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Ontario

ONTARIO ENERGY BOARD

FILE NO.:	**EB-2016-0152**	**Ontario Power Generation Inc.**
VOLUME:	**17**	**UNREDACTED - CONFIDENTIAL**
DATE:	**April 3, 2017**	
BEFORE:	**Christine Long**	**Presiding Member and Vice Chair**
	Ellen Fry	**Member**
	Cathy Spoel	**Member**

EB-2016-0152

THE ONTARIO ENERGY BOARD

Ontario Power Generation Inc.

Application for payment amounts for the period from January 1, 2017 to December 31, 2021

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Monday, April 3, 2017,
commencing at 9:37 a.m.

VOLUME 17

BEFORE:

CHRISTINE LONG	Presiding Member and Vice Chair
ELLEN FRY	Member
CATHY SPOEL	Member

A P P E A R A N C E S

MICHAEL MILLAR IAN RICHLER	Board Counsel
VIOLET BINETTE LAWRIE GLUCK JANE SCOTT RUDRA MUKHERJI	Board Staff
CHARLES KEIZER CRAWFORD SMITH BARBARA REUBER JOHN BEAUCHAMP CHRIS FRALICK	Ontario Power Generation Inc. (OPG)
IAN MONDROW SHELLY GRICE	Association of Major Power Consumers of Ontario (AMPCO)
EMMA BLANCHARD VINCE DeROSE	Canadian Manufacturers & Exporters (CME)
MICHAEL BUONAGURO JULIE GIRVAN	Consumers Council of Canada (CCC)
BRADY YAUCH LARRY SCHWARTZ	Energy Probe Research Foundation
KENT ELSON	Environmental Defence (ED)
DAVID POCH	Green Energy Coalition (GEC)
SCOTT WALKER	Ontario Association of Physical Plant Administration (OAPPA)
RICHARD STEPHENSON	Power Workers' Union (PWU)
MIKE McLEOD	Quinte Manufacturers' Association

A P P E A R A N C E S

MARK RUBENSTEIN JAY SHEPHERD	School Energy Coalition (SEC)
BOHDAN DUMKA	Society of Energy Professionals (SEP)
MICHAEL JANIGAN MARK GARNER CYNTHIA KHOO	Vulnerable Energy Consumers' Coalition

I N D E X   O F   P R O C E E D I N G S

E X H I B I T S

U N D E R T A K I N G S

U N D E R T A K I N G S

Monday, April 3, 2017

--- On commencing at 9:37 a.m.

MS. LONG: Good morning, everyone. Good morning, panel. Today we are sitting again in EB-2016-0152. Before we begin with Mr. Rubenstein's cross-examination, Mr. Smith, are there any matters we need to deal with?

PRELIMINARY MATTERS:

MR. SMITH: Yes, Madam Chair. There was one matter that -- it arose from AMPCO's cross-examination of panel 3B, and it was in relation to the ESMSA scorecards, and we had advised that we would come back today and advise of the legal position with respect to confidentiality and whether we would be in a position to produce those contracts out of -- the scorecards, my apologies, in confidence.

The answer is on the basis that the Board is ordering us to produce those scorecards, we would be in a position to produce them confidentially. If I've misunderstood and it's not an order of the Board, then we're not in a position to produce them absent further submissions from the counter-parties to the contracts.

So that's what our review tells us. In essence, the contracts provide for where there is compelled disclosure then we can produce them, obviously, in confidence.

MS. LONG: Well, I think your interpretation of what the Board is expecting is correct.

MR. SMITH: I thought so. I thought it might be in this case. Thank you. So we'll produce those.

MS. LONG: Thank you very much.

MR. MILLAR: Madam Chair, should we mark that as an undertaking? I can't recall --

MR. SMITH: It had not been marked as an undertaking in the transcript --

MS. LONG: Okay --

MR. SMITH: -- so I think that's a good idea, Mr. Millar.

MR. MILLAR: J17.1.

UNDERTAKING NO. J17.1: TO PRODUCE THE CONTRACTS OUT OF THE SCORECARDS.

MS. LONG: Thank you, Mr. Smith.

Mr. Rubenstein, are you ready to cross-examine this panel?

ONTARIO POWER GENERATION - PANEL 4, RESUMED

Alex Kogan,

Donna Rees,

David Milton; Previously Affirmed.

CROSS-EXAMINATION BY MR. RUBENSTEIN:

MR. RUBENSTEIN: Yes, I am. Good morning, panel. I have a compendium of documents that I provided.

MR. MILLAR: K17.1.

EXHIBIT NO. K17.1: SEC CROSS-EXAMINATION COMPENDIUM FOR OPG PANEL 4.

MR. RUBENSTEIN: Includes material that are on and off the record -- on the record and now on the record, I guess, that I provided to my friends in advance.

I just want to start off with -- to follow up on some discussion that was had on Friday. There was discussion about the Hydro One shares and the lump-sum payment. I just want to be clear I understand what exactly is being provided to Society and PWU members.

So am I correct that in addition to their base salary increases there is a lump-sum payment of 1 percent in 2015 for the PWU and 2 percent in 2016, and for the Society it's 1 percent in 2016 and 2 percent in 2017?

MR. MILTON: That's correct.

MR. RUBENSTEIN: And in addition that there is the award of Hydro One shares representing 2.75 percent of their salary?

MR. MILTON: For the PWU.

MR. RUBENSTEIN: For the PWU?

MR. MILTON: Yes, for the PWU.

MR. RUBENSTEIN: And not the Society?

MR. MILTON: No, it's a lower amount for the Society.

MR. RUBENSTEIN: What's the amount for the --

MR. MILTON: 2 percent.

MR. RUBENSTEIN: 2 percent. And this, just to be clear, this is in addition to their salary. They're getting --

MR. MILTON: That's correct.

MR. RUBENSTEIN: -- Hydro One shares worth 2.75 percent of their salary.

MR. MILTON: Of their salary --

MR. RUBENSTEIN: Or 2 percent.

MR. MILTON: Of their salary for the PWU of April 1st, 2015 --

MR. RUBENSTEIN: All right.

MR. MILTON: -- for those that meet the criteria of the collective agreement.

MR. RUBENSTEIN: So they're getting their salary, they're getting the lump sum, then they're getting shares worth, on the date of the 2015 -- April 2015 either 2.75 percent or 2 percent --

MR. MILTON: No, the share grants for the PWU start -- April 1st, 2017 was the first payment of the share grant, and for the Society it will be January 1st, 2018 will be --

MR. RUBENSTEIN: But --

MR. MILTON: -- the first payment of the share grant.

MR. RUBENSTEIN: No, but I meant the date of -- the value of that is determined, you just said, based on the --

MR. MILTON: Based on --

MR. RUBENSTEIN: -- April 2015 salary.

MR. MILTON: Based on the April 1st, 2015 salary for the PWU and January 1st, 2016 salary for the Society.

MR. RUBENSTEIN: And am I correct that the lump-sum payment is a one-time payment but the shares grant will be going on for, I believe until 2036, every year the same amount will be provided --

MR. MILTON: It continue on for a period of up to 15 years, provided the employees eligible under the criteria, that they're still contributing to the pension plan and they meet the other criteria associated with that.

MR. RUBENSTEIN: And let me ask you about those shares. Whose shares are they? And by that I mean when

Hydro One purchased, I believe, about 9 million dollars' worth of shares or 9 million shares that I believe you've purchased, were you purchasing shares like any of us would be able to purchase shares? Or were these shares that you were being transferred from the government's ownership?

MR. KOGAN: We purchased 9 million shares through the secondary offering of the Hydro One shares, so, no, they were not transfers from the government.

MR. RUBENSTEIN: All right. So they're shares that any of us could have purchased if we were purchasing into that offering, correct?

MR. KOGAN: I don't know the specifics of how the offering works, but I think what you're getting at is, yes, there was no preferential treatment that was given to OPG as part of this transaction.

MR. RUBENSTEIN: And you'd agree with me that this is somewhat of a peculiar situation. You're providing a share grant to a company that's not your own?

MR. MILTON: That's correct.

MR. RUBENSTEIN: And why are you providing -- why is it Hydro One shares? Why is it not -- I guess nobody wants to buy BlackBerry shares, but another company's shares? Why is it Hydro One?

MR. MILTON: It stems from the bargaining that was done at the central table on wages, pension, and benefit, and we did that jointly with Hydro One, and Ed Clark led those discussions, so it came from that negotiation.

MR. RUBENSTEIN: Maybe I'll ask some more in the in-confidence section.

If we can turn to page 63 of the compendium. This is an excerpt from the Hydro One transmission proceeding, the transcript. If I can take you down to line 27, this is Mr. Stephenson, counsel for the PW, asking questions of a Hydro One witness. And he asks:

> "Okay. I take it from the company's perspective they actually like the share grants..."

Flipping over the page:

> "...for a completely different reason other than that it allows them to make a deal. From the company's perspective, it aligns the employees' interests with the company's and the shareholders' and so forth."

And Mr. McDonell from Hydro One replies:

> "Yeah, I would say, you know, there is a skin in the game, right? The employees' behaviour, their outcomes are going to be more aligned with the goals and the objectives of the company by having part ownership by share grant."

Do you see that?

MR. MILTON: Yes, I do.

MR. RUBENSTEIN: And you'd agree with me that that's not the case with OPG?

MR. MILTON: That's correct. I agree with that.

MR. RUBENSTEIN: I would like to talk about the Towers compensation study. Mr. Millar had asked you a number of questions about that last week and why you were at the 75th percentile for the nuclear authorized segment. Do you recall those discussions?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And as I understand OPG's view, it's because the comparators in the OPG -- in the Towers study, if they're U.S. they're generally one or two unit reactors and you have a four-unit design which is more complex and so you need to target at a higher amount? Is that the gist of that?

MS. REES: They are more complex relative to the States. The four units versus the two is one factor. The more functions associated with the technology is another factor. Overall, yes, more complex.

MR. RUBENSTEIN: And is the more set because of -- it's a CANDU design?

MS. REES: It's not strictly because a CANDU design, but a CANDU design has additional functions and leads to additional accountabilities for the control room that aren't in the other -- in the U.S.

MR. RUBENSTEIN: And as I recall your discussion, you pointed to the Goodnight staffing study that was done which made adjustments to deal with the issue of the one or two unit comparator and the CANDU specific, and that was a rationale you used for -- here is another -- you know, Goodnight had to do a similar adjustment as a -- do you recall that?

MS. REES: That was just an example indicating that there were others beyond OPG that felt there were differences between the U.S. and Canada.

MR. RUBENSTEIN: All right. And if we can turn to page 34 of the compendium, this is from that Goodnight study.

And what I understood Goodnight doing, they had to add individuals to the benchmark because the comparator didn't take into account for, say -- we see large two-unit PWU or benchmark, they had to add individuals, and for scale from two to four units, and the CANDU technology adjustment, that's because they had to adjust for those specific things which were unique to OPG.

Can you explain to me as why -- as I understood, Goodnight needed more individuals in the benchmark. It didn't go to the complexity of the work. Can you explain why the complexity of the work requires to pay more?

MS. REES: So the Goodnight staffing study was focused on staffing, not the complexity associated with roles, which is what we're looking at in the benchmarking study and where we position.

MR. MILTON: I think what's called out here in the Goodnight study, the CANDU technology adjustment, that is a specific adjustment. It's staff numbers you require for things that are completely unique to a CANDU technology, like the heavy water processing and things like that that you don't find in U.S. reactors.

What Donna and myself have referred to is if you look at CANDU technology that is generating the electricity, not some of the ancillary things like heavy water that is in this adjustment here, it has more systems and those systems are highly integrated, and therefore it introduces more complexity whatever CANDU -- whether Pickering A, Pickering B, or Darlington, compared to a U.S. PWR. There's less systems in U.S. PWR.

So it was our determination that the 75th percentile was more representative. It was more representative of a proper benchmark for authorized staff, which is a small segment, as you know, of our population.

MR. RUBENSTEIN: With all the other positions that you benchmarked and the subcategories that Towers benchmarked, did you consider looking at if there were characteristics of OPG that meant your employees doing less complex work than the benchmark, than the comparators that were used in each of those subcategories? Did you look into that?

MS. REES: It was only within the nuclear segment where that issue arose.

MR. RUBENSTEIN: Did you look, though, in any of the other subcategories, the other occupation groupings to determine if OPG, compared to the benchmark, were doing less complex work?

MS. REES: So we did look in the U.S. organizations, organizations that had nuclear and non-nuclear generation, and we did take a comparison to see if there was any differential, and we weren't seeing any marked differential there.

MR. RUBENSTEIN: What about in the general category? Did you look and determine if the position OPG has similar title, similar task, but the nature of the work is just simply less complex at OPG, for whatever reason? Did you do that investigation?

MS. REES: There was no indications that there was a need to do that investigation. An HR job or a finance job being more complex than any other utility or any other organization, we didn't see the need for that.

MR. RUBENSTEIN: So you didn't look into it?

MS. REES: We did not.

MR. RUBENSTEIN: All right. Now, there was a lot of discussion about what was included and what was not included in the Towers study for compensation, and I was a bit confused. So I want to make sure we're talking about the same things.

I was a bit confused by the Towers methodology as a compensation study as for many different utilities I've seen. They're all a little bit different, and I want to make sure I understand what is included and what is not included.

If we can turn to page 24 of the compendium, this is a response to a Staff interrogatory where you actually provided a nice table showing the differences between the appendix 2K charts that we have talked about and the compensation benchmarking study. And just I want to walk through some of this, and you can help me make sure I understand what is included in the compensation study.

So as I understand it, as of April 2015, Towers took the annual salaries at that point in time for the OPG employees; is that correct?

MS. REES: That is correct.

MR. RUBENSTEIN: Let me stop you there. When you say the annual salaries at that point in time, does that mean for any employee, you said what are their annualized salary, say, in the system they're going to be paid at that time? Or does it mean you took the amount of money they would have been actually paid during the previous year?

MS. REES: It reflects the point in time's annual salary, the first that you mentioned; not the actual paid, but the salary in the system.

MR. RUBENSTEIN: All right. Thank you. So the next thing, if we look at that chart under the compensation benchmarking column, the next thing says target stakeholder return program costs. And the stakeholder return program is your management incentive program, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: And by including the target cost, by that what do you mean? Is that the target score and the incentive pay that would go with that?

MS. REES: That is correct.

MR. RUBENSTEIN: As I understand the target score, I believe it's 4 out of 7?

MS. REES: It's based on achieving a corporate score of one on the corporate scorecard.

MR. RUBENSTEIN: So let me --

MS. REES: Yes, correct, and assumes that everyone meets expectations.

MR. RUBENSTEIN: SO back up. As I understand how the targets worked, it's a 7 point scale, as I understand your management incentive system. I guess four is the average. So is that the target score?

MS. REES: Four would be the target score, correct, as well as achieving a corporate score of one.

MR. RUBENSTEIN: Let's focus on the individual stakeholder returns program. So what it would be is you say for every individual, if they get a target score of four, what would be the incentive pay they would get with that, correct?

MS. REES: Correct, assuming the corporate score is one.

MR. RUBENSTEIN: And the point of using the target score is supposed to reflect that's the average; some will get a higher amount, some will get a lower amount. Some will get a higher score than 4, some will get lower, and 4 is the average, essentially?

MS. REES: Actual experience will vary from the target, yes.

MR. RUBENSTEIN: So if we can turn to page 28. This is the actual distribution between score 0 to 3, score 4 which is the target, and scores 5 to 7. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: This is for 2015, correct?

MS. REES: Correct.

MR. RUBENSTEIN: So you see that on average, people are getting more than the target score, correct? Compared to people getting below the target score?

MS. REES: The performance of individuals is, would be -- yes, it would be higher than four on average here. It would also be bound by the corporate score again. It's not strictly individual scores that affect the amounts.

MR. RUBENSTEIN: All right. In 2015, how did you do on the corporate score?

MS. REES: If I could, just one correction. In 2015, it wasn't the seven-point scale. So my reference to 4 would have been incorrect; it would have been a 3.

MR. RUBENSTEIN: Sorry, this is the 2015.

MS. REES: Yes. And you're asking what the corporate score was in 2015, is that correct?

MR. RUBENSTEIN: You're reading from below.

MS. REES: Yes.

MR. RUBENSTEIN: Then this is not actually the breakdown of 2015, correct?

MS. REES: This is the breakdown in 2015. It was my reference to the average, the target being 4.

MR. RUBENSTEIN: You agree with me that regardless of whether it's the original 5 point scale or 7 point scale, more people are getting higher than target scores than lower than target scores, correct?

MS. REES: Correct.

MR. RUBENSTEIN: All right. So if we go back to the compensation study, really, on average, people are getting higher than the target incentive amount that you built into the compensation study, correct?

MS. REES: So in this particular year, if you were to take a look back a year, for example, and the score distribution may show something similar. But the amounts that actually get paid and included in our application would have been less, because of the influence of the corporate score. So the corporate score in 2015 was .77, so the entire amount of money available gets reduced, so it would have been -- it would be not exactly as you have said.

MR. RUBENSTEIN: But just to be clear, all right, so in the 2015 year the -- you didn't hit 1, correct? That was the target and they were below the 1 for the corporate amount?

MS. REES: In 2015 we were 1.01, so very close.

MR. RUBENSTEIN: Okay. So then the compensation study is supposed to replicate 2015 salaries, at least as April 1st, as I understand it -- just one second. Correct? Break this down.

MS. REES: The compensation study is not intended to replicate our cost stream exactly. It's intended to compare ourselves on a normalized basis to other organizations, and one of the things we seek to do in this is removing performance variations that might exist between ourselves and the organizations we're comparing ourselves to, which is why we bring this back down to target.

MR. RUBENSTEIN: No, I understand that, but that makes sense if on average you actually paid the target, and as I understand for 2015, looking at this, more people are getting above the target than below the target, so target is actually not the average score in practice in 2015, correct?

MR. KOGAN: I think what we're saying, the point that we're making, Mr. Rubenstein, is that across the different years it will vary, will vary, the distribution will vary, certainly looking at '15 in particular, clearly distribution is what it is, so you're correct to say that -- and again, I'm not an expert in this, but I'm just looking at the chart that we prepared -- that's what distribution shows. It would be slightly different distribution in '14, a different distribution in '16.

In 2016 our corporate score was below 1 so, you know, that year we would be coming in below the amounts that would have been assumed in the study, so it's sort of a give and take across the years. I think that's all the point we're trying to make.

MR. RUBENSTEIN: Do we -- do you have -- I don't know where we are in the year. It's April. Do you have, essentially, this -- are you able to recreate this for the 2016 actuals, the distribution?

MS. REES: Yes, we would be able to.

MR. RUBENSTEIN: Can you please --

MS. REES: Oh, we have that information.

MR. RUBENSTEIN: Can you provide that information?

MR. SMITH: Yes, we can do that.

MR. MILLAR: J17.2.

UNDERTAKING NO. J17.2: TO RECREATE THE COMPENSATION

STUDY WITH THE 2016 ACTUALS, THE DISTRIBUTION.

MR. RUBENSTEIN: If we go back to page 24 and we go over that table again, you say -- the next row is, you're including actual nuclear authorization allowances for the prior year. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: So first, what are the -- what are nuclear authorization allowances?

MS. REES: They're generally allowances that are paid in recognition of the effort required to maintain your certification. There is also a performance bonus element in there as well for some of the positions.

MR. RUBENSTEIN: And why is that -- as I read, it's based on the prior year, so essentially you're looking back from April 2015 to, you know, the year prior. Why are you using -- why is that methodology, since that seems inconsistent to what you're doing with respect to salaries and the stakeholder return program costs?

MS. REES: So the nuclear authorization allowances vary depending on the length of time an individual has been certified, so there's quite a range of relative values at an individual level, so we use the historical past year to get a sense of where it is overall.

MR. RUBENSTEIN: And so it's primarily based on years of holding the licence or years of service, correct?

MS. REES: It would -- definitely the length of time an individual has had the licence or has maintained their certificate. It would be based on that, so that's probably the single most significant driver.

MR. RUBENSTEIN: So all things being equal, it's going to go up over time?

MS. REES: We have a continuous flow of people through that, so people are at various stages. I'm not sure that would be a fair comment to make.

MS. LONG: Ms. Rees, is it paid every year?

MS. REES: Yes, it is.

MS. LONG: Okay.

MR. RUBENSTEIN: All right. And then if you look at the next -- if we're comparing the Appendix 2A to the compensation, as I see the Appendix 2K, it includes other allowances, and you use example shift premiums and on calls, but you don't include that in the compensation benchmark. Why not?

MS. REES: So the compensation benchmark focuses on the more larger, more significant parts of our compensation program. Other allowances tend to vary based on business needs in the same way overtime is excluded, shift premiums, on call, these allowances do not represent a significant portion, and they are not typically gathered in these types of studies.

MR. RUBENSTEIN: And the other comparators don't use shift premiums, correct?

MS. REES: Some may.

MR. RUBENSTEIN: Do you know if they do?

MS. REES: I would definitely expect some of the utility organizations would for sure. That data is not gathered as part of the collection of the survey data.

MR. RUBENSTEIN: Okay. That's what I was asking. So it's not -- other utilities, it's not in the --

MS. REES: Yeah.

MR. RUBENSTEIN: -- the data. Okay.

And so I think we've discussed this before, what is not included as well that's in the Appendix 2K but it is included in the compensation benchmarking are -- would be the lump sum -- I know there's a -- on a -- the lump-sum payments, correct, are not included in the compensation benchmarking, correct, even though they would have been paid, at least to the PWU, in 2015 at some point?

MS. REES: They would not have been included. They may have been paid, but they are not an ongoing part of compensation, so when we're comparing ourselves -- when we're trying to look at our compensation and how we compare, we don't include the one-time or limited-time payments.

MR. RUBENSTEIN: But for the Appendix 2K which includes all compensation it would include the 2015 -- in 2015 at least the lump-sum payment and going forward the lump sum and the value of the shares, correct?

MS. REES: The 2K contains our costs, correct.

MR. RUBENSTEIN: Great.

MS. REES: Those costs.

MR. RUBENSTEIN: If we can turn to page 34 of the compendium. This is back to the Goodnight study. And one of the things Goodnight did in there when they were trying to determine the staffing benchmark is they made an adjustment to take into account -- they added additional an additional 160 FTEs to the benchmark to account for the many OPG positions worked 35 hours per week, while their comparators worked 40 hours a week. Essentially they're normalizing for hours in the week. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: Did Towers make a similar adjustment to normalize for the hours worked in a regular work week?

MS. REES: No, they did not.

MR. RUBENSTEIN: So then the study does not take into account that for a number of positions at least that Goodnight identified OPG is -- would essentially, if all things being equal, be paying, you know, 35 over 48.75 percent more for -- if we were normalizing it, correct? For those positions there's a group of -- OPG employees are working less.

MS. REES: So the compensation benchmarking was focused on what is paid to people, not the staffing or the number of people required.

MR. RUBENSTEIN: I'm not talking about the number of people required. Did it make an adjustment to take into account that for a number of positions, at least a number of positions, Goodnight identified there were a number of positions that compared to the U.S. nuclear facilities -- and maybe this exists in other ways -- OPG's employees are working 35 hours a week while the comparators are working 40 hours a week. They're working more.

MS. REES: Most of our union positions work 40 hours a week, the PWU positions, not 35 hours a week. But as I said before, Towers did not adjust for hours worked. They focused on the annual salary paid.

MR. RUBENSTEIN: And why not? Why would they not adjust for the hours worked?

MS. REES: Again, the study was about what our comparative -- what we paid, not a productivity or type study that was looking at the number of people we employ.

MR. RUBENSTEIN: Well, it's not a question about productivity. One would assume you're trying to get a sense of what are people -- what is the market compensating individuals. One part of that, one would assume, would be OPG may pay a little bit more, a little bit less, but they're working -- you know, you don't have to work as much at OPG compared to these, so that would be part of it. You would want to normalize for that.

