

MR. MAUTI: They knew that by enacting regulation for these new assets, that that would delay the application, that we would like to go in with one fulsome application for all prescribed assets at once.

So they understood that they path towards issuing a sort of public pronouncement of the regulation of these assets would have a role to play in terms of the timing of our application, yes.

MS. DUFF: Was it because of materiality or just the complexity?

Because I am looking at your decision to delay the application of the deferral and variance accounts, other than the four. You decided you were going to file a separate application in 2014 for those. How do you decide when you decide to parse, and when do you decide to include aspects of your application when they affect the same time period?

MR. BARRETT: There is always a number of considerations that weigh on that kind of a decision.

I mean, the deferral and variance accounts are very much a standalone, separate series of issues in our mind.

One of the other key considerations that we had had a standalone deferral and variance account application and decision from the board in '13, which established a disposition rider for '13 and '14, so it seemed like that had been addressed for '13 and '14.

So the application was very large. It was very complicated. It's almost to the point of where it's unmanageable, given the size of it. And one of the pragmatic benefits of parsing the deferral and variance account issue is that it leads to a slightly smaller application, and therefore makes it somewhat more manageable for us.

MS. DUFF: When I look at the actual deficiency due to the three parts -- let's, just for simplicity, talk about nuclear, the previously regulated hydro and then the newly regulated hydro -- the deficiency associated with nuclear -- and I am now referring to, just for ease of reference, SEC's compendium, K3.5. Look at the deficiency for nuclear; it's $1.5 billion. And the impact of the newly regulated hydroelectric, it's 352 million.

So knowing that you have this deficiency under current rates for the nuclear business, you still decided to hold off and wait until you could include the newly regulated assets. So it wasn't done for financial reasons that you decided to delay it? Or...

MR. BARRETT: No. I mean, the earlier we can file and get new rates in place, the better the company is off financially. And certainly the company's financial situation in 2013 was -- I wouldn't say dire, but it was not very good. So we had every incentive to get the application in as quickly as we could.

Again, to me, it's not so much the size of the -- the relative size of the deficiencies. It's just the interaction of the issues between the newly regulated and the balance of the facilities.

MS. DUFF: Okay. That's it. Thank you. Those are my questions.

MS. HARE: Thank you. Ms. Long?

MS. LONG: I have a few questions. While you have K3.5 in front of you, I would like you to take a look at page 8, and the line that I am interested in, I guess, is line 36, "Management, full-time employees."

I think Mr. Shepherd took you there, and your answer to him was that all non-represented staff is classified as being management.

If I look across there, it looks to me like the total change since 2010, it's been 25 people, a reduction of 25 people; is that correct?

MR. BARRETT: Yes. That's what it shows.

MS. LONG: And do you have any idea -- I guess I am having trouble understanding how many of those, let's say, thousand people are management and how many are just not unionized, how many would OPG classify as being management.

Do you have that anywhere in the evidence, a breakdown of that?

MR. BARRETT: I don't believe so, but certainly that breakdown could be provided fairly readily.

MS. LONG: Okay. So I would like to see that breakdown for 2010 through until 2015, the actual numbers and then the actual reduction for management, that you consider to be management.

MR. BARRETT: Sure, we can earn certainly do that.

MR. MILLAR: J3.12.

UNDERTAKING NO. J3.12: TO PROVIDE BREAKDOWN FOR 2010-2015 OF ACTUAL NUMBERS AND ACTUAL REDUCTION OF Non-unionized EMPLOYEES

MS. LONG: And, Mr. Barrett, when we talk about management, would it be -- if I say vice president and above, would that be the majority of management? Like, what do you consider to be management, position-wise?

You have put in front of us a spreadsheet here at A1, tab 5, schedule 1, part of your application. I will let you turn it up.

MR. BARRETT: This is the org chart?

MS. LONG: It's the org chart. And if I understand it, is this -- this is, I think, the OPG enterprise leadership team, so this obviously -- is everyone on here management?

MR. BARRETT: Yes, everybody on this list would be management.

MS. LONG: So would there be layers below this that are considered to be management too?

MR. BARRETT: I certainly would consider director-level positions to be managers and manager-level positions to be management. I don't know if our human-resources department has a definition that they are more comfortable with, but certainly I would -- if I was doing it on my own, I would incorporate director-level positions and manager-level positions in the management team, but...

