

ONTARIO ENERGY BOARD

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| FILE NO.: | EB‑2014-0012 |  |
| VOLUME:  DATE:  BEFORE: | 2  November 27, 2014  Christine Long  Cathy Spoel  Marika Hare | Presiding Member  Member  Member |

**EB-2014-0012**

THE ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Union Gas Limited, pursuant to section 36(1) of the Ontario Energy Board Act, 1998, for an order or orders approving rates and other charges for an interruptible natural gas liquefaction service.

Hearing held at 2300 Yonge Street,

25th Floor, Toronto, Ontario,

on Thursday, November 27th, 2014,

commencing at 9:31 a.m.

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VOLUME 2

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BEFORE:

CHRISTINE LONG Presiding Member

CATHY SPOEL Member

MARIKA HARE Member

MICHAEL MILLAR Board Counsel

KHALIL VIRANEY Board Staff

CHARLES KEIZER Union Gas Limited

KAREN HOCKIN

DAVID LEDERMAN Northeast Midstream LP

JOHN WOLNIK

EMMA BLANCHARD Canadian Manufacturers and Exporters (CME)

ROGER HIGGIN Energy Probe Research Foundation

SHELLEY GRICE

MARK RUBENSTEIN School Energy Coalition (SEC)

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Thursday, November 27, 2014

### --- Upon commencing at 9:31 a.m.

MS. LONG: Please be seated. Good morning everyone. Today we are continuing our hearing of an application by Union Gas Limited for an order approving a new interruptible natural gas liquefaction service rate. The Board assigned this file Board File No. EB-2014-0012.

We propose to continue this morning with the hearing of the motion by Northeast Midstream, and move on to the application. May I have appearances, please?

APPEARANCES:

MR. KEIZER: Charles Keizer of Union Gas Limited.

MS. LONG: Good morning, Mr. Keizer.

MR. LEDERMAN: David Lederman and John Wolnik for Northeast Midstream LP.

MS. LONG: Mr. Lederman, good morning.

MS. BLANCHARD: Emma Blanchard for CME.

MS. LONG: Ms. Blanchard, good morning.

MS. BLANCHARD: Good morning.

DR. HIGGIN: Roger Higgin and Shelley Grice for Energy Probe.

MS. LONG: Dr. Higgin and Ms. Grice, good morning.

MR. RUBENSTEIN: Good morning, Panel. Mark Rubenstein for the School Energy Coalition

MS. LONG: Mr. Rubenstein, good morning.

MR. MILLAR: And Michael Millar for Board Staff, with Khalil Viraney.

MS. LONG: Thank you, Mr. Millar.

Mr. Keizer, are you ready to proceed with your submissions on the motion?

MR. KEIZER: I am, Madam Chair.

MS. LONG: Thank you.

MR. KEIZER: I provided to folks in the hearing room this morning a compendium of documents which I will refer to in my submissions. I've provided those to Mr. Millar.

MR. MILLAR: Madam Chair, I propose we call that Exhibit K2.1, Union's compendium on the motion.

MS. LONG: Thank you.

**EXHIBIT NO. K2.1: UNION'S COMPENDIUM ON THE MOTION.**

**SUBMISSIONS BY MR. KEIZER:**

MR. KEIZER: Thank you, Mr. Millar. Maybe, I guess, where I would like to start is with the threshold issue that was raised by Northeast with respect to the application of the exemption regulation, and how that comes into play and whether it has an impact with respect to these proceedings.

Then once I deal with that, I will then move on to our particulars with respect to the application and the forbearance motion. But let me deal first with the threshold issue.

At the outset, I think it's important to recognize before we launch into the exemption regulation that the bedrock and the foundation upon which we appear before you initially on the application and, quite frankly, with respect to all of the activities of Union Gas Limited from a regulated perspective is rooted in section 36 of the Act, which is that no transmitter, distributor, or storage company can sell gas or distribute gas or transmit gas without an Order of the Board, and you can't do it -- can't sell gas without an Order of the Board. That is the fundamental umbrella which covers all aspects of regulation, and the only way that you can actually avoid that umbrella of regulation is in two avenues: One, there's a regulation which somehow exempts you from that, or, two, that you forbear with respect to that regulation.

The issues with respect to the exemption is -- so we have to assume that at all times we're governed by 36.

The regulation itself is important to look at because I don't think people have necessarily addressed the specific wording of the regulation which provides the mechanisms and indicates how it should be applied.

And for the sake of saving paper, I'm actually going to look at Mr. Lederman's compendium of documents, which is tab 3, where he has kindly set out the actual exemption regulation, and I believe copies may be available of the regulation if you don't have it.

The key thing about the regulation is this, one, there's nothing in this regulation that explicitly excludes your ability to set a rate under 36. That's the first element about it.

The second is the mechanism by which you can embark on the regulation. The regulation is there for the benefit of the distributor or the person who seeks to avoid regulation under Section 36. It's that party that chooses to employ the exemption. So in the case of any other person, which is part B, they effectively say: If I'm going to do this, if I'm going to sell motor vehicle fuel gas, I can avoid section 36 and not be regulated in respect of that. That's any other person.

But Union is not any other person. Union is a class A distributor under the definitions within the regulation. So it's left with 2.22A. And there, it's a class A distributor in respect of the sale, transmission, distribution and storage of motor vehicle fuel gas if -- and the "if" is important because the "if" tells you that it's a condition, that there's a condition that has to be met in order for you, the distributor, to say: I don't want to be regulated under 36 for this activity; I'm going to partake of this exemption. And the "if" says there's a condition attached. And the "if" is that the value of gas immediately before it's liquefied is recorded in a special account.

And the second condition is the value recorded is approved by the Board. Why would that be? That would be because the class A distributor, Union, would say: I want to avoid 36. What I'm going to do is I'm going to basically buy gas for myself, because I can't use the gas that I'm going to liquefy for free. I have to actually acquire it so -- to carry out this exempted activity. So I'm buying the gas for myself. I'm buying it at a rate that's approved by the Board, and I'm going to record that gas in an account -- in an amount in an account.

And then you get to the third condition, which says all the amounts recorded in the special account are reported as revenue for purposes of section 36 of the Act. In other words, it's almost like the exempted activity is a customer buying gas making sure that the price that was paid for the gas is fair. It gets recorded in an account, and then like anyone who buys gas, it gets recorded as revenue for purposes of section 36. That's what the conditions apply.

But if you don't apply those conditions, does that mean, then, you're free to do whatever you want? No. You can't sell and distribute gas for motor vehicle purposes any way you want. No, you would do it under section 36. You have the option as a class A distributor.

You're always bound by the fact that you're going to distribute gas. Motor vehicle fuel gas is a gas. It's natural gas. It may be that it's provided at a very significant pressure in a liquefied fashion, but from the outset, it is gas that is regulated.

So if you choose not to record those amounts or if you choose not to pursue that avenue, you're not absent from the market. You simply, as a utility, would do it the way you were expected to do it and subject to -- under 36. So it's an option for the utility to pursue.

So there is no prohibition to a utility pursuing liquefied natural gas only through -- only on a regulated basis. That's not what 36 does; 36 sets up a mechanism that says: You, the utility, you've always been regulated, you always will be regulated, but if you want to do this in an unregulated fashion, here's what you have to do. You have to make sure you account for the gas you use, and you have to make sure that's part of the revenue. But if you don't do that, you're still covered by 36.

And that's the intent of the regulation, in my submission. It's not about saying you can never, ever consider being regulated for liquefied natural gas purposes where that gas is used as motor vehicle fuel.

So that is one reason why Union chose in this case to make an application for a regulated rate for liquefaction for purposes of being able to make available LNG to customers. And so a regulated rate was sought.

Maybe I'll pause there in the event you have questions about the threshold issue. If not, I'll move on to the remainder of the submission.

So that takes us, then, to the application. And I think it's helpful to take a step back, and I'm not going to argue the merits of the application at this juncture, obviously. That's to a later date.

But I think it's important to look at the application,

because the application was made and then later a motion for forbearance was made. And to some extent, the unique aspect of that motion has overshadowed the nature of the application, and the rationale underlying the application.

I think it's instructive to consider some of that as a context as you go forward and consider the nature of your decision with respect to whether you should forbear or not.

Union's rationale in making the application, I think was very straightforward. There was, I don't believe, any view, as some people have put forward, a desire to underwrite the risk, or get a free pass on risk with respect to selling LNG. And I don't think it was about thwarting the LNG market for its own benefit.

It was simply that there was an opportunity to optimize available capacity and to optimize the

use of an asset, and to, through that optimization, generate additional revenue, which, during the IRM period, was go to earnings sharing and post-IRM would go to the revenue with respect to the utility. That's fundamentally at the core of why the application was made.

I think that what's important, and what Union has proposed in its response to the motion, is that there

are certain unique aspects with respect to this facility that actually caused it to seek to be regulated, and that those aspects are important in consideration with respect to the forbearance decision that you have before you.

The first is that the asset is wholly and fully regulated. And the second, I think, is that the facility is used for system integrity purposes.

On the regulated asset side, and I think -- you know, just in terms of the testimony, I think that has played out. At tab 1 of the compendium, I have provided a series of transcript references where, effectively, Union's witnesses have echoed the same thing that they have in the written form, that this is a system integrity asset first and foremost, and that it could provide liquefaction, but only on a fully interruptible basis. And I'll speak about the interruptible nature in a moment.

And also, at the second page of tab 1, Ms. Van Der Paelt was speaking that basically we're not asking for a rate so much as we think it needs protection, that we have certainty around how to deal with what's a regulated asset. And that was also echoed later in the testimony by both Ms. Van Der Paelt and also Mr. Tetreault, at the two remaining pages of that tab.

And I think it's important to pause on the fact that it is a system integrity asset. This asset is not about -- it's there for a purpose. It's there for an element of security of supply. It's there to make sure that customers actually have gas when gas is needed.

So it is not an asset which I think -- and I'll deal with this a moment -- where people can simply say: I'm going to change the nature of this asset, and it's going to become an LNG asset and not a system integrity asset. It effectively is, and always will be, a system integrity

asset.

So I think well before the motion to forbear was made, I think the concerns about this being a regulated asset and the nature upon which it is to be dealt with -- because, fundamentally, its operation and how it gets operated is determined by Union from a regulated perspective. It makes a decision to use it for system integrity purposes, and that impacts LNG. It's not the other way around; it's always that basis upon which it makes a decision.

The other thing which I think is related to the unique

nature of this asset, and which I think goes to the element of forbearance, is the general size of this asset. This asset is 5 percent, I believe, of Northeast's capacity. And if I've got that number wrong, I'm sure my friend will correct me on that.

But I think also it's important to note that its use and its size goes to the nature of its business plan, and why it actually wanted to carry out these activities and the way it carries out activities, because I think there has been question made with respect to Union's intent with respect to the facility.

We know from the testimony, and also we know from the interrogatory -- and there is an interrogatory provided at tab 2, and also the various testimony at tab 2 that relates to business plan -- that this facility is small to the extent that it can only really service 200 trucks, it can

only deal with three ships. It doesn't have an exhaustive

supply. It's not going to be a mover in the market. It's not going to drive it.

And I think the fundamental core of why Union brought forward a project not only to optimize the facility, but also to enhance LNG and its competitive nature, I think was very clearly stated by the witness, Ms. Van Der Paelt. And you'll see the transcript at tab 2, page 98 of the transcript -- where effectively the business plans today are to support pilot projects.

And she gave a very good example of dealing with marine shipping, and how that ship will have to make an investment, and it will provide an opportunity for them to actually prove out on that one-ship basis that it is commercially viable, and that the ability for people to actually have the time and the opportunity on that basis to help prove it out, will actually ultimately help further this market and further the elements of Northeast.

So I think it's important for people to recognize that the sense that we've been getting on the motion that somehow this was an approach which was impairing the market, it's not. I think the business plan was actually to help to enhance the market, while at the same time optimizing the asset.

So we've heard also a lot from Northeast with respect to, well, do these unique aspects matter in your consideration about whether to forbear or not.

And one of them in particular was effectively to diminish the issue with respect to system integrity and the interruptible nature of the asset, and question whether or not Union was using this as a bit of a smokescreen to turn this into some LNG machine.

I think it was very clearly put on the record. It certainly has been in the affidavits that have been filed, and again in testimony when Ms. Van Der Paelt was asked if you had plans to expand Hagar and she very clearly stated at tab 4 of the transcript:

"We have no plans to expand Hagar or build any additional facilities there beyond what we have filed here."

And it's always been Union's position if there are to be other expansions, it would be on a greenfield nature.

There has also been a view that somehow the interruptible nature of this facility isn't necessarily something that needs to be taken into account, and that there is also a very -- a similarity between the

Board's treatment of in-franchise and ex-franchise storage in respect of NGEIR.

And I think that was also dealt with in testimony and consideration in the fact that it's not the same. In the case of NGEIR, we have in-franchise and ex-franchise and

each of those components are firm. They effectively exist autonomously of each other, drawing down on one service or drawing down on the other service; they are not connected.

Hagar is fundamentally connected in the fact that its sole function is for system integrity. So when the decision is made by the utility for regulated purposes to use it for that purpose, liquefaction for LNG cannot happen. They are not autonomous of one another; they are connected to one another and therefore don't ideally fit in the context of NGEIR.

It also goes to the fact of how you deal with it from a perspective going forward, because obviously you can't fractionalize the asset. You can't say that part should go into rate base, and that part shan't go into rate base, because of the fact that it is wholly one device. Its purpose is integrity, and LNG is an ancillary aspect to that.

So I don't necessarily believe that the analogy to NGEIR is appropriate. But nevertheless, I think you did hear from Dr. Gaske from Northeast that seemed to imply that the interruptible aspect was a secondary concern, and that the primary concern is that this asset could be treated like an NGEIR asset and also that somehow it could change from a system integrity asset to an LNG asset.

I believe that was a bald assertion by Dr. Gaske with respect to the nature of this asset and facility and its treatment of it. And in particular I've already noted Union's statement with respect to it, but in cross-examination we put to Mr. Gaske and actually referred to his affidavit where it said, you know, if the LNG market grows, it's unlikely Union will remain small. Instead, it can reasonably be anticipated that Union will expand its Hagar LNG fuel capacity in an attempt to capture as much market share as possible.

And I asked him a series of questions. I asked him did he meet with Union to confirm that. He said no. I asked him if he confirmed it with any third-party source. He said no. I asked him if he believed that -- if he had read the affidavit of Mr. Fay with respect to the importance of the system. He said he did, but he still reached the conclusion that somehow LNG was going to be the primary purpose of Hagar. I asked him the basis of that. He seemed to feel that it was because he did a calculation. He said he wasn't an engineer, and his only experience with system integrity is because he has worked with utilities.

And there's probably no one in this room who hasn't worked with utilities, but I'm sure there's only probably one or two people in this room that understand how system integrity, from a physical perspective, actually works.

So I don't accept that position with respect to Dr. Gaske, and I suggest that and submit that you shouldn't either.

The other primary thrust of Northeast's viewpoint is that Union is going to underwrite the risk associated with this facility -- sorry, that the ratepayer is going to underwrite the risk. And it's my submission that that is not the case, that it's counterintuitive, in my view, that Union would be seeking to transfer the risk to the ratepayer while, at the same time, proposing for a fully regulated rate that will basically do it in a transparent way, impose upon it a high degree of scrutiny by this Board, by the people -- very people that are in this room that actually are going to review and consider every aspect of this service on a go-forward basis.

I don't believe you can embark on a service like this and think that people are going to forget about it. In actual fact, you know, you are going to see it with respect to all aspects of it now with respect to establishing the rate, but also with respect to it coming into rate base. And also with respect to its treatment in revenue and its go-forward.

It seemed to be that the evidence from Dr. Gaske was that it's going into rate base. Therefore, they're underwriting the risk.

But I asked Mr. Gaske some basic principles. He agreed that -- and I've set this out at tab 6 -- that, if they're going to put it into rate base, you have to pass a prudence review.

He also would indicate that it has to deal with the assessment of the public interest at that time with respect to the interests of ratepayers. And he agreed that was correct, and that it's a discretionary investment so you would have to approve that. That the revenue forecast would have to show that it's economic, and he agreed that's correct. And if it wasn't economic, that it could -- may not go into rate base, and he agreed that that was correct. And he also agreed that Union would face the volumetric risk.

So with respect to it being added into rate base, the full review is there, and the revenue forecast has to be in the right direction. If it's not in the right direction, why would an uneconomic service necessarily come into rate base at the time? And to the extent that the revenue forecast made sense, then Union bears the risk with respect to where that forecast goes, and even in the future, to the extent that it returns on subsequent rate reviews, the impact with respect to revenues and its viability exposes it to various tools that this Board has with respect to scrutiny, whether it's disallowances for costs or whether it's imputing revenue, or other things, all of which is in the discretion of the Board when it fully assesses things in the future, all done fully openly, all done fully transparently, and all done fully within the rigour of a rate process.

So it's my submission that I don't believe that the underwriting of risk is a valid reason to choose forbearance and not consider the regulated option which Union has put forward.

So what about the forbearance motion having dealt with, I think, a lot of issues that have been discussed in the last day with respect to this motion? Union's view is that it's premature to forbear at this point with respect to regulation.

I think that one of the areas where parties diverge -- I think Union has been clear that it agrees that this is a nascent market, that it is an emerging market, and that there will be a competitive market. I think the element of divergence is whether it will be sufficient to protect the public interest, and I think that is unclear at this stage as to whether it will or it won't or when that would happen.

I know that parties had asserted on Monday that Union had somehow accepted the fact that it will be, and it will be competitive sufficient to protect the public interest.

And I think that arose because of a series -- or an exchange that took place between Mr. Millar and Mr. -- Ms. Van Der Paelt. And there he put a question to her which says:

"Does Union agree that there is or will be competition in the area sufficient to protect the public interest?"

And her answer was:

"We believe there will be."

When I read that and went back and read the transcript, I think, in my view -- which is wholly consistent with everything that Union has said in its evidence -- that she was responding in respect of there will be competition, that nowhere else in the evidence has the aspect of public interest or the sufficiency to protect public interest been asserted or alluded to by Union, and that the focus very much of the examination through the day has been with respect to "will be."

And that is where she was answering, not with respect to the public interest in itself. That's my interpretation of it, taking into account Union's consideration of Union's evidence as a whole with respect to it.