MS. REES: So the Towers does follow a typical methodology that is employed, and it would have been consistent with what was done in the AON study and is -- most compensation benchmarking studies do not adjust for the hours.

MS. LONG: I'm sorry, Ms. Rees, I'm confused. Are you saying that the PWU has a 40-hour work week or a 35-hour work week?

MS. REES: Most of them are 40-hour, a lot of the PWU.

MS. LONG: And the Society?

MS. REES: The Society would be predominantly 35, but there is a mix of 35 and 40.

MS. LONG: Okay. When you say "most", can you give me a percentage? Are there specific areas that work 35 versus 40 in the PWU?

MR. MILTON: Within the PWU, typically the clerical classifications that work 35 hours and a small number of technical positions that work less than 40; in fact, some work 37 and a half. On the operators, the trades all work 40 hours on base salary.

MS. LONG: Thank you.

MR. RUBENSTEIN: Now, as I understand, and we can turn to page 9 of the compendium, page 27 of the Towers report; this is page 9 of the compendium.

As I understand, and this is with respect to the benchmarking on the values of pensions and benefits; that's what the table shows, correct?

MS. REES: Correct.

MR. RUBENSTEIN: As I understand it, this is a second benchmarking analysis, since you use a different peer group correct?

MS. REES: Correct.

MR. RUBENSTEIN: Why didn't you use the same peer group?

MS. REES: So the compensation, the -- this would be typical, first off, to use a different peer group. We are relying on different studies using published data. So there is a compensation survey that's done that gathers all the information on the cash compensation, and the pension and benefits is from a separate survey.

MR. RUBENSTEIN: So since there's two different peer groups, we can't determine on a total basis how your entire compensation direct, and the value of the pensions and benefits compares to the market, correct?

MS. REES: I would say you maybe can't add the numbers together specifically, but it does give directional insights regardless.

MR. RUBENSTEIN: If we look back at the peer groups in the first study, I would assume some of them don't offer -- some of them may offer different types of pension arrangements, and some may not offer a pension at all, correct?

MS. REES: I think you would find most of them do offer a pension. I don't know if that would be a fair comment to make.

MR. RUBENSTEIN: But we know for sure that when you were choosing the pension benchmarks, you were choosing a sample that all had pensions, correct? You were trying to essentially have like organizations and we know they all have pensions, correct?

MS. REES: Yes, when we selected the comparators for the pension and benefits, you'll see that we did get a cross-section of utilities and there is some overlap between the two studies, in terms of the comparator groups.

We are, to some degree, dependent on who participates in the studies. But again, this is a pretty standard methodology. This is the same thing AON had done in the previous one was as well.

MR. RUBENSTEIN: You'd agree with me that for an employee, all three elements matter, correct? The base, the total direct which would include their incentive pay, and the value of the pension and benefits.

That matters to an employee if they're choosing to join OPG versus some other company, correct?

MS. REES: They definitely matter, as does vacation as a benefit. It's a not captured here, but would be another area that mattered to employees when they're looking whether to join a company or not.

MR. RUBENSTEIN: And we can't measure that, because we have essentially two different studies looking at the total direct and the pension benefit, correct?

MS. REES: Well, I think we do have two different studies, but I think you'll see they still provide directional insight into our ability to attract and retain, and the competitiveness of other compensation.

MR. RUBENSTEIN: With respect to your pension and benefit analysis as we see on this table, it's measured against the percentage of base salary, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: If we assume the peer groups have a similar compensation mix as the peer group to the compensation study, you'd agree with me that -- we can look at this at page 6 of the study, OPG's base salary is 12 percent compared to the market, correct, on average?

MS. SPOEL: What page?

MR. RUBENSTEIN: Page 6.
MS. SPOEL: Of the compendium?
MR. RUBENSTEIN: Yes.
MS. REES: Yes, that's correct.
MR. RUBENSTEIN: So if we're looking at the results on page 9, and I think it's about -- as I understand, you're providing about -- compared to the median, you're a third more generous, correct, roughly speaking?
MS. REES: You're looking at?
MR. RUBENSTEIN: Back at page 9. You're about a third more generous compared to the market?
MS. REES: Approximately, yes.
MR. RUBENSTEIN: But if the base pay amounts differ between you and the market, we assume they're similar to the compensation study. On an absolute basis, it's actually more than a third, you'd agree with me, the value?
MS. REES: That assumption you're making is based on a premise I don't agree with. You're assuming that the basis for this study is tied to the costs of -- the base salary and the costs of the comparator organizations, which it's not.
So again, similar to how in the compensation study we try to normalize, we do the same thing on the pension and benefits analysis. So this is a pure reflection using OPG base salaries as a comparison.
MR. RUBENSTEIN: That's a good clarification. So when we're talking about the market P50 as a percentage of the base salary, that's a percentage of OPG's base salary?

MS. REES: It might help if I explain the way the study is done, because I think it might shed some light a little bit on the pension and benefits, because it is a different approach.

MR. RUBENSTEIN: Please.

MS. REES: When the pension and benefits study is done, we start with a typical profile which we use OPG average age, salary information, gender -- sort of like a basic fundamental we start with. And we layer onto that; take a look at actuarial assumptions, we take a look at some health and dental utilization data from the market -- again not OPG specific, but health and data utilization information.

So we combine that with the -- we overlay that with our program provisions; so how much drug coverage do we give, what are our pension plan rules, and Towers models that. And the results of taking that information results in a value for OPG. Then they use that same data and the only piece they change is the program provisions associated with the other organizations. And then they run that same information through the model and derive another value.

So it doesn't -- so that's sort of where it's both based on OPG salaries as a route, because we're using the same profiles as the normalized data that we're trying to look at.

MS. SPOEL: Can I just make sure I understand this. So what you would do it -- let's just say you would take a 40 year old male who has three dependents, and the kids have braces on their teeth or whatever, so they use a lot of dental, not much medical. Their pension -- they're making average OPG salary, so they're contributing whatever it is to the pension plan, and you come up with our cost is 29 -- so the pension and benefit burden to OPG ends up becoming 29.7 percent, if it's a PWU member, according to this chart.

Then for the others, you would do exactly the same thing and say a 40 year old person using this much, with three dependents or whatever, is getting for another -- let's say you had a comparator of one of the U.S. utilities, it would be 20 percent -- the amount of benefits and pension that person could collect or does collect, does use would be 20 percent, for example? Is that, is that what you're saying, if you're using the same demographic profile?

MS. REES: So when they do those two calculations, they calculate out a value for both and it's not until after they compare and get the median do they restate that as OPG's base salary, which again, it was the OPG base salary that underlied all of the -- both sides.

MS. SPOEL: Right. So you take the demographic type of information to determine what that person uses and you compare -- or is entitled to and actually uses of pensions and benefits, you would use the same profile for the comparators and then you would apply that to the same OPG based salary that person would be earning?

MS. REES: Yes, both assume -- we assume both --

MS. SPOEL: Let's say the base salary was $100,000, as an example. So if the base salary was 100,000 -- that's probably low, but whatever. If your base salary was 100,000 you would use that same base salary to say it's 20 percent of 100 in both cases.

MS. REES: Correct.

MS. SPOEL: So it would be one case that would be $20,000 and the other case it would be $30,000 --

MS. REES: So what we're really --

MS. SPOEL: -- if it was 20 -- they're 20 and 30.

MS. REES: What we're really measuring is the difference -- the resulting value difference in the programs in --

MS. SPOEL: Right.

MS. REES: -- the plan provisions.

MS. SPOEL: Right. Okay. Understand that. Yeah. Thank you.

MR. RUBENSTEIN: Now I understand. Thank you.

If we can turn to page 15 of the compendium. We had asked you in SEC IR 33 in part (b) essentially what in the essence would be the cost difference for the nuclear direct and the indirect employees, so what's at issue in this proceeding, if you were at the P50 compensation amount for all the categories, and if you flip, you provide a lot of narrative of your views, and on page -- on the -- if you flip it over on the next page, as I understand it, at this point you said it was approximately 30 million. Did I understand that correctly? You say this on line 5?

MS. REES: That is correct.

MR. RUBENSTEIN: All right. So then we asked you -- and just to be clear, this was for the compensation amount only. I think you talk about later on why you can't do that -- you couldn't do -- you couldn't do it for the pensions and benefits part, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: All right. So we asked you in JT3.2 -- and you can see this on page 18 for sort of how you got to this number and how it different -- how it differed from what AON Hewitt, who had done a similar analysis in the -- or we had -- sorry, we had asked you in the last proceeding to do a similar analysis.

And as I understood what this table is showing us is you asked Willis Towers Watson for the -- essentially the cost differential in each of those buckets, and then you did an analysis to determine, all right, as a percentage of what -- who is at issue in this proceeding and what's regulated and not regulated to get to an estimated nuclear regulated cost amounts which you come -- can see this in the total in the bottom right-hand corner -- 29.6 million, which is the exact number, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: All right. And as I understood it, the difference between what you did in this proceeding and what you did in the last proceeding is, in the last proceeding you did the -- you did the total number and in this proceeding you got it from Willis Towers Watson, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: All right. All right. So I went back to try to determine what -- how exactly Towers Watson did the analysis, and it's simple. They -- on each of the tables they looked at what the P50 was, what was OPG, they multiplied that by the number of employees, and they -- you know, it all adds up to the exact same amount of numbers that Willis Towers Watson did.

But as I understand the difference -- what they've done here is they've only included the difference for the employees that they benchmarked, correct, not for all the employees, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: So if we were trying to determine if OPG was at the -- at the P50 or P75 for the nuclear authorized for the entire group we would have to extrapolate that amount, correct?

MS. REES: It is actually inappropriate to extrapolate that amount.

MR. RUBENSTEIN: Why?

MS. REES: So if you look at the -- on Friday we were talking about the jobs that weren't matched, for example, and if you take the PWU where we identified the majority -- or a good portion of the unmatched jobs were related to the nuclear security officers, so when you're making that assumption that you can extrapolate the results, you're assuming that the unmatched positions have the same above or under the P50 as the broader population, and for nuclear security officers I'd be very surprised if that's the case based on some other information we have. Just a scan of the base salary information that's publicly available.

So I don't believe that's a fair assumption to make. And it's difficult to make the same assumption for the Society and the management as well.

Furthermore, there's a certain amount of -- you're assuming a certain amount of precision in this, and again, we have got to keep in mind that the benchmarking is directional. It's not intended to be precise. And even if you extract -- if you do go down that path, and I think Mr. Millar had asked about this on Friday as well. If you go down that path and extrapolate that it has an impact on the total position to market. And it has a very marginal impact on the total position to market, and I think it's around between 5 percent, which is what we have in the -- our submission, versus the 6 percent, and there's not really a lot of precision in that, and again, anything within plus or minus 10 percent we consider to be at market.

MR. RUBENSTEIN: I understand you consider that to be at market. I'm just trying to understand if the Board says, You know what? P50. You know, we think the median is what should be recovered for ratepayers. Trying to get a sense of what that would mean. I'm trying to understand how that would work.

So, like, if we go to page 3 of the compendium, which shows what you have -- the incumbent positions versus what you've benchmarked, it's 78 -- only 78 percent of the positions, correct? That you've benchmarked.

MS. REES: It is 78 percent of the positions that we've benchmarked, and that's compared to 54, I believe, that was in the last study. That is a highly representative sample.

MR. RUBENSTEIN: I'm not saying it's not. I'm just trying to get a sense here. And the numbers -- the 29.7 represents only the difference of that 78 percent, not 100 percent, correct?

MS. REES: It reflects only those positions that we were able to match and able to -- and to essentially be able to confirm are we above or under market for. I can -- that does not tell me what the unmatched positions -- where they would be positioned. And I suspect for the PWU that we would see -- probably the percentage would decline if we were able to include the security in the benchmarking.

MR. RUBENSTEIN: So you don't think 78 percent is a reflective sample of your organization.

MS. REES: I do think 78 is a reflective sample of the organization.

MR. RUBENSTEIN: Well --

MS. REES: I'm just saying it's not appropriate to extrapolate.

MR. RUBENSTEIN: All right. Well, let's just say the Board found it appropriate, they would want to extrapolate. I'm going to walk you through some tables, and you can tell me if my math is wrong and -- or Mr. Kogan can correct my math.

If we can go to page 19. We've reproduced the revised version of JT3.2, and it's a bit small on the page. I want to walk the Board through the -- this. We've added a couple columns. You see A2 and A3, and then column I and J on the other side to get a sense what that would be.

And what we've done is in column A2 is essentially extrapolated out for each of the segments if it included all -- the same differential applied to all of the employees that are in those segments, and the calculations are on page 20. You can see that there.

Or simply what we've done for A2, for example, that's the same as column E on this page, essentially just done that extrapolation of the same thing, the number of incumbents applied to the entire to the total OPG population in those subcategories. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: Mr. Kogan, is my math correct? If it's not, please tell me.

MR. KOGAN: This is actually Ms. Rees's math.

MR. RUBENSTEIN: Okay. Ms. Rees, is my math correct?

MS. REES: Yes, your math is correct.

MR. RUBENSTEIN: All right. And what that shows is that instead of $37.4 million being the total amount we would get to a 49.2 doing that extrapolation, correct?

MS. REES: Again, your math is correct. The premise it's based upon I don't agree with.

MR. RUBENSTEIN: Okay. And then if we go all the way down then to column I, if we took the entire population using exactly the same way you've determined what is regulated, what's unregulated, and what's at issue in this proceeding, essentially, we get -- it would be, instead of $29.7 million being the difference in 2015, it would be $38.8 million, correct?

MS. REES: Again, math correct. Premise --

MR. RUBENSTEIN: All right. Well, let's just get the numbers --

MS. REES: Okay.

MR. RUBENSTEIN: -- and we can argue about that at a different time.

And then if you could see if we go to A2, A -- sorry, A3 column, what I tried to do -- the one other adjustment was, well, what happens if the Board says, We do not agree that the nuclear authorized should be at the P75, it should be at the P50, and I've done essentially an adjustment for that. You can see that on page 20 in the right-hand box, again making the -- using the P50 and the P75, and you see this in the right-hand corner box making the adjustment.

And then similarly -- do you see that? And my math is --

MS. REES: Yes --

MR. RUBENSTEIN: -- correct?

MS. REES: -- I do see that, and, yes, your math is correct.

MR. RUBENSTEIN: And so if we flow that back to page

19, the difference would be instead of 29.7 million it would be 46.7 million, correct? And this is in column J, correct?

MS. REES: Again, your mathematical calculations are correct. The premise that you can extrapolate the results and then layer on the 75th percentile, scaling that back to the 50th, mathematically is correct, but it is not in our opinion appropriate.

MR. RUBENSTEIN: All right. Well, I have some questions about that --

MS. LONG: Sorry, Mr. Rubenstein, just before you go on, the chart is moving a bit fast for me. Did you use 365 for the nuclear authorized? Is that what you used? I think that's what JT3.2 says. I just added it up, so 365?

MR. RUBENSTEIN: Sorry, I don't --

MS. LONG: For nuclear authorized, you've used 33 in management, 37 in Society, and 255 in PWU, for a total of 365, and you extrapolated that. Is that what you did?

MR. RUBENSTEIN: In the smaller chart, you can see this on page 20. In the smaller chart, in the box simply just -- this is essentially similar to what, if go back and try to figure out what Towers did, they -- instead of using P75, I just moved it to the P50.

MS. LONG: But you used the number 365 as the base?

MR. RUBENSTEIN: Yes.

MS. LONG: Okay.

MR. RUBENSTEIN: Did OPG match positions --

MS. LONG: 345. Do we know what the nuclear authorized number is?

MS. REES: Yes.

MR. RUBENSTEIN: I used the numbers directly from page 3 of compendium, which sets out --

MS. LONG: Those were the match numbers, correct, so there would be more.

MS. REES: I believe the way it's been done here is to extrapolate to the entire population, and then calculate the difference moving from P75 to P50.

MS. LONG: I'm just trying to get a sense how many nuclear operators actually are --

MR. RUBENSTEIN: I get about 400 nuclear authorized.

MS. REES: 405.

MS. LONG: 405?

MS. REES: 405 in total.

MS. LONG: They're paid at the 75th percentile, all 405, is that correct?

MS. REES: 75th percentile is what we're targeting in terms of the median, yes.

MS. LONG: Thank you.

MS. REES: One clarification, sorry. That's for bands F and below, so yes.

MS. SPOEL: Sorry, Ms. Rees, since we're on this chart right now, I had a question I was going to ask later, but I'll ask it now because we're here.

In the PWU, they were able to benchmark all the nuclear authorized, 255, that entire cohort or group, where they would be authorized.

MS. REES: Correct.

MS. SPOEL: And similarly for management. What is it about the Society positions that means that only 53 of the 111 were able to be benchmarked? Is there something the Society members do at OPG that is particularly different compared to what the PWU employees do?

MS. REES: One of the biggest factors in that was our shift supervisor in training program. The survey data that Towers collects does not look at trainees in transition to become shift managers, so didn't have anything to compare to.

MS. SPOEL: Out of the 111 Society members who are nuclear authorized, more than half of those are shift managers in training, because you've got only 53 that can be benchmarked?

MS. REES: So Mr. Milton was reminding me that in addition, the U.S. structure tends not to have shift supervisors -- the control room shift supervisors, they combine the position sometimes with the shift manager. So they would carry out the same role.

So it was a matching being able to find an appropriate comparator.

MS. SPOEL: Thank you.

MR. RUBENSTEIN: I would ask you then. When you were doing the comparators there, essentially it's a hybrid position or it's categorized. Were you able to separate that out to determine how you -- I understand you have two positions, and essentially they have one hybrid position;

that's high level summary of that. I understand you couldn't -- were you matching essentially your shift supervisor or shift manager to their hybrid position?

MS. REES: We would have been -- just a second. Thank you for your patience.

So the shift manager is a comparable; both the U.S. and Canada have the shift managers. It's more in the shift supervisors that report into them that require this population that we couldn't match.

MR. RUBENSTEIN: So there's --

MS. REES: They were excluded from the study.

MR. RUBENSTEIN: What is the -- I know you maybe didn't have the data, but I assume there is some position in the U.S. that is training of a shift supervisor, correct?

MS. REES: So yes, the U.S. would have trainees, but again they did not submit the data in the survey.

MR. RUBENSTEIN: Thank you. There has been a lot of discussion about augmented staff, purchased services, contractors, and I want to clarify a few things from the discussions that happened last week.

What is the difference between a term employee and augmented staff?

MS. REES: So a term employee coming into a PWU position and it has a fixed -- actually there is no fixed term. I guess they're hired almost into regular positions.

MR. MILTON: Term employees are a recent classification from the last round of negotiations with the

PWU. They are unique and specific to Pickering, and those types of positions that support Pickering and can be used in that context. And compared to a regular PWU classification, they have significantly less benefits and entitlements, and they can stay as long as necessary to do the work as determined by OPG in support of the safe shutdown of Pickering when that ultimately comes.

So the idea behind that is if by hiring regular staff at Pickering, you are going to exacerbate the problem of surplus staff when it closes, you could hire a term, as long as you comply with some other provisions of collective agreement.

MS. REES: So a term would be a non-regular or temporary employee that we employ directly and pay their salary, whereas a -- purchased service or the aug staff was the other point you wanted clarification on?

MR. RUBENSTEIN: Let me stop for a second. What you said was a little confusing. Just to be clear, so the term employee is specific to the PWU, a new thing in the collective agreement?

MR. MILTON: Correct. It's a new classification of employee within the PWU collective agreement.

MR. RUBENSTEIN: Okay. No augmented staff?

MS. REES: Augmented staff is a type of purchased service. They are people we bring in. They report to an OPG supervisor, but they're brought in under a contract. So it could be, for example, a temporary rental admin staff that would come in for a fixed period of time, and we do not pay their salary, we pay the firm that employs them. So they are an employee of another company.

MR. RUBENSTEIN: All right. So what do you call individuals then who you hire, they could be say in management -- say they're management employees maybe in that classification that you hire -- it's a fixed-term contract. You're hiring them to work, to do some task. You're paying them, but there's an expiry. It's not an indefinite position. They have a one-year or two-year position only. What do you call those employees? I would have thought those were called term employees, but what do you call them?

MS. REES: Yeah, so those individuals that we're paying directly would be non-regular employees.

MR. RUBENSTEIN: Okay. So those are called non --

MS. REES: Non-regular, and a term is a form of non-regular.

MR. RUBENSTEIN: Okay.

MS. REES: Okay?

MR. RUBENSTEIN: Just wanted to make sure I understood where everything falls off there.

So term employees and what I called in the last category that I called sort of non-regular employees, those show up in the 2K table but the augmented staff do not because they're in the purchased services category, they wouldn't show up there.

MS. REES: So just a simple way of thinking of it might be that anyone that we have to prepare a T4 for that we pay salary to is considered an employee. They may be regular, they may be non-regular, they may be part of this new classification of term, but if we're paying them through our payroll systems and they are a direct employee and we have to submit information to Revenue Canada on their -- on the salaries we paid and take the appropriate deductions they're an employee. The contract or the augmented staff are going to be purchased through a third party.

MR. RUBENSTEIN: All right. Is that the only type of labour that is in the purchased service category? I understood augmented staff based on your explanation would be more like if you -- equivalent if I used a staffing service?

MS. REES: Mm-hmm.

MR. RUBENSTEIN: So you're -- is that the same --

MS. REES: That's exactly the type of thing we're talking about.

MR. RUBENSTEIN: And then on top of that you may have employees -- you may have individuals working on the site through the purchased services if you're hiring a -- it's a service of tasks. You may not be paying -- may not be based on an individual, but you need a certain amount of work done, you hire some company to do that, they send a bunch of people to do that work? Would that be another category of labour that falls into the purchased service category?

MS. REES: So with the other purchased services groupings there often can be labour involved. There can be labour. It can be materials. There can be services provided. So it can be -- it can reflect a combination of those.

MR. RUBENSTEIN: All right. And as I understood the augmented, the purchased services, they're not in the 2K.

MS. REES: There are no purchased services in the 2K.

MR. RUBENSTEIN: And there was discussion about that in the last week. If we can turn to page 33 of the compendium, 32 and 33. So on page -- this was essentially from the Goodnight study, where they were trying to determine -- since they were doing a staffing study they were figuring out what the equivalent FTEs based on contractors and purchased services, and as I was understanding -- as I understood it -- and you can see this on page 31. It's probably the best -- they've broke -- they were trying to get what the contractor numbers, and they broke it down to three categories: staff augmentations, contract data, so that's the staff augmented. Then there was the other purchased service data. And they were able to determine FTEs based on that. And you can see this on page 32. They talk about the data they got from OPG to do that. And they talked about how OPG provided contractor data via the contractor billed annual costs or cumulative annual hours, then they converted it to FTEs.

Why couldn't you do a similar thing to determine the staffing costs?

MS. REES: So again, the analysis that Goodnight did I am not familiar with specifically, but I do understand that they had to review a number of purchased services, the contracts. Maybe there's some information as well that's available on that side of the systems that they can use, and they had do an estimate. I have no idea the level of involvement. I suspect we have thousands and thousands of contracts. To be able to go through that, the effort required to assess which portion might be associated with labour and what that would be on an FTE, technically could it be done? Perhaps, but -- it obviously can. Goodnight did it. But the effort required, I have no basis on how much time or effort that would take to do on an ongoing basis --

MR. RUBENSTEIN: And just --

MR. MILTON: I don't -- I'm not sure the accuracy would be of high order because, as I understand, in earlier proceedings, for example, the laundry contract, how do you break out that labour component when you're paying in different categories of radioactive laundry a per tonne basis? And we have other service contracts just like that, so it's not clear to me how you could pull out the labour component and then say how many FTEs are attributed to that contract.

MR. RUBENSTEIN: And if we go -- if we look at page 33 of the compendium, when you take in the entire contract or -- what Goodnight used, so that does include augmented staff -- it's not an insignificant amount of positions.

They found 531 FTEs, essentially. Do you see that?

MS. REES: Yes.