MS. LONG: Perhaps when you do that breakdown for 2010 to 2015 and you have the number, you can just list what the actual job -- and I don't mean specific job titles, I mean --

MR. BARRETT: Yeah, I can indicate --

MS. LONG: -- director, vice-president --

MR. BARRETT: -- whether we have gone down to the director level or gone down to the --

MS. LONG: That would be great.

MR. BARRETT: -- manager level.

MS. LONG: That would give us a sense of where the reductions are. I would find that helpful.

MR. BARRETT: Absolutely.

MS. LONG: Thank you.

MS. HARE: Just a few follow-up questions, and maybe you can look K3.6, CME's compendium, under tab 11. There was a discussion with Mr. Thompson about effective date and implementation date, and I thought I heard you say, but I may have misunderstood, I thought I heard you say for the newly prescribed assets that by regulation -- this is why I am asking you to look at tab 11 -- that you are saying it says it must be July 1st, 2014.

The way I read this -- but I could be wrong -- it is effective on or after July 1st. So the Board is not obligated to make the effective date July 1st, 2014 for the newly prescribed assets, is it? In your reading of this regulation?

MR. SMITH: I believe it is the Board's order after July 1st, which could be a later date after July 1st, but if our view of that changes, I will let you know.

MS. HARE: Thank you. Or you could save it for argument.

I have another follow-up to Ms. Butcher. Mr. Shepherd was asking you about a response to the KPMG report, and you said to the best of your knowledge you didn't think a response was provided.

Could it be that one was provided by senior executives that there was a discussion as to what OPG was doing about the KPMG report and you just were not privy to those discussions?

MS. BUTCHER: Was this in context of a response to the Ministry of Energy of --

MS. HARE: Yes.

MS. BUTCHER: -- of how Ontario Power Generation was going to deal with it?

MS. HARE: Yes.

MS. BUTCHER: It is possible. I would have expected that if we had done that I would have been aware of it.

MS. HARE: Okay. Thank you.

Lastly, Mr. Barrett, about your rule of thumb, 10 percent, I want to make sure I understood what you said. You gave us an example if there is $100 million in rate base on capital spend that it would be about a 10 percent, but that 10 percent, if we use that as the ROE, because I think what is you are doing. No?

MR. BARRETT: No, it's really the entire revenue requirement impact rule of thumb, so it would be a return on equity, they would be a return on debt, there would be depreciation, and there would be a tax effect.

MS. HARE: Okay. That's good. Then we are on the same page.

MR. BARRETT: Okay.

MS. HARE: Okay. Thank you, those are my questions. Redirect?

MR. SMITH: No questions in re-examination.

MS. HARE: Okay. Good. So we will take a short break until four o'clock, at which point you will assemble your next panel. Thank you very much, witnesses.

MR. SMITH: Thank you.

### --- Recess taken at 3:41 p.m.

### --- On resuming at 4:05 p.m.

MS. HARE: Are there any preliminary matters? No?

I have been asked to confirm that we will be sitting on Wednesday morning. We will have panel 4, and the Society and Staff are prepared to cross-examine. So it will be a half-day. Thank you.

Mr. Smith, could you introduce your panel, please?

MR. SMITH: I would be happy to. This is OPG's second panel, the regulated hydroelectric panel. And we have with us furthest from me Mr. Bill Wilbur. Next to him on the report is Mario Mazza, and then to his right Robby Sohi. And if I could have these gentlemen affirmed, that would be appreciated.

# ONTARIO POWER GENERATION - PANEL 2

**Bill Wilbur, Affirmed**

**Mario Mazza, Affirmed**

**Robby Sohi, Affirmed.**

# Examination-In-Chief by Mr. Smith:

MR. SMITH: Very briefly, Members of the Board, with your indulgence, Mr. Wilbur, my understanding is that you are the director, generation and revenue planning, commercial operations and environment business unit for OPG?

MR. WILBUR: I am.

MR. SMITH: And that you have been employed by OPG from about 2008?

MR. WILBUR: That's correct.

MR. SMITH: And prior to that, from about 2001 to 2008, you were employed by the Independent Electricity System Operator?

MR. WILBUR: Yes.

MR. SMITH: I nearly said IESO.

[Laughter]

MR. SMITH: I understand, sir, that you have an engineering degree in electrical engineering from the University of Western Ontario?

MR. WILBUR: Yes.

MR. SMITH: And are your responsibilities as director, generation and revenue planning, accurately set out in your curriculum vitae?

MR. WILBUR: They are.