And I think what goes to the issue of whether there will be sufficient competition to protect -- or, sorry, will be competition sufficient to protect the public interest in the future, I think, goes to the nature of what the market will look like when it does get there.

And that, I think, was echoed by Ms. Van Der Paelt at page 76 of the transcript, which is shown at tab 8 of our compendium, where, effectively, she spoke about where we have an infancy, the market is currently in its infancy, and that competition in the future will ultimately have to deal with whether it's price transparency, whether it's discoverability of price, where people actually can make choices, make investments, and when there is enough supply and demand to have some form of a balance, which isn't yet there.

So although while Union may agree that there will be competition, I think the uncertainty is around whether -- when that will be and whether that will be sufficient at that time to promote the public interest.

If the Board concludes that it should forbear, Union maintains its request that the Board make a determination as part of its forbearance order dealing with or approving the cost allocation methodology proposed by Union for purposes of establishing the cross-charge between the utility and the non-utility business, if you do so choose to forbear.

Those are my submissions with respect to the motion itself.

The other issue that was raised by my friend that I want to touch on is the issue of costs. Northeast is in this matter –- sorry, Northeast, as I understand it, has requested costs regardless of the outcome of the motion.

In my view, the request for costs should be denied. Northeast is before you for its own commercial interest. It would not ordinarily meet the guidelines. It didn't raise the issue of costs at the time it intervened. Really, its interests purely arise from the fact that it proposes to build a facility, which it has to finance, which it has to finish constructing, and obviously it has concerns about a facility such as Union's being constructed.

So in my view I don't think that granting costs in

this case is in respect of serving the overall aspect of LNG ratepayers. And, quite frankly, providing costs would truly be the underwriting of costs through the ratepayer, if Northeast was to gain costs. So in my submission, the request for costs should be denied.

If I could have one moment?

MS. LONG: Of course.

MR. KEIZER: Subject to any questions, those are my

submissions.

**QUESTIONS BY THE BOARD:**

MS. LONG: Mr. Keizer, we do have some questions.

MS. HARE: There are a few areas I would like to explore with you, Mr. Keizer. The first maybe is this issue of it being an emerging market and that it will be competitive, but it's not at this point.

Does Union have a position as to when it might be

competitive?

MR. KEIZER: I don't think it has in terms of a time. I think the only thing that can point to it is when those, as I indicated earlier, aspects that the witness had highlighted at page 95 of the transcript, whether it be an element of price transparency, or people are prepared to make the investments to fit-up their machinery and equipment to buy LNG, and that people obviously have adequate supply available to provide that fuel at

that basis.

But I think the issue of the market being in a nascent state is that it's still not clear, based on some of the evidence we've seen and some of the materials disclosed in writing, that people are necessarily at that point in time where they are making investment in their trucks, or in their marine equipment, or whatever else.

So I don't think there's a time per se. I think it's more factors -- that Union looks at those factors as being when the competition will be in play.

MS. HARE: I understood Dr. Gaske to make the argument that diesel was part of the market, in that it competes directly with LNG for the trucking industry. And I didn't hear that that evidence was challenged, that diesel be considered as part of the market.

Does Union disagree with that?

MR. KEIZER: No, I think that there was two elements of the discussion, as I understood Dr. Gaske's testimony and I think also the testimony of the Union witnesses, which is that there is a fuel market and that is a multi-fuel market. And in this proceeding, the primary two that we've talked about in that multi-fuel market is diesel and LNG.

The question, then, is -- there's also, I think, an LNG market, where people are competing against one another for the sale of their particular product in that broader fuel market. And I think the latter discussion that took place with respect to Dr. Gaske and others is about that sub-market, that issue of: Okay, we've got a commodity. It's liquefied natural gas. It's going to be bought and sold. And is there competition in respect of that?

I don't think anyone disputes that there is clearly competition in the fuel markets as a whole, where diesel, LNG, gas or whatever other kind of fuels competing with each other takes place. It's more, you know -- within the LNG space, I think that the focus of is there or will there be competition is playing out in this proceeding.

MS. HARE: Okay. The next area that I wanted to discuss is this whole issue of inclusion in rate base and whether or not ratepayers are then taking on that risk, and you argued about a prudence review in the future.

But that review would, of course, not use hindsight as per the requirements for a prudence review. Do you not think that that review in the future will be constrained by

the fact that this issue is being discussed today, and that Union is asking for approval to continue with this business?

MR. KEIZER: I think that, at this point, it's asking to establish a rate which enables it going out and contractually dealing with people on the basis of that rate. I don't think the review is necessarily constrained, because we know that if the rate is approved, we're assuming the Board is approving the rate as a just and reasonable one. The issue is going to be have you been able to, not just how much, I think, because it's a discretionary expenditure. In any kind of capital asset program which is discretionary, you not only have to look at the capital cost, but you have to look at the costs and benefits associated with that investment.

And so to the extent that you make investments on a

basis of the fact that there is not sufficient corresponding benefit, or not in this case sufficient corresponding revenue which would enable it to be a viable result, I think that's all factors that come into your consideration at a later date as to whether this should or shouldn't form part of rate base.

I don't believe that that's necessarily hindsight, because of the fact that that – you know, this is going to be -- it's not an instant in time. You're actually dealing with the business over time, over a period of time.

MS. HARE: I guess my concern is that one would not be

able to argue at that future time that you should have never done this in the first place.

MR. KEIZER: Never done the investment, or never done --

MS. HARE: The investment leading to the provision of a service for liquefied natural gas.

MR. KEIZER: I think that someone could, though, to the extent that if -- if someone makes a decision to make an investment and there is -- you haven't signed any contracts, or someone makes a decision to make an investment and you have signed contracts but you haven't signed sufficient to prove that this would be viable, or that your revenue forecasts which you did at the time that you were actually proposing it were deficient because of the assumptions you used.

There's all manner of things that you could consider with respect to the choice, because what is still yet to happen, and still has yet to happen in Ontario, is someone to actually sell LNG within Ontario that's not from Quebec or Indianapolis or wherever else.

So I think those elements have to be proven out and those elements have to be shown. And I think Union would bear the burden of showing those at the time rate base would be taken into account.

MS. HARE: The last area I'd like you to discuss is that we heard argument from several intervenors on Monday about the undertakings, and you didn't mention the undertakings in your argument at all.

Do you not think the undertakings constrain whether you can be in this business or not? The discussion on Monday was it's conditioning of gas, and I think it was Mr. Brett that said: Come on. You're not conditioning gas, you're liquefying gas. It's a different service.

So could you comment a little bit on the undertakings and how those constrain or don't constrain Union Gas, in your opinion?

MR. KEIZER: Let me deal first with conditioning. I think "conditioning" was my word, and so I don't know if that was the best word.

I think fundamentally the issue is: Are you distributing gas and are you selling gas? And in this case, I think, for liquefied natural gas, you are distributing gas. There is no doubt that you wouldn't be; you wouldn't have the regulation exemption from 36 if liquefied natural gas for motor vehicle purposes wasn't gas.

So it is gas, and you're actually moving it from point A to point B. And in the process of doing that, you're actually liquefying the gas; you're putting it under significant pressure.

So in terms of conditioning, that's what I meant. In terms of –- you know, if Union delivers gas to a particular industrial customer, the gas is received at a particular pressure. The difference is that for these customers, the gas is received at a particular pressure, although extreme. So that's the nature of it.

In terms of the undertaking itself, if –- and

effectively maybe one reason I didn't deal with it is because in the context of this application, the current application before you -- not the motion, but the application -- is for a regulated purpose, and so within the context of Union acting as a regulated entity, it has certain orders from the Board, and some of those orders from the Board is its ability to sell gas. The other is its ability to distribute gas, and it is intending to distribute this gas in accordance with and to carry out liquefaction, which is, in our submission, part of distribution.

The issue of the undertaking, I think, comes into play, so I don't -- in my view, the undertaking doesn't come into play with respect to the regulated aspect. It's effectively complying with the nature of the undertaking, given that it's acting in a regulated fashion.

With respect to the forbearance issue, if you decide to forbear, and there is a non-utility basis for it, there, I think, it may be a bit different, and we don't have any evidence or positions of Union before the Board in the application with respect to the undertaking, because it obviously doesn't form part of the regulated basis of the application.

But on the issue of the non-utility, you have to kind of look back at what the undertaking does. And the undertaking is a bit of an oddity to some extent, because the undertaking itself, I believe, going from memory, says that Union shall not -- without, really, leave from the Board -- carry out any activity other than transmission, distribution or storage of gas.

The thing that's left out of that undertaking is the sale of gas, which is a bit of an oddity. The only reason is because at the time the undertakings were created, it was when the gas market was opening up for the sale and where retailers and brokers can sell gas. And so as a result, to ensure that there was not any separation between transportation and marketing at that time -- a lot of people talked about the transportation/marketing separation -- that there was a check on it with respect to the sale of gas. So to the extent that it was carrying out a non-utility function, there may be need to seek some treatments with respect to the undertaking, but my submission would be until we understood the nature of the conditions associated with forbearance or whether you are going to forbear or not, that that hurdle of the undertaking would have to be passed potentially at that time, but not necessarily within the context of this application.

MS. HARE: Thank you. Those are my questions.

MS. LONG: Mr. Keizer, I just have one question of clarification. This morning, in response, to Member Hare's question to you, you talked about an agreement that there is competition in the motor vehicle fuel market, and then you described a subset, I guess, of the LNG market. If that's not what you said, please correct me.

But is it Union's position, then, that you consider yourself to be a further subset of that LNG market in that the unique circumstances under which Union will operate will make it, I guess, a different market than what Northeast Midstream is -- the product that they're going to be offering? That you'll be going after different customers? Is that Union's position?

MR. KEIZER: No. I don't think that's Union's position.

MS. LONG: Okay.

MR. KEIZER: I think on the first element of the motor vehicle fuel market or the transportation fuel market, that was the multi-fuel -- diesel gas, LNG -- all kind of seeking to -- and I think that market would be including not just trucks, but boats, ships, trains, whatever.

In the LNG space, what seems to be -- in my view what the evidence is stating is that we have people who have aspirations to be suppliers of LNG, and that LNG will compete with diesel, and will compete with each other as well in terms of being to sell their LNG product. And the recipients of that LNG will be trucks, you know, boats, trains, I guess, maybe -- I don't know -- but certainly boats and trucks. That's certainly on the evidence. Potentially generation of electricity.

All of which, you know -- they will compete for those customers between each other.

The real essence of that is, though, is that there is a -- we're at a very initial stage. Two facilities are proposed: Union's Hagar facility, which they submit is a pilot project-based facility to facilitate -- not Hagar itself being a pilot project, but actually the customer being able to entertain pilot projects as a testing ground for LNG use. And Northeast, which is much larger and obviously has a bigger aspiration and dream with respect to where it wants to go with LNG.

They would be, I think, pursuing the same customers relative to each other, but at the same time relative to the aspects that diesel is out there as well.

And if you put yourself on the customer's side of the ledger, we talked a lot in this proceeding about the supplier, but on the demand side the customer is sitting there saying: Okay, I can go into the transportation fuel market and I can buy diesel or I can buy LNG, and I have to make a decision when I buy LNG because they're not compatible. My equipment doesn't run on both fuels, so I have to make an investment decision as to whether I change my truck over to an LNG-based truck, which we heard in evidence, I think, is like 50- to $75,000 of a premium. Or I change my ship over to LNG. And that's what the customer is facing.

So I think in this dynamic you've got a mature transportation fuel market, you've got an LNG-based supplier who are attempting to gain a foothold within the market and also probably gain a foothold relative to each other, and you've got customers who have to make a decision as to what they want to do. All of which adds up that this is a very nascent, early-stage market, which will at some point, people believe, be competitive.

MS. LONG: Thank you. Those are the Panel's questions.

Mr. Lederman, I assume that you want to do some reply. Would you like some time to prepare and organize your thoughts before you do reply?

MR. LEDERMAN: Yes. I'd appreciate that. I really only need 5 to 10 minutes.

MS. LONG: I was going to give you half an hour, but if you only -- why don't we take our morning break, then, and we will take 20 minutes?

MR. LEDERMAN: Twenty minutes would be fine.

MS. LONG: We will come back -- actually, let's take until 25 to. Thanks.

--- Recess taken at 10:18 a.m.

--- Upon resuming at 10:49 a.m.

MS. LONG: Please be seated. Mr. Lederman are you ready to proceed?

REPLY SUBMISSIONS BY MR. LEDERMAN:

MR. LEDERMAN: Yes, and thank you for the indulgence of time.

I would like to address a number of points made by Union in response. The first point that I would like to address is the regulation, and the threshold issue that we asked the Board to consider, specifically the exemption under Regulation 161/99.

My friend took you to tab 3 of my compendium, which has the section there, and urged you to accept this regulation is for the benefit of the distributor. And I observe, from looking at the section and how it reads, that there is nothing that specifies in the regulation that this is for solely the benefit of the distributor.

Our submission is that the regulation ought to be looked at any point that section 36 is invoked.

Union also argues that the conditions -- there are certain conditions that need to be met by a class A distributor that are set out in section 22A of the regulation, and that since these conditions are required, their request for a section 36 Order is not captured by the regulation.

While it's true that this is an application for an LNG service, and Union's LNG service is primarily for LNG and not for the selling of gas, Union is also seeking, by way of this application, approval for supply charge. And that can be found in the LNG tariff proposed by Union, which is tab 2, schedule 3. If they're seeking approval for supply charge, I understand that the conditions in order to obtain that approval, the conditions that are set out in the regulation, would have been covered by Union's purchase gas variance account, and already approved by the Board.

So in those circumstances, Northeast's submission is that Union is captured by the regulation, and should not be in a position to ask the Board to invoke section 36 of the Act.

I would next like to address the special and unique circumstances that were argued by my friend, and specifically dealing with the argument that this

service is not firm, but rather is interruptible, that being a critical distinction between the case that this Board considered in NGEIR.

One can observe from the statement made by Union's witness, Ms. Van Der Paelt, in my friend's compendium, tab 1, at page 77 of the transcript, that it's Union's desire to offer a high-quality service, and it can only do so after system integrity requirements are met. And if the approach is that a high-quality service has to be offered, then they can only do so after system integrity requirements are met.

We have -- to that point, I suggest that we bear in mind that Union in their open season document, which was attached as Exhibit E to Mr. Samuel's affidavit, requested 10-year contracts from customers with minimum annual volumes, which clearly suggested a high-quality service

could be supplied even in this interruptible environment.

Union has also been clear they will not be proceeding with the project unless they're able to sell LNG at a minimum of a 50 percent load factor, and that was the answer to Northeast's inquiry 45. And of course in order to meet that minimum, that would only be after the system integrity requirements are met.

We also heard evidence that Union has excess storage, albeit a small percentage, but excess storage in the tank that could be used in emergency circumstances to cover off the interruptible basis.

Next, I would like to address the point regarding -- that Union needs clarity as to how to deal with this regulated asset. And in tab 115 -- excuse me, tab 1, at page 115 of the transcript, Ms. Van Der Paelt had indicated that there is this need for certainty, and that's why the Board is being asked to be involved.

And we heard in evidence from Mr. Tetreault that Union is clear about what to do. They are certain what will happen if this is not put onto the regulated rate. They would develop a cross-charge that would be identical

to the amount proposed for the cost allocation. So there is certainty in this environment for Union.

Mr. Keizer also urged the Board to be critical of Dr. Gaske's evidence, and his concern about whether this facility is really – its intended purpose is system integrity requirements. He suggested that was a bald assertion, with nothing that supported Dr. Gaske's opinion that we should be suspect of what the purpose is going forward for the facility.

There's some independent evidence that, I submit,

supports Dr. Gaske's assertion. We've heard that the average use for system integrity requirements over the last five years was less than 20,000 GJ, and that was an answer to BOMA 25. So we know that very little was used for system integrity requirements over the last five years.

We also learned records were not available or not

kept as to how much has been used for system integrity

requirements beyond those five years. If this primary purpose of the go-forward use of Hagar was exclusively and predominantly for system integrity requirements, one would expect that better records would have been kept over a number of years beyond the five, to show how much is actually needed for system integrity.

Another point that was raised by Mr. Keizer in argument was the uniqueness of this service, this new service offered by Union, and the benefits that this new service will have to the market. It's our submission that Union has already indicated that this service will help pilot customers -- pilot customers with their projects,

and help build the market for LNG in Ontario.

We heard in evidence from Ms. Van Der Paelt that Union intends to proceed with this service to the benefit of the market, independent of whether the Board regulates the service. In fact, Union may have more flexibility to tailor the service to the market in the absence of regulation.

Now, there has been some suggestion that the purpose for this additional service is very limited and for

pilot customers, and to help develop the market for everyone else. And my submission would be that may be true, but one must not ignore how this could benefit Union itself.

They've indicated that while no additional expansion at Hagar is contemplated, that there may be new greenfield facilities in the future. And clearly this project, this initial project at a regulated rate, could help serve Union's business in the future.

Having a regulated rate while others do not may give Union an early entry into the market, and early foothold in this competitive market.

As to the competitive market, there was some question raised by Mr. Keizer as to whether or not Ms. Van Der Paelt's admission that the competition exists or will exist sufficient to public interest should be considered as an admission as to the competition that's actually present in the marketplace by Union.

Union, from the outset, has indicated, in response to Exhibit B, Staff 3, that they consider the market for LNG as a transportation fuel competitive. So, that is, right now it is competitive, and that was the response filed August 12 of 2014. At the very least, we have evidence that shows that this market will be competitive. So if it isn't competitive right now, it will be competitive.

It doesn't matter how large the market is; size doesn't matter.

My friends want to point out that the use for Hagar is about 5 percent of the Northeast planned asset, and my submission would be size of the asset has nothing to do with section 29.1 of the Act.

Mr. Samuel gave evidence that he expects very healthy competition in this marketplace, and that is the reason why this motion is being brought. Section 29, as Mr. Millar pointed out in his submissions in-chief, is very clear. If there is competition or there will be competition sufficient to public interest, this Board shall forbear. And in those circumstances, we would submit that the Board ought to grant our section 29 request.

I would now like to just address the issue of costs. My friend suggests that the request of Northeast to -- for its costs should be denied, that we are clearly appearing on Northeast's sole private interest, and that we didn't raise the issue or request the issue of costs when we first intervened in the application.