MR. RUBENSTEIN: Do we know -- does OPG track -- putting aside the purchased services, the laundry -- maybe it's hard to break out, what are you paying for the washing machines versus the washers -- but with respect to augmented staff, do you know -- do you have a -- is there anywhere in the evidence where we know how many augmented staff there has been and there's forecast to be and what the total cost is?

MS. REES: I don't believe that is in the evidence. I know it definitely wasn't in the compensation evidence that we've provided. We do know the number of -- or have available the number of augmented staff we have, and I think I spoke to Friday about, we would be able to estimate for that population what an equivalent FTE would -- might look like for the year, as well as dollars associated with that from our purchased services, but the relative magnitude of that to the broader purchased services was going to be relatively small, and I believe we had some undertakings from last week related to characterizing the purchased services, the contracts, a little bit better to be able to look at that.

MR. RUBENSTEIN: But I -- was not clear to me if you were providing essentially the number of augmented staff and then the salary so we can get a sense of the FTEs.

MS. REES: That has not been requested to date. I would not have their salaries, because --

MR. RUBENSTEIN: The total amounts you're paying someone for them.

MR. KOGAN: So just to confirm the understanding of what's being asked, I know that in the nuclear evidence they break out at least for certain types of OM&A at least what the augmented staff dollars are. I assume you probably came across those in some other tables. Are you asking us to sort of expand that to include any other cost categories of augmented staff and provide total dollars for that?

MR. RUBENSTEIN: Yes, but it would be more than just the nuclear. I want to understand if there's augmented staff in the common costs or --

MR. KOGAN: Okay.

MR. RUBENSTEIN: Are you able to do that?

MR. KOGAN: So it's the -- so it's the total cost all-encompassing that you're looking for?

MR. RUBENSTEIN: And the amount of augmented staff you have that --

MR. KOGAN: And the associated FTEs? Is that --

MR. RUBENSTEIN: Yes.

MR. SMITH: Yes, we can do that.

MR. MILLAR: J17.3.

UNDERTAKING NO. J17.3: TO PROVIDE THE ALL-ENCOMPASSING COST AND THE AMOUNT OF AUGMENTED STAFF IN THE ASSOCIATED FTES.

MR. RUBENSTEIN: Now, there was a discussion with Mr. DeRose about staff who leave the company, then show up later on as augmented staff. Do you recall that?

MS. REES: Yes.

MR. RUBENSTEIN: Do they just show up as augmented staff or would they also show up in the non-regular employee category?

MS. REES: Anyone that retired and was being rehired would have to be set up as an augmented staff. They could not be rehired as an employee and draw a pension at the same time.

MR. RUBENSTEIN: All right. So you can't hire them as a -- as a term -- sorry, not his term -- as a contracted non-regular employee but through a hiring company they can do that?

MS. REES: They can come back through that mechanism.

MR. RUBENSTEIN: And what about with respect to purchased services, the other categories of purchased services, so using the washing example, I assume you're sending that all out, but if you had -- they were originally doing that for OPG could they then work for the company that does the laundry?

MR. MILTON: After they retire?

MR. RUBENSTEIN: Yes.

MR. MILTON: It's their right to work wherever they want to work. We're not going to infringe upon their rights -- legal rights to work where they choose to work.

MR. RUBENSTEIN: My question would be do you have visibility to that? Do you know that they were former --

MR. MILTON: In the laundry example, no, because the work is done in the United States, so it's not likely that the staff would move to the United States to do the laundry.

MR. RUBENSTEIN: Say they're on-site doing some -- they're on-site doing some purchased service amount. Would you have visibility to it?

MR. MILTON: I don't think I can answer that with an absolute yes or no. It would depend on the contract and the profile and the work that was being done. They may be seen by former co-workers if they're on their site. They may be working on the new employers' office off the site and doing support work behind the scenes, so it would depend on the contract and the work.

MR. RUBENSTEIN: My understanding from the evidence is there are about 85 individuals who are augmented staff as of, I think, September 2016; correct?

MS. REES: That were rehired, yes.

MR. RUBENSTEIN: Could the number be greater, you just would have no visibility because they may be in purchased services? That's not a criticism that they should or shouldn't be able to do that. I'm just asking if you would know about it.

MS. REES: I don't think we would have any visibility into that information.

MR. RUBENSTEIN: My understanding from I think when Mr. DeRose was asking the questions about that, is that part of that was an issue in the 2013 auditor general's report, the hiring of employees, former employees, correct?

MS. REES: That was an item in the auditor general's report, correct.

MR. RUBENSTEIN: And as I took it, there were some critical comments they made about the past practice of OPG, correct?

MS. REES: They did make comments, correct, and they were critical.

MR. RUBENSTEIN: If we can turn to page 46 of the compendium, on page 46, the auditor general found there were approximately 1700 temporary staff and contract staff working for OPG in 2012.

> "We noted that about 120 had formerly been regular employees. In our view of a sample of temporary and contract staff for former employees, we found that most had been rehired mainly for the purpose of identifying, grooming, and training successors or meeting core business needs, suggesting that the knowledge transference succession plan at OPG had not kept pace with the attrition and retirement. We also found that almost all of them had been rehired shortly after leaving OPG. Some of them continue to receive significant amounts in their allowance and annual incentive plan awards, and some had already drawn their pensions in single sum upon leaving. We noted in particular an employee who chose to receive his pension in lump sum was hired by OPG shortly after he retired and continued to work at

OPG for about six years. His total earnings in the sixth year as a temporary employee were $331,000, which included an executive allowance of 12,000, an IP award of 98,200, double his annual amount as a regular employee. Another employee who chose to draw his pension as a significant lump sum returned to OPG a month after his retirement. His total earning that year as a temporary employee working three days a week were 328,000, which included an AIP award of 147,000 for his performance before retirement. And shortly after leaving OPG, two nuclear employees who chose to receive their pensions in a lump sum payment were rehired as contract employees."

Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: As I understood it, there were 120 in this category of employees that were rehired as of 2012, and now we're at 85, correct?

MS. REES: Correct, to the end of September, yes.

MR. RUBENSTEIN: On page 48 of the compendium in Staff IR 140, you were asked about this where you gave the 85 number.

In part C, you were asked -- you were asked in part A how many employees, how many of the FTEs added after the 2015 were former employees; if yes, how many. If yes to A, was the process described at page 630 of the 2015 auditor general of Ontario report below followed.

And just to be clear, the 2015 auditor general report is the follow-up report to the 2013? They sort of do a where-are-you on the plan?

MS. REES: That is correct.

MR. RUBENSTEIN: And this is a quote here and maybe -- this is as well in Mr. DeRose's compendium. He provides the full excerpt and the full report; that's K15.6, page 85, just for reference.

And the quote said this is what the auditor general found at 2015:

> "OPG also implemented a new procedure for rehiring of retirees that required a minimum waiting period of one year between the time an employee retires and when the employee can be rehired, and then only with a maximum contract length of one year. Any such hire must receive senior management approval. Exceptions may be made to accommodate employees in the nuclear field because of the limited availability of highly skilled workers."

Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And your response is:

> "The process described in the 2015 auditor general's report is no longer followed by OPG as of June 2016, when OPG revised its hiring procedure. The main changes to the rehiring

procedure include a reduction to the waiting period and an extension to the working period both by six months," and then you say please see the chart.

So as I understand it, in the 2013 report, the AG's criticism is you're hiring too many retirees. In the 2015 follow-up report, you say you've changed your procedure and the auditor general finds that you've changed the procedure to make the waiting period longer. And now we have a new policy that seems to go in the complete opposite direction. You've made it easier. Do I understand that correctly?

MS. REES: So it's a common perception that rehires are a bad thing. Double dipping and things like that is what you often here about.

When you get to business needs and the impact on the ratepayers and the costs, it actually can make use -- it does make sense at times to draw on rehires for short-term work, as they do represent an experienced talent pool we can draw on. And there are situations, such as we have experienced recently, where we are trying to staff up and get ready for refurb, do refurb, complete the project, and the business needs are driving us to bring in resources on a short-term basis to fill some of that gap.

So a rehire relative -- can actually sometimes be less expensive.

MS. SPOEL: Ms. Rees, can I interrupt you one second? A few minutes ago, Mr. Milton said people who have been collecting a pension are not rehired directly by OPG, that they come in on a contract basis. So once you collect a pension, you can't come back and work as an employee?

MS. REES: To come back as an employee, you are eligible to -- you can become eligible to pay into the pension plan again, and you can't -- I think there are some rules about that.

MS. SPOEL: I'm just -- correct me if I'm wrong. I thought you said, Mr. Milton, that retirees who come back do not come back -- they come back on some kind of contract basis. They don't come back as direct OPG employees.

If I misheard you, that's fine. When you say rehire in this rehiring policy for people who are actually collecting a pension or have received their lump sum, are they on the OPG payroll where you make out a T4 slip -- which I think was your distinction, Ms. Rees, which seems like a simple one, are they in that category or are they some form of contract employee, whether they're self-employed contractors, whether they're through some other agency, or whatever?

MS. REES: So generally, when you look at PWU and Society employees that are rehired, they would generally come in under a contract. The one kind of variant in that would be the term where they are employees, they can come back, but we made restrictions that they can't participate in the pension plan.

MR. MILTON: To attempt to clarify, the term is a new relatively classification for PWU only tied to Pickering A and supporting Pickering A only. An employee who retires from OPG and collects a pension can come back as a term employee, but it's very specific that they don't get a pension, they don't get benefits, they don't get those issues. It's enumerated in the agreement, and they can't build any more.

So in fact that is the exception to -- I agree with Ms. Rees, that is the exception to other classifications that don't meet the criteria of a term employee, or we don't require that skill set as a term employee, come back through a third party service provider, or some kind of contract.

MS. SPOEL: That's fine. I was puzzled because I thought you said they couldn't be rehired and employed by OPG directly or indirectly, which suggested to me there are some who are direct and would be in this category.

MR. MILTON: Thank you for asking, so I could clarify.

MS. FRY: Can you relate that to the examples just cited from the auditor general's report, who is talking -- giving some examples of temporary employees who seem to be collecting perhaps not normal benefit, but a lot of benefit type money, if I can use that in a non-technical way.

MS. REES: Sorry? I recall --

MS. FRY: Page 46 of the compendium. Would those types of arrangements still be continuing today, or are that type of arrangement discontinued? Can you relate that to what you were just describing?

MS. REES: Sure. So the one, for example, they talked about a rehired employee who continued to receive annual incentives, so which would now be our stakeholder return program, the pay for performance. That situation could still happen because if he retired this year, his performance -- he still may be eligible for performance payout related to his last year working, so that's where you can have instances like that.

MS. FRY: Okay. Okay.

MS. REES: So some of the other examples where the salary is coming in, we would not be seeing that going forward.

MS. FRY: Okay. Thank you.

MS. LONG: So just to clarify, if you were rehired -- not rehired, but I guess hired back under a contract provision, a former employee, you would not be entitled to incentive pay?

MS. REES: No.

MS. LONG: And you would not -- would you still collect, I guess, certification pay if you were a nuclear operator, which we spoke of this morning, or is it a, I guess, all-in payment?

MS. REES: It would just depend on -- it would be an all-in payment for the contract amount.

MS. LONG: Okay. Thank you.

MR. RUBENSTEIN: I just want to go back to -- so as I understood the time line here, the 2013 report is critical of your policy. You then make changes, and we see this -- this is in the -- if we look on page 49 of the compendium, where you have the chart, where it says "past rehire policy", is that the policy in 2013 or the policy when the auditor general looked at it in 2015?

MS. REES: This is the auditor general policy, the same policy in reference to --

MR. RUBENSTEIN: The 2015?

MS. REES: Yeah, so the past rehire policy is a characterization of the same policy the auditor general reviewed -- or spoke to, yeah, as a result of, yeah.

MR. RUBENSTEIN: So in 2013 the auditor general criticizes your policies. You then change your policies, and we see this in the past rehire policy.

MS. REES: That was the policy that came in.

MR. RUBENSTEIN: And now it appears you've done -- and the auditor general says you've implemented what they wanted. And now you've essentially gone completely -- you've gone backwards. Can you explain why that is appropriate?

MS. REES: Well, again, we put in place a procedure in response to the auditor general. And what we're doing now is more of a refinement. There are business needs really driving bringing in resources predominantly in the refurbishment, and in fact, I think there was an identification as one of the risks of being able to staff for the project and the ability to bring in aug staff through this rehire process -- partly for this rehire process would be part of that.

So it's -- I would really characterize it -- it's a balancing act between -- you know, we -- some rehires, it does make business sense to proceed with. But as a -- you know, our preference would be that if an employee was retiring, that they would continue to -- if they're planning to retire, that they would continue to work, because that is the cheaper option available for us.

So that's one of the reasons why we have a policy with working periods -- waiting periods established to try to minimize that. But sometimes the business needs are such that we need to get the resources in to get the work done, and rehiring augmented staff is an experienced talent pool that we can draw on for those short-term needs.

MR. RUBENSTEIN: Are there any other parts of the 2015 auditor general follow-up report where it says you're -- where it's reviewed your changes and it's signing -- or it's saying that they're implemented or on their way to being implemented, where you've now regressed as well?

MS. REES: I wouldn't characterize it as a regression. I would characterize it as a refinement. We still continue to maintain a procedure, and on it is just slightly varied some of the rules around it. And, no, I do not believe there is anywhere else --I think that's the only example I'm aware of.

MR. RUBENSTEIN: And is the auditor general aware of the new 2016 rehire policy, that it differs from the one they reviewed a year earlier?

MS. REES: I believe they would be, but I would need to confirm that. I'm not 100 percent sure.

MR. RUBENSTEIN: Can you confirm that?

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

MR. MILLAR: J17.4.

UNDERTAKING NO. J17.4: TO CONFIRM IF THE AUDITOR GENERAL IS AWARE OF THE NEW 2016 REHIRE POLICY, THAT IT DIFFERS FROM THE ONE THEY REVIEWED A YEAR EARLIER.

MS. LONG: Mr. Rubenstein, how much longer do you have before you go in camera?

MR. RUBENSTEIN: My split is different than --

MS. LONG: Okay. That's fine. I'm just saying maybe we'll take the break now and come back and you can continue and then we'll just take a five-minute break to go in camera. We've asked a lot of questions, so I know that's eaten into your time. So we'll break for 20 minutes. Thanks.

--- Recess taken at 11:02 a.m.

--- On resuming at 11:23 a.m.

MS. LONG: Mr. Rubenstein?

MR. RUBENSTEIN: Thank you very much. If we can turn to page 41 of the compendium, this is from the 2013 Auditor General's report.

If we go down under the column "sunshine list", in the second paragraph the Auditor General is saying:

> "The number of OPG staff on the sunshine list has grown steadily since the organization was created in 1999, albeit at a slower pace after the 2010 pay freeze legislation. Over the last ten years, the number has doubled from 3980 employees in 2013 to 7960 in 2012, representing about 62

percent of the employees on OPG's payroll. The corresponding increase in total salaries and taxable benefits paid to those on the list were 513 million in 2003 and 1.11 million in 2012. The number of top earners, people who earn $200,000 or more, on the sunshine list increased at a faster rate. In 2012, it was almost four times higher, 448 employees, than it was in 2000, 317 employees."

Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: The gist I get from reading that is you have a lot of people on the sunshine list; would you agree with that?

MS. REES: That is what is indicated, yes.

MR. RUBENSTEIN: If we go to page 43, we're looking at the sunshine list result since 2012 up until ones released on Friday, the 2016 amounts. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And the first line, 100,000 or greater, would be the total amount on the sunshine list, correct?

MS. REES: Correct.

MR. RUBENSTEIN: As I see that, you went down in 2013 to 2014, then again down in 2015, but it's going back up again. Do you see that?

MS. REES: That is correct, and it's following the trend we see also in the number of employees we have.

MR. RUBENSTEIN: If we use the same language as Auditor General, we're looking at the top earners category, so 200,000 or more. That number again went down 2013 to 2014, but then it's gone up again in the last two years quite significantly. Do you see that?

MS. REES: Again, yes, I do see the decline and then increase, which corresponds -- we do have staffing levels dropping over the period and which are increasing in 2016.

MR. RUBENSTEIN: Then if we look at another category which they've created, that's 300,000 or more, we see that number again decreasing 2013 to 2014 and then it's increasing again in 2015, matching the 2013 amount, and really getting much higher in 2016. Do you see that?

MS. REES: I do, yes.

MR. RUBENSTEIN: I see it as you were making improvements, and now you're going back in the opposite direction. Do you see that? Do you agree with that?

MS. REES: Back referencing the quote, no, I do not see that. When I look at the quote from the Auditor General, at that time they mentioned that 62 percent of our population was on the sunshine list, and we are now at 61 percent as of 2016. So I wouldn't say that's -- we've maintained the course, even with some modest wage escalation, the reintroduction of the merit pay for management group employees, we've still maintained the relative proportion of people on the list as being the same.

MR. RUBENSTEIN: When I look again at the 200,000, the top earners category as the Auditor General put it, and then the 300,000, we are see seeing some very significant increases. Do you see that?

MS. REES: There's definitely changes on a year-over-year. But they still again as a total, back in 2013 that represented about, by my math, around 4 percent of the population, and currently it represents around 3 percent.

MR. RUBENSTEIN: Sorry, what years were you looking at?

MS. REES: Back to 2013 and compared to 2016, it represents around 3 percent now.

MR. RUBENSTEIN: But you were getting -- the number was decreasing between 2013 and 2016 in both those categories, 200,000 and 300,000 from 2013. And now they're going up again, back to those 2013 amounts.

So it looks like you were making progress and having less -- using the term high earners, as the Auditor General used it, in higher high earners, I guess, in the 300,000, and now you're moving backwards.

MS. REES: So these -- you're looking at the numbers in absolute terms, and I think it's helpful to look at it in relation to the overall population, which again has been declining over the period, or remaining relatively stable at this point now.

MR. RUBENSTEIN: Is the difference between, say, 2016 and 2014 in the 200,000 -- I see an increase from 169 to 505 employees making over that amount. Has the total population of OPG's employees increased at the that same rate from 2014 to 2016?

MS. REES: From 2014 to 2016, the level appears to be relatively stable.

MR. RUBENSTEIN: I'm looking at the 200,000 or greater category; the top earners, as the Auditor General put it.

MS. REES: So again in absolute terms, the numbers of people on the list have gone up and looking over the period, our staffing has started to grow again in 2016.

MR. RUBENSTEIN: My question was if we're looking at the 200,000 or 300,000, is the increase in people on the sunshine list from 2014 to 2016, does that match the total -- growing at the same rate as the total head count? It seemed to me it's growing at a much higher rate than your total head count, if I recall correctly.

MS. REES: I would need to confirm those numbers; I haven't done that calculation, but -- yes, I haven't done that calculation.

MR. RUBENSTEIN: You're in charge of -- I recognize you don't have a specific number. But just directionally, would you agree that the increase from 2014 to 2016 in both 200,000 greater, 300,000 greater are growing at a higher rate than the total head count of OPG between those two years?

MS. REES: When I look at this proportionately, I'm seeing 3 percent in 2014 and 3 percent in 2016. So I'm not seeing the growth you're talking about.

MR. RUBENSTEIN: So the 396 over the total head count is going to be the same as 500 -- in 2014, will be the same as 505 over the total head count in 2016? Is that what you're saying?

MS. REES: Again, it's not over the total head count. It would be over everybody we employed during the year. But notionally, yes.

MR. RUBENSTEIN: Is that different than the total head count?

MS. REES: Yes.

MR. RUBENSTEIN: What's the difference?

MS. REES: A head count is typically a point in time. So when you look at our regular head count for example, it's as of December 31st. But there may have been individuals we employed right up to December 30 that are going to be included in these results, even though they weren't here at year end.

Our temporary employees are going to be included in these results as well, so anyone that we pay a salary to and we submit T4 data for is going to be included in this listing.

MR. RUBENSTEIN: Maybe you can provide the numbers if you can show us, let's say, the 200,000, the top earners category. You can show us the 369 over whatever appropriate number that you think represents total employees, total head count, not exactly sure, versus the 2016 number of 505 over the same number or the same methodological number.

MS. REES: That information would be available.

MR. SMITH: We can do that, yes.

MR. RUBENSTEIN: And if you could provide, when you say total employees, what we are he talking about, if you can define that.

MR. SMITH: Yes, we can do it.

MS. FRY: Looking at the category of 300,000 or greater, what type of positions would those be? Are those senior management positions?

MS. REES: We would definitely have some of our most senior executive in that.

MS. FRY: Who else would be in that basket?

MS. REES: Predominantly, it would be our senior executive and management people.

MS. LONG: Ms. Rees, I'm going to ask you for something similar. If I look at the top earners as Mr. Rubenstein has quoted them at 505 and the 59 and 300,000 or greater, are you able to tell me the breakdown of unionized staff versus management?

MS. REES: We would have that information.

MS. FRY: I guess what --

MS. LONG: Just before we go on, can we get an undertaking for that? So we don't lose it.

MR. MILLAR: Madam Chair, that's -- that would be JT.5. Would we incorporate that as part of Mr. Rubenstein's undertaking or would you like that marked separately?

MS. LONG: I think separately, please.

MR. MILLAR: Okay. So Mr. Rubenstein's will be JT.6 (sic).

UNDERTAKING NO. J17.5: FOR $200, 000 AND GREATER, TO PROVIDE BREAKDOWN BY UNIONIZED STAFF VERSUS MANAGEMENT

UNDERTAKING NO. J17.6: TO BREAK DOWN THE TOP EARNER FIGURES BETWEEN UNIONIZED EMPLOYEES AND MANAGEMENT

MS. FRY: Okay. Just follow on to my previous question, obviously what Ms. Long asked will assist me. I guess what I'm struggling to understand about the 300,000 or greater is, like, did you hire 11 more senior managers between -- senior management people between 2015 and 2016?

MS. REES: No, that -- I mean, we -- definitely staffing levels did go up, but I don't know that that would have been the driver directly related to the staff increase. You've got to keep in mind that this includes all payments that are made and reported on the T4, so for managers it would include their base salaries. It would also include incentive, their incentive payments, which, depending on how their performance and the company's performance, can vary and can swing things above. So for -- that would have a factor as well.

MS. FRY: So are you able to provide -- to check and just provide some clarification as to sort of what type of positions --

MS. REES: Definitely. We have that information.

MS. FRY: Thanks.

MR. RUBENSTEIN: If we can turn to page --

MS. LONG: Sorry, Mr. Rubenstein, I think we better mark that --

MR. MILLAR: Yes, and Madam Chair, I'm sorry, I --

MS. LONG: Mr. Smith --

MR. MILLAR: -- misspoke earlier. It's -- your undertaking was J17.5, Mr. Rubenstein's was J17.6, and now this one will be J17.7.

MS. LONG: Okay. Thank you.

UNDERTAKING NO. J17.7: TO CHECK AND PROVIDE CLARIFICATION ON THE ROLES INCLUDED IN NEW RECRUITMENT NUMBERS.

MR. RUBENSTEIN: If we can turn to page 44 of the compendium. It's the 2015 follow-up Auditor General's report and excerpt. I'm looking at recommendation number 5, under "absenteeism". One of the recommendations for the -- from the Auditor General was to minimize cost of sick leaves and avoid potential misuse or abuse of sick-leave entitlements. Do you see that?

MR. MILTON: Yes, I do.

MR. RUBENSTEIN: Then it talks about what it -- some of the findings that it had originally made. Do you see that on the -- following down on to the next page?

MR. MILTON: Yes, I do.

MR. RUBENSTEIN: All right. And as I understand it, it found at the end of 2012 the old plan had -- on average -- those who were on the old plan on average had accumulated 162 sick days with full pay and 191 had 75 percent credit?

MR. MILTON: Yes, I see that.

MR. RUBENSTEIN: All right. And as I understand, your response here with the -- we see this under -- during our follow-up -- OPG's response was it simply couldn't make any headway during the collective agreement with the PWU, correct, to change that?