MR. MILLAR: I also understand, finally, that you are generator representative on the Independent Electricity System Operator's technical panel, and have been since 2013?

MR. WILBUR: That's correct.

MR. SMITH: Mr. Mazza, turning to you, I understand you are the vice president, strategy and business support, hydrothermal operations for OPG?

MR. MAZZA: Yes, I am.

MR. SMITH: And you have held positions of increasing responsibility with OPG since approximately 1979?

MR. MAZZA: Yes.

MR. SMITH: And you have a civil engineering degree from the University of Toronto?

MR. MAZZA: That's correct.

MR. SMITH: And are your responsibilities as vice president similarly accurately set out on your curriculum vitae?

MR. MAZZA: Yes, they are.

MR. SMITH: Finally, Mr. Sohi, I understand that you are director of plant engineering services, hydrothermal operations business unit?

MR. SOHI: Yes, I am.

MR. SMITH: And you have a bachelor of engineering degree, also in electrical engineering, from McMaster University?

MR. SOHI: Yes, I do.

MR. SMITH: And you have been employed by OPG or its predecessors dating back to approximately 1991?

MR. SOHI: That's correct.

MR. SMITH: And your responsibilities as director are accurately set out on your CV?

MR. SOHI: Yes, they are.

MR. SMITH: Or curriculum vitae?

Members of the panel, perhaps through you, Mr. Mazza, can I ask whether you adopt the prefiled evidence, answers to interrogatories and undertakings for the purposes of testifying here today?

MR. MAZZA: Yes, I do adopt them.

MR. SMITH: Thank you very much, sir. I have no further examination-in-chief.

MS. HARE: Thank you.

Mr. Millar?

## Cross-Examination by Mr. Millar:

MR. MILLAR: Yes. Thank you, Madam Chair, and good afternoon, panel. My name is Michael Millar. I am counsel for Board Staff.

Before we get started, Staff has prepared a compendium for the cross-examination of panel 2. I believe copies have been circulated. Everything within the compendium is from the record, with the partial exception of tables that we prepared at page 2, and for that, all of the information is taken from the record. We've just compiled it into tables and we have added our own calculation of a compound annual growth rate, but otherwise, it's all information taken from the tables.

Members of the panel, do you have that compendium?

MR. MAZZA: Yes, we do.

MR. MILLAR: I would propose to mark that, then, as K3.7.

EXHIBIT NO. K3.7: BOARD STAFF COMPENDIUM.

MR. MILLAR: Maybe, gentlemen, I could begin by asking you to turn to page 2 of the compendium, and this, in fact, was the document I was just discussing. We did circulate this yesterday, and I don't know if you had a chance to look at it, but it is information we took from the record, and it -- in fact, the sources of that information are footnoted at the bottom of the table.

Have you had a chance to look at this? And if so, does it look accurate? Or can you take that, subject to check?

MR. MAZZA: Yes. I did have a chance to look at it, and it looks accurate.

MR. MILLAR: Thank you.

So what this table summarizes is -- there is two tables; one is for the previously regulated, the other is for the newly regulated. And it simply regards the plan, approved and actual spending figures for OM&A from 2010 through to 2015 plan.

I would like to start by taking you through to table 1, which is the previously regulated OM&A. And if you could look at line 8 of that table, which -- which is described as "Total OM&A," can you confirm for me that we have actuals up to 2013 for every year between 2010 and 2013? Actual total OM&A has been below the plan or approved amount for each year?

MR. MAZZA: I can agree to that, except 2012.

MR. MILLAR: We are looking at total OM&A?

MR. MAZZA: Oh, total OM&A for each of the years?

MR. MILLAR: Yes, for --

MR. MAZZA: Yes. I can agree to that, yes.

MR. MILLAR: That's line 8?

MR. MAZZA: Yes.

MR. MILLAR: And then the same information for the subtotal of operations, line 3 -- which may be where you were looking -- that same statement holds true for every year except 2012; is that correct?

MR. MAZZA: That's correct.

MR. MILLAR: And 2012, you are pretty much right there. It was approved at 72.1 and the actual was slightly higher at 73.8; is that correct?

MR. MAZZA: That's correct.

MR. MILLAR: And we asked a number of questions about the reason for this variance between planned or approved and actual. And I don't think I need to take you specifically through each response, but I think, if I could summarize it, the answers related largely to staffing, unfilled vacancy, lower overtime, and then there was an answer related to the bridge divestiture program.