We did request costs as part of this motion, and our Notice of Motion does seek costs, so while it may not have been when we first entered as an intervenor, and certainly what our role determined to be -- Northeast's role in this process was to bring this motion, and we request costs from the outset of that determination.

And yes, Northeast is a private entity that will be competing in this arena, but it's not here only on its own interests. It's brought forward a policy perspective that's been relevant to the Board's mandate. It has assisted other intervenors, who at first were not -- it wasn't certain whether they were supporting the motion, but by the end of argument on Monday, the other intervenors had joined in. And while there may be an exclusion that the Board could find in terms of our opportunity to request costs under the Practice Direction 3.05, this Board does have -- this Panel has the discretion to award costs, in any event, under 3.07. And if this Panel feels that Northeast's contribution has enhanced the understanding of the issues and has cooperated throughout, discretion is available to you to award costs to Union.

Subject to any questions, those are our submissions in reply.

MS. LONG: Thank you, Mr. Lederman. The Panel has no questions. Thank you.

So that concludes the hearing of the motion. I can advise the parties that we will not be making a decision from the dais today, nor do I expect that we will have a decision by next Tuesday. We are going to reserve our decision on the motion.

So I do understand, though, Mr. Keizer, that it is your client's wish to continue with the hearing of the application itself?

MR. KEIZER: Yes, it is, Madam Chair.

MS. LONG: Then I would like to proceed to do that. The Panel does have one concern. I understand that your expert Mr. Erling is not available until Tuesday.

MR. KEIZER: That is correct.

MS. LONG: We would like to hear those parts of the application that do not deal with cost allocation. I don't want to hear cost -- I guess we don't want to hear cost allocation today and then again on Tuesday, so I don't know if the intervenors have had a discussion about whether or not they can divide their cross-examination in such a way that they can deal with other elements of the application today, and then we can deal with the cost allocation issue on Tuesday, or if they are able to ask discrete questions of the witnesses that are here today and then deal with questions specific to the report and Mr. Erling on Tuesday.

We're really trying to avoid a duplication of hearing cost allocation from parties today and then reiterating everything on Tuesday.

MR. KEIZER: No, I hear you on that. And, actually, we had inquired of the intervenors and -- as to whether they had any questions for Mr. Erling at all. I'm not sure whether you, the Board, have questions for him or not. And I think the sense was, in discussions with the intervenors -- and they can obviously speak for themselves -- was that to the extent that Mr. Tetreault could answer those questions, they would put it to him and see if that was satisfying. If not, then they would then have, potentially, questions for Mr. Erling.

And I think Dr. Higgin had indicated that to the extent that it would work and he was the only party asking questions, he may be prepared to put his questions to Mr. Erling in writing.

But that's as far as the discussion has gone, so I can't speak for my friends in terms of their ability to bifurcate their cross-examination, though.

MS. LONG: Well, I'd like to hear from the intervenors on that.

Ms. Blanchard, do you want to start?

MS. BLANCHARD: Yes. Thank you, Madam Chair.

Certainly, we agree that the cross-examination on cost allocation shouldn't be split. We did spend some time in the last couple of days exploring different options, and I think what we'd -- what we'd like to propose today is that we will ask our questions of cost allocation to the panel and try to keep them fairly high-level with a view to trying to have the answers brought out by Mr. Tetreault.

And if there are some specifics of the KPMG report that aren't able to be covered by the panel, then those could be addressed on Tuesday.

But we were -- we think it's possible that this panel may actually be able to address all of our questions on cost allocation, and so we've come today prepared to ask all of those questions to this panel, with a view to deferring any specific question that can't be answered to Tuesday.

MS. LONG: Dr. Higgin?

DR. HIGGIN: Thank you, Madam Chair. We've prepared our cross-examination for either eventuality.

We have split our cost allocation questions between what we think would be Union's witnesses, like Mr. Tetreault and Mr. Erling.

We've also separated our overall cross-examination into two pieces, which are cost allocation and the rest, so we can go either way that the Panel would like.

MS. LONG: Ms. Blanchard, do you have questions other than on cost allocation?

MS. BLANCHARD: Yes. I have some questions on the IRM that I'd like to put to the panel.

MS. LONG: Okay. Thank you.

And Mr. Rubenstein?

MR. RUBENSTEIN: I think all my questions could be asked to the Union witnesses. That's the first thing.

With respect to cost allocation versus other issues, the primary focus of my cross-examination is issues about, if the Board does grant forbearance, how do we allocate between utility and non-utility? What's the interaction with the IRM agreement?

To some degree, that is a bit of cost allocation, so between sort of the cost allocation and everything else it's not a clean split, but I think I can ask my questions of Union's witnesses alone.

MS. LONG: Okay. Well, then, why don't we proceed? I mean, obviously to the extent that intervenors have questions of Mr. Erling, I don't want you not to ask them, so we will plan that he will come on Tuesday and answer any questions that you have, but we just want to make you aware of the fact that we're hoping that there's not a lot of duplication. I understand that there will be some.

So with that said, Mr. Keizer, if you can have your witness panel approach?

MR. KEIZER: Thank you, Madam Chair.

**UNION GAS LIMITED - PANEL 2**

**Sara Van Der Paelt, Previously Affirmed**

**Greg Tetreault, Previously Affirmed**

**Bill Fay, Previously Affirmed**

**Pierce Jones, Affirmed**

**EXAMINATION-IN-CHIEF BY MR. KEIZER:**

MR. KEIZER: Madam Chair, if I may, if I can introduce the new member to the witness panel, it's Mr. Pierce Jones. I only have very a short examination-in-chief.

We've gone through quite an extensive amount of evidence already in the context of the motion, and really my examination-in-chief is really in respect of introducing Mr. Jones to you and dealing with his evidence.

So if I may, Mr. Jones, you are the manager of the Hagar LNG plant for Union Gas Limited?

MR. JONES: Yes, I am.

MR. KEIZER: And before that, you were compressor operations engineer?

MR. JONES: That's correct.

MR. KEIZER: And you hold the designation of professional engineer in Ontario?

MR. JONES: Yes, I do.

MR. KEIZER: And if I may then, you have participated

in the preparation of the prefiled evidence and interrogatories filed in this application?

MR. JONES: Yes, I have.

MR. KEIZER: So for the purposes of this application,

do you adopt the exhibits and interrogatories that have been filed in Union Gas Limited's application, dated May 16, 2014?

MR. JONES: Yes.

MR. KEIZER: Including any updates to that evidence?

MR. JONES: That's correct.

MR. KEIZER: Madam Chair, those are -- that is my

examination-in-chief. The panel is now available for

cross-examination.

MS. LONG: Thank you, Mr. Keizer.

Have the intervenors decided on an order? Ms. Blanchard, will you be proceeding?

MS. BLANCHARD: I will. Thank you, Madam Chair.

MS. LONG: Thank you.

**CROSS-EXAMINATION BY MS. BLANCHARD:**

MS. BLANCHARD: I'm going to be referring to three documents which are contained in the prefiled evidence. I would like to -- I'm going to be referring to the KPMG report, and I do understand we are not to duplicate between questions that might be asked of KPMG.

But I am going to try to keep my questions fairly high-level, and if the questions I am asking should be referred to Mr. Erling, please let me know.

MS. LONG: Before you continue, Ms. Blanchard, I'm wondering, Ms. Hockin, if you can move to the other side of Mr. Keizer, so there is a line of sight between Ms. Blanchard and the witness as she's asking questions. Thank you.

MS. BLANCHARD: Thank you very much, Madam Chair.

So if you could get out your copy of the KPMG cost allocation study? I'm also going to be referring to two of the schedules which are contained in Exhibit A, tab 2, and these are schedules we were looking at also yesterday. So that's schedule 1 and schedule 6.

So Exhibit A, tab 2, schedule 1, this is the proposed revenue requirement for Hagar, the 2013 Board-approved Hagar revenue requirement, and then it's divided by function. Schedules 1 and 6.

I'll try not to jump around too much, but the purpose will be to understand the practical impact of the proposed cost allocation that forms part of Union's application. So that's why I've asked for these two schedules to be brought out.

Just let me know when you're ready. I know I've asked you to get lots of paper out.

MR. TETREAULT: I'm ready, Ms. Blanchard.

MS. BLANCHARD: Thank you. I'm assuming these questions will be for you, Mr. Tetreault.

First of all, would you agree with me that there are many common costs at the Hagar facility?

MR. TETREAULT: Yes, I would.

MS. BLANCHARD: At a high level, Union proposes to allocate these common costs based on what's described as net plant by function; is that correct?

MR. TETREAULT: That's correct.

MS. BLANCHARD: So first thing I would like to just get to is how you establish net plant by function. So when I'm looking here at schedule 1 and I'm looking at that number, 22,768, is that the total gross plant for Hagar?

MR. TETREAULT: Yes, it is. That's the 2013 Board- approved gross plant.

MS. BLANCHARD: So as I understand it, what you did is you -- or what your consultant did was they took the total net book value of the assets that can be directly linked to one of three functions -- liquefaction, storage and vaporization -- and then identified a percentage share of those directly linked assets; is that accurate?

MR. TETREAULT: Correct. And perhaps just for clarity, by way of example, you mentioned gross plant on line 1 of schedule 1, and as you mentioned, that's what’s happened.

We've gone through a review of the assets, and where we've been able to determine that a particular asset provides a particular service or particular function at Hagar, we've directly assigned that cost to that particular function.

MS. BLANCHARD: Thank you. So if I've got 22,000, approximately -- or 22 million, I apologize, approximately, which is the -- that's the book value of the whole Hagar plant?

MR. TETREAULT: That is Hagar gross plant at 2013 Board-approved levels.

MS. BLANCHARD: Right. So how much of those -- how much of that is actually directly linked to a specific function?

MR. TETREAULT: All of those quantities, the entire 22.7 million in gross plant, has been directly assigned to one of the three functions at Hagar.

MS. BLANCHARD: So when I go to page 9 of the KPMG report, right at the top there's a line which reads -- I'll just wait there. Right under the second bullet at the top:

"Of the total net book value of assets, 53 percent of assets can be directly linked to one of the processes of liquefaction, storage or vaporization."

MR. TETREAULT: I'm sorry, Ms. Blanchard, I misspoke. You are correct.

MS. BLANCHARD: So how do I get from page 9 to what's in this chart? I've got 22 million, but only 53 percent of that is actually directly linked to one of these three functions.

MR. TETREAULT: I'm just examining tab 1. I need a moment, please.

MS. BLANCHARD: Please take your time.

MR. TETREAULT: I must admit it's escaping me at the moment, but it is in -- I'm looking in tab 2. Where we can see that information, Ms. Blanchard, is Exhibit A, tab 2, page 7. And that is table 2 on that page, where we summarize the 2013 Hagar net plant by function.

So you can see on line 1 of this table the direct assigned net plant, and that is the 50.3 percent that we mentioned earlier. And then line 2 represents the net plant that can't be directly assigned to any particular function and is funtionalized based on line 1. I apologize for misspeaking earlier.

MS. BLANCHARD: No, Not at all. And thanks for the clarification.

The direct assign, then, is the 5.807 million; is that accurate?

MR. TETREAULT: That's correct.

MS. BLANCHARD: And then that's relative to 11.547 million, which is total?

MR. TETREAULT: That's correct.

MS. BLANCHARD: So based on this look at the 50 percent of the total net plant, you come up with an allocation or a proportionate share attributed to each function?

MR. TETREAULT: That's correct.

MS. BLANCHARD: And then that proportionate share is applied to every other common cost at Hagar; is that accurate?

MR. TETREAULT: No. I don't think I would describe it that way. So, for example, we have taxes at Hagar associated with the return, and those taxes are funtionalized in our proposal on rate base on an overall basis. So you can have a slightly different functionalization of taxes, for example, than the net plant that is shown on -- in table 2, for example.

Likewise, property taxes, which are also a cost that needs to be funtionalized between the three functions, has been funtionalized based on gross plant. And this is all outlined in -- I'll call it the middle portion of Exhibit A, tab 2, where we go through the various functionalizations.

And to your point, O&M is funtionalized based on the functionalization of net plant, just to complete the picture.

MS. BLANCHARD: So if I go to page 4 of the KPMG report, there's a table that shows me the percentage allocations.

MR. TETREAULT: I have it.

MS. BLANCHARD: And so these percentages that are obtained by looking at half -- approximately half, 58.3 percent, of the net book value of the Hagar assets are applied to O&M to establish the allocation of cost by function?

MR. TETREAULT: That's correct.

MS. BLANCHARD: Is there any instance where -- so I guess, just going through them, I've got 36 percent for liquefaction, 57.6 for storage, and 66.4 for vaporization. Is there any instance where you're applying more than 36 percent to the liquefaction function?

MR. TETREAULT: No, I don't believe there is, specifically as it relates to net plant or O&M. The functionalization took place based on those percentages.

I should note we talked on Monday about this briefly, but there were some costs as per tab 2, schedule 1 that were directly assigned to the system integrity function. So they're considered storage costs, but for system integrity purposes only. And those were the figures that are outlined on lines 28 and 29 of schedule 1. We spent some time discussing that on Monday.

MS. BLANCHARD: Would you agree with me that this functionalization that's based on the net book value of the directly assigned net total plant costs, that that's the cornerstone of the cost allocation methodology that's being proposed?

MR. TETREAULT: Yes, I would. That is certainly the foundation, if you will.

MS. BLANCHARD: KPMG tells us that the actual plant costs are significantly affected by what they describe as the "operating regime" at Hagar. Would you agree with that assessment?

MR. TETREAULT: Yes, I would.

MS. BLANCHARD: And would you agree that the current operating regime calls for very limited cycling of the storage facility?

MR. JONES: As was outlined in our interrogatory response, we have had two vaporization events this past winter.

MS. BLANCHARD: So in layman's terms, my understanding is that with respect to storage, cycling means when you take -- you take product, you put product in, and then you take it out. And is that an accurate assessment of cycling?

So twice in the last season, you took LNG out of storage; is that -- is that what I should gather from your response? Two cycling events in 2013 and 2014?

MR. JONES: Well, I would suppose that I would take into account that we didn't cycle the entire tank, if that's what you're getting at, Ms. Blanchard.

MS. BLANCHARD: Well, would you agree that when you say that there were two system integrity events in 2013 and 2014, that that meant that the storage, there was a -- that there was -- there was product removed from storage twice during that period?

MR. FAY: Yes, there was product removed twice this last winter. Right.

MS. BLANCHARD: The new LNG service forecasted by Union contemplates much more significant -- many more instances over the course of a given year where product will be taken out of storage; is that accurate?

Or will move through the storage tank? Perhaps I should put it that way.

MS. VAN DER PAELT: Yes.

MS. BLANCHARD: Would you agree that that represents a significant change or a change in the operating regime at Hagar?

MS. VAN DER PAELT: Yes.

MS. BLANCHARD: Did Union consider any alternative cost allocation methodologies when it was considering -- for the Hagar plant?

MR. TETREAULT: The KPMG report does outline some

alternatives that were considered, and that discussion begins on the bottom of page 4 of the KPMG report.

MS. BLANCHARD: So when I go through those alternatives -- and I won't spend too much time on them, but just to get a general sense of what they might be -- one of them related to collecting information about plant personnel and how much time they're spending on any given activity.

Would you agree that that appears to have been discounted as a result of a lack of data?

MR. TETREAULT: Yes, I would.

MS. BLANCHARD: If the LNG service is unregulated -- just assuming for a moment that it is -- doesn't it become more important to track employee time spent on the two functions?

MR. TETREAULT: I don't know that it does, Ms. Blanchard, in either the utility or the non-utility proposition. And I say that for two reasons.

One is the fact that in the context of the

new service, the new service will contribute to the recovery of liquefaction and storage costs, which includes O&M costs associated with staffing, et cetera.

And my second comment would be that it's important to remember that there are incremental O&M costs associated with offering the new service -- for example,

additional staffing -- and 100 percent of those incremental O&M costs will be paid for by the new service.

MS. BLANCHARD: In terms of the common cost, though, the methodology is based on the proportionate share of total net plant; is that accurate?

MR. TETREAULT: That's correct.

MS. BLANCHARD: And there will be some staff that are

participating in both the regulated and the -- let's call it potentially unregulated service; is that correct?

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

MS. BLANCHARD: So if those staff are spending a lot more time, for example, dispensing fuel over the course of a year, that wouldn't be captured by the cost allocation methodology?

MR. TETREAULT: Ms. Blanchard, I don't want to be repetitive, but I think I need to repeat what I said earlier, which is to the extent there is more liquefaction activity as a result of offering this new service, we have forecasted and included in the liquefaction rate, the new liquefaction rate, the incremental costs associated with that, which includes staffing.

So to the extent we were spending more time on liquefaction activity and we've hired to do so, those costs are fully recovered in the liquefaction rate.

And again, as I mentioned with regard to 2013 Board-approved costs, the new service will provide a contribution based on the methodology we've proposed.

And I should say, as well, it's generally -- generally as a cost allocation principle quite common to have the allocation of O&M to rate classes, for example, follow the allocation of net plant or rate base.

That is something that we do on our Dawn-to-Parkway, our main transmission system, and something that's quite common throughout our cost allocation study in general.

MS. BLANCHARD: There's two other allocation methodologies that are mentioned in the KPMG report, and they are a methodology would be based -- which would be based on throughput volumes, and another methodology which would be based on the capacity of each of the three processes.

Was there any thought given to collecting some data, or investigating those alternative methods as a way of -- as a way of confirming the allocation which was based on the net plant methodology?

MR. TETREAULT: It may be a question for Mr. Erling. I don't believe, in terms of evaluating the alternative specifically, that that level of analysis was done.

But I would note on the bottom of the page -- we're on page 5 now of the KPMG report.

MS. BLANCHARD: Yes.

MR. TETREAULT: You will notice Mr. Erling has some

discussion on precedence elsewhere, and in that he references a BCUC decision with regard to Fortis BC and the result of their underlying cost allocation, a similar exercise that Fortis needed to go through.

And again, I may be speaking for Mr. Erling a little bit here, but from our standpoint that was, I'll say, a reasonability check on our proposed functionalization.

And I'll note that Fortis's allocation percentages are not dissimilar to Union's proposals here, specifically 35 percent for vaporization –- for liquefaction, excuse me,

50 percent for storage, and 15 for vaporization.

MS. BLANCHARD: Do we know the Fortis facility was being used for system integrity purposes?