MR. MILTON: That's correct.

MR. RUBENSTEIN: And it said that the Society -- you were expected to begin negotiating with the Society later on. Do you see that?

MR. MILTON: Yes.

MR. RUBENSTEIN: And did you make any changes in the Society in negotiation?

MR. MILTON: No.

MR. RUBENSTEIN: If we can turn to page 50, again from the 2015 Auditor General follow-up report to the 2013 report, and under "compensation", recommendation 2, if we go -- one of the -- one of the overall recommendations was to make your annual incentive plan better by creating an effective link between awards and staff performance based on documented annual evaluations? Am I correct?

MS. REES: Yes.

MR. RUBENSTEIN: And now there's no annual incentive plan, now it's -- we talked about it before. I forget, the stakeholder return plan?

MS. REES: That is correct.

MR. RUBENSTEIN: All right. And one of the things mentioned in the follow-up where it talks about what OPG has done since, and you can see this sort of halfway down the second paragraph it says:

"Performance objectives are required to include both quantitative and qualitative metrics and be more specific, measurable, achievable, realistic, and time-bound smart so staff performance can be easily -- can be adequately assessed."

Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: In my understanding, this comes from essentially a criticism that there was -- that the incentives were not being done on a transparent manner.

MS. REES: It would have been around ensuring that the measures against which we were comparing ourselves to were clearly understood. So transparent, yes, I would agree with that.

MR. RUBENSTEIN: All right. And if we go to page 52, this is an internal audit that you did with respect to the smart objectives dated April 29th, 2016. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: If we flip to page 54, the report rating is "requires improvement". Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And the finding is 43 percent of the performance planning and review, PPR plans, did not have a minimum of three smart performance objectives. Do you see that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And that got a high-risk rating, correct?

MS. REES: Yes.

MR. RUBENSTEIN: So how can we expect during the test period that you're going to actually -- that the transparency required out of your objectives will be met if -- at least as of earlier -- less than a year ago in September 29, 2016 43 percent were not meeting the requirement?

MS. REES: So we recognized in terms of making this -- our measures more smart and our plans more easily -- improving our plans that it was going to take time. It was not something that was going to be realized immediately, and even the action plans we had associated with this weren't expected to be completed in 2016, so this is an interim review. The actual full program, there was still another check-in we were going to be doing this year to confirm progress, and I think there was -- the audit results did show some progress, but not where we want to get to, so there was still more we need to do and we are continuing to do.

MR. RUBENSTEIN: And 2017 will you be at 100 percent, give or take?

MS. REES: They will just be assessing that now, so I do not know the results of that audit.

MR. RUBENSTEIN: Well, I understand -- let me maybe put it this way. That would be with respect to the 2016 objectives for an employee, or would that be -- they're doing an audit with respect to the 2017 objectives?

MS. REES: This is about objective-setting, so it will be related to the 2017 objectives.

MR. RUBENSTEIN: All right. And so we don't know the results for the 2017 objectives that you're setting --
MS. REES: We don't know the results of the 2017, and there is, I guess by June of this year, the plans to review and assess them for quality assurance. Whether we get to 100 percent compliance, I'm not sure that's a realistic goal, but we would definitely expect to see considerable improvement over the last findings.
MR. RUBENSTEIN: Sorry, when you say considerable -- I agree 100 percent -- look, you'll never be 100 percent, but are you expected to be 95 percent or are you talking about instead of being in this case 57 percent that met the minimum requirements at the 70 percent? What is the magnitude we're talking about here?
MS. REES: I'm not sure we have a specific target. I would need to confirm that.
MR. RUBENSTEIN: Well, aren't you -- I would assume you're putting in place a plan to get to the 95, 100 percent, correct?
MS. REES: We are putting in place a plan to -- I just don't know what the final end target would be. Again, it would not be 100 percent. I don't know if we have a quantified position we're aiming to get to.
MR. RUBENSTEIN: Is this your group that is responsible for overseeing the -- not the audit, but the overseeing to ensure that objectives are being met and --
MS. REES: No, it is not.
MR. RUBENSTEIN: All right. Well, is there a -- would

there be a goal for something like that that you've set that in 2017 we need to make sure that we're at some level?

MS. REES: I would suspect there would be.

MR. RUBENSTEIN: Can you provide that if there is?

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

MR. MILLAR: J17.8.

UNDERTAKING NO. J17.8: TO LOOK FOR AN IF AVAILABLE PROVIDE ANY TARGET AND MEASUREMENT TOOL FOR PERFORMANCE PLANNING AND REVIEW PLANS.

MR. RUBENSTEIN: The last question, I want to -- I want to -- with respect to the public portion -- I wanted to understand the -- how you set -- how you're making -- when we're talking about head count and FTEs how that rolls itself up and budgeting process that -- you're making that determination.

So can you help me understand, is it each -- when you're determining the budgets for the test period each group or each unit or whatever business unit we're -- level we're talking about it, there is an agreed upon requirement of how many positions they are going to need and then that rolls its way up into the business plan?

MR. KOGAN: Just, can you restate that, Mr. Rubenstein?

MR. RUBENSTEIN: Sure. I'm just trying to get a sense of how when we talk about forecast head count or forecast FTEs how this actually gets derived, and is it that each business unit says we're going to need ten employees and those levels of approval about that, and then you determine what the salaries are going to be for those individuals and then, you know, that builds its way up essentially to the final number of how many FTEs you will have and what the costs are?

MR. KOGAN: So through the business planning process, each business unit, and, you know, within the business unit, the various departments would build up their FTE needs based on work that needs to be done, based on demand, based on hours in many cases, and that gets costed through our labour costing system, our planning system using standard labour rates.

We derive standard labour rates which are average rates effectively by different job families, and those are based on the actual salaries and actual rates for those individuals at a point in time, and then we apply appropriate escalation assumptions for the planning period. And that's how that gets costed out.

MR. RUBENSTEIN: Let me ask what the individual position numbers, or the FTE or the hours, or however you determine it. So if a business unit says we're going to need 10 people in 2017, you multiply that by the rate to get to the dollars.

But do you build into the 10 individuals in the business unit a vacancy rate? Essentially, there will be, in any given time, 1 percent or 2 percent of positions will be unfilled; people leave the company, retire early, and so on?

MR. KOGAN: I think we had an interrogatory about that, so we can look that up. But in the meantime, the short answer is that the business plan is based on the work that needs to be done, and therefore it reflects the demand for resources. As such, we don't build in a vacancy rate because the presumption is that that work needs to be done, and it has to be done by somebody, whether it's going to be a regular resource, or a non-regular resource, or some other augmentation should there be a vacancy -- should a vacancy arise. That's the assumption that work needs to be carried out. That's how the business units do their plans.

MR. RUBENSTEIN: Let me ask the question. Mr. Milton, you are in charge of a business unit, you have employees who report to you, correct?

MR. MILTON: Correct.

MR. RUBENSTEIN: I would assume in a given year or over a number of years, there will be points in time where you have a vacancy?

MR. MILTON: Correct.

MR. RUBENSTEIN: And for the purposes of determining your unit's budget, do you build in an amount that says on average in a given year, one percent of the time or two percent of the time, we should have someone -- there won't be a person in there?

MR. MILTON: No, I don't. As Mr. Kogan said, what I do is I have a work program that has to get be done, so I look at alternative methods of doing the work when I have a vacancy. So I look at overtime for my unionized staff, or I look at purchased services or contract staff or consulting to get the work done.

MR. RUBENSTEIN: Do you always need to use in a given year, if you do have an unexpected vacancy, purchased services or overtime? Are you always going to be using that?

MR. MILTON: That would depend on when the work had to get done, the expected duration of the vacancy. But in many cases, yes, we use overtime or alternative methods.

MR. RUBENSTEIN: But not always?

MR. MILTON: I couldn't say a hundred percent always. It would depend on the duration that I was experiencing the vacancy for, and when the work product or program had to be completed, whether I could get it done or not.

MR. KOGAN: The opposite could be true. Oftentimes you have more work than you have planned. I think we have to keep in mind that we're talking about planning work across a five-year period, and certainly sometimes the work program might not be there, or you might not need the resource. You might be able to live with the vacancy. But there could be circumstances that go the other way around, so it's sort -- well, that would be the way to look at it, that it's not a one-way street.

MR. RUBENSTEIN: But you also budget some amount of money for purchased services, or augmented staff, or whatever that category is, correct?

MR. KOGAN: Certainly. But again, all that is -- I'll call it the colour of money, whatever type of resource we need is all based on the work program. And all I'm saying is that if your work program is less, then you won't need as much, or you'll be able to live with a vacancy, should one arise.

But the work program could also be more, in which case you would need additional resources. So it sort of cuts both ways.

MR. RUBENSTEIN: All right. Those are my public questions.

MS. LONG: Thank you, Mr. Rubenstein. We are now going to go into a confidential portion. So for those of you that have not signed the declaration undertaking and not Board Staff or employees of OPG, I would ask that you leave the room. Thank you.

--- On commencing in camera at 11:49 a.m.

MS. LONG: We're now going to go off air. Mr. Rubenstein?

MR. RUBENSTEIN: Thank you very much. I would like to start -- we've had a number of discussions over the last couple of days about security individuals and how you're not allowed to provide information about them.

I just wanted to first understand the restrictions exactly. I'm not seeking to know necessarily how many individuals you have in security, but what is the actual -- is there a legal restriction you're not allowed to provide this information? I was unclear of what -- is that just a policy choice where we think it's inappropriate for the following reasons to provide that information?

MR. MILTON: It's our understanding it's a legal requirement, not a policy or procedure of the company.

MR. RUBENSTEIN: What exactly are you restricted in providing?

MR. MILTON: Our understanding is providing information that would assist someone in determining the number of security staff we may have at a site or in the organization.

MR. RUBENSTEIN: And your understanding is that would restrict you from providing, say, the number of security guards to this Board on a confidential basis?

MR. MILTON: My understanding is yes. And in fact, when we went through a deployment process with our unions as part of business transformation, we had to keep it confidential from them.

MR. RUBENSTEIN: I'm going to ask if you can, as an undertaking, where is this restriction -- I would like to know where this restriction derives and if it's from a CNSC document or something, if you can provide that.

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

MR. MILLAR: J17.9.

UNDERTAKING NO. JX17.9: TO PROVIDE THE SOURCE DOCUMENT THAT RESTRICTS OPG FROM PROVIDING INFORMATION REGARDING SECURITY GUARDS AND SECURITY GUARD COMPENSATION

MR. RUBENSTEIN: Ms. Rees, in response to my question of extrapolating out positions, you said one of the things is security, there are security guards included in that amount that we didn't benchmark.

And I want to understand. Let's put aside the numbers, you can't tell us how many people. Are you not -- you can't provide information about what you pay these individuals?

MS. REES: What we pay individuals is not at issue. It's the number.

MR. RUBENSTEIN: Can you tell us on average? I'm trying to get a sense -- like an average security guard, what are they getting paid, and then you talked about how based on your knowledge, this seemed to be less than the broader -- the benchmark of a similar type position. I want to understand where that information is coming from and what is it based on.

MS. REES: So our security at the nuclear offices are PWU employees, and their salaries will range from 52 to 85,000 dollars, just for example. The markets that we typically attract people from, they tend to come from the police, military, those sorts of organizations, and their salaries range from 58 up to 90,000 for -- if I was to compare, say, to Durham Regional Police, and it would be even higher for the OPP.

Again, this isn't an empirical study. This is just some published facts that I gathered to help give an indication of whether we think our security guards would be comparable to the market, above, below, in reference to that.

MR. RUBENSTEIN: When you're giving that range of positions, that sort of the band.

MS. REES: That's the band range.

MR. RUBENSTEIN: It's not what on average -- in a given year, what they actually made when you include overtime or you include -- as I understand it, you have many positions that are paid above -- they're grandfathered in and they're being paid above the band, correct?

MS. REES: We don't have many -- I wouldn't qualify it as many positions. We do have some, but not --

MR. RUBENSTEIN: You have employees being paid above the band. Do you have a sense on average what you're paying all in?

MS. REES: I don't have that information here. In terms of -- you mentioned overtime. Even if we were doing the benchmarking, overtime would not have been factored into that. Base salaries is going to form a significant portion of that comparison we would be doing, and the information I see that's publicly available indicates that we would not be above the 50 percentile for our security officers.

MR. RUBENSTEIN: Do you generally -- from my knowledge knowing some police officers, overtime is a big -- the ability to have overtime is a big component. In some places you can, some places very liberally provided. Do you provide a lot of overtime for those security personnel generally?

MS. REES: Offhand I'm not sure, but overtime provisions would be there for them as well.

MR. RUBENSTEIN: Okay. I want to ask if we could just turn to page 60 of the compendium. And as I understand, this is a letter from OP -- to OPG from the minister, the then minister, to the then CEO, Mr. Mitchell, setting out the bargaining mandate; am I correct?

MS. REES: That's correct.

MR. RUBENSTEIN: So these are the marching instructions from your shareholder, correct, essentially?

MR. MILTON: That's the direction from the shareholder; that's correct.

MR. RUBENSTEIN: All right. And there's a number of various requirements that it's looking for. And if we go to the second page on page 61, the last bullet says the following:

"The cumulative effect of the resolution of compensation issues will reflect an overall net neutral costing result. Any changes to pension contributions and benefits would not count as offsets for the purpose of calculating this net zero result."

Do you see that?

MR. MILTON: Yes, I do.

MR. RUBENSTEIN: So this is the net zero mandate that you were given by the shareholder?

MR. MILTON: Correct.

MR. RUBENSTEIN: And as I understand it, what it's requiring is that any increases in compensation must be offset somewhere else in the agreement, but that you could not count the pension contributions and benefits correct?

MR. MILTON: That's correct.
MR. RUBENSTEIN: So on one hand if you provided an increase in compensation you have to extract savings in other places.
MR. MILTON: That's correct, in base compensation.
MR. RUBENSTEIN: Sorry, does it say base compensation there? I must have missed it. Does it say base compensation?
MR. MILTON: In the letter? No, it does not.
MR. RUBENSTEIN: Oh, okay. And this is not the first time you've had to meet a net zero result?
MR. MILTON: No, it's not.
MR. RUBENSTEIN: All right. And was that a requirement for your last proceeding?
MR. MILTON: Yes. For the PWU it was, yes.
MR. RUBENSTEIN: And for the Society I believe...
MR. MILTON: It was zero.
MR. RUBENSTEIN: All right. Is there a difference between that zero and zero?
MR. MILTON: Yeah, zero is zero. You can't find any off-settings to offset any base wage increase. That's why we went to mediation and arbitration.
MR. RUBENSTEIN: All right. If we can turn to confidential tab 102, which for the record is Staff 70 -- sorry, SEC 72. And what we essentially asked you in this interrogatory is essentially to provide us the numbers of the results of those collective agreements and where the savings were and where the costs were. If you can break

that down for us. And on page 2 of that interrogatory in chart 1 we have the amount for the PWU, and it's broken down into three columns, 2015 to the end of 2016, 2017 to the end of 2018, and then the total amount. Do you see that?

MR. KOGAN: Yes.

MR. RUBENSTEIN: All right. And we look at chart 1 of the PWU agreement. The amounts, as I read this, this is the amounts attributable to the nuclear only, correct?

MR. KOGAN: That's right.

MR. RUBENSTEIN: So what's at issue in this proceeding. We see the components and the cost savings in the third column, correct, overall?

MR. KOGAN: Yes.

MR. RUBENSTEIN: All right. And we see the bold -- we see in bold I guess the subtotal, essentially, under what you call non -- under the category non-pension reform-related issues? It's a [redacted] Do you see that?

MR. KOGAN: I think you're looking at the uncorrected version, but --

MR. RUBENSTEIN: Oh. So, sorry, seeing it's on the screen I'll use the screen. I must have the wrong copy here. [redacted] correct?

MR. KOGAN: That's the number that it shows, yes.

MR. RUBENSTEIN: And then below we have the value of the increased employee pension contributions at [redacted]

MR. KOGAN: Yes.

MR. RUBENSTEIN: And then the cost of the lump-sum payment being [redacted] and the Hydro One shares being [redacted] do I have that correct?

MR. KOGAN: Yes, you read that correctly.

MR. RUBENSTEIN: So when I add all those things up I get a [redacted] correct?

MR. KOGAN: Subject to check, that's the math.

MR. RUBENSTEIN: And now as I understand it, the mandate was to not include the increased pension contributions and benefits as an offset to compensation as we just read.

So if we back out the increase in employee pension contributions I get a net [redacted] Do you get -- is my math correct?

MR. KOGAN: The math, subject to check, yes.

MR. RUBENSTEIN: [redacted]

MR. KOGAN: So there's probably a couple of elements to address your question. I'll start off by saying that this chart was not the exact numbers that we provided to the government as the final net zero information. That is actually found in Staff 147. I forget the sub part. But it does demonstrate there that there was [redacted] I believe, [redacted] in that range, for both PW and Society on total company basis. And that was information that was determined at that time when the collective agreements were negotiated and, as I understand it, accepted by the government as having met the net neutral mandate.

MR. MILTON: That's correct, it was.

MR. KOGAN: The information that you see presented in SEC 72, it differs in some regard from the information that underpins Staff 147. The -- one of the main differences is -- for PW in particular is that in the original net zero calculation for the government [redacted]

Mr. Milton can probably provide more detail on what the [redacted] entailed in a minute, but at that time [redacted]

What this chart here was intended to do in general was to reflect where we could information that was consistent with the forecast in the application, so -- and it is done as of the point in time when we responded to this interrogatory rather than at the point of time and the expectations in effect when we had negotiated the agreements and reported to the government.

MR. RUBENSTEIN: What was the Staff interrogatory you were --

MR. KOGAN: Sorry, Staff 147. And maybe my colleagues have the appropriate --

MR. MILTON: Staff 147 in (c) speaks to the high level for the PWU. [redacted]

MR. RUBENSTEIN: When you went to the government or you were -- they were asking you at the time how did you meet the net zero. What -- you weren't showing -- so I guess you were not showing them the numbers that you provided in SEC 72.

Is there a similar document that shows what, I guess, the assumptions you made, or is there a similar document?

MR. MILTON: There's material available, yes.

MR. RUBENSTEIN: Can you provide that?

MR. SMITH: Yes, we can do at that.

MR. KOGAN: And just for clarity, when we responded to SEC 72, we interpreted that question to be in the context more so of the revenue requirement, what's reflected in the application, so it was meant to be helpful.

MR. RUBENSTEIN: My point was not to criticize how you did it. I just --

MR. MILLAR: Madam Chair, the practice when marking undertakings under a confidential section is to give them an X. I don't think that necessarily means the responses are confidential. They may or may not be. But I'll mark it in that fashion. SO it's JX17.10, and the previous one should be JX17.9.

MS. LONG: Thank you.

UNDERTAKING NO. JX17.10: TO SHOW THE NUMBERS THAT WERE PROVIDED IN SEC 72.

MS. LONG: Sorry, Mr. Milton, are you able to -- Mr. Kogan had said that you might be able to explain that [redacted] in a bit more detail --

MR. MILTON: So --

MS. LONG: -- are you able to --

MR. MILTON: -- [redacted]d [redacted]basis [redacted]

[redacted]

MS. LONG: Thank you.

MR. RUBENSTEIN: Is it OPG's position that if we remove the increased pension contributions, OPG met the net zero requirement?

MR. MILTON: Correct; that's our position and the government's position.

MR. RUBENSTEIN: And that's what that table is going -- the undertaking will demonstrate to us?

MR. KOGAN: I want to clarify your question, Mr. Rubenstein. When you say remove the pension contribution, you are suggesting that you would keep the offsets that were the quid pro quo -- if I am getting the terminology right that Mr. Milton used the other day. Is that what your question is? You're removing everything below the non-pension formulated items?

MR. RUBENSTEIN: I am just removing the line that says increased employee pension contributions.

MR. MILTON: That's not correct, and thanks for the clarification. Our net zero mandate was based on the non-pension reform related items being net zero.

MR. RUBENSTEIN: That's how you interpret the minister's letter when he said the cumulative effect of the resolution of compensation issues will reflect an overall net neutral costing result. Any changes to pension contributions and benefits would not count as an offset for the purposes of calculating this net zero result, correct?

MR. MILTON: That's not only how OPG interpreted it, but that's how Ed Clark guided the calculations and directions at bargaining.

MR. RUBENSTEIN: When you determined -- I want to be clear. The chart you're going to provide as an undertaking demonstrating the net zero, that's calculations on the basis of how he told to you do them?

MR. MILTON: Yes, it's based on exactly this. The net zero is based on the non-pension reform related items. We don't touch the pension items because the theory is the sheer performance plans, as they decrease over time, as eligible employees decrease over time, the pension contributions remain and new employees immediately pay the increased pension contributions. So that was not factored into the net neutral.

MR. RUBENSTEIN: Did you do an adjustment of the net present value of keeping the contributions at an increased rate over -- for however long OPG expects its employees to be around versus essentially the net present value of the limited pension -- sorry, the limited share purchase agreement to, I think, 2036 and the expectation of --

MR. KOGAN: As part of net zero, or in general?

MR. RUBENSTEIN: Net zero.

MR. KOGAN: Just so I understand your question, I think you're asking whether we took a stream of pension savings, if you will, a stream of these limited time quid pro quo, present value them and demonstrate what the net benefit of those is and take all that in this three year period.

MR. RUBENSTEIN: Demonstrating it to someone that you're -- as I understood what Mr. Milton was saying, one of the reasons you want to keep it separate is because the increased contributions are going to increase for past this period and the share grant only is limited time, I think till 2036, and there's a declining eligibility for that. There's a one time lump sum payment, and that's why you want to separate them.

My question to you is have you done a net present value so you can compare those different things.

MR. KOGAN: So we have done some long-term analyses. I don't recall if it was in present value or whatnot. But it was an analysis that certainly satisfied us that the statement that Mr. Milton has made now, and I think I've made a couple times, is accurate.

I do recall there was an interrogatory, I think a Staff interrogatory that asked for information beyond the IR term, and we, I believe as a matter of I guess, policy did not provide that information, but certainly sounds like it's of interest given the number of questions that are coming up.

MR. RUBENSTEIN: I take it you're going to provide it? Or not?

MR. KOGAN: I personally would like to, but --

MR. SMITH: If it's of interest, then we'll provide it.

MR. RUBENSTEIN: All right.

MR. MILLAR: JX17.11.

UNDERTAKING NO. JX17.11: TO PROVIDE NET PRESENT VALUE AND ASSUMPTIONS OF ANALYSIS FOR PWU AND SOCIETY

MR. RUBENSTEIN: If we flip over to chart 2, I won't go through the entire table, but this is essentially the same thing for the Society, the same analysis you've done for the Society, correct?

MR. KOGAN: Yes, that's right.

MR. RUBENSTEIN: Just to be clear, in the undertaking you provided to show us what at the time I guess was your net zero, will also include a similar analysis for the Society?

MR. KOGAN: It would. Maybe just for overall comfort, I could note a couple of things.

With respect to PWU, [redacted] -- and Mr. Milton can elaborate [redacted]

[redacted]

MR. RUBENSTEIN: All right. If we can go back to the undertaking you're providing with respect to the pension -- sorry, the net present value or some sort of analysis that you are now willing to provide, I'm going to ask you provide essentially all the assumptions you're making in that interrogatory, you're providing at this sort of late juncture.

MR. KOGAN: To confirm, this is for the analysis that shows the longer term benefit of the -- to provide the assumptions along with the numbers?

MR. RUBENSTEIN: Yes.

MR. KOGAN: I can do that.

MR. RUBENSTEIN: As I understand the current collective agreement length, the PWU goes to end of March 2018 and the Society goes to the end of December 2018?

MR. MILTON: That's correct.

MR. RUBENSTEIN: So for the purposes of this application, I think we've discussed you're going to negotiate another agreement and potentially multiple agreements for each of the Society and PWU?

MR. MILTON: That could be possible correct.