At a high level, are those the reasons why your actual spend was less than your planned or approved?

MR. MAZZA: Yes. At a high level, that is the reason. However, in 2011 there was a provision reversal of 19 million that I believe you have here in the compendium, whereby we reversed the previous provision for contaminated, potentially contaminated Lake Gibson that's part of our DeCew number 1 and 2 facilities.

So that was -- the actual OM&A costs in that year were $19 million more.

MR. MILLAR: That's right, but even with that extraordinary credit, the actuals would have been below approved; is that correct?

MR. MAZZA: Yes. If my math is correct, yes.

MR. MILLAR: It would have been closer obviously, but you were still below approved.

Just to tie down the bridge divestiture program, can you tell me a little about that? I guess that's where you are seeking to transfer responsibility; you are going to give the municipality some monies and transfer liability for certain bridges that currently you are responsible for. They will be transferred to the responsibility of a municipality; is that right?

MR. SOHI: I can speak to that. So these -- the bridges that we have, there are four bridges, a total of four bridges. These bridges were built as part of the hydro development project when DeCew complex was developed. So we have the ownership. We have the obligations to maintain these bridges. And these agreements are infinitum.

As they are coming up for a replacement, we are trying to divest these bridges and turn them over to the Municipality of Niagara. And that's the program, really, that's in our application.

MR. MILLAR: And I guess how that works is you will give them some money and they will take over responsibility; is that the short way it works?

MR. SOHI: Yes. So the way it works is the bridges are for replacement, and we are essentially on the hook for replacing it. We would replace it, give to them or we would give them the funding, and then they would replace the bridge.

MR. MILLAR: Thank you for that. So otherwise, other than the bridge divestiture program, I understood at least at a high level that the underspend was a result of lower staffing numbers or unfilled vacancies and overtime, and I think you have confirmed that for me, Mr. Mazza?

MR. MAZZA: Yes, in general, as we stated in the evidence, that is a true statement.

MR. MILLAR: So what were the repercussions of this? Having less -- I guess you had less staff than you thought you would have and less overtime than you thought you'd have. What impact did that have on your operations between 2010 and 2013, if any?

MR. MAZZA: So the way we have approached this in recognition, there has been some discussion of our BT initiative. There is also some discussion about closure of our thermal assets, so the strategy that we set out in 2010 is to try and run the business with that recognition that staff would be -- trained staff would be available from our thermal asset, so we did make decisions whereby we did hire either temps where possible or in some cases where it required additional, I guess, experience, if you will, like if you take operators, if there is a shortage of operators, we did try and manage that through hiring some past employees from Hydro One or other utilities that could do the job in the short-term.

Now that our thermal assets are closed a lot of the staff that are available that are trained to run -- a lot of the vacancies are in the operations area, operators, and we are now backfilling the positions with trained thermal staff. They still require some training on hydro assets, but in fact they will be already partly trained to our procedures and general safety requirements. So that is one aspect of it, is the retirees, and I guess in the engineering area, Rob, you might want to mention the issues there around some vacancies there as well in that area.

MR. SOHI: So on the engineering side, we are also hiring, you know, temps or contracting more work out. We have some vacancies that we are carrying. We know we are going to get some staff from the -- trained staff from the coal closure plants.

MR. MILLAR: And just to tie that down, Mr. Mazza, you spoke of thermal assets. I assume that means the coal plants?

MR. MAZZA: Yeah, the coal plants that are shut down.

MR. MILLAR: And sorry, I wasn't quite following. What you have been able to do is to take some of the operators that used to work in the coal plants, and they have been made available after some training to work on the hydro assets?

MR. MAZZA: Yeah, they would move into vacant positions as they would become trained, and a lot of these folks were available at the end of 2013.

MR. MILLAR: I see.

MR. MAZZA: When we completely closed down those assets.

MR. MILLAR: Why were you not able to forecast that, for example, in 2011, that maybe -- yes, 2011, for example -- you could take any year you'd like. Why were you not able to forecast those unfilled vacancies at that time? You knew the thermal plants weren't going to be shut down until --

MR. MAZZA: In some ways there was some unexpected attrition. The operator work force is, I guess, at the stage where a lot of them are fairly senior people, but it is really difficult to predict when people will retire. So that there was some unexpected retirements.

Now, we did look at a strategy around that time of getting apprentices to come into the company and start trying to fill these positions, but we felt that that would be a more expensive strategy to bring new people in and train them and then have still possibly an excess of people to do work that they would be more readily trained on.