MS. VAN DER PAELT: Their system was used -- I believe they would describe it as winter peaking facility, but it was for utility purposes.

MS. BLANCHARD: I would like to go back to the storage question, and I would like to look at schedule 6, which you may already have out. It's Exhibit A, tab 2, schedule 6.

And this is where we're seeing now the application of these percentage share allocations as between the Board-approved costs?

MR. TETREAULT: That's correct.

MS. BLANCHARD: And I think you took us through yesterday a little bit on the storage space cost that's being allocated, or proposed to be allocated to the LNG service.

So I think we've heard -- and you'll correct me if I'm wrong -- that 7,000 GJs are going to be assigned or used by the LNG service, and that that's going to be -- that's 7,000 out of a total available storage of approximately 650,000 GJs?

MR. TETREAULT: That's correct.

MS. BLANCHARD: I think we heard earlier today that in the last year, there was only two instances where product was taken out of storage and injected into the system.

How many times will there be product removed from storage in the forecast years outlined in Union's evidence?

So I guess, just by way of example, could you give me a sense of how many times product will go into storage and be removed, as forecast by Union, in 2017?

MS. VAN DER PAELT: So --

MS. BLANCHARD: I apologize, I'm sorry.

MS. VAN DER PAELT: Of the space for 648, as you correctly stated, 7,000 is for the service. So of the remaining space, the 641, that withdrawal I cannot speak to. A system integrity event, by nature, is unpredictable. You have this asset there to serve it when it's needed. So I can't speak to how much that will happen.

In terms of the 7,000, we don't have history at this point in time of practicing. We don't think every molecule will go to storage, and I would like to point you to my evidence where there is one comment. I am at Exhibit A, tab 1, page 19 of 25.

And it's really at line 1, where I say the purpose of the storage is the -- if we're going to use storage for LNG due to timing differences between the natural gas being liquefied and ultimately dispensed.

So our view is that, as much as we can, the trucks will arrive and we will be liquefying directly to that point in the truck.

So if we were very robust, I think we start with 50 percent load factor, which may be one truck, two trucks a week to start off with as we start moving forward. You know, we may see storage being used one or two instances, depending on timing differences, but we don't have sort of a forecast on that yet. This is something we're going to have to learn as we go.

MS. BLANCHARD: If I could ask you to just go back one page in your evidence, there's a -- I think you've got a diagram. I may be looking at the updated one.

It's on page 17 of your October filing, but -- there it is. Okay. This is the diagram I'm talking about.

So it seems to me from the diagram that you're necessarily going from liquefaction into the storage tank and then out into the dispensing facility; is that accurate?

MR. JONES: That's correct.

MS. BLANCHARD: And so if I was to take your LNG production forecast for 2017, which I understand is 474,888 GJs -- that's in your schedule 6, if you take it subject to check -- and I just divide that by 7,000, would it be accurate to say that you're withdrawing LNG for vehicle fuel purposes from the storage facility 106 times a year on a forecast basis for 2017?

MR. JONES: So the -- the diagram there, figure 2 in our evidence, is absolutely correct, and the idea of just-in-time delivery is basically the LNG would be flowing through the tank and being delivered.

So strictly doing the math and dividing the 400,000 by 7,000, I don't follow that idea, but obviously the LNG does flow through the tank.

MR. TETREAULT: Ms. Blanchard, I think it's also important to point out that to the extent there are incremental storage costs associated with the liquefaction service and the increased level of liquefaction activity, that is forecasted and included in our liquefaction rate. So just for -- to be helpful to parties here, in Exhibit A, tab 1, on page 22, there is a table.

And I don't know that we need to turn it up necessarily, but that table outlines the incremental O&M costs associated with the liquefaction activity.

So to the extent we're utilizing the facilities there more so than we have in the past as a result of this new service, and we have incremental liquefaction storage costs, the new rate is paying for 100 percent of that.

MS. LONG: I'm sorry, now I don't understand the evidence, Mr. Tetreault and Mr. Jones. Are you saying that the LNG is going into the storage tank and then it's coming out -- kind of in real time, hopefully -- to meet the demand of the trucks?

But when you say, Mr. Jones, you don't agree with Ms. Blanchard or you don't follow that prospect, is it the 106 times that you don't agree with? Or what am I missing there?

MR. JONES: Yeah. I suppose it's the idea of starting and stopping the 106 times of filling and emptying the storage. It's more of a fluid process, a continual process.

MS. LONG: I guess I'm not an engineer. I'm not understanding that. If it goes into a storage tank and it comes out, it's going in and coming out. What do you mean by "it's more of a fluid process"?

MR. JONES: So the process at Hagar -- to start liquefaction takes a lot of time and energy to get the process up and running. We want to keep the process running continually. We don't want to be starting and stopping the process.

So, ideally, the way we would operate is that we would have trucks coming in when we're liquefying to take away the LNG that's being produced, so that we're not starting the process up, shutting it down, starting it up, shutting it down.

So it's just a kind of continual, fluid proposition.

MS. SPOEL: I'm curious. How much does a truck -- like, those trucks that you're anticipating that come, how much do they hold? Like, what's the capacity? I have no concept in GJs. What does one of these tanker trucks actually hold at a time? So how much are you liquefying when a truck shows up to collect its load?

MR. JONES: Somewhere in the evidence we outline it's about 1,000 GJs per truck.

MS. LONG: So then, Mr. Tetreault, when you refer to this OM&A chart that sets out the expenses on page 22 of 25, that is based on the concept that Mr. Jones is speaking about as a more of a fluid -- fluid production as opposed to stops and starts? That's the basis upon which these costs have been determined?

MR. TETREAULT: Yes, that's correct, based on a liquefaction forecast.

MS. LONG: Okay. Thank you, sir.

MS. HARE: Can I ask a follow-up? Mr. Jones, when you were saying to start up the liquefaction process takes a lot of time and energy, so what happens if you don't have the volume of customers that you expect? Does that mean that, when you do have the customer on day 3, when you didn't have any for two days, you have to start it up, and does that then equate to higher costs?

MR. JONES: No, it wouldn't necessarily relate to higher costs. We don't have turn-down capability of the facility. So that is to say that, you know, earlier on when we only have one or two trucks coming, we could operate the production down a little bit, and then as demand starts to build up and we're able to offer LNG to three trucks on average a day, then we would be operating the facility at a higher level.

MS. HARE: Thank you.

MS. LONG: Thank you, Ms. Blanchard. You piqued our interest there, so we had some questions. But please continue.

MS. BLANCHARD: Thank you very much.

I'm going to move to a new area, and I'd like to expand on some discussion that we had on Monday about the IRM and how it applies.

And, Ms. Van Der Paelt, I believe your evidence was that the LNG service was first -- or the new LNG service was first discussed by Union in September of 2013.

MS. VAN DER PAELT: That's when we first discussed it with management, yes.

MS. BLANCHARD: Are you aware of when the settlement agreement was concluded as between Union and the other stakeholders regarding Union's 2014 to 2018 IRM?

MS. VAN DER PAELT: I believe that was in April, subject to correction.

MR. TETREAULT: I believe, Ms. Blanchard, it would have been in the June or July time frame of 2013.

MS. BLANCHARD: Thank you, Mr. Tetreault.

And so would you agree with me that this new facility was not part of the negotiation that Union had with the stakeholders at the time? The specific service was not part of the negotiations?

MR. TETREAULT: I can't speak to -- I wasn't party to the negotiations. I couldn't speak to those discussions.

MS. BLANCHARD: Would this service have been included in any business plan that would have been reviewed by the stakeholders in the summer of 2013?

MR. TETREAULT: I don't know, Ms. Blanchard.

MS. BLANCHARD: Your evidence, Ms. Van Der Paelt, was that it wasn't considered before September of 2013?

MS. VAN DER PAELT: So maybe to clarify, the service that we've proposed here was not considered. I think at the time -- I believe what you're referring to is -- and I was not part of the settlement agreement, but I believe at that time there was a discussion of, if we were bringing forward new services, what potential new services we may look at.

Is that correct? Is that what you're referring to?

MS. BLANCHARD: I'm asking you whether there was any discussion about this particular LNG service at Hagar.

MS. VAN DER PAELT: Not this particular LNG service, no. Not that I'm aware of.

MS. BLANCHARD: Would you agree with me that the settlement agreement between Union and its stakeholders specifically addresses the addition of new regulated energy services?

MR. TETREAULT: Yes, I would agree.

MS. BLANCHARD: But it is silent about unregulated utility services?

MR. TETREAULT: Yes, I suppose that's true. The

IRM itself is dealing with utility ratemaking. So, by its nature, I think that's a fair comment.

MS. BLANCHARD: So with that in mind, Mr. Tetreault, yesterday or Monday we had a discussion about whether or not a deferral account would be appropriate to track imputed revenue which would correlate to costs allocated to the competitive service, as a way of compensating the utility service if the Board found that this was a competitive service. Do you recall that discussion?

MR. TETREAULT: Yes, I recall the discussion on deferral accounts. I don't recall how specific we got on how that deferral account may operate, what the mechanism would be, but we did have a high-level discussion.

MS. BLANCHARD: I guess, in that context, what I would like to explore with you at this stage is you drew a distinction between imputing revenue and a cross-charge.

I put to you that one way of compensating ratepayers for the use of a regulated utility by an unregulated utility would be to impute revenue to that use. And my understanding is that your evidence was that it should be done by way of a cross-charge as opposed to imputed revenue; is that accurate?

MR. TETREAULT: That's correct. That was my testimony as part of direct on Monday.

MS. BLANCHARD: So I'm trying to understand the distinction between imputing revenue and a cross-charge. Is the distinction that a cross-charge would form part of earnings sharing, but imputed revenue would not? Is that why the distinction is important?

MR. TETREAULT: Ms. Blanchard, I'm not sure that I've said the distinction is important. Just reflecting on my testimony as I recall in direct, the question I was responding to was the -- words to the effect that the traditional practice of the Board is to impute revenue. I believe that was the paraphrasing of the question that was put to us.

And my response was that I didn't necessarily agree that that was the traditional practice. And I made the analogy to what we do with excess utility storage space, which is the way a non-utility compensates the utility for the use of its assets, is through a cross-charge, and suggesting therefore that that -- in my mind and under that hypothetical, a cross-charge in this circumstance would seem to be consistent and make sense with the excess utility storage space approach.

MS. BLANCHARD: And if you've already answered this, I apologize, but I am still struggling with the difference between a cross-charge and imputed revenue. Could you explain the difference to me?

MR. TETREAULT: I'll see if this helps, Ms. Blanchard. I may not answer this as nicely as you would want.

To me -- I'll start with the cross-charge. A cross-charge is just that. Again recognizing we are talking about what I would call a hypothetical, to the extent the non-utility business utilizes utility assets, it needs to pay for the use of those assets.

And I've made the analogy to what happens with excess utility storage space, where there are Board-approved costs that are paid for by the non-utility for the use of that space.

To me, a revenue credit implies something a little bit different. It implies imputing volume, which in turn imputes revenue, and I guess in that context, that creates an incentive for a company, for a utility to find a way to generate that imputed revenue.

MS. BLANCHARD: Thank you.

So the evidence from Union has been that this service will contribute to costs and produce revenue that will be shared between Union and the ratepayers.

Understanding that the IRM provides for a dead band, is there a scenario where ratepayers receive no compensation for the use of the regulated asset for the competitive service, if in fact the Board finds it is a non-utility service?

MR. TETREAULT: Yes, I think there would be a scenario. As I recall, our earnings sharing mechanism, to the extent utility earnings are less than 100 basis points above the Board-approved ROE, those earnings accrue solely to Union.

It's when you hit the hundred basis points and higher bands where earnings begin to accrue to both the shareholder and ratepayers.

Specifically, if I recall correctly, the sharing at 100 basis points to 200 basis points is 50/50 between shareholder and ratepayer, and then earnings above 200 basis points accrue 90/10 in favour of ratepayers.

I should, of course, mention that utility earnings are made up of Union's overall operation, of which the liquefaction service, recognizing it's forecasted to be about $2 million per year of revenue, is quite small.

MS. BLANCHARD: Understood. Thank you, Mr. Tetreault.

I would like to go back to the discussion about deferral accounts and whether they're appropriate or not.

You were telling me yesterday that you didn't think using a deferral account to true up or track costs associated with the service would be appropriate, because it's not aligned with the IRM.

Is that a fair characterization of what you would have said?

MR. TETREAULT: I don't recall whether I said it was or wasn't aligned with the IRM. I'm not sure those were my words.

What I was certainly trying to suggest was that there is a mechanism already to deal with that, which is through the cross-charge that we've been discussing.

MS. BLANCHARD: So you've advised us that you don't think a deferral account is necessary, and that the service is aligned with the IRM.

And then yesterday, you gave me some examples of why this service is aligned with the IRM, and you pointed me to the Dawn-to-Dawn TCPL transportation service and other new services on the Dawn-Trafalgar system.

MR. TETREAULT: I did. I don't know that my testimony necessarily said it was aligned with IRM per se. I'm not sure those were the words I used.

I think what I was -- what I was saying is that the rate design associated with those services is consistent with what we're proposing now, and that those new services were aligned or are aligned with IRM in the sense that they contributed to utility revenue, utility earnings during that period of time.

MS. BLANCHARD: Right. So those examples were new services that were introduced during the 2008 to 2012 IRM term?

MR. TETREAULT: That's correct.

MS. BLANCHARD: And would you agree with me that those are all utility services?

MR. TETREAULT: Yes, I would.

MS. BLANCHARD: And so if those new services were introduced in this term, they would be subject to the provisions of the IRM that deal with new regulated energy services?

MR. TETREAULT: Yes, I can agree with that.

MS. BLANCHARD: Those are my questions for the panel. Thank you very much.

MS. LONG: Thank you, Ms. Blanchard.

Dr. Higgin, Ms. Grice, are you proceeding next?

DR. HIGGIN: Yes, Madam Chair. We're going to double-team this, so I'm going to go first with some questions around cost allocation, and then Ms. Grice will have some other questions on other aspects of the application.

MS. LONG: And, Dr. Higgin, when you said that you had split your cross-examination, do I understand that half of your -- or some portion of your cost allocation questions will be for Mr. Erling on Tuesday?

DR. HIGGIN: Madam Chair, if I don't get answers to all of my questions today, there could be some questions for Mr. Erling, which is why I thought there may be very few and why I was ready to put them in writing to him if needed.

But I think Mr. Tetreault may very well be able to answer most of them, particularly as he is now going into the report and answering questions about -- from the report.

MS. LONG: Let's see how it goes. I mean, we are going to bring Mr. Erling in on Tuesday because I expect the Panel may have questions for him, and it is our preference to deal with the questions orally, not in written form, because I expect there may be some follow-up and we want to avoid the back-and-forth.

So just so everyone is on the same page as to how we're going to proceed.

DR. HIGGIN: So I have a list of questions specifically for Mr. Erling separated, so I will not be dealing with those today at all.

MS. LONG: Okay. Thank you.

**CROSS-EXAMINATION BY DR. HIGGIN:**

DR. HIGGIN: Thank you. Hello, panel, and I'm Roger Higgin for Energy Probe. I just want to give a little outline.

What I'm going to deal with is mostly the cost allocation aspects. Some of this has been covered by Ms. Blanchard, and I'm going to try, to the extent I can, not to duplicate your responses and so on to that.

So I'm going to use five different references in this part of my cross-examination. One is going to be the functional diagram that I prepared -- I'll come to that in a minute -- and then the other references, just so you know, will be Exhibit A, tab 1, page 22 -- that's about the costs -- Exhibit A, tab 2, page 7, and table 3 also in Exhibit A, tab 2. And then finally the exhibit, which is the rate design, as I call it, Exhibit A, tab 2, schedule 6. So those are the references that I'll be referring you to.

Could we start with the functional diagram? I prepared this. It's very similar to your figure 2, but I think we should perhaps give this an exhibit and then we can start and ask a few questions about it.

MR. MILLAR: Madam Chair, I have copies for the Panel, and it will be Exhibit K2.2, the Hagar plant liquefaction and storage functional diagram.

**EXHIBIT NO. K2.2: HAGAR PLANT LIQUEFACTION AND STORAGE FUNCTIONAL DIAGRAM.**

MS. LONG: Thank you.

DR. HIGGIN: Thank you.

Madam Chair, the difference here between this diagram and the other one is this distinctly tries to separate the LNG transportation fuel operations from the overall plant. That's what this tries to do.

So with that, could I ask one of the panel to quickly describe the functions and look at particularly the data and numbers that I've put onto this chart, to see if I've got them right or not?

So could we start, for example, right at the gate and then go through liquefaction, et cetera? If you could just take me through this and see -- describe the functions, and then, secondly, whether the numbers are appropriate.

MR. TETREAULT: Yes. Go ahead.

DR. HIGGIN: You have -- sorry?

MR. TETREAULT: Go ahead.

DR. HIGGIN: Let's have you say the liquefaction plant -- it says here that the system integrity, which is SI, has a demand of 6,751,950 GJs per year. Is that an appropriate number?

MR. TETREAULT: Yes, it is.

DR. HIGGIN: And for the LNG transportation, which is LNGT, that's 412,693, and that's computed based on the average over the period from in-service, 216, to 218,412,693, is the average based on 170 days; is that appropriate?

MR. TETREAULT: Yes, it is.

DR. HIGGIN: Okay. So the other numbers here are the LNG system integrity space. This is the storage tank, and it shows on here 648,000 GJs of space.

Now, space, perhaps Mr. Tetreault can enlighten me what the term "space" means in cost allocation utility functions.

MR. TETREAULT: I would, in this context, describe it as the working capacity at the -- for the tank at the Hagar facility.

DR. HIGGIN: It's the working capacity? Thank you. That's a very helpful definition.

So then what we've shown here is a little piece of the tank we put at the top showing the LNG transportation, 7,000 GJs of space. Is that correct, using your definition of space?

MR. FAY: That's correct, with the exception that the small cylinder that you've described in the diagram should be in the tank. It is part of the 648,000.

DR. HIGGIN: That's my poor drawing, et al. It should be in the tank. It's meant to be in the tank. It's not my best artistic rendering, this.

MR. FAY: I just didn't want anybody to be confused.

DR. HIGGIN: No. Instead of being on top, it's meant to be a portion of the tank.

MR. FAY: That's correct.