MR. RUBENSTEIN: What is not covered by the current agreement in this application is the PWU from April 2018 to the end of the test period, December 2021, and from the Society, all of 2019, 2020, and the 2021, correct?

MR. MILTON: That's correct.

MR. RUBENSTEIN: So combined, 60 percent of the test period is not covered by the current agreement, correct?

MR. MILTON: Subject to check. If the math says that, that's correct.

MR. RUBENSTEIN: If we can turn to page 103 of the confidential materials -- sorry tab 103, SEC 70 for the record. Is this tab 103? I have SEC 70 in my materials.

We had asked you in this interrogatory essentially what assumptions you're making for the remainder of the test period with respect to the collective agreement.

And as I understood, your response [redacted] for the collective agreements and [redacted] Is that the understanding?

MR. MILTON: That's correct

MR. RUBENSTEIN: So what you're forecasting is that the [redacted]

[redacted]

MR. MILTON: That is correct.

MR. RUBENSTEIN: All right. So let me -- if we can go back then to tab 102. And can you help me understand which of the cost savings that you set out here in the charts are -- expire and which ones do not expire?

MR. MILTON: So as Mr. Kogan mentioned, [redacted]

MR. RUBENSTEIN: And for the Society? You can do this by way of undertaking if it's easier.

MR. MILTON: Excuse me?

MR. RUBENSTEIN: I said you can do this by way of undertaking for both the Society if that's easier than sort of trying to walk through this on the stand.

MR. MILTON: I've covered the PWU, I believe. If you want to look at the Society, [redacted]

MR. RUBENSTEIN: All right. And do we know ultimately if you were providing a similar table like this [redacted]

[redacted]

MR. MILTON: I don't understand the question --

MR. RUBENSTEIN: [redacted]

MR. MILTON: -- can you restate that, please?

MR. RUBENSTEIN: Sorry, no -- no problem. [redacted]

MR. MILTON: I don't think we know that at this time.

MR. RUBENSTEIN: Have you -- are you able to forecast that?

MR. KOGAN: So we -- I don't think we can sort of forecast it precisely, and we have not done the calculation, because really we don't have a business station at this time to do it, but I did have an eyeball of this, and, you know, in all fairness in anticipation to this question it was a point that I made earlier about the fact that [redacted]

[redacted] We haven't done the math, but I think looking at these numbers and saying, oh, hey, [redacted]

MR. RUBENSTEIN: Well, that's why I'm asking the question. I'm trying to understand what I'm missing if I was doing a calculation, [redacted] Or --

MR. KOGAN: Well, let me -- sorry, I'll go a bit slower. [redacted]

[redacted]

[redacted]

[redacted]

MR. RUBENSTEIN: [redacted]

MR. KOGAN: Sure.

MR. RUBENSTEIN: [redacted]

MR. KOGAN: Well, it -- I think what I'm saying is that if we quantified the savings a [redacted]

MR. RUBENSTEIN: [redacted]

MR. KOGAN: Correct.

MR. RUBENSTEIN: All right. So considering we have more than half the test period yet to -- if you're [redacted] 2021?

MR. KOGAN: [redacted]

MR. RUBENSTEIN: Well, if the [redacted]

MR. KOGAN: -- part of what, sorry?

MR. RUBENSTEIN: -- if you've made [redacted] what did you -- well, let me back up. What did you build in -- [redacted]

MR. KOGAN: Let me back up, because I may have -- I didn't mean to confuse you, but I think when I'm referring to [redacted] -- and I still, by the way, say that it's equally rigorous, it would just be a little bit [redacted] -- I'm talking about [redacted] It's something you're going to try and say, well, [redacted] And I'm talking about these numbers to the end of '18.

I'm then extrapolating and saying that if I'm sitting three years from now, two years from now, doing a similar calculation for the next, say, three-year period, and it is a [redacted] then [redacted]

The hypothetical calculation, because it looks at [redacted] Does that help?

MR. RUBENSTEIN: Yes. So let me just understand. The -- backing a few steps back to what the propose -- [redacted]

Now, the differential may be different, so it may not -- you can't just double the first line to get a sense and keep the costs the same. That's what I understood, you know, at a high level what we were just talking --

MR. MILTON: [redacted]

MR. RUBENSTEIN: But what you're [redacted]

MR. KOGAN: [redacted]

MR. RUBENSTEIN: Well, the [redacted] correct?

MR. KOGAN: It's a planning assumption that we feel is reasonable, given [redacted]

MR. RUBENSTEIN: And as I understand as well, there was discussion with Mr. Millar with respect to this. [redacted]

MR. KOGAN: [redacted] But as I pointed out the other day, pensions and other post implemented benefits are subject to variance account treatment, so that's something we should keep in mind.

MR. RUBENSTEIN: [redacted]

MR. KOGAN: That's correct. [redacted]

MR. RUBENSTEIN: [redacted]

MR. MILTON: That's correct.

MR. RUBENSTEIN: [redacted]

MR. KOGAN: [redacted]

MR. RUBENSTEIN: If I can ask you to turn to confidential 95? This is Board Staff 149, and you were asked in part D why did OPG select Towers instead of AON to conduct the 2015 study. And if you go all the way to part D, you say:

[redacted]

MS. REES: [redacted]

[redacted]

MR. RUBENSTEIN: [redacted]

MS. REES: [redacted]

MR. RUBENSTEIN: [redacted]

MS. REES: [redacted]

MR. RUBENSTEIN: All right. We talked earlier about the Towers benchmarking pension and benefits report. Do you recall that?

MS. REES: Yes, I do.

MR. RUBENSTEIN: And as the benchmarking report showed, the value of pension and benefits to your employees is higher than P50, correct?

MS. REES: That is correct.

MR. RUBENSTEIN: If the Board said we don't think that's appropriate. We think it's only appropriate for ratepayers to pay what the P50 is, can I ask you how exactly the Board would go about making an actual reduction?

I raise that because if we turn to confidential Staff confidential tab 94, getting back to the 147, part H talks about how you made changes to the contributions and if we go back to SEC, as I had asked you the question earlier on in -- probably a more specific question at SEC 83 on page

16 of my compendium, you talk about the methodology in that report essentially you can't do the same thing like you could do with compensation.

So if the Board is to say it's not appropriate to pay above the 50th percentile, how should the Board make a reduction in the revenue requirement?

MS. REES: I would expect the Board would take a look at the evidence we've provided, that has shown our compensation on a cash basis is at market. Our pension and benefits is above market; we recognize that.

I'd consider them to take into consideration the other factors that are in the evidence, things like [redacted]

I think they would take all that information, and In expect they would make their best judgment.

MR. RUBENSTEIN: Putting aside you don't agree with that, which I understand. But if the Board was trying to understand what the revenue requirement differential was and said it was not appropriate for the value of these things to ratepayers to pay for that, I'm just trying to understand how to translate that in a revenue requirement sense.

Because as I understood from the response in SEC 83 is, well, that's the value to the employee, not the cost to OPG. I understand that's how this differs -- it's a difference from if you were doing it on a compensation basis. So what guidance can you provide us or the Board of how we should go about looking at the numbers?

MR. KOGAN: As Ms. Rees indicated, the studies do show -- are meant to be directional. So of course, they do show that we are above market for value of pension benefits.

To reiterate the other data point, in addition to the Towers study, is the study that is found in Staff 157. There's an attachment there, the benefits index that in some ways is, as I think Ms. Rees was indicating, includes more comprehensive elements [redacted] So I think that will be another element we would suggest in response to your question that should be considered, because it does more comprehensively show a more balanced picture of where we are. And I that shows [redacted] -- and Ms. Rees can correct me if I'm wrong -- [redacted] with respect to the Towers and Watson study.

So those would be the two data points that, as a first step, I would suggest could be considered. And from a quantification standpoint, in addition to applying judgment given those two data points, one way to do it would be to look at it as a percentage of pay. We just have to make sure we're applying to the right pay number because there is burden pay and overtime. I think you'd need to use a base pay type number that was the basis for the study.

But that would be one way to try and quantify it because that's directly how they derived value.

MR. RUBENSTEIN: When I go back to page 16 from SEC 83, where you essentially said, as I took it -- at least I thought until your comment it was not an appropriate way. You say cost impacts associated with OPG's pension and benefits benchmarking above market are not available, because the benchmarking is based on a value of these forms of compensation to the employees, not the cost to employer.

And then you sort of provide the comments from Willis Towers Watson with respect to that.

MR. KOGAN: Yes.

MR. RUBENSTEIN: I had sort of assumed that to say that wasn't an appropriate way. But that you think -- I understand comments about other things that are not included. But if we're trying to get a sense on a revenue requirement basis, that's the way the Board should look at it.

MR. KOGAN: We stand by our response to the interrogatory because, as Ms. Rees has stated, it's not a cost and I think that's been previously discussed because the profile and actual assumptions that are used in the calculation are not specific to OPG. They use a generic profile in order to for an apples to apples comparison of value.

That's why our response was you can't do a cost. I think your question is, okay, with a gun to your head, if you have this data and you really needed to put a value on it, I would say that going the percentage of pay, but recognizing the general sort of imprecision and directional nature and then applying some judgement to that and balancing the two data points I've mentioned across the two studies, both the benefits index and this, I think those would be the kind of parameters that if you're asking us what we would suggest would be what we suggest.

MR. RUBENSTEIN: Just to be clear, in the pension and benchmarking Towers study, there is a -- is it the sort of demographic profile of your average employee, and their sort of average use of dental and other? How did you come up with the composite?

MS. REES: It would be based on -- there are a few profiles used, so we can distinguish between management and unionized for starters. So we use like average age, the average salary and the gender. But the utilization of health and dental benefits, for example, the claims data was not based on OPG claims data. It was actually market information that Towers has available through a different survey.

MR. RUBENSTEIN: Okay. Thank you very much. Those are all my questions for this panel.

MS. LONG: Thank you very much, Mr. Rubenstein.

MR. SMITH: Sorry, Madam Chair.

--- On resuming public session at 12:34 p.m.

MS. LONG: Do you want to be on-air or off air? We're on-air now.

MR. SMITH: That doesn't matter for this portion. But unless the Panel has questions that would be in camera, if it was administratively easier I have one question that I might ask in re-examination which would save us from going in camera later, but I'm in your hands as to process. We just have the people out of room. We wouldn't have to do it again. I realize this is out of order.

MS. LONG: I think we might have some questions in camera, Mr. Smith, so maybe we'll just proceed and --

MR. SMITH: Okay.

MS. LONG: -- go back off air again if necessary.

So I think what we will do is take our lunch break now for an hour, and then Mr. Buonaguro will come back and do his cross-examination, and then the Panel will have some questions.

MR. SMITH: A final question. Would you like me to have -- just looking -- would you like me to have the next panel available in the room so we can roll right into them, or...

MS. LONG: We can take another break, I think, and we'll have 15 minutes for you to get them down here.

MR. SMITH: Thank you.

MS. LONG: Thanks.

--- Luncheon recess taken at 12:36 p.m.

--- On resuming at 1:45 p.m.

MS. LONG: Mr. Buonaguro? Oh, Mr. Smith has something to tell me.

PRELIMINARY MATTERS:

MR. SMITH: Just briefly, members of the Panel, just by way of update. This morning OPG filed answers to some eight undertakings.

MS. LONG: Thank you very much. Mr. Buonaguro?

CROSS-EXAMINATION BY MR. BUONAGURO:

MR. BUONAGURO: Thank you. Good afternoon, panel. My name is Michael Buonaguro. I am counsel for the Consumers Council of Canada, and I have some questions for you.

I'm going to start with a follow-up question to some of the answers you gave this morning, and I am looking at Exhibit L, tab 6.6, schedule 1, Staff 140, page 2 of 2, and this had to do with the change in the rehire policy.

I was listening along and I saw this part here on the working period, the maximum continuous time working directly for OPG, and it wasn't clear on the face of document what this meant in terms of, for example, 18 months maximum uninterrupted working period or three years maximum uninterrupted working period, and I want to know how that worked.

So if somebody under this policy is rehired by OPG, they can sign a contract up to the maximum amount, either 18 months or three years, it looks like?

MS. REES: Depending on their circumstances.

MR. BUONAGURO: What happens after that contract expires? Can they enter a new contract, or is this a total limit?

MS. REES: No, this would be a limit.

MR. BUONAGURO: So once somebody leaves OPG under these circumstances, they have one shot at a contract of up to these maximums and once they're done, that's it?

MS. REES: So it's not so much that they would never be able to come back again, but they would have to go back to the -- to have a waiting period before they could be potentially rehired again.

MR. BUONAGURO: Okay. So for example, for retirees who took any commuted value pension, they would wait six months and then they could be hired for up to 18 months, and once they stopped working, they would have to wait another 6 months?

MS. REES: If OPG had a need for resources and that individual had the skills needed and depending on the duration of the term, the business may make a decision to consider rehiring that person again. But that would be based on the facts at that time.

MR. BUONAGURO: I'm trying to figure out how the policy works. That's within the realm of the policy? It's not the -- the maximum time isn't a hard limit for all time. It's per period and then starts the waiting period again.

MS. REES: That is correct. It is not a lifetime maximum.

MR. BUONAGURO: Thank you. That is what I was wondering about. My next question has to do with Exhibit J7.2, which is -- as I understand it, there was a corporate reorganization at the beginning of this year. Perhaps we can take a quick look at that. This is Exhibit J7.2 and says at the bottom effective March 10, 2017. So I assume this is new as of March of this year, correct?

MS. REES: That is correct.

MR. BUONAGURO: I won't ask you to pull it up, but the for the original corporate reorganization is Exhibit A1, tab 5, schedule 1. And I refer to that because what I did is I counted the difference in heads between the two just to see what's changed. And my count, assuming I counted on my computer screen correctly, was that the under the old organization, there were 57 people in the chart not including the president and CEO. And under the new organization, there's 50.

Is that right, there's fewer people? Or am I counting them wrong? Maybe I'm attributing heads or not attributing heads where I should be.

MS. REES: Subject to check. I haven't counted the numbers myself, but that would seem appropriate or a correct calculation.

The one thing I'll comment on is that the levels and roles may be a little different as we compare the two.

MR. BUONAGURO: Right. Roughly looking, I was looking to see what's changed and clearly, there's people are gone missing, if I can call it that. What I'm wondering -- sorry I shouldn't have put it that way.

What I'm wondering is whether or not this reorganization is captured in the application in terms of the compensation numbers, for example? Or is the application based strictly on the old organizational chart?

MR. KOGAN: The application is based on the old organizational chart, because that was what was reflected in the underpinning business plan.

And the other comment I'll make is I know you're making a direct correlation that if you count the number of hash tags and labels on this chart, that means that literally those seven or whatever people are gone. I don't know if that's entirely correct because things just sometimes move around, and so something could go under a different organization. This is meant to present, kind of the top level, so subject to that.

MR. BUONAGURO: Fair enough. I guess the point is whatever impact this reorganization has on, for example, the compensation numbers in the application, that hasn't been updated?

MR. KOGAN: No, it has not. And in general, as you know, we did do an impact statement based on our 17 to 19 business plan, which may not have fully reflected this reorganization. But probably some level of reorganization already would have taken place as you compare to the 16 to 18 plan, because the 16-18 plan was struck now close to two years ago.

All I'm saying is that we did do an assessment for the impact statement of the overall appropriate items to update in the application, and we did that back in December.

MR. BUONAGURO: Let me get that straight. The December impact statement would have reflected any changes in reorganization up to that point?

MR. KOGAN: It would have reflected our assessment of the items to update per the business plan that reflected the changes to that point, subject to the considerations regarding updates that are outlined in the impact statement. So kind of a macro assessment we would have done.

MR. BUONAGURO: And there may or may not be impacts between that impact statement and this reorganization?

MR. KOGAN: There probably are some changes between the 17-19 business plan for the changes reflected here. But just to be clear, the impact statement -- I'm not saying we reflected all those changes in the impact statement. I'm saying we did a macro assessment of different line items and reflected the material changes.

For example, when we looked at the OM&A, you could have a situation where there's some savings because you have one less person in that group as per the org chart. But other pushes that could have happened plan over plan.

So we looked at a macro level and on that basis, we determined the items that needed updating. To my recollection, I don't think we updated any items in the end related to OM&A costs that would have had to do with this organization change.

MR. BUONAGURO: I think you can see why I'm asking questions. On its face, it seems like there are 7 or 8 FTEs at the executive level that are no longer part of the organization. Presumably, that would have a revenue requirement impact related to their compensation.

I'm trying to figure out to what extent that's been reflected in the filing going forward, and it sounds like you may have discussed part of the impacts, but they may have been netted off against other impacts somewhere else.

MR. KOGAN: That is exactly what it sounds like. I can tell you that plan over plan, there were OM&A pushes overall that we did not reflect, net overall OM&A pushes.

MR. BUONAGURO: Do you know in isolation what the impact of these changes were on compensation for this group of people? So how much -- I guess in simple terms, how much did organization chart 1 cost per year and how much does organization chart 2 cost per year the company?

MR. KOGAN: Short answer is I don't think we have done that assessment, and I'm not entirely sure how complicated such an assessment would be because, like I said, you have to look at a bunch of changes that have happened across organization chart. It may not be as easy as to say, hey, okay, here's exactly the seven people and we're just going to pluck them off and cost them out. Like I said, people could have moved around, they could have been part of broader reorganization chains. So it may be challenging it a little bit if that's where you're going to.

MR. BUONAGURO: I understand there might -- there might have been impacts elsewhere, but I'm interested in looking at -- is this the executive chart?

MR. KOGAN: It's the top level chart, yes.

MR. BUONAGURO: And I would like to compare it to the old top level chart. So if you can give me a compensation number for org chart 1, the old one, and a compensation number for org chart 2, I can see how much this part of the organization cost has gone, or changed. Presumably it's gone down with the fewer FTEs, but I don't know that for certain.

MR. SMITH: Madam Chair, we would object to the request for the undertaking for the reasons that Mr. Kogan has articulated. I also have a concern about the materiality of the resulting number. We've already done the impact statement that Mr. Kogan has discussed identifying items where there's a greater than 10-million-dollar revenue requirement. And to my mind this is asking us for a further update to the evidence, with no sense of the materiality at all of what the impact might be.

MS. LONG: Can I ask Mr. Kogan a question here? As I look -- as I compare the two org charts it seems to me that there may be a VP or an SVP that is now -- I mean, where there were eight before there are seven, so that might be one difference. But Mr. Buonaguro, what I see is sections, so if I see -- let's go under the chief administrative office, the law division. That's not a person, that's a group of people, right? Mr. Kogan, is that --

MR. KOGAN: Oh, sorry --

MS. LONG: Sorry, I --

MR. KOGAN: -- yes, yes, it is --

MS. LONG: -- so that's -- so we're talking -- these are all groups of people, so Mr. --

MR. KOGAN: That's right.

MS. LONG: -- Buonaguro, are you asking what -- if there is one less -- I could see how you might ask if there was one less VP and what the impact of that might be, but to go through and recost the org chart when there's divisions of people, I mean, there's lawyers in and out all the time, I imagine. That's just the nature of an organization.

MR. BUONAGURO: Well, when I asked about it, I asked, comparing the two of them, it seemed to me that the difference in head count was about seven people, and the answer was that looks about right. So if that's wrong then we've gone down this path, because I've misunderstood. But it sounded like there's about -- it sounded to me like in the beginning there's about 57 people in the first chart and about 50 people in the second chart in terms of the organization, the corporate organization. If that's wrong, they can tell me I'm wrong, and we've gone down the road --

MS. LONG: Is it seven people or is it different, I guess, groups? These look like groups to me. So are there seven less groups that maybe have been moved around and encompassed in different groups?

MR. KOGAN: There is certainly an element of that, and that's why I don't think we could agree that it's seven people. Is it directionally, sitting here today without having done the count, is there some fewer people? Probably. To give you an example to, Madam Chair, what you mentioned, there is one less SVP. But that individual -- the groups that report to that individual, for example, have been moved around. So that's one example I know that is -- for that reason will be one less person.

But to say you can count these hash tags and just do the numerical, okay, there's less, therefore there's seven people, no, I can't confirm that specifically.

MR. BUONAGURO: All right. And I would say that the reason I asked was precisely because I had no idea what the materiality was with respect to the impact of the reorganization. So if you can give me a sense of the materiality. If you're saying it's not material then I can accept that, that the impact --

MS. LONG: Do you have a sense, Mr. Kogan, if it's material?

MR. KOGAN: I wouldn't want to venture, yes. I think I go back to, I know plan over plan there were increases in OM&A that weren't pushed through the impact statement, and those increases certainly were far greater than seven or ten or 15 people that might show up on this chart. That really was my reference for materiality.

MS. LONG: I don't know that it's going to help us. I think you've made your point, Mr. Buonaguro, but I don't know that we need a recosting of the whole org chart.

MR. BUONAGURO: Thank you. Thank you very much.

Now I'm going to look at L6.6, schedule 3, CME 005. And so this IR response preamble talks about the framework regulation with respect to the broader public sector Executive Compensation Act. And basically it says there's an announcement on September 6 and there was a new framework that came in which capped salary performance for the payments for designated executives at no more than 50 percentile appropriate comparators and prohibit signing bonuses, retention bonuses, so on and so on.

And so the three questions were: Confirm that OPG agrees that that framework applies to you, and you confirm that it does, correct?

MS. REES: Correct.

MR. BUONAGURO: And the second part of the question was, does the intro -- and I'm recharacterizing it to how I understood it -- did the introduction of this new framework have an effect on the application, and the answer was no.

MS. REES: That is correct.

MR. BUONAGURO: So that's what I want to understand. First, the new framework, as I'll call it, how many employees does it apply to for OPG?

MS. REES: Approximately 80.

MR. BUONAGURO: 80? Thank you. And when you say -- or when you confirm part (b), that OPG believes the new framework will not change the executive compensation cost, including its application, I'm trying to understand what that means. So did the compensation costs for those 80 employees going forward from the introduction of the framework, did they not change in your forecast?

MS. REES: No, they have not changed in what we have included in this application.

MR. BUONAGURO: And what do you mean by "included in this application"? So for example, I'm going to pull up a reference. This is -- and I've lost it. It's the compensation evidence, F4, tab 3, schedule 1, Appendix A. And this is the chart that shows all the FTEs and the compensation costs as forecast. And if we look down under line 25, we have the management line. Do you see that?

MS. REES: Yes, I do.

MR. BUONAGURO: So the 80 employees that are affected by the new framework, would they all fall within that management category?

MS. REES: Yes, they would.

MR. BUONAGURO: And that management category, there's an amount there for 2017 plan and then there's amounts for 2018, 2019, 2020, and '21 that go up over time, correct?

MS. REES: Correct.

MR. BUONAGURO: And that includes all the projected changes in compensation per person. It would also include the effect of FTEs coming or going, all those changes, correct? So for example, the number at -- the number at 2018 of 153.5 million, that captures the effect of the FTE changing from 605.8 to 602.9 between '17 and '18, correct?

MS. REES: So I think it -- correct. I think it may help to understand that there are -- if we look at our executive compensation overall, with the introduction of the new program this year OPG's overall costs for that portion of the population is expected to increase circa 2019. However, that increase, we are not asking for recovery in our rates.

MR. BUONAGURO: Okay. So when you say it's not -- it doesn't affect the application, you're not saying that the compensation for those -- and I'll call them executives. You're not saying that won't change as a result of the management, you're saying what you asked for in the application hasn't changed.

MS. REES: That is correct.

MR. BUONAGURO: Okay. So for example, if you were to reforecast the 2020 plan compensation for management, right now it says $154.8 million. That number is actually going to change as a result of your reaction to the framework, and I'm presuming it's going to go up because you're no longer -- those management heads no longer have their base compensation and incentives frozen, right?

MS. REES: That is correct that with the implementation of the new program the merit freeze has been lifted on management group.

MR. BUONAGURO: If I were to say reforecast this line, forgetting what you were asking for in the application but what you're actually going to pay out, the number is different than what's here; you have a new forecast.