MR. MILLAR: I asked you at the outset if there were any repercussions for having so many positions unfilled, and I am not sure I got an answer.

Were there any -- what difficulties, if any, did you encounter as a result of that?

MR. MAZZA: I would say at the high level we have managed at the high level, but there have been some issues on, I guess, some of the project delivery. We did do some underspending on project delivery in part to the bridge program, but also, there are some small projects that we reprioritized in recognition of the unavailability of some of the staff and some engineering staff. That is without taking major risks, you know, in the business.

MR. MILLAR: So is there a backlog of work to be done?

MR. MAZZA: I would say it's not a backlog. We have reprioritized the work and in some cases re-evaluated the need, and we go through this process every year, re-evaluating the need, and in some cases we have made fixes instead of doing other work in the short-term.

MR. MILLAR: If I could ask you to turn to page 4 of the compendium, and this is taken directly from your application. If you look at about line 13 of that page, it says:

"Actual and planned regulated hydroelectric OM&A based on project expenditures increased by an average of 2.6 percent a year over the 2010 to 2015 period."

Do you see that?

MR. MAZZA: Yes.

MR. MILLAR: If I could ask you to flip back to the tables we were just looking at, staff ran its own numbers on this, which you can see at the bottom of each table. We ran the compound annual growth rate from 2010 actual to 2015 plan, and for operations for the previously regulated we didn't get 2.6 percent, we got 5.9 percent. Can you help me with that? First --

MR. MAZZA: I would have to check that number, but it's a combination of the previously and newly regulated assets. I think if we were to do a computation, that would likely be the number, but I'd have to do a check on it.

MR. MILLAR: Let me finish this set of questions, and then I may ask for an undertaking to reconcile some of these numbers.

We ran the numbers for base and project, and we got 5.9 percent compound annual growth rate between 2010 and 2015 plan. And then on total OM&A we got 5.2 percent over that same time period.

And if you look down to Table 2 -- and maybe this is where the confusion comes from -- for operations alone we have a .8 percent, but then if you look at total OM&A for the newly regulated we got 4.1 percent.

So perhaps what has happened is that you averaged simply the operations cost for the previously and the newly regulated, and you came out with, I guess it was about 2.6 percent?

MR. MAZZA: Yes, subject to check, I would think that that is more in line. We looked at the rate -- the annual rate increase for the total fleet, as opposed to separate between newly and previously regulated.

MR. MILLAR: Would this have been a period where through business transformation or some other program you were transferring costs from base or project to corporate? You were moving bodies around from one operating unit -- not operating unit, but from one box to another.

MR. MAZZA: Yeah, if we go to the evidence, it is part of business transformation, and I will direct you to the evidence. We have there a table that talks about some of the transfers that happened in 2012, and if you give me a moment...

I can refer you to F1.2.1, page 11. And there is a table there that speaks to some of the transfers that we made in 2012 to the corporate groups as part of business transformation.

MR. MILLAR: So those people would no longer show up in base or project, so they wouldn't be in the subtotal of operations, but they would be there for total OM&A; is that correct?

MR. MAZZA: They would be there for total -- they would have been -- their budgets would have been transferred in 2012.

MR. MILLAR: Right. So is total OM&A the better measure of the growth rate for OM&A?

MR. MAZZA: Well, I would say it depends on what you look at. When you look at the mix there, when you look at our project OM&A, as you see, it fluctuates, and when you look at the previously regulated, one of the big drivers for the increase as well is that project OM&A went from 5.4 to 17.9, and that is really a reflection of all the civil projects that we have been doing to address some of our aging structures, powerhouse structure, some of the ancillary infrastructure in the Niagara and Saunders area, and buildings. We have some projects that we refer to in our project appendix here, if I can refer you to that.

So that was a big driver for -- one of the drivers for the previously regulated, when you look at, as well, the 5.9 percent increase that you alluded to.

MR. MILLAR: Sure. So maybe the total OM&A is the better one to look at throughout?

MR. MAZZA: I guess total OM&A in aggregate, I guess would be, but we obviously assess projects on an individual basis. So when you look at it over a time period, there could be some drivers there related to projects, because of their lumpy nature.

MR. MILLAR: And subject to check, do you accept our calculation of the compound annual growth rate for table 1 and table 2 for the total OM&A? And those numbers -- just to remind you -- are 5.2 percent and 4.1 percent respectively. Take that, subject to check?