DR. HIGGIN: Now, coming down, then, you have the dispenser, so there will be a valve, obviously, that goes to the skid and the dispenser that puts the LNG into the trucks or any other applications. Such as, if an LNG tanker came along to take it to a fleet facility, it would also connect to the dispenser; is that correct?

MR. JONES: That's correct.

DR. HIGGIN: Okay. So the only other thing we need to discuss briefly, then, is how often -- and this -- you've had this discussion with Ms. Blanchard -- is your LNGT space, using the functional definition Mr. Tetreault put, actually how often would it be turned over or cycled, given the volume? Which we've agreed that the volume is 412,693 GJs per year on average. I got it at 59 storage cycles. That's a standard way to deal with storage in utility.

Would you agree with that, Mr. Tetreault? That's how you may use -- deal with storage?

MR. TETREAULT: Yes, I can accept that.

DR. HIGGIN: Right. So that calculation is saying that you're turning over that 7,000 fairly frequently. Over the 170 days of service on average, it would be 59 cycles; am I roughly correct about that?

MR. JONES: So with regard to the 59 storage cycles, as I described earlier, the process is a continual-type process that we want to have running continually, so it's not really a batch process. So we have to keep in mind that it's a continual flow in and out.

So I still don't follow the idea of number of storage cycles.

DR. HIGGIN: This is a term that's commonly used for storage, utility storage as Union has, is how often do you cycle the storage in an annual -- in a year. That's quite a common thing to do, and I'm just using that term. If you wish to use another term rather than "cycle," I'm fine with that.

Mr. Tetreault, can you help us with us this one? You know all about storage.

MR. TETREAULT: I think, Dr. Higgin, I can -- I acknowledge your proposition; I understand the proposition that you're putting to us.

And in a traditional utility sense, you would define cycling as injecting to fill a storage pool, as an example, and then empty fully that storage pool.

I say that being mindful at the same time of Mr. Jones' testimony in terms of how the Hagar facility is going to work, but I understand the proposition that you're putting to us.

DR. HIGGIN: The reason I'm using this storage proposition relates to, to be very clear, how you use space and how space is allocated in traditional utility storage cost allocation and rate design.

MS. LONG: Sorry, Mr. Tetreault, can you reiterate your response?

MR. TETREAULT: I said yes, we understand.

DR. HIGGIN: Thank you. I have a few minor questions to follow up from some of Ms. Blanchard's.

And the question I had is: Just dealing with the main tank and the system integrity, how often will Union staff fill or top up the tank in any year, depending -- I think you have to have a caveat -- depending on whether there is an SI event or not?

So assume a year where there is no SI event, and there have been some years, then perhaps talk about what happens if there is an SI event.

MR. FAY: With the boil-off, as we indicated in our evidence, we expected there is going to be on average around 104,000 GJs a day that are going to have to be replaced as part of the boil-off.

Without a system integrity event, that's the amount that would have to be liquefied to go into the tank every year.

DR. HIGGIN: Right. And you would do that when? Would you do it through the year, or would you like to do that when the gas price is the best, the delivered gas price is lowest?

MR. JONES: Typically, we would liquefy gas prior to winter season, so, as the operator at the facility, I'm not keeping my eye on the gas prices.

DR. HIGGIN: Okay. All right. So prior to the start of the heating system season is when you would do that?

MR. JONES: Correct.

MS. SPOEL: I'm a bit confused here. Did you say that on average, you would do 400,000 GJs a day as a boil-off? You do that every day of the year?

MR. FAY: No, 104,000 GJs a year, on an annual basis, have to be replaced in the tank.

MS. SPOEL: Okay. Fine. The transcript is confuse -- I was trying to go back in the transcript to see what you said, and it was confusing. All right. That makes sense.

Thank you.

DR. HIGGIN: Thank you.

So the other question I had is in terms of operation, and this is the last one on the operation, and that is: What happens if several LNG-powered trucks come in for service in a short period, or if you have a request for LNG in bulk to be transferred to a fleet facility, or any other one? How would Union operate in that particular circumstance? I.e., in a very short period, you would have a demand that exceeded the storage capacity that's allocated to the LNG, the 7,000.

So, for example, you said there would be 1,000 GJs per truck. I'm postulating that several trucks came, many trucks, and you also had a request for a bulk transfer. Okay?

MS. VAN DER PAELT: So the way the service will be working is the clients –- we're only transporting bulk, to be clear. The individual trucks we're just filling up their tank won't be -- this is really to fill up a bulk tanker.

Prior to the month, they would be telling us how much LNG they plan on picking up that month, so how much gas they will be delivering to us and expecting us to deliver for a liquefied purpose.

We will then be scheduling those trucks. So they will be scheduled days and times as to when they're able to come on the facility to pick up the LNG. So we don't foresee a situation where we would be using something in addition of 7,000, or being unable to manage to the 7,000, because of that planning purpose.

And to the extent there were more requests, we would postpone those, or tell them when they would be allowed to be on-site to get the LNG.

DR. HIGGIN: So to put it in a nutshell, the operating practice would prevent any encroachment on the main tank beyond the 7,000 GJs?

MS. VAN DER PAELT: That's correct. We specifically designed the service to ensure that the system integrity maintained was intact.

DR. HIGGIN: Thank you.

I would like now to turn to the first reference, and that was Exhibit A, tab 1, page 22 of 25, and that's table 4.

MR. TETREAULT: We have it.

DR. HIGGIN: Thank you. So I have a few follow-up questions on the costs as shown in this table, in this schedule.

First on my list is the liquefaction compressor fuel gas, and that's shown on line 7. I think, Mr. Tetreault, you referred to this earlier to Ms. Blanchard. And the question I have is this -- because in the rate schedule there is a cost for gas that can be incurred by the customer. So it's in the rate schedule.

So the first question is: Do the LNG transportation customers and shippers provide their own fuel gas, or can they? Or does Union provide it and recover it in the L1 rate gas supply charge? How does that work?

MR. TETREAULT: I'll start with your last question first, Dr. Higgin.

The proposed L1 gas supply charge is meant to –- is not meant to capture any compressor fuel requirements.

That charge is meant to represent the costs of Union delivering gas to the Union NDA, so Union's interconnect with TransCanada whereby it would be transported to the Hagar facility for liquefaction and dispensing.

DR. HIGGIN: So there is no option for customers to provide their own compressor gas, as you do in many other rates on your transportation systems?

MR. TETREAULT: That's fair, yes.

DR. HIGGIN: Thank you.

The next question is that, by our calculation, there would be about 61,000 GJs of fuel needed to process 413 GJs, and I'll give you the calculation basis.

This is based on the 0.48 GJs of fuel, which I show on the diagram -- and that comes from the KPMG -- times simply the volume. Okay? Would you agree with that calculation?

So, again, 61,000 of fuel gas needed to liquefy 413, and it's based on the 0.48 gigajoules per gigajoule of throughput.

The reason for -- the purpose of that is to get at the question of the costs of that fuel gas.

MR. TETREAULT: Yes, I can accept those calculations, Dr. Higgin.

DR. HIGGIN: So when we look at the fuel gas costs there on page -- we were looking at the schedule, page 22, I would like to understand what basis those costs were calculated. We're seeing thousands of dollars' costs.

I've given you the basic formula for creating that number, and I would like to understand, on an average basis, what is the other missing piece. And that is obviously the commodity cost per gigajoule that comes into -- give you the numbers that are in that schedule.

I don't want to put you on the spot. If you need time we can just pose this, and you could bring it back after lunch or something if you'd prefer to do that. What I'm trying to understand is the average cost of the fuel gas that's been shown in this schedule.

MR. TETREAULT: I think we can take time over lunch to review, if that's most acceptable.

DR. HIGGIN: Right. I think that will be most efficient. Thank you.

My next area of costs comes down to the incremental maintenance costs and electrical costs. And the question is: How did you estimate these costs? They are shown at lines 4 for maintenance, and then the electricity costs are shown at line 6. So the question –- again, you can do a takeaway -- I'd like to understand the basis on which you came up with these numbers, these costs that are allocated costs and the basis of those. Okay? So those two lines as well. Does that help you?

MR. TETREAULT: Yes, it does. We can do so.

DR. HIGGIN: Thank you.

And I think that I have one other on this schedule that we need to look at. No, sorry.

Now, the third issue I'm puzzling about that you can perhaps help me is the issue of the boil-off compressors and what will be the incremental costs of running those boil-off compressors when the LNG service is there and you're cycling the tank and processing more fuel.

What happens there? And I can't find anywhere in the evidence what would be the impact on the boil-off compressors.

MR. JONES: So as far as boil-off is concerned, the boil-off gas is currently being captured as the facility operates. On a go-forward basis, we will continue to capture all boil-off gas and put it back into the system.

The compressor fuel budget that's outlined on line 7 of table 4 does take boil-off gas into account and -- because, basically, the compressors are running 24/7/365, some of them, so it is taken into account in that compressor fuel budget.

DR. HIGGIN: Okay. So you say it's running 24/7. That's regardless of whether or not the LNG transportation system is operating or not?

MR. JONES: Yes. As a function of storing liquefied gas in the tank, we need to continually run compression to recapture boil-off.

DR. HIGGIN: You're an engineer; I'm an engineer. You know, intuitively you're putting more gas in and out of the tank. The boil-off will increase, the running of the compressors will increase; isn't that correct?

MR. JONES: We've already taken that into consideration.

DR. HIGGIN: Well, just as, then, when we look at the fuel gas cost, can you make sure that we have an understanding whether that -- what portion of that cost relates to the boil-off, because it would be important to understand that? Thank you.

So moving from that, I have one other issue, which is -- relates to the diagram and the costs, and that is that there is a storage inventory requirement associated with storage in the tank. Now, for the system integrity gas, you said the amount is about 3 million, and there's an annual revenue requirement cost of $253,000 for the system integrity; correct?

MR. TETREAULT: That's correct.

DR. HIGGINS: So the question I'm looking for -- and I couldn't find it –- is: Where would be the equivalent storage inventory amount for the extra gas, the 412,000 GJs that's going to go through the tank or through the other service?

MR. TETREAULT: Well, the -- two comments, Dr. Higgin. One is that there will only ever be up to 7,000 GJs of LNG for this service in the tank. The 112 you mentioned is the liquefaction forecast activity for a year. So I felt I needed to clarify that.

The other -- the point on the carrying costs on that inventory is that with regard to system integrity, the 253,000 we discussed, those are Union's costs associated with carrying that inventory. In this particular case, it will be the customer's gas or the customer's LNG that is in the tank, so Union is not incurring any carrying costs on those molecules. The customers themselves would be incurring that cost as part of maintaining, potentially, a level of inventory in the tank.

DR. HIGGIN: You have an option where the customer buys gas from you?

MR. TETREAULT: Correct. And when they buy the gas from us, it will be that they will own the gas.

DR. HIGGIN: So the problem I'm having is you have 415,000 GJs going through the tank every year, but there's no allocation of the storage inventory cost, first-in, first-out gas, et cetera.

MR. TETREAULT: Yes, that's correct, because Union is not incurring any carrying costs on inventory for this particular amount of inventory. Customers are incurring that cost directly, by virtue of the fact it's their gas in storage. It's very much like T1 or T2 customers that we have who contract specifically for storage. They have an option not to pay Union's inventory cost when they are providing their own gas, and this is very much like that. The customer themselves are incurring the inventory cost in this circumstance, so there is no appropriate basis for us to also forecast carrying costs for gas and storage inventory for this purpose.

DR. HIGGIN: Okay. Thanks. I have your answer.

What I would like to move to now -- I'm just looking at the time, Madam Chair. Do you want to carry on for now?

MS. LONG: How much longer do you think you'll be, you and Ms. Grice?

DR. HIGGIN: I think about 15 minutes now.

MS. LONG: Okay. Well, let's finish that.

DR. HIGGIN: Okay. And then Ms. Grice.

MS. LONG: How long do you think you'll be, Ms. Grice?

MS. GRICE: I'll be about 15 minutes as well.

MS. LONG: So, in total, you'll be another half-hour?

I think we may actually take our break now, and we will break for an hour.

Mr. Rubenstein, do you have any idea how long you'll be?

MR. RUBENSTEIN: The order has flipped, so Mr. Millar is going to go before me. No more than 15 minutes.

MR. MILLAR: Fifteen or 20 minutes.

MS. LONG: Okay. So probably about another hour when we come back.

And perhaps, Mr. Keizer, you could give some thought over the lunch break as to whether next Tuesday you would be in a position to do oral submissions on the application or whether you would prefer to do it in writing.

MR. KEIZER: I'll consult on that over lunch today.

MS. LONG: Thank you.

--- Luncheon recess taken at 12:29 p.m.

--- Upon resuming at 1:35 p.m.

MS. LONG: Dr. Higgin, are you ready to continue?

DR. HIGGIN: Yes, I am, Madam Chair.

Perhaps we can start by asking if Union has any information to my earlier questions regarding some of the costs, and whether we should put those on the record before we start. Is that appropriate?

MS. LONG: That's fine. Mr. Tetreault, do you have some answers to those questions?

MR. JONES: Actually, I'll go ahead and speak to some of the questions Dr. Higgin had on table 4.

So just to frame this response, it's very important to realize that storage at Hagar is really an ancillary activity to the liquefaction process itself, and that the storage at Hagar is fundamentally different than any other storage that we have at Dawn.

So when we're deriving the costs for this new service -- and if you can look at table 4, tab 1 of our prefiled evidence -– basically, the way we arrived at these incremental costs was that we looked at the 2013 Board-

approved O&M costs to Hagar. We then extrapolated out to basically a maximum liquefaction activity, determined what the costs would be at that maximum rate, and then prorate it basically based on the activity, the liquefaction activity that occurred at Hagar.

So you can see through, for example, line 4 on table 4, total maintenance expenses are comprised of technician expenses, contractor expenses, and those really are expenses related to people who are coming to service the equipment. And as you can see, over 2016 through 2018 they increase, and that is directly related to the liquefaction activity that's happening.

Moving down to the operating expenses, you can see that there's electricity as well as compressor fuel, as well as materials that are captured under operating expenses. The electricity that's forecasted was based

on testing that was done at the facility, so that we understand which equipment is needed to run while we liquefy.

It's also important to note that our relatively new boil-off capturing compressor is electric as well.

As you see, as we move through 2016 through 2018 there is an incremental cost associated with that increased liquefaction activity, which goes back directly to the forecast.

And lastly, I guess, the compressor fuel. The

compressor fuel is really made up of three different pieces of equipment at Hagar that use natural gas to either turn compressors, and then, in one case, to run a heating cycle in part of the process.

So all of the incremental compressor fuel costs there are captured, based on the liquefaction activity from the forecast.

DR. HIGGIN: Are you finished, or would you like -- I just had some follow-up questions, but if you --

MR. JONES: I think Mr. Tetreault is going to speak to a piece of that.

MR. TETREAULT: Dr. Higgin, to close on compressor fuel, you had asked, in essence, have we accounted for the molecule -- if I understood your question properly -- in the 445,000 that's referenced in Exhibit A, tab 1, table 4. That's line 7.

And the answer to that is, as Mr. Jones said, yes.

So the 445,000 assumes 90,000 GJs of incremental compressor fuel at a WACOG at the time of about right around $5 per GJ. So that accounts for the entire $445,000.

And as we mentioned earlier, of course all these forecast incremental costs are recovered in the proposed liquefaction rate.

DR. HIGGIN: Okay. Just, then, a couple of follow-up questions.

Just to the point about the prorate to get the costs, you said you had a max liquefaction volume number that was how much could the plant liquefy total; that was the maximum. And then you would prorate by the additional or LNGT amount to get the allocation.

Is my understanding correct? And what are -- what is the max liquefaction volume, please?

MR. JONES: Sir, you're correct. And I do not have that number with me at this time.

DR. HIGGIN: Okay. Maybe, because it's important for

understanding the allocation of these costs, it would be helpful to know what those two numbers are. I thought because it was average for the LNGT, it was 413,000. Mr. Tetreault is now saying the number you used was 445,000.

MR. TETREAULT: No, Dr. Higgin, I think -- perhaps I've confused you, and I apologize if I have.

The liquefaction sales forecast on average between 2016 and 2018 is 412,000 GJs per year. The 445,000 I was

referring to is per Exhibit A, tab 1, page 22, table 4. So that is an incremental compressor fuel cost of 445,000.

My reference earlier was just to the fact that that represents 90,000 GJs at a WA --

DR. HIGGIN: Sorry, I got my dollars and GJs mixed up.

MR. TETREAULT: I apologize for any confusion.

DR. HIGGIN: If you could undertake to tell me what the max LNG number was for the allocation of these costs between the two services, then that would be appreciated.

MR. TETREAULT: Dr. Higgin, I should clarify. I think we're fine to take the undertaking, but I'm not sure what you meant by the allocation between these two services.

And the reason I say that is because all of these costs have been -- these are incremental costs, incremental to Board-approved costs, all of which are recovered in the

liquefaction rate.

So I'm not sure I understand the reference to an allocation between services.

DR. HIGGIN: Maybe I misspoke myself. It was mentioned that the basis on which these costs were derived was based on the maximum liquefaction amount that the plant can produce in a year, relative to what, then, the incremental amount will be on top of that.

Those were the two numbers I was trying to understand. I have the second one; I'm asking for the first number.

MR. TETREAULT: That's fair. Thank you. I understand. We can undertake to --

DR. HIGGIN: If I misspoke myself, I'm sorry.

MR. MILLAR: So the undertaking is J2.1. Mr. Tetreault, you're clear on what's being requested?

MR. TETREAULT: Yes, I think so.

**UNDERTAKING NO. J2.1: TO CONFIRM THE MAXIMUM LIQUEFACTION VOLUME AND THE INCREMENTAL AMOUNT.**

DR. HIGGIN: Just one other question, which is a follow-up: If the compressor fuel costs which are market-based vary with the market, how will they be dealt

with in terms of updating that component of the rate as we go forward?

MR. TETREAULT: We would, on a quarterly basis, if the rate were approved, we would update the component of the cost in the rate that relates to the cost of gas, very much like we do on a quarterly basis with QRAM for delivery-related cost of gas items.

So as WACOG changes, the rate would change likely for the costs that are based on a WACOG.

DR. HIGGIN: That would apply both to the gas you buy for system integrity, as well as for the transportation fuel, correct? You'd update it based on the quarterly QRAM?