MS. REES: Provided the performance objectives that have been set are met, there will be an increase in cost to OPG, but not an increase in cost to ratepayers.

MR. BUONAGURO: Now, there's a part C to that interrogatory and it is redacted, and as we all found out today, I haven't seen that. So I want to know what kind of information is in there because there is no indication of what the answer was. I don't know if the answer was we're not going to answer that question, or whether the answer is here is what we project in terms of compensation for those 80 employees over the next five years, but we're not going to show you on the public record. So he what kind of an answer is there?

I'm sorry, it may have been included with the request for confidentiality, but it would take me longer to track that down than to have you tell me.

MR. KOGAN: Just to make sure we understand the question, I think what we can confirm is that it provides an answer to the question that is responsive -- you weren't sure whether we actually said we're not going to provide it.

Did we provide an answer? Yes, we did and I would think that answer also helps to answer a little bit of the general direction of your other questions. That's all I can say.

MR. BUONAGURO: Maybe I can ask what was the objection? Is it because you provide the information on an individual basis? I'm going to tell you what I would expect. I would expect on be a aggregate basis, you could show how the compensation for those 80 people are increasing overtime as a result of the new framework, which is what I'm interested in.

MR. KOGAN: I think the answer is labour relations.

MR. SMITH: We would have to go back and look at OPG's request for confidential to confirm this. But given the question and answer, I suspect it was in relation to labour relations sensitivity.

MR. BUONAGURO: Are you suggesting that even on an aggregate basis, it would still be required on a confidential basis?

MR. KOGAN: Yes.

MR. BUONAGURO: I'll put it out there. I would like to see, on an aggregate basis, how compensation for those 80 executives has changed as a result of new framework on forecast basis from 2017 to 2021.

I'm not interested necessarily in seeing individual compensation, but I am interested in the aggregate and I'm interested on the public record. Presumably, I think you're telling me the answer which is private or is confidential provides it at some sort of disaggregated basis. But I would like to see public record on an aggregated basis.

MR. SMITH: Well, my answer to that is the answer already speaks for itself. It is responsive to the question that was asked. I don't think I should get into a debate about how the answer is presented, unless the Board would like me to, because it's already made a determination about confidentiality, nor do I think it's appropriate to revisit this issue.

There was an opportunity to make submissions in relation to confidentiality. I don't know what position CCC took earlier in relation to this, nor do I understand why Mr. Buonaguro didn't sign the undertaking. So I don't think it's appropriate to revisit this debate, in my submission.

MS. LONG: Mr. Buonaguro?

MR. BUONAGURO: I can tell you part of the reason I didn't sign the undertaking is because there's a lot of confidential material on the record that I don't want hanging around my office; that's the glib answer.

The real answer is we're trying and prefer to be able to make argument on the public record, if we can. And this is an area where I can understand why there might be concerns on a person by person basis, for not disclosing that. But because of the number we're talking about, 80 people, we can see how the new framework has affected their compensation in aggregate over the five years.

And I think, if it helps, OPG may have put something like that out in the media in terms of an estimate of the impact of this. That's where I'm at.

MR. SMITH: As to the first part of Mr. Buonaguro's response, at this stage it's up to him to decide what confidential information he wants. I don't think the Board should revisit, or be invited to revisit an earlier decision.

In any event, I wonder about the utility of the exercise because if it can only impact OPG and not ratepayers because of the restriction being lifted on incentive pay, and OPG not including in this application that impact at all. So I don't understand how it's germane to the decision at the end of the day, in any event.

MR. BUONAGURO: In terms of the impact on ratepayers, maybe I'm wrong, but I'm assuming that of the 80 people we are talking about, their compensation is -- at least some of it is capitalized, correct?

MR. KOGAN: I would have to think about that very hard, Mr. Buonaguro, because these are senior level individuals and we capitalize costs for directly attributable individuals and work.

So it would be -- we wouldn't, for example, capitalize 1.5 percent of my salary in finance and attribute it to some project. It would have to be an individual who is fully dedicated or working a good chunk of their time. Those are usually working level individuals. They are unlikely to be vice presidents.

So I wouldn't say none of the 80, but I would be surprised if there was more than a handful.

MR. BUONAGURO: Would material portions of the compensation related to those 80 people be attributed to the DRP? And by that, I mean included in the 12.8-billion-dollar estimate?

MR. KOGAN: Again, out of 80 people, how many might be working on the project? I'm looking at my colleagues, but I -- it's not 40 of them. I don't know if it would be 10 percent of them perhaps, somewhere in that range.

I'm guessing just by order of magnitude. But to answer your question, yes. Would there be some individuals working on DRP in this group? Yes, there would and likely would be capitalized.

But again, we're not talking like half the individuals.

MR. BUONAGURO: I'm just reacting to the suggestion it has no impact on rates. I think at least some, if not most of those costs are going to be spent on projects like the DRP, where cost variations are captured in the CRVA, there is a pass-through of these costs unless the company is warranting that there won't be.

MR. KOGAN: There would be, I would say, minimal pass-through for those individuals who are captured But again, my understanding is that that's still within the overall envelope for the 4.8 and 12.8 we've committed to managing. Yes, for those few individuals, there would be some pass-through -- or rather could be put into the account for consideration by the Board.

MS. LONG: Mr. Rees, can I ask you one question? With respect to the compensation framework, it's my understanding that that was posted for public comment.

MS. REES: Yes, it was.

MS. LONG: So there is some information available?

MS. REES: Yes, there is.

MS. LONG: Mr. Buonaguro, we're not inclined to revisit confidentiality in this case. As you know, we spent a lot of time on this and had a lot of submissions, and made our determination.

So you still have the ability, should you want to, to sign the declaration and undertaking.

MR. BUONAGURO: Thank you. Now I'm going to turn to J3.1, which is the 2017 corporate scorecard, if I may. Having read through your evidence on the stakeholder return program, my understanding is that the corporate 2017 -- the corporate scorecard is used in conjunction with what I'll call personalized scorecards to come up with the incentive payments for any particular employee. Is that correct?

MS. REES: Yes, individual performance and the results of the corporate scorecard influence incentive payments.

MR. BUONAGURO: And when we talk about that program of incentives, we're talking about the management category of your workforce?

MS. REES: Yes.

MR. BUONAGURO: So does that mean, for example, that in 2017 when you're projecting 605.8 FTEs, does that mean there's around 600 individualized scorecards?

MS. REES: Yes, actually, it means every management group employee has a deliverable that are outlined in a, what could be called a scorecard.

MR. BUONAGURO: Right. So I want to understand the interaction between the corporate scorecard and the individualized scorecard. Can you -- and rather than try to extract it from you, maybe you can just explain how the corporate scorecard affects the evaluation of the personal scorecard for each individual employee.

MS. REES: Yes, I can do that. So the corporate scorecard can be thought as establishing the budget or the pot of money that's available for distribution as part of the pay it -- for performance program. So the budget is set using -- assuming that a corporate score of 1 is achieved, and everybody achieves target -- individual target performance, so it would be achieving a 4 on that seven-point scale we talked about. So that sets the maximum amount that we would target.

Now, when the actual corporate results come in it may be higher or lower than that, and that amount of money gets adjusted accordingly. So if our score is less than 1 on the corporate score the amount of money available for distribution to management group staff is reduced.

So then we have a process that we go by and we evaluate performance at the individual level, and everyone gets assessed a score anywhere from zero to 7. There's a calibration process that happens to ensure that all the scores are being equally considered and appropriately reflected throughout the organization, and as long as the sum of those individual payments based on their individual score is less than the pot that was set by the corporate score, then those would be the payments that they receive.

Was that clear?

MR. BUONAGURO: Yes, thank you. So you're saying that the corporate -- everybody is affected by the corporate scorecard. Right?

MS. REES: All management group, yes.

MR. BUONAGURO: And the corporate -- the performance on the corporate scorecard sets the range of incentive payments any particular person can make based on their individual performance.

MS. REES: Sets the limit.

MR. BUONAGURO: Sets the limit. Okay. Thank you.

And I can't say that I've seen an individual scorecard. Is there a sample individual scorecard on the record?

MS. REES: I don't believe there is.

MR. BUONAGURO: Okay.

MS. REES: Again, there would be one for every single individual -- every --

MR. BUONAGURO: Right.

MS. REES: -- management group employee.

MR. BUONAGURO: Which is why I wouldn't ask you to produce 400 separate ones. But I'd like to get a --

MS. REES: It would be like a thousand --

MR. BUONAGURO: -- sense of what they look like in comparison to this. So is -- when we say there's 400 I understand there's 400 technically, individualized, but there must be groupings of them, like, the whole sections of management might have one that's very similar, if not identical?

MS. REES: There's actually over a thousand --

MR. BUONAGURO: Okay.

MS. REES: -- for starters. Every management group employee would have one of these scorecards, individual scorecards. They're not structured necessarily at all levels in the same manner which this would be structured, but they would capture deliverables, objectives, and again back to those smart objectives of ensuring that they can be assessed fairly, but they would relate to the corporate -- in term -- they would relate to the corporate scorecard in that they would -- they're sort of all the items that we seek to do to ensure the corporate scorecard is achieved --

MR. BUONAGURO: Okay. Maybe --

MS. REES: -- at an individual level.

MR. BUONAGURO: -- I can take that -- so for example, on the corporate scorecard we have on the screen here, we had the refurbishment project cost.

MS. REES: Yes.

MR. BUONAGURO: And the way that that 10 percent part of the corporate scorecard is described, the incentive there is to bring the project in under the approved 2017 budget, correct?

MS. REES: Correct.

MR. BUONAGURO: Now, am I -- is it a fair assumption that anybody whose personal scorecard is anything in relation to a project cost under the DRP it wouldn't be contrary to this?

MS. REES: It would definitely not be contrary to this, and I would expect to see that sort of reference is being made. In my scorecard you wouldn't see a direct reference to the cost of the refurbishment project. Doesn't --

MR. BUONAGURO: Careful when you refer to your scorecard, because the next question --

MS. REES: Maybe you'd like to see mine.

MR. BUONAGURO: -- is can I see your scorecard. I don't think I'll go there.

But is it -- and I guess it -- is it strictly true that there is nothing contradictory between the corporate scorecard and the individual scorecards?

MS. REES: There should be nothing contradictory in the scorecards.

MR. BUONAGURO: And I actually went through panel 1B about the refurbishment project cost as it appears on the scorecard, and I understood how that was applied, but now I'm looking at -- well, first of all, there's a blackout there. I'm assuming that is a -- that's a capital project? It's under the project excellence component.

MS. REES: It would be a project.

MR. BUONAGURO: And my understanding, it's a project that's not regulated? Is that right?

MR. SMITH: Yes, that's correct.

MR. BUONAGURO: And I can do math, so even though you've blacked out the 5 percent I think it's worth 5 percent of the total corporate scorecard?

MS. REES: Subject to check, yes --

MR. SMITH: Well, I don't -- I'm not sure we should confirm that.

MR. BUONAGURO: Okay. [Laughter] No, it's a -- this raised my interest only because it begs the question as to whether other parts of the scorecard are allocated out or relate to unregulated activity. So for example, if we look at 35 percent financial strength, 20 percent EBT, and 15 percent operating OM&A expenses, are those only regulated OPG expenses in EBT or is that corporate-wide?

MS. REES: This is corporate-wide, OPG-wide.

MR. BUONAGURO: Okay. So the incentive that a particular employee can earn is based on corporate-wide figures, but presumably the others in allocation to rates versus non-rates is a result of the different -- the inclusion of unregulated versus regulated factors?

MS. REES: I'm not sure I'm following your question. Could you try restating it?

MR. BUONAGURO: Well, is 100 percent of the incentive costs incorporated into OPG's regulated rates? Or is there some allocation of the incentive costs to something -- to the unregulated business?

MS. REES: It's an allocation.

MR. BUONAGURO: Fair enough. That's all I wanted to know for sure.

Now, I am looking, though, at the last line here, total in-service capital, and I found it interesting, because at the threshold level, which we don't see the title any more, but the first threshold level is 578, and I'm assuming that's million? Is that the scale?

MR. KOGAN: That is million.

MR. BUONAGURO: Okay. It would be really easy if it was 578 dollars. $578 million plus 10 percent -- or plus or minus 10 percent to plus/minus 15 percent. And so they're saying that in order to meet the threshold amount you have to be within 10 to 15 percent of the forecast, right?

MR. KOGAN: That's what that's saying, yes.

MR. BUONAGURO: Okay. And if we go over to the -- I guess it's the target, the last one, which presumably is the best you can do, correct, is to meet the target, the stretch target? You want to hit the target for your -- in terms of earning incentive, correct? Stretch target.

MS. REES: We'd like to encourage our employees to attempt to --

MR. BUONAGURO: Right.

MS. REES: -- reach the stretch, but --

MR. BUONAGURO: That's all I'm trying to confirm.

It says related to the same target of $578 million it's plus or minus 3 percent, and that's of interest to me because it seems contrary to the -- how the refurbishment project costs incentive works, because in the refurbishment incentive -- the refurbishment project cost incentive, you are benefiting from bringing the project in under costs, under budget, whereas on total in-service capital the incentive is simply to hit the target.

So I'm wondering why there is a difference there. So for example, if someone is able to bring in what was originally priced at 578 million dollars' worth of capital and brings it in 5 percent under cost, they're actually getting punished for that. They're getting -- they're only getting the incentive associated with meeting the business plan.

MR. KOGAN: So I'm going to venture a guess on this one, but first of all, by way of context, this is the first year that we have introduced this total, I'll call it non-major project capital. So, you know, I say that just in case -- you know, there may be more refinement as we continue to operate with this target in mind in future years.

My understanding from earlier testimony that for the refurbishment project when an evaluation is made against this target adjustments are considered to ensure that you're not hitting stretch simply because you didn't get the work done or you deferred work and those kinds of considerations to make sure that it's a fair assessment.

It may have been the intent that to achieve a similar objective -- i.e., to limit sort of an inappropriate incentive with respect to the non-major project capital, that those plus and minuses were put in, i.e. to really kind of address situations where someone is way under because they are -- you know, some work got deferred, that would be captured without necessarily adjusting figure, but simply by the fact that you'd be outside of the 10 or 15 percent range.

So my guess is it's trying to achieve a similar result as we do through adjustments for refurbishment, but it is doing that instead by putting in this zone around the target. I can confirm that, but that's what my guess is sitting here right now.

MR. BUONAGURO: So you're saying it's the way structured here, you think may be to avoid the need for adjustments?

MR. KOGAN: Yes, to limit the need for the adjustments or at least directionally, that might have been the thinking that informed why it was done this way. Again, like I said, this is the first time we've introduced this, so presumably as we have more experience in the sense that we have evaluated ourselves against this target, the executive and ultimately the Board will consider whether there should be adjustments. But this is sort of one way to try and deal with that within the target.

MR. BUONAGURO: Thank you. A very specific question: The D2O project, my understanding is it's planned for in-service in 2017 still; is that correct?

MR. KOGAN: I think I have to defer to the discussion in the earlier panel. I'm not sure exactly what the current plan is. I just don't know.

MR. BUONAGURO: I'm interested because my understanding is it originally was a 2017 project, and then it's been removed from the hearing on the basis it's going to be discussed through the operation of the CRVA, even though it's still going into service in 2017.

So I'm wondering how that type of scenario is handled on the scorecard. For example, I think -- I don't have the numbers correct in my head, but I think the current forecast in-service amount for the D2O project is in the order $400 million, and is well over the original budget. But it's been taken out of the application. It's not being sought for in rates.

So I'm wondering how that's been accounted for in this scorecard. And perhaps, since you don't know the details, that's an undertaking to see how the D2O project affects or doesn't affect, or how it's been handled in the D2O scorecard.

MR. KOGAN: I think -- it's hard to comment on the undertaking, because I just don't know. But I think what I can say is, just for clarity, that the 578 target you're looking at, that is non-refurbishment items.

MR. BUONAGURO: Fair enough. I'm sorry, maybe the way my questions came out you thought I was still stuck on that line. In addition, I have the question about the D2O project.

I understand that would be in the refurbishment project cost and would have originally been a 2017 spend.

MS. REES: We're not sure.

MR. BUONAGURO: Perhaps an undertaking to describe how the removal of D2O project from the application and the circumstances surrounding that has been handled on a corporate scorecard basis for the years in which they would have impacted the scorecard.

MR. KOGAN: To clarify, you say has been. You mean will be, because it hasn't yet happened in this year.

MR. BUONAGURO: As you pointed out, the refurbishment project cost -- presumably there was spending on the D2O in 2016, for example, and may have appeared in the 2016 scorecard as a result. I'm wondering how it appeared on the 2016 scorecard analysis.

MR. KOGAN: We can do that.

MR. MILLAR: J17.12.

UNDERTAKING NO. J17.12: TO DESCRIBE HOW THE REMOVAL

OF D2O PROJECT FROM THE APPLICATION AND THE CIRCUMSTANCES SURROUNDING THAT HAS BEEN HANDLED ON A CORPORATE SCORECARD BASIS FOR THE YEARS IN WHICH THEY WOULD HAVE IMPACTED THE SCORECARD

MR. BUONAGURO: And sort of a simple question here, I think. At the top of the scorecard, if we can scroll down, we've talked about it a little bit, there is the threshold amount, the business plan amount, and the stretch target amount.

How do you use those or how is --what assumptions do you make when applying for rates? I'm assuming what you do is you assume incentives at the business plan level and that's what gets into rates, is that right?

MS. REES: Our business plan would include the incentive based on target.

MR. BUONAGURO: Based on stretch target?

MS. REES: Based on target, sorry, so based on the business plan.

MR. BUONAGURO: That's what I thought, but I thought I would confirm that while I was looking at it.

And lastly, I would like to look at L 4.32, AMPCO 86. You probably haven't seen this. It's not a six series question, but I think there is a compensation related question in here.

This is a question that was asked about resources management/bridging between units contingency. And as I understand it, basically there is 50 million dollars' worth of contingency projected for projected for having to pay employees for being on standby, or for idle time in the event that, for whatever reason, they are unable to do the work they're supposed to be doing, but the company wants to retain them while they're waiting for the opportunity to do the work. Does that sound familiar to you?

MS. REES: My understanding is it's actually for the contract. So it's the employees of the services that are being contracted out. So it's a purchased service again; it's not something we're paying to employees.

MR. BUONAGURO: Maybe that's part of the answer then. For employees, there is no such thing as a standby amount?

MR. MILTON: That's correct.

MR. BUONAGURO: For contractors, is the standby amount -- is it different than their rate? Is it negotiated separately? Do you know?

MS. REES: I do not know.

MR. BUONAGURO: Okay. That sounds like it may have been for a different panel that I have now missed.

MS. REES: It was for a different panel.

MR. BUONAGURO: I can confirm, though, that from an employee compensation point of view, there is no such thing as a standby or idle rate.

MS. REES: That is correct.

MR. BUONAGURO: So the forecast compensation costs are based on them actually doing work at their actual rates, so on and so forth?

MS. REES: Yes.

MR. BUONAGURO: The only difference between there might be a forecast for overtime, but that has nothing to do with idle time.

MS. REES: Yes.

MR. BUONAGURO: Thank you, those are my questions.

MS. LONG: Thank you, Mr. Buonaguro. This Panel has questions to ask you.

QUESTIONS BY THE BOARD:

MS. FRY: Just a couple of things. You've talked about the fact that you had a project to reduce head count, which basically was very successful It culminated around the end of 2015, and you talked about using attrition as a tool for that.

I'm wondering were there other tools you used to reduce head count in that project?

MR. MILTON: No, there were not.

MS. FRY: One of the things I was wondering about, for example, were there any functions that you had done in-house that you ended, that you decided would be more efficient to shift outside and contract for?

MS. REES: As part of the transformation project, the short answer is yes. There are a number of initiatives that looked at ways to reduce work, eliminate work, streamline, and some of that may have involved considering alternative ways of resourcing the work such as contracting out.

MS. FRY: At a high level, are there major examples of work, say in 2014, an area of work you did in-house, but now as part of business transformation, you actually contract out for it?

MS. REES: In terms of large contracts, we can't think of any in particular. We would have to confirm that. There were definitely areas where that was done. Just not sure if the --

MS. FRY: Okay. I'm not talking about quantifying. Can you give me a few examples of areas where that was done?

MS. REES: I know that within my own area, we contracted out m ore of the pension administration to a third party provider, Morneau Shepell. We also did the same thing with our health and dental benefit provider, Sun Life -- now Sun Life. That was really about doing some of the activities that were a little handoffs that we were doing that we didn't need to do.

MS. FRY: Great. And the other thing I want to ask you about, there was some discussion in the compensation benchmarking, there were some positions that couldn't be benchmarked. And you've said that generally speaking, compensation benchmarking gives you directional guidance which obviously you can bring into play when you're negotiating salaries, for example.

So what do you do for the positions where you couldn't do compensation benchmarking, so you don't have the same kind of directional guidance? What kind of sources of information do you use? What do you do?

MS. REES: Well, if there is a particular area we're looking at, we can do things like we had done, for example, for the police force, where we see what's publicly available and try to do some gauging. But generally we -- when it comes to looking at bargaining and preparing for that, we are looking -- we tend to be standing back and looking at the broader population, not little -- not segments or sub-segments.

MS. FRY: So you're doing your own -- basically your own informal survey --

MS. REES: We may do our own informal survey as part of that if there is a particular area we want to focus on, definitely.

MS. FRY: Okay. Thanks.

MS. SPOEL: Thank you. So I have a couple of areas which aren't necessarily particularly connected to each other. So some of them relate to the whole question of attrition and employees leaving, which I think your evidence was you had a number of people who left, more than you'd anticipated, in the 2015 range.

What -- when an employee decides to retire, assuming you've got someone in that category who is still working but has reached the entitlement to an undiscounted pension -- I think that's the right terminology -- what sort of notice do they have to give you that they intend to retire on a particular date?

MS. REES: So there is no formal notice requirement. However, our guidelines to employees is to give us at least three months' notice. This is mainly if they are retiring so that we have a transition that they aren't without either pay or pension payroll during the period, but there is no formal notice.

MR. MILTON: That notice is particularly encouraged of our represented staff who can give either notice this morning that this is their last day legally. But we then tell them you may be without income because you haven't provided us sufficient notice to process all the paperwork and do all the calculations, but they can literally come in and tell their supervisor this morning this is their last day, they've retired.

MS. SPOEL: So if you -- if one of those people were one of the certified nuclear operators and they had managed to make an arrangement to work on a contract basis employed by someone else, they could come on Friday and say, I'm retiring today --

MR. MILTON: That's absolutely correct.

MS. SPOEL: -- and on Monday morning, because you don't have any requirement for those people to have a delay -- and of course you would be short a certified person -- or an author -- or authorized, I guess, is the word you use, that person could then show up, and they might not mind being without pay for a period because they've actually got a job lined up to come back and work doing the same thing but on someone else's payroll? I'm not saying it happens, I'm just wondering if that in fact is possible.

MR. MILTON: Academically, yes, I guess it would be possible.

MS. SPOEL: Okay. Just asking. And then when a person does retire there was some reference earlier during Mr. Rubenstein's cross-examination about the entitlement to sick days and banked sick days, and I think there was a fairly high number -- well, it was what I consider to be a fairly high number of sick days that have been accumulated by members of the represented staff.

Does that payout come at a lump sum when they retire? Is it paid as they work? What's the mechanism for paying --

MR. MILTON: Our represented staff and our management staff get no payout for whatever is in the bank. There's no cash equivalency to what's in their sick bank.

MS. SPOEL: So if -- so the references in the Auditor General's report to the 160 days and so on, there is no payout of that.

MR. MILTON: Correct. There is no payout.

MS. SPOEL: Okay. So they can accumulate the money, they can accumulate the sick days indefinitely, but they don't actually get a -- they don't get a payout as some --

MR. MILTON: That's correct. Their --

MS. SPOEL: -- people have done in the past in certain -- certain employers?

MR. MILTON: No, in our company there isn't a payout of unused sick days. Those are for sick and illness.