MR. MAZZA: Yes, we -- I think we confirmed the operations numbers and the total numbers that you used for, I guess, Exhibit N2.

MR. MILLAR: Yes. I don't think you had actually calculated the compound annual growth rate, though, so I am just asking if you have any cause to disagree with --

MR. MAZZA: No, I don't.

MR. MILLAR: I mean, you can take it subject to check. I think it's just math, but...

MR. MAZZA: Yeah.

MR. MILLAR: Okay. Thank you. If we can look more carefully under newly regulated 2013, your plan for spend that year was -- if you look at line 18 for total OM&A, your planned spend was 232 million, and you came in more than -- I'm sorry -- yes, I'm sorry. If you look at budget versus actual for 2013, it was 218 million, pardon me. That was the budget, and you came in more than $20 million less than that at 2013.

Now, if you look at your plan for 2014, you are all the way up at 232 million. Have I read those numbers correctly?

MR. MAZZA: Yes, you have.

MR. MILLAR: So given your difficulty in spending to your budget in 2013, are you going be able to spend 35 million more dollars between 2013 and 2014? Is that a realistic jump?

MR. MAZZA: Well, when we crafted the business plan and reviewed it last year, we thought there was still some reality to those numbers. We had to reflect as well the labour rate increases that I believe you discussed earlier. There have been some increases, labour rate increases that we experienced in 2013 and they have been carried over, of course, in 2014.

MR. MILLAR: Sorry, I thought the PWU had a net zero increase at OPG. Did I misunderstand that?

MR. MAZZA: That's -- the net zero is net zero not only -- it reflects other -- my understanding, it reflects other parameters, other than the labour rates themselves and labour rate escalation.

MR. MILLAR: I see, because some of those costs aren't included?

MR. MAZZA: Yes, if you look -- actually, we did an analysis for LPMA on that, issue 9, and that showed some of the labour rate drivers for the hydro business, specifically for the hydro business and for previously and newly regulated.

So there was -- we did experience a jump due to pension and OPEB and labour escalation. And that year was actually a 53rd week, which we have to reflect into the numbers. It was a 53-week year.

So those were some of the drivers.

MR. MILLAR: Okay. But I guess my question, to keep it more simple, is: How are you tracking for this? Are you actually going to spend $35 million more in 2014 than you did in 2013?

MR. MAZZA: Well, we did do a forecast this year and we are tracking a little under. We are now going through the process of re-forecasting, looking at our vacancies and the demographics.

And also -- I don't know if this will come up in a later panel, but we are going through a joint redeployment planning process, and the feeling is -- with our unionized society or professional staff, and if things go per plan, we think we will have a majority of our vacancies as planned filled, as part of this process.

MR. MILLAR: You mentioned you were seeking to update the forecast. When will that be -- or you are working to updating the forecast, I guess. When will that be completed?

MR. MAZZA: Well, we do quarterly updates, and we do an update as part of our business planning process that we have started. So we will be doing what we call a Q2 forecast of all our assets.

MR. MILLAR: So the Q1 forecast is completed?

MR. MAZZA: Yes. We have done a Q1 forecast.

MR. MILLAR: You said you were a little under for that?

MR. MAZZA: Yes, we were under, again on the labour component, because of some of the factors that I have mentioned. We are still in the process of filling some of the vacancies.

There are issues where we have square pegs in round holes, so we have to -- we are looking at that to see how that will fit into the equation.

MR. MILLAR: Would you undertake to file that update? Or if not the update itself, then how you are tracking against your forecast?

MR. MAZZA: Yeah, we can produce a Q2 forecast.

MR. MILLAR: J3.13.

UNDERTAKING NO. J3.13: TO PROVIDE A Q2 FORECAST OR UPDATE TRACKING AGAINST FORECAST.

MR. SMITH: Yes, we will do that.

MR. MILLAR: Thank you. Madam Chair, I don't know how long you want to sit. I am moving into a new area. I can go for as long as you want or we can stop now. It's up to you.

MS. HARE: How long do you think you'll be in total?

MR. MILLAR: I don't think I will finish with this panel today. I could finish my next area in perhaps 15 minutes, would be my hope.

MS. HARE: Well, then I think we will just break until tomorrow. Thank you.

So we will meet tomorrow at 9:30.

### --- Whereupon the hearing adjourned at 4:31 p.m.