MR. TETREAULT: Yes. I may say it a little differently. I would say system integrity costs are in delivery rates, and within delivery rates as well are cost of gas related items, and those are updated as part of QRAM as WACOG changes every quarter.

And that would be the case with this rate as well. The WACOG component will need to be updated regularly, as WACOG changes.

DR. HIGGIN: Right. Now, the question I have is this. You're assuming that the gas that you buy for compressive purposes is functionable, i.e. you buy it for both the SI and for the transportation, am I correct? You buy the same gas at the same price, the delivered price to the gate, for both services, correct?

MR. TETREAULT: Yes, our – again, I may say this slightly differently. But our gas supply group, as part of our gas supply plan, has to compressor fuel for Union’s requirements, if I can speak a little more generally about it.

DR. HIGGIN: That's good. Under the circumstance that the decision was made that this was a non-utility activity, how would that element be dealt with? Because, in essence, that -- the non-utility part would not be subject to the annual QRAM WACOG update part. How would you make sure that the gas was no longer functionable and that it was separated?

MR. TETREAULT: I think it would be consistent with our practice today, Dr. Higgin. And again, it's -- it is a hypothetical, so I'm not sure we've thought through all the nuances. I'll describe it this way, though. The non-utility business today is allocated compressor fuel cost for their use of Dawn storage, based on the activity at Dawn that's non-utility. And I would suggest that if the liquefaction service were deemed to be non-utility, we would have to utilize the same or a similar process in this circumstance.

DR. HIGGIN: Okay. Thank you. That's helpful.

Madam Chair, I'd just like to move now to the bulk of the cost allocation. Fortunately some of this has been done by Ms. Blanchard, so I'll hopefully be not too long.

As a segue into this area, I would like to pull up Exhibit B, Energy Probe 14. Do you have that now? Thank you. Yes, you have it?

MR. TETREAULT: Yes, we do.

DR. HIGGIN: Two questions in follow-up.

So can Union tell us briefly what KPMG was retained to do and indicate their mandate? For example -- I'll just give you an example. Was it to functionalize the costs based on the plant accounts, or was it to functionalize, classify and allocate? What was their function? What were they asked to do?

MR. TETREAULT: KPMG's mandate in -- with regard to this particular service was to take our 2013 Board-approved costs at Hagar, and in cost allocation terms functionalize them between the three functions, those being liquefaction, storage and vaporization. And they were charged with doing that to assist Union with the development of its proposed rate, its rate design.

DR. HIGGIN: So they did not look into the other two steps, which was classification and allocation to rate classes?

MR. TETREAULT: No, they did not. It wasn't required for our purposes to develop a liquefaction rate.

DR. HIGGIN: You say in part A, just to look at part A -- what I'm trying to understand is you say KPMG did not complete a cost allocation study. I'm trying to understand what that means.

MR. TETREAULT: Just reading the question, Dr. Higgin, the question says:

"Please provide a copy of the KPMG cost allocation study."

DR. HIGGIN: Right. And if you go down to the response at the last sentence --

MR. TETREAULT: Right. So KPMG -- we did not produce a new cost allocation study. We have a Board-approved cost allocation study that has allocated Hagar costs, and what KPMG did is look at the 2013 Board-approved Hagar costs and go through a cost allocation analysis, which I think is summarized in evidence and in their report, to functionalize costs between the three functions.

So maybe we're mincing words to some degree between a study and an analysis. They did an analysis.

DR. HIGGIN: Thank you. That's a very helpful difference that I can understand.

So now one of the other questions we had here we asked about the other cost allocation studies, and you discussed that very briefly with Ms. Blanchard and you mentioned the BC and Quebec. And so this particular question was for a comparison of those, and the answer is that Union doesn't have the information required to complete the functionalization of the directed, et cetera.

So you said you couldn't do a comparison; correct?

MR. TETREAULT: The IR states that we don't have the information to do the comparison. That's correct.

DR. HIGGIN: Right. However, KPMG, you do reference the Quebec decision and the information that's provided in that, and that's in a reference on page 6 in the footnote. Do you see that?

MR. TETREAULT: I do.

DR. HIGGIN: So the question I was going to ask one of you is whether you can provide us with a copy of that decision that was -- help us to understand exactly how close it was done and how the Regie approved the allocation in Quebec.

So your response said you couldn't compare, but I'm asking you: Can you file a copy of the decision, hopefully in English, if there's a version, that would say how the allocation was done for SCGM and its transportation affiliate?

I would find that helpful to understand that, Madam Chair. If you don't think it's relevant, then the Board can tell me no.

MS. LONG: Is it not publicly available?

DR. HIGGIN: Yes, it is. I thought by doing this, to be honest, I could then go easily on Tuesday to Mr. Erling and more quickly get -- ask him some questions.

MS. LONG: Do you have a copy of it, Mr. Tetreault?

MR. TETREAULT: No, I do not, but I think, at least on a best-efforts basis, we could undertake to see if we can find it. I don't know if there's a translation challenge that we will have.

MS. LONG: I don't expect you to translate it. If Mr. Erling has a copy or you have a copy of it that you could make sure that Dr. Higgin gets a copy of it, just so everyone has the same decision that we're working from. That would be helpful.

MR. TETREAULT: I assume something must be available in English. So we can try to do so.

MR. MILLAR: The undertaking is J2.2.

**UNDERTAKING NO. J2.2: TO MAKE BEST EFFORTS TO PROVIDE A COPY OF THE QUEBEC DECISION CITED BY KPMG, IN ENGLISH IF POSSIBLE.**

DR. HIGGIN: Thank you very much.

MS. LONG: That's on a best-efforts basis.

MR. KEIZER: We will do what we can to find it. If we run into difficulty, we will advise why.

DR. HIGGIN: Thank you.

Now, I would like to go and move forward to look at the actual result of the functionalization. And Ms. Blanchard also had covered this a bit. And that would be table 2, which is Exhibit A, tab 2, page 7, table 2.

MR. TETREAULT: I have it.

DR. HIGGIN: Okay. So I'm trying to minimize covering some of the questions, but just saying, when you look at this allocation, you find that, as she and you discussed, only just over 50 percent of the net plant is actually allocated to the three functions; correct?

MR. TETREAULT: That's correct.

DR. HIGGIN: So what does this mean in terms of the way in which you assign the balance, that is, line 2? It's done in proportion to line 1; correct?

MR. TETREAULT: That's correct. Line 1 represents the assets that we've determined provide a particular function at Hagar, and they've been directly assigned to that function, and in the case of the remaining net plant, where it's been determined that it supports the overall facility, the appropriate way to allocate those costs out is in proportion to the direct -- to the directly assigned plant.

So, for example, in your remaining net plant, you would have the land, you would have the buildings on the site, and those type of assets, those type of costs, they support the overall operation at Hagar.

And that's why we've allocated them in proportion to the directly assigned costs.

DR. HIGGIN: Well, can we just be very clear? You mentioned certain assets which I would say would be general plant. This does not include general plant?

MR. TETREAULT: Yes, I was not speaking to general plant. I was speaking specifically to the remaining net plant at Hagar that could not be directly assigned.

DR. HIGGIN: So this is -- I'll call it my term; you don't have to accept it -- a quick way to allocate the remaining costs; is that correct? And it's done in practice?

MR. TETREAULT: I wouldn't accept it as quick, but I would say it is consistent with cost allocation principles.

DR. HIGGIN: But in other cases, other allocators might be used to allocate this balance, and there could be a whole bunch of allocators that would be felt to be cost causality-based, that could be used to allocate this balance to these functions; correct? That's also cost allocation practice?

MR. TETREAULT: It is, and in theory that could be done. I think what is significant here, though, is that the remaining net plant, as I mentioned earlier, serves the entire facility. It doesn't necessarily provide one particular function.

So as a result of serving the overall facility, in our view the appropriate cost allocation was to reflect it as we have in our proposal, whereas the net plant in line 1, the directly assigned net plant, after an engineering review, we were able to determine that particular assets only provided liquefaction service, or only provided storage service or vaporization, and then we were able to move forward with the remaining net plant from there.

It's not unlike, Dr. Higgin, what we do at Dawn, in the sense that the Dawn hub provides both storage and transmission service. And there are assets at Dawn that we know provide only storage. There are assets at Dawn that we know only provide transmission service.

And we directly assigned those assets to one of those two functions, whereas the assets at Dawn that provide both storage and transmission -- for example, compressors -- you tend to allocate those on the basis of how they're utilized.

So in my view, what we've done here in terms of working through that exercise is similar to what Union does at Dawn for cost allocation purposes.

DR. HIGGIN: So this methodology, just to keep to the methodology, what it does is it tends to allocate the balance of the plant to those that are the directly assigned assets, and therefore favours the allocation to the largest of those quantities of net assets, the directly assigned?

MR. TETREAULT: As a result of being funtionalized in the same proportion, yes, that's correct.

DR. HIGGIN: Thank you.

What I would like to do now is turn up your table 3, which is tab 2, page 14. Thank you.

What I would just like you to do is -- I think I understand, but to confirm, what you're doing here is taking the total Board-approved costs on the left, you're removing a certain proportion of costs which are in system integrity only, so you're left with the balance, the basket that then has to be allocated between the SI and the new function, the new service; correct? Is that roughly what you're doing?

MR. TETREAULT: Yes. Column C specifically in this table is the result of the functionalization between liquefaction, storage and vaporization.

And then the 1.7 million and the 2.6 million -- those are lines 1 and 2 of column C -- those amounts then allow us to determine the -- they assist us with rate design, in determining the contribution to the recovery of costs.

DR. HIGGIN: Yes, because that's where you're going next, is to schedule 6.

MR. TETREAULT: Correct.

DR. HIGGIN: We'll go there in a minute. So just to comment on this, there's $57,000 -– it's a small amount, but I couldn't understand exactly why KPMG and you said: Well, that's only system integrity. It's not for the general liquefaction plant. Why are these materials, these things only for system integrity?

MR. TETREAULT: As part of the review that was undertaken, we determined that this particular cost, the $57,000 was solely related to any system integrity activity that may take place at Hagar, based on the --

DR. HIGGIN: It wasn't based, for example, on the throughput through the liquefaction plant, and then allocating it to the two different streams, I'll call it. So that -- I know it was just that you said all these must be –-

MR. TETREAULT: That's correct. That variable cost is directly attributable to system integrity. So said differently, if you had no system integrity activity, you would not incur that $57,000 cost.

DR. HIGGIN: I just wanted to understand that. So we're near the end here. We want to go back now to your rate design, and that's schedule 6, which is, just to give you the number, Exhibit A, tab 2, schedule 6 updated.

MR. TETREAULT: We have it.

DR. HIGGIN: So just to give us a conceptual understanding of the structure here, perhaps you could go through the three pieces -- liquefaction, storage and then the distribution piece -- to give us an idea exactly how the base and incremental costs were merged together for each function.

Perhaps you could just give us an overview on how it was done.

MR. TETREAULT: Certainly. I will try an overview. I will start briefly with line 19, just to point out that our proposed liquefaction rate is roughly $5.07. So now I'll go into the breakdown of how we determined that.

Dr. Higgin, you referenced four sections. I may break liquefaction down into two, to deal with incremental costs versus existing costs, but I will walk through it on that basis, recognizing we spent time on this on Monday as well.

Lines 1 through 5 represent the liquefaction portion of the rate related to a contribution to the recovery of Board-approved liquefaction costs. So specifically line 1, which represents an amount of $1.7 million, that is the same figure we were just discussing. Those are the 2013 Board-approved costs that have been funtionalized to liquefaction.

And then what is happening on the remaining lines is we are determining what I would call 100 percent load factor rate; that's line 3. And then on line 4, we are recognizing on average this service will be utilized 170 days a year of 365.

DR. HIGGIN: Average?

MR. TETREAULT: On average. I believe Monday I may have quoted that percentage as being about 55 to 60 percent. It's actually closer to 45, so that will teach me to do math on the fly.

But as a result of that, we take that percentage, roughly 45 percent, and prorate the 100 percent load factor rate to, on line 5, arrive at a rate of 1.08 per GJ. And the 1.08 is the contribution this rate would make towards the recovery of the existing liquefaction costs.

DR. HIGGIN: Right.

MR. TETREAULT: The second section, still within the liquefaction area -- this is now lines 6 through 9 -- this section is recovering all of the incremental forecasted costs associated both with the capital investment of 9.9 million and the incremental O&M costs we've spent some time discussing earlier today.

So on line 6, we have average annual revenue requirement of 1.4 million for the incremental costs. We've got a liquefaction sales forecast of $412,000, and the result of that is a rate for that portion of roughly $3.48.

So when you then add line 5 and line 9, you get a liquefaction rate of approximately $4.56.

DR. HIGGIN: So that's the rate, looking at the diagram where it goes from the liquefaction plant to the storage. Right?

MR. TETREAULT: Correct. So of our total proposed rate of $5.07, that portion represents –- again, doing math on the fly -- approximately 90 percent, $4.50 of $5.

From lines 10 through 15, this represents the rate design to determine the contribution to the recovery of Board-approved Hagar costs related to storage. And you can see on line 10 -– again, we've looked at this number previously, but the Hagar storage revenue requirement is approximately $2.7 million.

And what we've done is we've determined -– again, I'll use the term "100 percent load factor rate." That is the rate represented on line 12, and it's $3.57. And then on lines 13 and 14, we have recognized that the new service will use approximately 1 percent of the total space at Hagar. And as a result of that usage, we have prorated the 100 percent load factor rate down to approximately 3.08 cents per GJ.

DR. HIGGIN: What made -- sorry, go ahead.

MR. TETREAULT: And then I was just going to close with the distribution side.

DR. HIGGIN: Yeah. I think we understand where that comes from. It's based on the old 77 rate; correct?

MR. TETREAULT: That's exactly right.

DR. HIGGIN: And so we don't need to look at that.

MR. TETREAULT: Okay.

MS. LONG: Dr. Higgin, are you nearing an end here?

DR. HIGGIN: Yes, I am.

MS. LONG: Okay. Thank you.

DR. HIGGIN: The question I had with respect to that is basically -- the thing we're having the problem with -- I'll put it that way -- is how the storage space is being dealt with in this cost allocation, and the reason for that is it comes down to question of space versus deliverability, which you'd understand is a function, and that's the issue.

Do you have any comments about that?

MR. TETREAULT: I'll, perhaps, Dr. Higgin, comment on deliverability. I don't know that deliverability in the traditional sense, at Dawn, for example --

DR. HIGGIN: Yes, Dawn.

MR. TETREAULT: -- applies necessarily for the Hagar facility for the reasons that we've mentioned earlier in terms of how we're going to utilize the tank to help provide this service; in other words, the fact that liquefaction is essentially going to flow through -- going to flow through the tank on its way to the dispensing facility.

So I think what I can say with regard to the rate design associated with storage is that, you know, we feel that it's appropriate. It's consistent with other rates that have been approved by the Board in the past in terms of the rate design methodology, and really what this portion of the rate is meant to recognize is the amount of space this service will utilize of the overall tank space.

And I think that's quite consistent with how other customers would contract for storage in semi-bundled rate classes, such as T1 or T2, where they pay specifically for storage. They contract for storage and pay a rate associated with that.

DR. HIGGIN: Okay. Thank you. Those are my questions, Madam Chair. My colleague has a few questions now. Thank you.

MR. KEIZER: Sorry, there was just a comment on the storage element. Mr. Fay was reaching for the microphone just before.

MR. FAY: I just wanted to clarify the 7,000 GJs versus the amount of space that is used for system integrity is interruptible, so there is a difference there. For example, the storage space for -- excuse me. I have the same problem.

System integrity space is firm, and as a result, the 7,000 GJs of LNG for the liquefaction service is interruptible, so it's not just the liquefaction that's interruptible. It's the 7,000 GJs.

So if trucks are being loaded and a system integrity event happens, the 7,000 GJs is not accessible by the transportation service. So the -- so the issue here is that, if we look at the Dawn storage, for example, customers are not charged for how many times they turn the storage over. For example, they would pay for the space the injection withdrawal rates would charge, which is consistent with what the liquefaction rate is doing here.

On the discharge side, if a storage customer were charged a withdrawal rate, they would basically -- it's because they've got compression or whatever at Dawn, for example.

In this case, the LNG is flowing directly into the trucks, and there is really not a dispensing charge or a withdrawal charge. So that's the distinction I just wanted to make in terms of the issue of cycling, the 7,000 GJs versus the system integrity space. One is interruptible; the other is firm.

DR. HIGGIN: Thank you.

**CROSS-EXAMINATION BY MS. GRICE:**

MS. GRICE: Good afternoon, panel. I just have a few final questions on behalf of Energy Probe. If we can turn up Exhibit A, the addendum to Exhibit A, on page 3, lines -- beginning at line 17. Okay?

It says, page 3 -- sorry, page 3, line 17, it begins in your evidence that:

"Some of the customers who expressed interest in the liquefaction service are no longer in negotiations with Union at this time."

And then it goes on to say that:

"Two of the customers identified during the initial expression of interest are still in negotiations with Union, and Union is also in the very early stages of negotiations with another customer that has expressed interest."

And the forecasts that you've provided in the update reflect these changes in interest.

If we can then turn to page 4, beginning at line 15, Union goes on to state that:

"It requires a minimum commitment or a very high expectation of completing contracts prior to the in-service date of at least 50 percent of the liquefaction capacity available."

And later on in this paragraph it states that:

"Union also maintains that in the event it is successful in securing the minimum commitment in advance of the Board issuing an approved rate, it would commit to make the necessary infrastructure investments."

And then I just have, sorry, just one more reference before I ask my question. On the same page, beginning at line 4, the evidence states that:

"Parties are also reluctant to make a long-term commitment to the service without a Board-approved rate. In the contracts that Union is currently negotiating, customers are requiring a clause that enables them to not execute the contract if the final rate determined by the Board is significantly different than that proposed in the filing. Parties are looking for the certainty associated with a Board-approved rate as they are unable to complete their own economic evaluations and business cases to support their investments."

My question is: If the Board were to approve a non-rate regulated service, does Union expect that the customer commitment as it stands now would likely -- would change?

MS. VAN DER PAELT: So if -- depending -- it would depend on what the approved rate that the Board -- so in a non-regulated environment, what would be the charge or the appropriate costs that would have to be borne by the non-regulated to reimburse the regulated utility for the use of those assets.

So based on the analysis we have here, if we follow the similar cost allocation methodology, I don't perceive that there will be a problem, because the sharing that we've done with customers are all publicly filed documents. Their expectation around the rate is around the numbers that they have seen to date here.