MS. SPOEL: Okay. Great. Thank you. I just wanted to clarify that.

The other thing I wanted to ask you about is on the benchmarking summary -- and I'm looking at page 34 of

School -- Exhibit 17.1, the compendium filed by the School Energy Coalition. And I just wanted to understand this a little bit better, and I crunched a couple of numbers, so I just wanted to make -- I want to ask you if I'm correct in these calculations.

It's the page with the adjustments for the nuclear to take into account things like the 35-hour work week, the adjustments made.

So looking at that 35-hour work week adjustment, I think your evidence earlier, Mr. Milton, was that most of the PWU employees in fact work a 40-hour work.

MR. MILTON: That's correct.

MS. SPOEL: And it's only some employees who work 35.

So I took that 55 people, and using a basis that it represents an additional -- each of those 55 people would represent seven times five extra hours per week to make it for 35 hours, that gives me a total of 385 people who have to be topped up to create -- to -- to -- out of the -- to give that equivalence of 35 to 40 hours.

I'll tell you what I did. I took -- I took that a person -- those 55 -- that 55 number, I take it that's the equivalent number of people -- additional people that you would have to have on staff to make up for the fact that it's a 35-hour week rather than a 40-hour week. Is that correct?

MS. REES: I'm not completely versed in this -- the methodology how Goodnight approached this. But I follow your logic.

MS. SPOEL: Okay. So if we follow --

MS. REES: Yes.

MS. SPOEL: -- the logic, they've taken that there's 944 people at Pickering, then they've added an adjustment, you said earlier, to account for the fact that there is the CANDU technology, and then an adjustment for the 35-hour work week.

So I just assumed if it was 55 extra people and they were each working in effect 35 hours a week, that would be top -- that would be adding on five hours per employee who was working 35 to making the equivalent of 40 hours, and then multiplied the 70 -- the -- that seven by 55, and I came up with 385.

And I just wondered whether that's the right -- I realize Goodnight did the work. I'm just wondering if that's about the right ratio but of the 944 people you have listed that about 385 of them are working 35 hours a week and the rest are working 40? Does that sound like the right kind of ratio?

MS. REES: Again, we do follow the math you're providing. I would like to be able to take this away and just --

MS. SPOEL: Oh, sure. Yeah, no, I just wanted to get a sense of --

MS. REES: Yeah.

MS. SPOEL: -- if that was about the right -- about the right number, that approximately 40 percent of those 944 people at Pickering, for example, what is 944 equivalent people --

MS. REES: Yeah, you know what, I'm --

MS. SPOEL: -- are working --

MS. REES: -- I'm -- I'm --

MS. SPOEL: -- 35 --

MS. REES: -- really not confident in that --

MS. SPOEL: Sorry --

MS. REES: -- so --

MS. SPOEL: -- that's fine.

MS. REES: -- sorry.

MS. LONG: Mr. Smith, are you able to check that for us?

MR. SMITH: Why don't we do that.

MS. LONG: Okay.

MR. SMITH: Why don't we try and find out --

MS. LONG: Yeah --

MR. SMITH: -- the proportion of employees that fall in -- I think there were three categories, 35, 37-and-a-half, and 40 hours.

MS. LONG: Right.

MR. SMITH: Maybe we can try and find that out.

MR. MILLAR: So it's J17.13.

UNDERTAKING NO. J17.13: TO ADVISE OF THE PROPORTION OF EMPLOYEES THAT FALL INTO THE THREE CATEGORIES OF HOURS.

MS. SPOEL: And then the other thing I wanted to ask about, and there's just a question about -- I'm going to ask this question based entirely on publicly available information, although it did come up during the in camera -- the basis for my question came up during the in camera session this morning, but I had a look at the sunshine list, and I find that there are 272 people on OPG with the word "security" in their job title who are listed on the sunshine list as making over 100,000 dollars last year, so I just -- and of course that doesn't -- anyway, that is what it is. There it is.

Can I take it from that, given that you gave us the salary range for those people, those jobs -- some of course are supervisors and management, but most of them are not -– that the salary range for those jobs, since it was less than 100 -- quite a bit less than $100,000, they're all working at the top of their range or they are working significant amounts of overtime? Is that a reasonable inference from that information?

MS. REES: I would need to check to see what the average salaries were, but the PSST would also include allowances, shift allowances. It would include overtime that could drive the employees above -- I would expect it to be above salary.

MS. SPOEL: It won't be below, I guess.

MS. REES: Obviously, yes.

MR. SMITH: Do you want to us check that? We can try to dig into that number a bit more.

MS. SPOEL: Perhaps a bit more, since we don't know what component of your -- obviously, there were at least 272 people, and presumably more who are in those job classifications. And given it's confidential, I'm not going to ask what the total number is.

But it would be useful to know directionally, because it represents a fairly large proportion in fact of your payroll.

MS. LONG: I think the range you gave this morning was 52 to 82.

MS. REES: 85 based on 2015; it was 2015, for base salary alone.

MR. SMITH: Yes, we're happy to do that. I'm thinking about -- just framing it in my mind. We're happy to provide more information.

MS. SPOEL: I know you've given an undertaking to provide whatever the reference is that requires you to keep some of this information confidential. So if you can't answer the question within that framework, you can explain why not.

MR. SMITH: Yes.

MS. SPOEL: As I said, I was just looking at the publicly available stuff.

MR. MILLAR: J17.14.

UNDERTAKING NO. J17.14: TO CONFIRM THE ROLE OF OVERTIME IN THE HIGHER COMPENSATION AMOUNTS

MS. SPOEL: The one other question I wanted to ask about -- sorry, there was one more. There was a reference in the Auditor General's report, or the response to the Auditor General's report about succession planning, and it refers to management.

I can't find the reference, I'm sorry, but there is a reference to improving succession planning for management employees so you don't end up in situations where you have to have former employees come back and train their successors.

My question is whether you're going to be able to do that for the non-management positions, and I guess Mr. Milton has effectively answered that question by saying people don't necessarily have to give you much notice when they want to retire. Is there anything you've tried to do to deal with that change over staff and the need for sufficient replacement staff to be trained before people leave?

MR. MILTON: We have staffing plans and we forecast our attrition and look at work programs, and we develop a staffing model. And what we try and do is anticipate attrition and bring people in so we can start to train them, so it's less of an inconvenience if people do retire.

If the attrition is higher than what we've anticipated, then we could be into a situation with a delta.

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

MS. LONG: Thank you, those are the panel's questions. Mr. Smith, redirect?

MR. SMITH: Thank you, Madam Chair. Let me go back to you, Ms. Rees. On Friday, and it may be useful for you to take a look at the transcript, during Mr. Millar's cross-examination -- it's at page 65, around line 19, you were being asked questions about the Towers Watson study. And so that people have it, if we could briefly pull up Exhibit K 16.2, page 7.

Actually before we do that, don't leave the screen. The question is -- and I'll give you the context. Mr. Millar asks you, "So whatever the reason for the lower amounts that you were able to benchmark under general industry," and that's a reference to the fact, Ms. Rees, there were fewer positions that were benchmarked. We don't need to pull up the compendium.

> "The end result of that is that general industry has less relative weight than the other categories in the overall analysis, just because you were able to benchmark a lower percentage of them,"

And you indicate yes, that would be correct.

My question is what do you mean by less relative weight?

MS. REES: So by less relative weight, it has to do with the impact that this has on the overall results of the benchmarking. So while technically the math, if you have fewer matches, it's going to impact how that is attributable to the overall total. But in this case, because general industry represents about 27 percent of the population overall, the actual materiality of that is negligible, small.

MR. SMITH: And the materiality on what is negligible?

MS. REES: The materiality on the gap to market the overall results for the total compensation.

MR. SMITH: Sorry, just so that we have it. If we were to look at Mr. Millar's compendium, are you referring to the overall percentage by which OPG is above or below market? Is that what you're referring to?

MS. REES: Yes, that's what I'm referring to.

MR. SMITH: Thank you. There is a question I'm going to ask and I will try to do it without going in camera. Without discussing it at all did, Mr. Milton, or Mr. Kogan for you, did the government ever respond to your net zero calculation in relation to the PWU, and how you had performed relative to the negotiations and the mandate?

MR. MILTON: They provided a written letter that's in Board Staff 147 that acknowledged we had met --

MR. SMITH: Sorry, don't talk about it. Is that filed in this proceeding?

MR. MILTON: Yes, it is.

MR. SMITH: And it's filed confidentially?

MR. MILTON: Yes, I believe it is.

MR. SMITH: Thank you. That's fine. Those are my questions.

MS. LONG: Thank you, Mr. Smith. We are going to take our afternoon break. Thank you very much, panel. You are excused. We'll take our afternoon break and be back in 15 minutes with the next panel ready to go.

--- Recess taken at 2:55 p.m.

--- On resuming at 3:14 p.m.

MS. LONG: Mr. Smith.

MR. SMITH: One brief preliminary matter, and this is a correction to something I said, but I don't want to confuse anybody on the record. In re-examination I referred to interrogatory 147, I believe, indicating that it was confidential. I believe the Board had invited us to reconsider whether that was truly confidential, and OPG advised it was not.

So for anybody reading the transcript, they need not be concerned about going to that. The attachment -- the letter from the minister is not confidential and it's publicly available on the record.

MS. LONG: Thank you for clarifying.

MR. SMITH: Members of the Board, with that we have OPG's panel 5Ai, cost of capital. And we have closest to you Mr. Dan Dane and closest to me Mr. Jim Coyne, both of Concentric, who are the authors of the report that can be found at Exhibit C1, tab 1, Schedule 1, attachment 1, and I'd ask that they be affirmed.

ONTARIO POWER GENERATION - PANEL 5AI

Dan Dane,

Jim Coyne; Affirmed.

EXAMINATION-IN-CHIEF BY MR. SMITH:

MR. SMITH: Madam Chair, I understand that there's no challenge to the witnesses' qualifications, so I plan to move through that relatively quickly.

Maybe we can start with you, Mr. Coyne. I understand that you are a senior vice-president at Concentric?

MR. COYNE: Yes, I am.

MR. SMITH: And for how long have you been at Concentric?

MR. COYNE: Ten, 11 -- 11 years.

MR. SMITH: And I understand that prior to that you were employed by FTI Consulting?

MR. COYNE: Yes.

MR. SMITH: And before that with Arthur Andersen?

MR. COYNE: Yes.

MR. SMITH: And then indeed, you've been employed as a consultant, I understand, with the exception of a period at Total Fina Elf, since approximately 1984; is that correct?

MR. COYNE: That's right. Prior to that I worked for state government.

MR. SMITH: And, sorry, maybe you can just expand on that.

MR. COYNE: Prior to that I worked for the state of Massachusetts and the state of Maine in -- working in Reg -- as a regulatory staffer and energy policy staffer.

MR. SMITH: I understand, sir, that you have a bachelor's degree from Georgetown University; is that correct?

MR. COYNE: Yes.

MR. SMITH: And that you have a master's in resource economics from the University of New Hampshire; is that correct?

MR. COYNE: Yes.

MR. SMITH: And is your CV set out as attachment 1, Appendix B?

MR. COYNE: It is.

MR. SMITH: And that, members of the Board, begins at page 47 of attachment 1.

And I see there, sir, a number of what you've described as representative project experience. Do you have that?

MR. COYNE: Yes.

MR. SMITH: And as it -- particularly as it relates to the cost of capital, is that an area in which you have testified before?

MR. COYNE: Yes, I've provided testimony both in Canada and the U.S. before state and provincial bodies, including the Federal Energy Regulatory Commission on cost-of-capital matters pertaining to electric utilities, gas utilities, as well as electric transmission companies.

MR. SMITH: And have you testified before this Board before?

MR. COYNE: Yes.

MR. SMITH: And is that in relation to cost of capital?

MR. COYNE: Yes, I've testified on cost of capital, in consultation on cost of capital, and also advised the Board on cost-of-capital matters.

MR. SMITH: Thank you very much. And your cost-of-capital experience, sir, has that extended to utilities which have hydroelectric and nuclear assets as well?

MR. COYNE: Yes, it has.

MR. SMITH: And your resume also refers beyond your representative project experience to regulatory support. The regulatory support, has that similarly involved cost-of-capital-related issues?

MR. COYNE: In some cases it has, yes. In other cases I've worked as a manager of regulatory affairs as well for a generating company.

MR. SMITH: And publications and research, I see that you have written and also spoken at a number of conferences and produced a number of papers.

Have those extended to the issue of cost of capital?

MR. COYNE: Yes, rather so.

MR. SMITH: I should have begun with this question, but can you briefly describe the business of Concentric Energy Advisors?

MR. COYNE: Sure. Concentric is a management, consulting, and economic advisory firm. We specialize in North American energy and water utilities industries. We specialize in regulation -- litigation support, transaction-related financial advisory services, energy market strategies, market assessments, energy commodity contracting, things pertaining to those matters. Our cost-of-capital-related practice provides consulting and expert testimony in the cost of capital in both Canada and the U.S., as I mentioned.

In addition to that we have a financial advisory practice, where we advise buyers and sellers and investors and corporate entities, electric and gas utilities, as well as those that own generation assets, including nuclear assets and/or hydroelectric assets.

MR. SMITH: And I take it you have been involved in that aspect of Concentric's business?

MR. COYNE: Yes.

MR. SMITH: Mr. Dane, perhaps I can turn to you. I understand that your CV can be found beginning at page 59 of 73; is that correct?

MR. DANE: Yes, that's correct.

MR. SMITH: I understand, sir, that you have a B.A. in economics from Colgate University?

MR. DANE: Yes.

MR. SMITH: And an M.B.A. in Boston College?

MR. DANE: Yes, that's correct.

MR. SMITH: And I understand, sir, that you began your career as an information -- or in the information analysis group?

MR. DANE: Yes, that's correct.

MR. SMITH: And then thereafter you were at Ernst & Young?

MR. DANE: Yes, I was in public accounting at Ernst & Young.

MR. SMITH: And you've been at Concentric since roughly 2004; is that correct?

MR. DANE: Yes, that's correct.

MR. SMITH: And in your period at Concentric Energy Advisors can you describe for the Board your involvement in the area of cost of capital?

MR. DANE: Yes. I would break down my involvement to two main areas. The first has been in rate cases such as this, developing cost-of-capital analyses, testimony, on behalf of other experts, and I've also submitted testimony myself. And that's been the broad part of my experience at Concentric.

In addition, I'm the CFO of CE Capital Advisors, which is a broker dealer subsidiary of Concentric, and CE Capital provides investment banking and valuation services to the energy industry. So I've specialized to a large degree as well in valuation -- in our valuation practice and advised clients on valuation-related issues in the energy industry which inherently often involve an assessment of the cost of capital.

MR. SMITH: And I understand you have not testified before this Board before?

MR. DANE: I have not. I advised the Board on cost-of-capital-related issues with Mr. Coyne back in the 2007 time frame, but I have not testified before this Board.

MR. SMITH: And I understand that you have testified before other utilities commissions; is that correct?

MR. DANE: Yes, that's correct.

MR. SMITH: And have you been accepted by those utilities commissions as an expert before?

MR. DANE: Yes, I have.

MR. SMITH: And does that include in relation to the issue of cost of capital?

MR. DANE: Yes, it does.

MR. SMITH: Members of the Board, I would tender Mr.

Coyne and Mr. Dane as expert witnesses to provide evidence in relation to the appropriate cost of capital for OPG in relation to its regulated nuclear and hydroelectric assets.

MS. LONG: Thank you, Mr. Smith. I'm just going to confirm with the intervenors here that there is no one that wishes to challenge Mr. Coyne or Mr. Dane's qualifications?

Seeing none then the Board accepts both Mr. Coyne and Mr. Dane as experts in the area of cost of capital.

MR. SMITH: Thank you very much.

Just, examination in-chief, if I may, I'll start first with you, Mr. Coyne, just to confirm, are you and Mr. Dane the authors of the report that can be found at Exhibit C1, tab 1, schedule 1?

MR. COYNE: Yes, we are.

MR. SMITH: And do you adopt that evidence for the purpose of testifying here today?

MR. COYNE: We do.

MR. SMITH: Similarly, there were a number of interrogatories that were asked in relation to that report. Do you adopt those interrogatories, i.e. those that are set out on Exhibit A1, tab 9, schedule 1, for the purpose of testifying here today?

MR. COYNE: Yes, we do. We also responded to a few undertakings that are perhaps part of this record as well following a technical conference.

MR. SMITH: Do you adopt those?

MR. COYNE: We do.

MR. SMITH: Thank you very much. Turning to your report, why don't you begin by setting out the purpose of your testimony. What is it that Concentric was asked to do?

MR. COYNE: We were asked to prepare an independent report as to whether the application of the capital structure last approved by this Board in EB-2013 is an appropriate basis for setting OPG's nuclear and hydroelectric payment amounts in this proceeding for the 2017-2021 rate setting period.

MR. SMITH: Were you able to reach a conclusion in that respect?

MR. COYNE: We were.

MR. SMITH: We'll come to your conclusion in a minute. But turning to how you went about reaching a conclusion, can you describe for the Board what the framework was for you're an analysis.

MR. COYNE: Yes, our framework was primarily threefold. One was we performed a risk analysis of OPG along with changes to the risk profile, both since OPG's last rate case as well as an examination of OPG's risk profile on a going forward basis, consistent with how an investor would analyze the company.

Our approach also included an assessment of OPG's risk compared to a similar group of North American utilities.

And then thirdly, our analysis was guided by the fair return standard and specifically an examination of its three requirements, the comparable investment standard, the financial integrity standard, and the capital attraction standard. So we examined the appropriateness of the capital structure through all three of those lenses.

MR. SMITH: Let's talk about your assessment of OPG's risk. And I take it that involved an assessment of OPG's risk on the hydroelectric and nuclear side, is that correct?

MR. COYNE: Right. We focused on the regulated hydroelectric business and the regulated nuclear business, and also we considered the company's regulatory proposals in this proceeding as a factor in that analysis.

MR. SMITH: Let's talk about the hydroelectric business. Can you describe for the Board your analysis of the hydroelectric business?

MR. COYNE: In examining the hydroelectric business, we looked at it as a regulated utility business and we examined the primary risks that a regulated operator of a hydroelectric business faces, namely licensing, permitting and water power lease risks, water availability risk, risks related to water management plans, environmental and water level regulations, and risks related to capital expenditures, and finally risks related to the ability to recover costs including a return in a timely manner.

MR. SMITH: So what was your overall result of that analysis?

MR. COYNE: We concluded that the risk, the operating risk of the business had remained relatively the same since EB 2013, with the exception of regulatory risk. There we concluded that regulatory risk is expected to increase over the rate setting period for two reasons, movement towards a five-year rate plan whereas the company has traditionally operated under a two-year rate plan, and also movement to an incentive regulation program for the rate setting period.

MR. SMITH: Let's turn if we could to the nuclear side of the house, as it were. What was the approach you took there?

MR. COYNE: There we examined the major risks typically faced by a regulated utility operating a nuclear business and those included execution risk related to large and complex projects.

The risks related to emerging safety regulations in the business, risks related to age, degradation of station components, risks related to decommissioning and finally the ability to recover costs including return in a timely manner.

MR. SMITH: What was your overall conclusion on the nuclear side?

MR. COYNE: On the nuclear side, we concluded that OPG's execution risks related to large and complex projects has increased significantly. In addition, risks relating to emerging safety regulations continue to be elevated, as does the risk of component degradation. Lastly, OPG's regulatory risk will increase due to the longer rate making period, also a five-year rate plan, as well as the proposed smoothing account. All those factors suggested to us that the nuclear risk is increasing significantly in this rate setting period.

MR. SMITH: And we know that nuclear rate base is increasing, sir, throughout the period. What if any impact does that have on your assessment?

MR. COYNE: We found that the generation mix for OPG will reflect a significant change in the nuclear rate base over this period of time. And specifically, also more than when the Board last set the common equity ratio for the company at 45 percent in the last rate case.

In fact, it will exceed the level when the Board set OPG's common equity ratio 47 percent in the prior two cases. The projection is for the nuclear rate base to reach 51 percent by the year 2021, and continues to grow through 2026 to 64 percent when the Darlington project is completed.

MR. SMITH: Mr. Coyne or Mr. Dane, one of the things you mentioned, Mr. Coyne, was the use of a proxy group. Can you tell us how that factored into your analysis?

MR. DANE: Sure. Consistent with the comparable return requirement of the fair return standard, we also looked at a proxy group of North American utilities and specifically their equity ratios to provide market-based data about a comparable capital structure for this case.

MR. SMITH: And how did you go about compiling your proxy group in this case?

MR. DANE: We screened North American publicly-traded electric utilities for certain criteria that we deemed were important and necessary for the purposes of evaluating

OPG's comparable risk.

MR. SMITH: What were those criteria?

MR. DANE: Those criteria included companies that have regulated generation assets such as OPG, and particularly nuclear and/or hydroelectric assets that are in rate base. We screened companies so that our group was made up of companies that the regulated portion of their operations was a high proportion of their overall business performance. And we also screened companies based on credit rating, which is a broad measure of overall risk for the companies.

MR. SMITH: And did you include in your proxy group -- I gather from your earlier answer the North American base, did they include both U.S. and Canadian entities?

MR. DANE: It did. None of the Canadian companies we screened met all our criteria, but to include some amount of Canadian companies, we relaxed some of our criteria to allow us to include Canadian companies as well in the group.

MR. SMITH: And which were those?

MR. DANE: Those were Fortis and Emera.

MR. SMITH: Did you include any other Canadian Crown corporations?

MR. DANE: We did not include Canadian Crown corporations in our evaluation. Canadian Crown corporations aren't publicly-traded, so their capital structures may not be indicative of a market-based structure. In addition, the ratings agencies in the investment community view Canadian Crown utilities as having indistinguishable risks from their provinces, which is not the case for OPG.

So those companies tend to have a lot -- a very significant amount of leverage in their capital structure which is reflected in their rates, and their rates are often set on a different basis than for OPG.

MR. SMITH: So let me ask you what was the result of your proxy group analysis?

MR. DANE: The result was that we had a group of 20 North American utilities that again we screened to be comparable to OPG, and we reviewed those for various risk aspects, including the extent of their capital programs. OPG is undergoing a significant capital program, so we thought that was an important risk metric.

We also evaluated them to the extent to which they are generation utilities or have other utility operations. OPG is a hundred percent a generation company. Many of the proxy companies have significant generation, but also have significant transmission and distribution operations.

And we also looked at their credit ratings and found that our group to be overall within either having the same credit rating as OPG, so for Standard & Poor's that's a triple B plus, or to be within one or two, what's called notches of that, so from triple B to A minus.

MR. SMITH: And did you look at the equity ratios of your proxy group?

MR. DANE: We did. We looked at the equity ratios, the authorized equity ratios across the group.

MR. SMITH: What were your findings in that respect?

MR. DANE: Our findings were that the average and median were both a little bit north of 49 percent, so a little bit above 49 percent.

MR. SMITH: And what were your conclusions, or what, if any, conclusions did you draw from those findings?

MR. DANE: In going through our analysis we looked at the risk aspects of the comparable companies and then compared them to OPG. So in terms of -- again, I said OPG is 100 percent regulated. That's been found by the Board to be a riskier element of utility operations in the past, and we agree with that conclusion. And so based on that aspect of our analysis, OPG, we determined them to be above average risk for the group.

In terms of the capital programs that the utilities are going through, we evaluated their forecasted capital programs and compared them to OPG's forecasted capital program. OPG was around the median for the group, but when we considered the overall scope of the Darlington refurbishment project even beyond this rate-setting period, that becomes an element of increased risk for OPG comparative to the proxy group that we used.

And so another aspect we looked at is, OPG has a number of deferral and variance accounts that allow for clearance between rate cases and rate-setting proceedings, and so we looked to our group of proxy companies to see what level of adjusted mechanisms they have that allowed them to similarly adjust rates between rate cases, and we determined that the group on the whole has a broad range of automatic or adjusted mechanisms that allow for changes in rates between rate cases in some -- in many cases that that's quite broad coverage. So we considered OPG to be a risk comparable on that metric.