Should we get a number that is quite different than that, I think it would change their economics, and we would then have to go back and do a feasibility test with them.

MS. GRICE: Okay. And is it possible that a 50 percent level of commitment, that that percentage of commitment could change?

MS. VAN DER PAELT: I'm very confident in the 50 percent commitment to get us going, so there is a long lead order item that needs to be purchased and procured. For the protection of both the ratepayers and the shareholder, we want to ensure that we have that commitment to cover that cost before ordering it, but that then does allow us several months to secure the remaining commitments that we need in order to be fully subscribed at the levels we forecast, but we're quite confident in the 50 percent level.

MS. GRICE: Okay. And if the commitment level were to change, how would that impact Union's timing to make the necessary infrastructure investments?

MS. VAN DER PAELT: So if we do not have the 50 percent commitment, that timing would be delayed until the point we have those commitment levels.

MS. GRICE: Thank you.

If we can turn to Exhibit 8, tab 1, page 4, please, and I'm looking at table 1, which shows the liquefaction forecast of approximately 1.2 million gigajoules and an annual revenue of approximately 2.1 million.

I just wondered if you could speak to what would happen to the costs if the revenues were less than the

forecast shown here during any year under the IRM plan.

MR. TETREAULT: I'm sorry, I may need you to repeat the question. I want to make sure I understood it.

MS. GRICE: I guess I'm looking for who bears the risk of the costs if the revenues shown in the table do not happen.

MR. TETREAULT: Union. Union bears that risk.

MS. GRICE: Thank you.

We just have some follow-up questions regarding interrogatory responses to Energy Probe Nos. 9 and 10.

If we can start with Energy Probe No. 9, we asked in that interrogatory for Union to provide forecasts of annual revenues based on the minimum annual commitment from the six parties.

And we're just wondering if you can please update that

table to reflect the current commitments in the forecast, in the updated application.

MS. VAN DER PAELT: I'll have to undertake to do that. I don't have that information here.

MR. MILLAR: J2.3.

**UNDERTAKING NO. J2.3: TO UPDATE THE TABLE PROVIDED IN RESPONSE TO ENERGY PROBE NO. 9, TO REFLECT CURRENT COMMITMENTS IN THE FORECAST.**

MS. GRICE: Similarly, with Energy Probe No. 10, we asked that Union provide calculations to support the forecast liquefaction sales. And if it needs to be done by undertaking, which I'm sure it will, we're wondering if you would undertake to update the table provided in that interrogatory response as well.

MS. VAN DER PAELT: I don't think there's actually been a change to how we believe the plant will sell. So this was new business, where we're trying to determine what our revenues are based on the interest we have. We were striving for a 50 percent commitment. I would say that is 50 percent of the total commitment, which is around --

think we have in there the –- we have 30 percent in the first year, which is a partial year.

So years change a bit because we're now in 2016, but we would still be looking at around those volumes.

It is then our intent to sell out those volumes at that rate. So I would say there's no plan behind, other than our sales plan, to say we are going to go and try and secure those volumes.

MS. GRICE: Okay. Because of the shift in years, would you undertake to update the table to show that change?

MS. VAN DER PAELT: Yes, we'll do that.

MR. MILLAR: J2.4.

UNDERTAKING NO. J2.4: TO UPDATE THE TABLE PROVIDED IN RESPONSE TO ENERGY PROBE NO. 10, TO REFLECT THE SHIFT IN YEARS.

MS. GRICE: Thank you.

I just have some questions now regarding the forecast of costs.

I don't know that we need to turn up all the references, but in BOMA 8, Union states that during the '14 to '18 IRM term, Union is assuming risk with the development of the service, and that specifically Union is taking the risk on any cost overruns associated with the forecasted capital investment. And should the cost of the investment exceed the forecast of 8.7 million, Union's utility earnings will be reduced.

And in BOMA 19, Union states that there is no true-up of the forecasted capital investment of the 8.7 million. Union is taking any risk on cost overruns associated with the project during the IRM term.

And there is one last reference in Energy Probe 12 that states that Union has a high level of confidence in the estimated capital costs for this project.

So we're just wondering. Now that the Hagar capital

cost has increased from 8.8 to 9.7 million, we would like to confirm who is responsible for those extra incremental costs from the 8.8 to the 9.7.

MR. TETREAULT: I believe the capital investment update was from 8.7 million to 9.9 million. And Union filed an evidence update to update its capital investment in the -- I think it would have been in the August time frame.

So our proposed rate is based on the updated capital investment figures.

MS. GRICE: Thank you.

I just have a question on the road upgrade. The reference here is addendum page 5, line 12.

The updated evidence states that in response to Energy Probe 13, Union indicated the costs specific to the road upgrade work required for the service were O&M. And upon further review, Union has determined that this $500,000 cost will be added to the incremental capital costs.

Despite the road being owned by the municipality, the roadway improvement is required to facilitate the increased flow of the tanker trucks.

And in Energy Probe 13, Union states that the $500,000 is a one-time expense, and that the municipality owns the road and is required to maintain the road in the future.

So our question is -- we just want to understand

what happened with respect to the capital road upgrade, and

specifically why Union is going to upgrade the road and

capitalize the cost if the road is owned by the municipality.

MS. VAN DER PAELT: Upon review after the original filing, our accounting department came back and said that we had -- that it was more appropriate that this was a capital cost, because they put it through a capital test based on accounting principles.

That test was really around the requirement of this investment in order to procure the movement of the goods and services. And the road, as it stands today, is not at the level needed for the weight of the trucks and the other traffic. So it passed the test that it was deemed to be required for that procurement of goods and services.

It was also –- it could be directly correlated to the revenue, or the sale of the goods. So again, if we didn't have the roads, the trucks don't move. You need the road there in order to have the sale of the goods.

And so they came back and said this passes the capital test, and it should have been more appropriately put in the capital instead of O&M.

The whole reason for that upgrade is to support the sale of LNG at the facility, and is therefore not appropriately a cost the municipality should bear.

However, they do maintain the road and will own and operate it.

MS. GRICE: Thank you.

If we can turn to BOMA 10, please?

In this interrogatory, Union provided a table that shows that LNG is approximately 30 to 40 percent less costly than diesel. And Energy Probe notes that since July of 2014, diesel prices have decreased from 1.29 a litre and natural gas commodity prices have changed.

So we just wondered if it's possible to get this table

updated to reflect a more current picture of the commodity

prices.

MS. VAN DER PAELT: Yes, we can undertake to do that.

MR. MILLAR: J2.5.

**UNDERTAKING NO. J2.5: TO UPDATE THE TABLE PROVIDED IN RESPONSE TO BOMA NO. 10, TO REFLECT THE CURRENT STATE OF COMMODITY PRICES.**

MS. GRICE: Thank you very much. Those are my questions.

MS. LONG: Thank you, Ms. Grice.

Mr. Millar, I understand you're next?

CROSS-EXAMINATION BY MR. MILLAR:

MR. MILLAR: Yes. Thank you, Madam Chair. I would like to start -- Mr. Tetreault, you went over this a little bit with Dr. Higgin and you recognized that, I think in

our haste in trying to come up with numbers on Monday, we didn't get them quite right with respect to the revenue requirement associated with the Hagar facility.

And in order the record is clear, and because some people may be looking into these numbers more precisely when they make their arguments, I thought we would go through it really quickly again, so we have the numbers correct.

MR. TETREAULT: Certainly.

MR. MILLAR: I think we could this quickly, You don't have to turn this up, but for schedule 1, it shows the total revenue requirement for Hagar as of 2013 was

$4.8 million, approximately; is that right?

MR. TETREAULT: No, I would say -- I would focus on column A, line 26, which is the total revenue requirement of 4 -- excuse me, 5.098 million.

And as we discussed the other day, for the purposes of determining the rate design and the contribution, we used the figure on line 31, which is 4.789 million. And those were the costs that were funtionalized amongst the three functions to assist us with rate design.

MR. MILLAR: Okay. Thank you for that clarification.

If you can turn to table 6 now -- pardon me, schedule 6, and as you just discussed, that $4.8 million was apportioned amongst three categories, those being liquefaction, storage and vaporization; is that right?

MR. TETREAULT: That's correct.

MR. MILLAR: The portion of the 4.8 million that is related to liquefaction is 1.747 million; is that right?

MR. TETREAULT: That's correct. That's line 1 of schedule 6.

MR. MILLAR: Okay. And this is where I think we went wrong on Monday.

We discussed how much of that was allocated to the -- would be allocated to the new service, and you took me to the 170 days, and then I think where we got it wrong was we thought that was 55 to 60 percent of the days of the year, when, of course, it's actually about 47 percent of the days of the year; is that right?

MR. TETREAULT: That's correct.

MR. MILLAR: If I run that math, quite simply, 47 per of 1.747 million, I get approximately $820,000. Does that sound right?

MR. TETREAULT: That sounds correct, but I don't know that I would -- I wouldn't describe the revenue that way.

I think the more appropriate way to do it is to take the rate on line 5, so that's -- for this portion of the rate that's $1.08, and multiply that rate by our sales forecast of 412,693. So that will be the revenue associated with that portion of the rate.

So we utilize the 46 percent to determine how to prorate the 100 percent load factor rate to reflect the number of days' flow. And the resulting rate is $1.08, and then that is multiplied by the sales forecast.

MR. MILLAR: I don't want to make this harder than it has to be, and you're losing me a little bit. Of the $4.8 million that currently relates to Hagar, how much of that is being allocated to the new liquefaction service? Of those existing costs, how much of the 4.8 million?

MR. TETREAULT: I need to be precise, I think, Mr. Millar, because it's not, per se, an allocation of costs that is happening with regard to Board-approved costs. It's a contribution that the new service is making to the recovery of costs. So I apologize for the wordsmithing, but I think the words are important here, that it is a contribution based on the functionalization that happens.

MR. MILLAR: What is that number?

MR. TETREAULT: That number is, as I said, it is based on the rate of a $1.08 at line 5 times the liquefaction forecast of 412,000 GJs a year on average, roughly, and that equates to somewhere, I believe, in the neighbourhood of $450,000.

In total, the new liquefaction rate is providing a contribution to the recovery of costs of approximately 6- to $700,000, of which the 4.40, 4.50 is the large component of.

MR. MILLAR: Yeah. It's about -- if you look at the line 9, it's $4.50 out of the total of about 5, so it's about 90 percent of it relates to liquefaction; is that fair?

MR. TETREAULT: Yes, it does, recognizing that line 9 also includes the incremental forecasted costs associated with capital investment.

So what you have on this schedule is you have two components of liquefaction.

You have the contribution this service will provide to the recovery of existing costs. That's really what's happening on lines 1 through 5.

And then lines 6 through 9 are dealing specifically with the incremental capital and O&M costs associated with the service.

MR. MILLAR: Right. I don't know if you can do this on the fly or not, and I know we had trouble with this last day.

MR. TETREAULT: Clearly not.

MR. MILLAR: Well, it was my fault for trying to push you. So lines 1 to 5, we don't have an exact number there. I don't want to call it revenue requirement or allocation, but is that about half the number that you see between 6 and 9? Or is 6 and 9 -- would that total more?

I don't know if you can derive that from looking at this chart or not.

MR. TETREAULT: Certainly in terms of the contribution, that amount would be more. Perhaps I'll try it this way. I mentioned a moment ago that in total, the contribution is roughly 6- to $700,000.

MR. MILLAR: Yes.

MR. TETREAULT: If you were to look at line 21 of this schedule, you'll see the average liquefaction revenue per year -- this is the forecast -- is approximately $2.1 million. So that gives you a sense for -- of that total revenue forecast, how much is related to a contribution?

And, again, this is dangerous, but that's roughly -- let's call it roughly a third of that amount.

MR. MILLAR: Okay. That's what I thought. So we can use the line 21 almost as a proxy for the revenue requirement related to the new service?

MR. TETREAULT: I would not call it a proxy for the revenue requirement. I would describe it as the forecasted revenue on average per year.

MR. MILLAR: Okay. Thank you for that, and I'm sorry I had to take you through that again.

I want to focus -- I have some questions to your proposed -- I use the word "allocation" and I forget what you corrected me with, but the portion of the existing liquefaction costs you proposed to now recover through the new rate, if I can put it that way. And I understand, if you look at line 6, I believe it is -- no, I'm sorry. At line 2 of schedule 6, the annual liquefaction demand for system integrity, that's about 650,000 gigajoules, is what you've recorded?

MR. TETREAULT: It's approximately 752,000 GJs, yes.

MR. MILLAR: 750, I'm sorry. The reason I have 650 is because, if you look at the footnote, what that comprises of is one full storage cycle and approximately 104,000 gigajoules for boil-off gas. That's where you got that number?

MR. TETREAULT: That's correct.

MR. MILLAR: And I think we already discussed what boil-off is.

Now, 750,000 gigajoules is not the amount of gas you actually liquefy in a typical year; is that correct?

MR. TETREAULT: No, it is not. As mentioned in the footnote, it assumes one full cycle of system integrity purposes, as well as the liquefaction required to replace boil-off or evaporation in the tank.

MR. MILLAR: Okay. Now, could you turn up Board Staff Interrogatory No. 10, please? And what we asked for here was the actual amount of liquefaction that was conducted for the last five years, including boil-off.

And you'll see the figures there. They range from about 90,000 up to 133,000. Would you take it, subject to check, that the average from 2009 to 2013 is about -- I have it at 109,781 gigajoules.

MR. TETREAULT: Yes, I will.

MR. MILLAR: And then that includes boil-off, and as I understand, a large portion of it for most of those years would actually be related to boil-off as opposed to liquefaction used for system integrity.

In that regard, you could turn up BOMA 25, where it lists the amount that was used actually for system integrity as opposed to boil-off, where the numbers are a lot lower. You can see them on the screen now. It's a maximum of 35,000 and much less in some other years.

MR. TETREAULT: Yes, I accept that.

MR. MILLAR: Regardless, let's stick with the 110,000 gigajoule number, because I understand boil-off is an actual -- you have to do that, so that's included. The amount you expect to liquefy for the liquefaction service each year is 412,000 gigajoules; is that right?

MR. TETREAULT: That's correct.

MR. MILLAR: So by my math, approximately 80 percent of the liquefaction you'll be doing every year will relate to this new liquefaction service, at least if past trends hold; is that accurate? About 400,000 for the new service and about 100 -- a little more than 100,000 for what you average over the last five years?

MR. TETREAULT: Yes. Based on the average of 110, that's fair, Mr. Millar. But I should caution there that that assumes there is no system integrity event, and as you know, system integrity events are by their very nature unplanned, so on an actual basis those figures could be very different percentage-wise.

MR. MILLAR: They could, but the trend -- over the last five years, at least -- has been pretty stable in overall liquefaction. There has been some -- there has been more variance in the terms that was actually for system integrity, but I guess for the last five years, we have a pretty stable amount that you've actually had to liquefy?

MR. TETREAULT: That's correct. I'm just -- I'm simply cautioning you that the past may not be a good proxy for what could happen in the future, because system integrity, as I mentioned, by its nature is something that you can't plan for.

MR. MILLAR: That's a fair comment, and I accept that, but if these trends hold -- maybe I can put it to you a different way.

Why are you looking to allocate 47 percent of the liquefaction costs –- "allocate" may be the wrong word, but you know what I mean -- 47 percent of the liquefaction cost to this new service, when, if past trends hold, you'll be using the liquefaction for more like -- it will be more like 80 percent for the new service?

MR. TETREAULT: I think the best answer is that that's not necessarily what I'm proposing to do. So the rate design obviously is meant to make sure that the new service recovers all of the incremental costs associated with liquefaction and storage. That's lines 6 through 9.

But what lines 1 through 5 are really trying to do is to determine the level of the contribution, and that's why the 751,000 is so important, because what we're doing is we're looking at our Board-approved costs and we're looking at the Board-approved demands of system integrity that underpin those costs.

So in other words, Board-approved costs assume one cycle of system integrity. And what we're trying to do is come up with, as I mentioned earlier, a 100 percent load factor rate to determine, if you will, the average unit rate for Board-approved Hagar costs, and then use that as the basis for determining the contribution that the new rate needs to make, based on the number of days' flow.

So I can't -- I can't accept necessarily that the

new liquefaction service will represent 80 percent of the

activity and therefore pick up 80 percent of the costs.

As I mentioned, we we're doing a unit rate calculation to determine a contribution based on the number of days' flow. That's a rate design that's very consistent with rate design we've done in the past, and has been approved by the Board in the past. And it's a reasonable methodology to determine the level of contribution a new service should provide to the recovery of costs.

MR. MILLAR: You stated that the Board-approved cost assumed 750,000 GJs of liquefaction; is that right?

MR. TETREAULT: That's correct. So the costs and the demands are aligned, if you will.

MR. MILLAR: So for the past five years, "over-recovery" is the wrong term, but you haven't liquefied anywhere close to 750 GJs?

MR. TETREAULT: That's correct.

MR. MILLAR: But your costs that are included in your current rates assume that you do?

MR. TETREAULT: That's correct, recognizing system integrity is unplanned and could happen at any time.

MR. MILLAR: I understand your answer. Thank you.

I have a couple more questions about the cross-charge that we've been discussing. And again, I think Mr. Rubenstein may cover some of more of the IRM issues here.

But I'm asking these questions based on the assumption that the section 29 motion is successful, so take these questions with that hypothetical in mind.

The way I understand it works is the unregulated entity would pay what you call a cross-charge to the utility; is that right?

MR. TETREAULT: Yes, that's correct.

MR. MILLAR: And that cross-charge would cover existing Hagar costs that are currently included and recovered in your approved utility rates?

MR. TETREAULT: No. I think what I said on Monday is that in the event it's a non-utility service and there is a cross-charge, my suggestion was that the portion of the rate design we're discussing here that represents the contribution the new service is making to existing costs is still valid.

So let me just be specific with regard to that. Line 5 of schedule 6 represents a rate related to a contribution of $1.08. Line 15 is accomplishing the same thing for storage. That's a rate of roughly 4 cents a GJ. And then line 18 on the distribution side, we have a rate related to a contribution of roughly 47 cents.

So in my view, should there be a determination of this service being non-utility and a cross-charge needing to be developed for purposes of compensating the utility, I would suggest that the cross-charge is those three components of this proposed rate.

MR. MILLAR: It would be the same as it would -- I'm sorry, it wouldn't. It wouldn't be the $5; it would be --

MR. TETREAULT: I believe those three figures add up to -- again, dangerous -- roughly 1.60 of the $5.07.

MR. MILLAR: Would that recover approximately the $650,000 we discussed before?

MR. TETREAULT: The 6- to 700,000? Yes, that's correct.

MR. MILLAR: That would refer to the same number?

MR. TETREAULT: Clearly in the case where it's a non-utility service, it would be in that circumstance a non-utility investment, and the non-utility would need to bear the incremental capital-related and operating costs that, under our proposal, are outlined on lines 6 through 9.

MR. MILLAR: And this cross-charge would – this is something charged to a customer, and then goes to Union as utility revenue?

MR. TETREAULT: It would be similar to excess utility storage space. It would be a charge to the non-utility books from an accounting standpoint, and that would be treated as utility revenue on the utility side of the books.

MR. MILLAR: But the person who pays it would be the fellow that drives their truck up, and fills it up with gas?

MR. TETREAULT: Ultimately, the non-utility would need to charge customers in that scenario, yes.

MR. MILLAR: And you developed this rate, obviously, all based on the volume forecast?

MR. TETREAULT: That's correct.

MR. MILLAR: Okay. And as we discussed during the remainder of the IRM term, the cross-charge would be included in your utility revenues, and if earnings shares were triggered, it would form part of that, and if earnings shares were not triggered –- I think it might have been Ms. Blanchard who went over this with you -- ratepayers wouldn't get any of that money?

MR. TETREAULT: That's correct. Earnings sharing –- utility earnings and earnings sharing is a function of the overall utility operations and the results of the utility business in that year. So it's the sum of many parts, obviously.

MR. MILLAR: You're scheduled to rebase rates for 2019; is that right?

MR. TETREAULT: That's correct.

MR. MILLAR: And at that time -- again, assuming the section 29 was successful -- there would be some adjustments to your rate base, I assume? Some stuff would come out of rate base?

MR. TETREAULT: How do you mean, Mr. Millar?

MR. MILLAR: Well, part of the -– would some of the existing Hagar costs be removed from rate base for the purpose of regulated rates?

MR. TETREAULT: Under --

MR. MILLAR: I guess that's still to be determined?

MR. TETREAULT: Under a non-utility scenario?

MR. MILLAR: Yes. If section 29 is successful and this new service is not regulated, would there be an apportionment of the existing Hagar costs out of rate base –- and then, I guess, you'd do whatever you want with it, but ratepayers would no longer be paying the rate base numbers associated with Hagar that's being used for the new

service?

MR. TETREAULT: I'll take that in -- I may have to answer that in two parts.

I don't think there would be any Hagar cost -– again, we haven't evaluated this fully under a non-utility scenario, but I would suggest that you likely would not remove any Hagar costs from rate base, because the primary function of Hagar would remain a system integrity function.

However, there would be costs at Hagar that would be allocated to the non-utility through the cross-charge. And in addition, the incremental investment in that scenario would -- from my standpoint, it would never be included in

utility rate base in the first place. Perhaps that's the best way to answer that.

And in addition, to the extent that there were

existing Hagar costs that are allocated to the new service, as there would be in a cost of service proceeding, when we go through a cost allocation study, et cetera, my expectation would be that there would be -- there would be some rate relief for existing Union North ratepayers, as a result of an allocation of those costs to the rate L1 service.

MR. MILLAR: L1 is the new rate?

MR. TETREAULT: Sorry, yes. Rate L1 is the new liquefaction service.

MR. MILLAR: I'm sorry, maybe I missed you. Are you talking about if there is no forbearance? It wouldn't actually be an L1 rate if there's forbearance --

MR. TETREAULT: That's fair, yes.

MR. MILLAR: Okay. Just make sure I've got -- you're proposing there would be a cross-charge up to 2019, and after 2019, there would still be a cross-charge?

MR. TETREAULT: That's correct.

MR. MILLAR: So from Union's perspective, does anything much change after 2019?

MR. TETREAULT: Again, I hesitate to speculate, largely because this is not our proposal and I'm not sure we've evaluated all the permutations.

But from the concept of a cross-charge, I would not

suggest anything would change. I think the cross-charge would remain in 2019 and beyond, a valid way to compensate the utility for the non-utility's use of its assets.

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

I think some parties may suggest -- I'm not sure this will happen or not, but I want to get Union's view. Some parties may suggest that the revenues from the new service -- again, assuming section 29 is successful and you will have revenues from this new service -- some parties may suggest that that shouldn't go towards earnings sharing. There should actually just be a split of those costs off the top, whether or not you hit the targets for earnings sharing.

I take it Union would be opposed to that proposal?

MR. TETREAULT: Yes, we would be, I think. The proposal you mention is the concept of a deferral account, I think, that we discussed earlier. And yes, I would not agree that's the right way to handle this.

MR. MILLAR: And why is that?

MR. TETREAULT: Simply for the reason we mentioned earlier. I'm not sure what a deferral account accomplishes in this particular case.

In a scenario where you have a non-utility activity, they would be undertaking that activity on their own.

They would compensate the utility for the use of utility assets, as we've discussed. And I'm not sure, beyond ensuring there's that compensation, what the deferral account might accomplish.

MR. MILLAR: Okay. Thank you for that.

MR. TETREAULT: I'm not sure why that would be reasonable in that circumstance.

MR. MILLAR: I just have one other very quick thing I want to cover off with you, and it's really by way of clarification.

In our discussions on Monday, you mentioned some new services that Union had offered on the Dawn-TCPL transportation service, this M12 C1 service that we discussed on Monday. Do you recall that?

MR. TETREAULT: Correct. I think I referenced a number Dawn-to-Dawn TCPL being one, M12X being another.

MR. MILLAR: And what these were, these were new services offered by Union during the term of the last IRM plan; is that right?

MR. TETREAULT: That's correct.

MR. MILLAR: And there was a Board-approved rate associated with those?

MR. TETREAULT: That's correct.

MR. MILLAR: Did you do a cost allocation for those, some manner of cost allocation? First of all, let me back up.

Were those new rates, or was that a subclass of an existing rate? How would you define those?

MR. TETREAULT: I would define them as new services in both cases under existing rate schedules. So to be specific, the Dawn-to-Dawn TCPL service was developed under the C1 rate schedule, which is our cross-franchise transportation schedule. The C1 rate class itself, that C1 rate schedule existed long before Dawn-to-Dawn TCPL. It was added to that rate schedule as a cross-franchise transportation service.

MR. MILLAR: But there was a new number, I guess? You had to come to the Board for approval of a new sub-rate?

MR. TETREAULT: Absolutely. We had to -- we proposed a Dawn-to-Dawn TCPL firm transportation rate, and that is a very good analogy to what we're doing here in the sense that, as I recall, that rate involved a contribution to the recovery of costs at Dawn because it was using Dawn facility costs.

There was also an incremental capital investment associated with offering the Dawn-to-Dawn TCPL service. I believe we had to add a meter run to allow us to export gas to TCPL at Dawn, and those incremental costs were recovered completely in the Dawn-to-Dawn TCPL rate.

So that rate design is entirely consistent with what we're proposing this time around. And we've made reference to that, I think, several times in both prefiled evidence as well in several IR responses.

MR. MILLAR: Okay. So it didn't just cover incremental cost? There was a cross-charge as well?

MR. TETREAULT: They provided -- that service provided a contribution to the recovery of costs.

MR. MILLAR: And those revenues went, I guess, towards your earnings sharing, but nothing else?

MR. TETREAULT: They did. They did. Those revenues were treated as utility revenue subject to earnings sharing with ratepayers. I believe in the M12X Decision, the Board specifically said that that was the appropriate treatment of incremental utility revenue during the IR term.

MR. MILLAR: And I suppose if there's a difference here, it would be that if the motion is granted, then in this case the service will be unregulated, whereas the Dawn, the M12 C1 services remain regulated? You had a Board-approved rate for those?

MR. TETREAULT: That's correct. I mean, I guess it will be perhaps the subject of further discussion how the accounting may be accomplished under that scenario, but the services could potentially be different in terms of regulated versus unregulated.

MR. MILLAR: Thank you. Those are my questions.

MS. LONG: Mr. Rubenstein?

**CROSS-EXAMINATION BY MR. RUBENSTEIN:**

MR. RUBENSTEIN: Good afternoon, panel. I just have a few questions left. I've provided a document to Mr. Millar and provided it to your counsel.

MR. MILLAR: Madam Chair, this is a Union Gas Limited return on equity chart. I guess you'd show it from EB 20140145, and that will be K2.3. I'll bring up a copy.

**EXHIBIT NO. K2.3: UNION GAS LIMITED RETURN ON EQUITY CHART.**

MS. LONG: Thank you.

MR. RUBENSTEIN: I'll refer to that in a moment.

I want to discuss if the Board does grant forbearance and how that works within the context of IRM. A lot of the discussions that you've had with Mr. Millar today seem to be that Union views what would happen similar to what happened when the Board granted forbearance in NGEIR, but how it approached the issue of short-term storage.

Would you agree with that statement?

MR. TETREAULT: Sorry, Mr. Rubenstein. Could you repeat that? I'm not sure I understood the proposition.

MR. RUBENSTEIN: It seems to me in your discussions with Mr. Millar about how the Board should go forward if there is forbearance, it seemed to me that the way that you would allocate the costs between the regulated entity or the non-utility and the utility was similar to how the Board handled short-term utility storage in NGEIR.

Would you agree with that?

MR. TETREAULT: You mean specifically in terms of the concept of a cross-charge?

MR. RUBENSTEIN: Yes.

MR. TETREAULT: Yes, I would agree.

MR. RUBENSTEIN: I want to just discuss what happened in NGEIR with respect to short-term storage and just understand, because there was discussion on Monday about the similar concept of the cross-charge.

And am I correct, for short-term utility storage -- which is essentially Union optimizing utility storage assets -- the entire cost is embedded in rates for the storage that is allocated to the utility?

MR. TETREAULT: The costs associated with excess utility storage are allocated to what we refer to as an excess utility storage. Essentially it acts as a rate class in our cost allocation study. So that excess utility storage cost is -- if I heard you correctly, is not recovered from existing ratepayers. Existing ratepayers pay for the storage they use. The excess amount is allocated to excess utility storage.

MR. RUBENSTEIN: So in any given year, say -- I'll give an example. There's 100 PJs that are allocated to utility storage, and on average utility customers are only using 95 PJs. That difference, those 5 PJs, are they embedded in rates, or are they not embedded in rates?

MR. TETREAULT: No, it's not embedded in rates. In that circumstance, in-franchise ratepayers would pay for the 95 PJs that they require. The costs associated with the 5 PJs they don't require are essentially a short-term excess utility storage space cost, and that cost actually forms the cross-charge, that excess. The non-utility business pays the utility for its use of that 5 PJs of space in your example.

MR. RUBENSTEIN: Then from what you're saying, though, is -- wouldn't it be that the 100 PJs are in rates or in rate base, but through the cross-charge the non-utility is paying the utility, and that's how it's compensated? But that's the structure?

MR. TETREAULT: Yes. You put that to me slightly differently, though. The 100 PJs is utility cost. It's in utility cost of service. The costs associated with 100 PJs is in our cost allocation study.

I was just differentiating between rate base and rates. I wanted to make the point with storage that utility ratepayers don't pay for the 100; they pay for what they use.

MR. RUBENSTEIN: But in the rate base, it's the 100?

MR. TETREAULT: Correct.

MR. RUBENSTEIN: And the cross-charge recovers the 5?

MR. TETREAULT: That's correct.

MR. RUBENSTEIN: Am I also correct that the margins --that is, the revenue derived in excess of the costs for short-term storage -- is credited to ratepayers?

MR. TETREAULT: Yes. There is margin sharing with regard to short-term storage.

MR. RUBENSTEIN: Why would there not -- if the Board does forbear, why would not a similar approach also be appropriate that any -- that the margins, any revenue in excess of the costs, which -- that you've set out in the various schedules would not be credited to ratepayers?

MR. TETREAULT: I think the scenario's a fair bit different in the sense that Union is undertaking an incremental capital investment here and taking the risk on that investment and any forecasted O&M costs, and so I'm not -- I'm not sure in that scenario.

Obviously, parties may argue for it, but I'm not sure that's reasonable to expect Union to share in the margin when Union is taking the risk on the investment associated with the liquefaction service.

Certainly utility ratepayers should be compensated for the use of utility assets. I would absolutely agree with that, but I don't know why there would be -- I don't know why it would be reasonable for there to be margin sharing when it would be, in that scenario, again, a hypothetical. The non-utility is taking the risk associated with the new service and that investment.

MR. RUBENSTEIN: Is there anywhere in the evidence -- and you can just point me to the reference or through an undertaking -- that would show the potential possible LNG sale volumes that could occur per year if, for whatever price that you were able to charge, there was a demand for it? Essentially, what sort of a theoretical operational potential volume it is?

MS. VAN DER PAELT: I'm just finding the reference.

MR. RUBENSTEIN: Maybe we can do this by way of undertaking, or you can --

MS. VAN DER PAELT: I believe we responded to it in an IR response, just going back to a question that was asked earlier around the volumes. Our sales forecast was 100 percent at the top end, I think, with our number, and that was the maximum that we thought could be sold.

MR. KEIZER: Why don't we, just for the sake of time, take it as an undertaking to provide that evidence?

MS. LONG: I think that's a good idea.

MS. VAN DER PAELT: We just found it.

MR. KEIZER: So that worked all the way --

MS. VAN DER PAELT: In response to Energy Probe 10 -- this is the one that we are going to revise on the new years. But you can see on the amount available, the 678.4, that is the maximum that will be available for sale. And then, in the last year of our forecast, we are assuming that we have achieved the maximum.

MR. RUBENSTEIN: So if there were trucks lining up down the road to fill with your LNG all day, this would be the maximum amount that you could do?

MS. LONG: As indicated earlier, it's a very small facility.

MR. RUBENSTEIN: Thank you very much.

The last question I have is with respect to K2.3, and hopefully you'll be able to help me.

One of the things we talked about on Monday was the effect of your proposal in the context of IRM. And there was a discussion about, well, we know that the proposal talks about if there were a certain amount of –- you know, through IRM, the 2-odd million dollars in revenue would flow to the earnings sharing. But there was also discussion about so would the costs; the cost would also flow.

I was wondering if you could provide us, by way of -- you can explain it now or do it by way of undertaking, but explain to us where this would show up. I'm not -- the numbers that are here are not necessarily important, but the categories are, to understand all of the impacts based on your proposal of how it would flow to the earnings sharing mechanism, or return on equity portion of it.

MR. TETREAULT: So Exhibit K2.3 is a schedule prepared by our finance group. This document was originally filed as part of our annual reporting requirements, as part of our 2013 deferral proceeding.

I can't speak to how it's prepared. I think I would need to -- we would need to provide an undertaking to do so.

MR. RUBENSTEIN: That would be fine. But there's a second part. We just can roll them in.

I would also like you to do the same thing, but based on your proposal if the section 29 is granted. So we would have an understanding of all the different changes that would occur to the -- where the categories would fall, if the Board does choose to forbear.

MR. TETREAULT: I think we can undertake to do so on a best-efforts basis. I suspect we will have to make some assumptions in both scenarios, but we'll be clear on what those assumptions were.

MR. KEIZER: Just to be clear, you're only asking for the directional aspects of the scenarios, not numerical amounts. Right?

MR. RUBENSTEIN: If it's possible to do numerical amounts -- and I'm not talking about changing the numbers here, because they're based on 2013 numbers.

But if there is a point in the evidence that shows this is the revenue, and it flows to this category over here, that's what I'm looking for. I am not asking you to --

MR. KEIZER: I think the latter aspect of the numbers may be more difficult, because we're dealing with something that's 2013 and the origins of the schedule, so -- but I guess that will -- we'll leave that within the context of best efforts. If we can't do that, we'll indicate why we can't.

MS. LONG: Is that fine, Mr. Rubenstein?

MR. RUBENSTEIN: Yes, it is.

MR. MILLAR: J2.6.

**UNDERTAKING NO. J2.6: TO EXPLAIN THE COST CONSEQUENCES OF THE APPLICANT'S PROPOSAL, WITH AND WITHOUT SECTION 29 APPROVAL.**

MR. RUBENSTEIN: Those are my questions.

MS. LONG: Mr. Keizer, are you planning to have this same panel here on Tuesday?

MR. KEIZER: The assumption was that if you had questions as a Panel, that you may be wanting to direct it to everybody that would be involved.

MS. LONG: That was our assumption, but we didn't want to come on Tuesday and only have Mr. Erling here.

MR. KEIZER: Yes. We'd be flying to Chatham and going back.

MS. LONG: All right, then. I think that concludes our hearing for today.

Mr. Keizer, had you given any thought to the question I asked prior to the lunch break about oral submissions?

MR. KEIZER: I have, actually. I think our preference would be to do the argument in-chief in writing, given the fact that the proceeding itself has branched out into a number of directions and it may be more conducive to putting our submissions in that way.

We're happy to work with the intervenors, in terms of any schedule, and for purposes of coming back to you on Tuesday with a proposal, if you wish.

MS. LONG: Let me tell you what my proposal is, then, and perhaps you can discuss it amongst yourselves.

We were hoping you'd be able to file your argument on the 5tth -- that would be the Friday -- with intervenors filing on the 12th, so a week. And then, Mr. Keizer, your reply on the 19th, so that prior to the holidays we would have everything before us.

MR. KEIZER: Just a moment -- if I can consult and come right back to you?

MS. LONG: Okay. Thank you.

MR. KEIZER: That's suitable from Union's perspective.

MS. LONG: Thank you.

And the intervenors, are there any comments, or that's acceptable to you as well?

DR. HIGGIN: Acceptable.

MS. LONG: Okay. Thank you. Then that is the schedule we will go by. So we will reconvene on Tuesday morning. Mr. Erling will be here to answer questions. The panel will be here.

I thank you for your evidence today, and we'll see you back on Tuesday.

I do understand that -- are we changing rooms on

Tuesday, so we will be in the north hearing room?

MR. MILLAR: Yes, that's right.

MS. LONG: Okay. Change of venue. So have a good weekend, everyone, and we'll see you Tuesday. Thank you.

--- Whereupon the hearing adjourned at 3:03 p.m.