So overall our conclusion was that OPG was of higher risk on average than the proxy group, and so based on our finding that the average and median proxy group equity ratio was in the 49 percent range, we consider that a floor for purposes of our recommendation in this case.

MR. SMITH: So maybe just picking up on that, what is Concentric's overall opinion with respect to the appropriate equity ratio for OPG?

MR. DANE: Our overall opinion is that again 49 percent provides a floor for OPG. We consider that a reasonable equity ratio, but on a minimal basis.

MR. SMITH: You're aware, members of the panel, that a report has been prepared by the Brattle Group titled "Common Equity Ratio for OPG's Regulated Generation"?

MR. COYNE: Yes.

MR. SMITH: And I take it you've had an opportunity to review that report?

MR. COYNE: We have.

MR. SMITH: Just at a high level, can you advise the Board those areas of agreement between yourself and Brattle?

MR. COYNE: The area -- by way of approach, Brattle approached the issue very much the same way we did, by virtue of looking at the changes in risk since EB-2013 to today and anticipated changes in risk over the rate-setting period, and when they did so we largely concurred that the risk of OPG has changed since EB-2013; secondly, that the Darlington project will have adverse impact on OPG's credit metrics over this period of time, and they also concurred that the shift to incentive regulation will increase risk for the company over the rate-setting period.

They approached the issue of looking at the proper equity ratio through the same type of analysis that we did in looking at the change in risk and also in looking at a proxy group analysis. They took issue with how we approached our proxy group and thought that a narrower proxy group would be more appropriate. Whereas we used 20 companies, Brattle narrowed their analysis down to seven companies and made their recommendation based on an average of that smaller proxy group that they felt had less merchant exposure.

MR. SMITH: And as you understand it, what was Brattle's ultimate recommendation?

MR. COYNE: Brattle's recommendation was 48 percent versus our 49 percent.

MR. SMITH: Thank you.

I have no further questions in examination in-chief. I tender the witnesses for cross-examination.

MS. LONG: Thank you, Mr. Smith.

Mr. Richler, are you ready to begin cross-examination of this panel?

MR. RICHLER: I am, thank you, Madam Chair.

MS. LONG: And it's our intent to sit to 4:30 today.

CROSS-EXAMINATION BY MR. RICHLER:

MR. RICHLER: Okay. Good afternoon, Mr. Coyne and Mr. Dane.

MR. COYNE: Good afternoon.

MR. DANE: Good afternoon.

MR. RICHLER: My name is Ian Richler. I'm with OEB Staff.

First of all, have you got a copy of our compendium?

MR. COYNE: We do.

MR. DANE: Yes.

MR. RICHLER: Madam Chair, this is a compendium of materials we intend to refer to today. It consists mainly of materials that are already on the record. The exceptions are there are some excerpts from the Board's previous decisions on OPG's payment amount applications in respect of cost of capital. There is also one short excerpt from an OEB staff report on cost of capital. We did circulate this compendium on Friday to the other parties, so I would propose that we introduce this as an exhibit and mark it as K17.2.

MS. LONG: Thank you.

EXHIBIT NO. K17.2: BOARD STAFF CROSS-EXAMINATION COMPENDIUM FOR PANEL 5AI.

MR. RICHLER: Mr. Coyne and Mr. Dane, I heard you say that there were three parts to your analysis, and I understand the first part was comparing the risks faced by OPG today and going forward to the risks OPG faced at the time the Ontario Energy Board set the equity ratio at 45 percent in the EB-2013-0321 decision. Is that a fair characterization of the first part of your analysis?

MR. COYNE: Yes, we went back further as well. We also looked at the decisions and the analysis of the Board back in 2007 and 2010.

MR. RICHLER: So let's look at the section of your report called "Changes in business and financial risk since the EB-2013-0321 decision", which begins on page 14 of your report. I'll be toggling between our compendium and your report. And when I say page 14 I'm referring to the page numbers on the top right of the document.

MR. COYNE: And just to be clear, that's page 12 of our report and page 14 is the exhibit number?

MR. RICHLER: Correct.

MR. COYNE: Yes.

MR. RICHLER: On the next page, page 15 of the exhibit, you summarize your findings in the second paragraph, and I won't read that entire paragraph back to you, but is it fair to say you conclude that OPG's overall risk level will increase over the 2017 to 2021 test period both in terms of business risk and financial risk?

MR. COYNE: Yes.

MR. RICHLER: And so the current approved equity ratio of 45 percent is no longer adequate to reflect that increased level of risk?

MR. COYNE: Yes, and we make the further determination that it would not satisfy the fair return standard on that basis as well.

MR. RICHLER: Let's look at figure 1 on page 16 of your report. This shows the proportion of hydroelectric and nuclear generation in rate base over the years, right?

MR. COYNE: Yes.

MR. RICHLER: And I take it the point of this figure is to show that the hydroelectric portion of OPG's rate base peaked during the EB-2013-0321 rate period after 48 additional hydroelectric facilities were added to OPG's regulated portfolio and the Niagara Tunnel project was completed, but that it will decline during this test period when the Darlington refurbishment program will result in major additions to the nuclear part of the rate base. Is that a fair summary?

MR. COYNE: Very much, yes.

MR. RICHLER: Now, another way to look at OPG's portfolio mix might be to focus on production, that is megawatt-hours, rather than rate base.

So can you turn to page 40 of our compendium, please? This is from OPG's evidence Exhibit E2, tab 1, schedule 1, and there's a chart which shows OPG's nuclear production historically and going forward into the test period. And it looks like production from its nuclear facilities will actually be lower over the test period than it has been. Do you see that?

MR. COYNE: Yes.

MR. RICHLER: Were you aware of that trend when you wrote your report?

MR. COYNE: Let me just check with Mr. Dane in terms of when we first saw that profile.

Yes. I wanted to make sure. We'll do that from time to time, to make sure we give you one answer.

MR. RICHLER: Fair enough. I suppose the trend makes sense when you consider that OPG will need to take each of the Darlington units off line as it under goes refurbishment?

MR. COYNE: Yes.

MR. RICHLER: As far as you know, OPG's production from its hydroelectric facilities is not going to change significantly, is it?

MR. COYNE: No, it's expected to be relatively stable within the boundaries of fluctuations and water conditions.

MR. RICHLER: Your argument rests largely on the proposition that nuclear facilities are inherently riskier from a business and financial perspective than hydroelectric facilities, right?

MR. COYNE: Well, it's not just our argument. That's the Board's finding in the past. But we agree. Based on work we do in the industry, we think the Board had it right.

MR. RICHLER: Let's go back to what the Board has said on this.

MR. COYNE: I want to make sure, before we leave the point if I could, though, at the outset of your question, you indicated that we based our opinion on the change in the rate base over time and not based on the production.

If I could, I just want to address why we did that and that's because from a financial and operating risk perspective, it's the change in investment that's really creating the risk. And the fact that the generation is decreasing during that period, if anything, just exacerbates that risk because at the same time the capital investment is increasing, the production that creates revenue from those assets is actually decreasing. So if anything, that would accentuate the financial risk as a result of that continuous investment and not diminish it would be our opinion.

MR. RICHLER: So if OPG were investing the same amount in say refurbishing its fleet of dams as it is on the DRP, would your analysis be the same? Would the risk increase in the same way?

MR. COYNE: It would not, because we would expect the change in rate base would reflect the investment and the risk in dams versus the nuclear units, and could prospectively lead to a different conclusion as a result of that. It's following the investment and the risk associated with that investment as well as the execution risk that really is creating that risk, not the production profile.

MR. RICHLER: Okay. As you mentioned a moment ago, the Board has acknowledged that nuclear is riskier than hydroelectric. So let's look back at exactly what they have said in that regard, because I would like to explore this a little further with you.

Let's start with page 15 of the compendium. This is from the OEB's first payment amounts decision, EB-2007-0905, and the Board says in the third full paragraph:

"The Board finds that while the dispatch risk for the regulated facilities is low, the operation and production risks, particularly for the nuclear assets, are significant. Some of these risks are mitigated by the existing and ongoing deferral and variance accounts, but the accounts do not cover all of the risk, particularly not the risk of forced outages and the corresponding impact on costs and production."

So it seems that the risk the Board was concerned about at the time were the operational and production risks, in particular the risks of forced outages. Would you agree?

MR. COYNE: I would agree because at that point in time, the Pickering and Darlington plans weren't in place. So that would have been naturally the risks they would focus on.

MR. RICHLER: And in the last payment amounts decision EB-2013-0321, the Board had more to say about the riskiness of nuclear assets relative to hydroelectric assets. If we turn to page 36 of the compendium, the third paragraph begins:

"The Board finds that including additional hydroelectric units to the roster of prescribed assets lowers the business risk for several reasons. One of the reasons was that the proportion of regulated assets between hydroelectric and nuclear generation has changed, with hydroelectric facilities now having a much larger share the generating capacity of OPG than previously. It was acknowledged by OPG's consultant that hydroelectric facilities have lower risks than nuclear."

It seems from that passage that the Board was concerned by how much power is produced by OPG's nuclear facilities as compared to hydroelectric facilities, and not how much of OPG's rate base is ascribed to nuclear or hydroelectric. Would you agree with me that that seems like the Board's rationale in this case?

MR. COYNE: Only in part. I think perhaps more fundamentally up above in the paragraph begins "where the Board cannot accept". If I follow you. I want to wait until we're there, where the Board says these assets together, and here they're referring to the hydroelectric facilities, together with the Niagara Tunnel which was brought into service in 2013 and increased the proportion and share of rate base related to hydroelectric facilities from about half to approximately two-thirds now, and the relative business risk of hydroelectric generation versus nuclear has been accepted by the Board as being lower in previous proceedings.

So it seems to me the focus there is very much on rate base.

MR. RICHLER: I don't want to get into an argument with you about interpreting previous decisions of the Board. It seems they've said -- in one paragraph, they stress rate base and in the next paragraph, they stress production. Will you agree with me that that's a fair summary?

MR. COYNE: Down below, I'm seeing that the Board is focused on generating capacity. So I see rate base and I see capacity and as -- I guess as we have interpreted the Board's view, it was very much focused on those two issues more so than production at that period of time.

So I'm not sure if we're interpreting it quite the same way. I would acknowledge, however, they did also naturally look at production from the facilities as would have been appropriate to do so because they're moving hand in hand.

But the quantitative measures the Board seems to be using were more based on rate base. I see them as more directly leading to the conclusion that they reached than production per se.

MR. RICHLER: Let's look for a moment at what the credit rating agencies say about the riskiness of nuclear versus hydroelectric.

Can we turn to page 44 of the compendium? This is a response you provided to an interrogatory from OEB staff. Starting on line 7, you say that "nuclear generation is generally considered to be the highest risk generation source," and then you have a quotation from DBRS, one of the rating agencies that reads:

"Nuclear generation faces higher operating risk than other types of generation because of its complex technology, approximately 57 percent of OPG's production in 2015. Financial implications of forced outages, especially with older units, e.g. Pickering nuclear generating station, are greater given the high fixed cost nature of these plants as well as the fact that lost revenues from outages are not recoverable through rates."

It seems to me that DBRS is making what I thought the Board had made in its previous payment amounts decisions, which is that the reason nuclear is particularly risky is essentially that it is prone to outages. Do you think I'm interpreting that correctly?

MR. COYNE: No, I do not. If you go back -- I agree that production risk from nuclear facilities is an issue, and especially planning for forced outages that are not planned for. So I would agree with you in that sense, but if you look at the complete answer -- that's the last paragraph in this long answer. If you go back to page 42, you'll see that DBRS focusing specifically on OPG in this case says that it believes that given the complexity and scale of the Darlington refurbishment there is significant execution risk, as well as the potential for cost overruns.

High capital expenditure is required, albeit spread over a ten-year period, in addition to ongoing maintenance cap ex, total cap ex forecasts of approximately 2 billion in 2016, are expected to pressure OPG's key credit metrics.

And the better part of 42 and 43 are quotations that are similar to that for both S&P and Moody's that focus on the execution risk around these projects.

So we did look at production risk for OPG, but our finding was it was primarily execution around the Darlington and Pickering projects, the impact of these -- of cap ex surrounding these projects and their execution risk. It was far more fundamental to this determination than the ongoing production risk that it will have.

We do believe, however, that its production risk is not status quo, because when you take units such as these out of service and place them back into service there is an increased risk that the units will not perform exactly as the vendors projected they will. We've seen that with other refurbishments.

So we wouldn't say that it's status quo for production risk, but the more primary change that we see is associated with the Pickering life extension and the execution around the Darlington refurbishment project.

So I think that's the proper context that we were trying to establish in this response.

MR. RICHLER: Thank you. So if the real risk is around execution and cap ex, I'm still not seeing how there is anything uniquely nuclear about that and why -- I mean, I get that argument that big spends creates a risk to the company, but what I'm not seeing is why the proportion of nuclear to hydroelectric in terms of rate base matters and whether you spend that cap ex on a dam or on a nuclear reactor should matter.

So can you help me out a little further?

MR. COYNE: I'm not grasping the essence of your question, I think, perhaps. Why does a proportion of rate base matter then --

MR. RICHLER: Yes.

MR. COYNE: -- associated with nuclear versus hydro, and why did the Board reach its initial interpretation that it did around that. The -- it's a broadly understood within the industry that nuclear units are just more difficult to refurbish and to build new, more difficult to refurbish, and more difficult to operate than other generating assets. They're more complex technologies.

And the reasons for that are that they operate in a nuclear-safe environment. That creates a certain set of standards, and those standards are the highest for any other generation resource, so requires more complex engineering and the costs associated with that.

There are also fewer vendors that are capable of doing nuclear quality work in the U.S. and North America in general. So as a result of that you have to rely on a smaller pool of vendors that can do that work for you. That creates contracting complexities in a nuclear business that you don't have when you're trying to refurbish your dam. You have a broader number of contractors that can do that work for you.

And it's well understood that with both new nuclear projects as well as refurbished nuclear projects that there is a history of these projects having cost overruns and time delays in terms of their completion, so as a result that it creates more execution risk for companies that only do this so often.

OPG probably has as much or more experience than any other North American utility in this regard, but when one undertakes a project of this scope it creates a far greater risk than one would undertake typically when one is refurbishing a dam.

So for that reason, based on the industry track record, and consistent with the findings of the credit rating agencies, nuclear is a riskier technology to build and refurbish and to operate than the other generation technologies, and we cite that in response -- in this response pertaining to opinions from Moody's, for example, and DBRS.

MR. DANE: And I would add here that in terms of Darlington specifically where one unit is taken off for refurbishment, the other three will be operating, and they do share facilities, so that adds an element of both operational and outage risk.

MR. RICHLER: Imagine a hypothetical utility that owns one dam and one nuclear reactor. Let's say they both cost the same, they both produce the same amount of electricity. After a period of time our hypothetical company decides to invest a lot of money in refurbishing the nuclear reactor. In the meantime the dam has been depreciating.

So at the end of that project, the proportion of rate base has shifted. There is a higher proportion of nuclear than hydroelectric, whereas at the outset it had been 50-50. But the production mix is still 50-50.

Has that company gotten riskier?

MR. COYNE: Just to understand your question, in your hypothetical you're saying there is no refurbishment plan for the nuclear unit, it's just operating through its existing normal life?

MR. RICHLER: I'm saying after a refurbishment has been completed.

MR. COYNE: So it has been completed?

MR. RICHLER: Yes.

MR. COYNE: And your question is after completion of the refurbishment --

MR. RICHLER: Yes.

MR. COYNE: -- is it -- has its risk profile changed?

MR. RICHLER: So the rate base has changed. It's shifted towards the nuclear side, but the production profile has -- remains 50-50.

So my question is, is that company riskier than it was on day one?

MR. COYNE: It's a little bit hard in the hypothetical, but you're exposing more dollars at risk to the nuclear portion of the business with its attendant operating risks that are greater in that case. So the execution risk is no longer there associated with the refurbishment. The project is complete. But the rate base is now tilted towards nuclear, and we would say that the operating risk for the nuclear rate base is greater than it is for the hydroelectric rate base. So we would say it has shifted risk and it's shifted upward as a result of that.

MR. RICHLER: Sorry, I don't want to belabour this. I'll move on in a second, but I'm still having trouble understanding that part of your -- the first part of your answer why the shift in rate base makes a difference.

MR. COYNE: Well, with a hydroelectric unit, you know, within the normal bounds around water conditions, primarily you get what you get out of your hydro in a year in, year out basis, and it lasts for a hundred years. With the nuclear unit you can have forced outages, you can have degradation of -- even with a refurbished unit you can have degradation of complex nuclear components, you can have changes in safety regulations and operating requirements associated with them.

So if you have shifted more of your portfolio towards nuclear you are going to have a riskier exposure with those dollars than you do with your hydro dollars.

So from a financial risk perspective you are a riskier company than you were prior to that evolution or that change from day one, as you described it.

MR. RICHLER: But isn't the risk really the technology-related risk that there is a forced outage and then there is some period where you're not able to charge for the electricity that you had expected to produce?

MR. COYNE: Yes, let's take the case of Point Lepreau, New Brunswick Power, is a case in point where, due to complications associated with refurbishing that unit, they had an extended period of outage where they had to buy much higher cost replacement power. You typically don't find that with a hydroelectric unit.

So it's a case in point as to why dealing with nuclear technologies is more complex and implies a greater risk than it does for other technologies, and specifically for hydro in the case of your hypothetical.

So forced outage is one type of risk. The other is, of course, refurbishment, and the other is changing safety requirements associated with the unit, post Fukushima for example. We haven't seen that type of primary shift in how we regulate hydroelectric facilities. With hydroelectric facilities, occasionally we get -- fish is typically the concern there, but we don't see such platonic (sic) shifts in how we go about regulating hydroelectric assets as we have seen with hydro facilities post Fukushima. And prior to that, post Three Mile Island, for example, when the safety commissions pretty much rewrote the books for what it considered to be best in practice safety mechanisms associated with these facilities.

Reactors' designs have had to change. How personnel are trained to operate these units have changed. We just don't see that with other technologies.

MR. RICHLER: Let's return to page 16 of your report, which has your figure 1. You've got a row showing the test period hydro to nuclear ratio in terms of rate base, and it appears from that row that in three of the five years of the test period, the hydro to nuclear ratio -- in other words, the share of rate base that is comprised of hydro assets -- will actually be higher than it was when OPG's equity ratio was set at 47 percent, that is in the years 2008 through 2012, is that right?

MR. COYNE: That's correct.

MR. RICHLER: And the hydro to nuclear ratio dropped significantly in 2020, when Darlington unit 2 comes back on line?

MR. COYNE: That's correct. Rate base, that doesn't track capital expenditures. But that's true for rate base, yes.

MR. RICHLER: Why did you not recommend a stepladder approach, where the equity ratio would change in 2020 as the hydro nuclear ratio changes, instead of a constant 49 percent for the entire test period?

MR. COYNE: Sure. Two primary reasons. One is cost of capital is forward-looking and the Board found itself in the past, and most recently when it examined the cost of capital generically in 2009, that cost of capital is an opportunity cost concept and it's a forward-looking concept, and appropriately so because in order for these rate base changes to occur, that means the company needs to be investing along the way in this refurbishment project, for example.

So it needs to raise debt capital. It also needs to provide its own equity, and that's happening now. Expenditures for the Darlington project have already begun, and capital expenditures will total over 5 billion over the rate-setting period.

And I think actually I wish we had charted it this way, I would borrow from Dr. Villadsen's testimony because I think it probably shows more closely than anything else, frankly, that we put in our testimony.

If it's possible, if we can turn to her testimony for just a moment, I would draw your attention to a page I'll identify in a moment.

There it is, page 10 of her testimony, if we could divert there for a second. Thank you. Whoever is controlling that, it's right on. So here it shows what I'm talking about. The bars in her chart are showing nuclear capital expenditures over this period of time. What we're tracking in our figure 1 is the change in rate base. What you can see here is the capital expenditures precede the movement of rate base, movement of these capital expenditures into rate base, and that's because the Darlington unit 2 is not completed until year 2020.

So the company is making these capital expenditures now and the capital structure and cost of capital needs to be set on a forward-looking basis, in order to accommodate these capital expenditures and the fundamental change of risk associated with them.

That's the primary reason and it would be -- I guess I would also say that it certainly has not been the history of the Board to set a stair stepped -- in my recollection at least, a stair stepped type cost of capital approach.

MR. RICHLER: Let's go back to your report at page 19. At the top of that page, you identify five major risks to a regulated utility related to nuclear power generation, and I would like to go through those one by one.

The first one is the ability to implement large and complex projects on time and on budget. What do you mean by that?

MR. DANE: What we meant by that is something we've been talking about now today. It's the risk related to large mega projects and the complexities that come out of those, and the ability to do those both within the budget that's prescribed as well as the schedule.

In a nuclear facility, there are often risks as you go into any large construction project about evolving issues or the like that get discovered -- new discovery scope is part of the project. So that's really what this risk is encapsulating.

MR. RICHLER: You say on page 20 that you have witnessed firsthand the issues even the most well planned large construction projects can face, including scope, budget and schedule increases, as well as increased regulatory scrutiny. Can you elaborate on that, please?

MR. DANE: Sure, I'll give an example. One of our clients is Florida Power & Light in Florida in the United States, and they own two nuclear facilities in Florida that they have been doing what's called an uprate, which is to increase the capacity of those facilities. And it's not too far from the word refurbishment, so it's similar in scope and size of a project.

And FP&L is a world class nuclear operator with a lot of experience, both in their regulated plants in Florida and they own a fleet of unregulated plants across -- or the parent company owns a fleet of unregulated plants across the U.S. And even with their experience, they ran into budget issues. They ran into schedule issues in terms of discovery scope, as I just described, issues with scope creep and additional elements of their refurbishments that ended up causing the projects to cost more than initially budgeted.

MR. RICHLER: I know your expertise is in cost of capital not construction project management, but as a matter of common sense, would you agree with me that there is an inverse relationship between the level of planning and the level of risk; in other words, the worse the planning, the higher the risk that the project will go off the rails?

MR. DANE: I would say that a lot of projects that have gone wrong, the results have been poor planning. So to that extent in those cases, yes, there was an inverse relationship between the amount of planning and the success of the project. Certainly in a project of this size and scope, the more that goes into planning, the more that goes into considerations of eventual outcomes, the increase and likelihood of success in your project.

MR. RICHLER: Did you know that OPG had an expert on construction risk management named Patricia Galloway, who testified in this proceeding that OPG's planning was world class in respect of the Darlington refurbishment program?

MR. DANE: I didn't hear her exact testimony to that effect, but I am aware OPG had a witness testifying to that topic.

MR. RICHLER: And were you aware that OEB Staff had our own expert witness on construction project management who said that OPG's planning in respect of the DRP was consistent with industry standards? Checked all the boxes?

MR. DANE: Again, I have not seen that exact testimony. I was familiar that there was an expert testifying.

MR. RICHLER: Did you know that OPG has told the Board in this hearing that it has quantified the level of confidence it has in its ability to deliver the DRP on time and on budget, and that OPG puts that confidence level at 90 percent?

MR. DANE: Yes, I'm aware that OPG's budget is based on a P90 estimate, which would indicate a 90 percent confidence level.

MR. RICHLER: And that was factored into your analysis and your assessment of the risk that the DRP represents to the company?

MR. DANE: Yes. I would agree that the evidence we've seen is that this is a well-planned project. I know the company has spent significant amount of time working on its budgets, working on risk, sharing with its vendor, and going through pre-planning activities to make sure that they put themselves in the best position for success. So we're certainly aware of that.

There are still risks related to any large mega-project, even the most well-planned, and that's -- those are the risks that we are discussing in that item 1 that you pointed us to. So there's still risks related to what I'll call a thin vendor pool related to undiscovered scope and those types of risks, and our opinion is that they still exist. OPG has done its -- taken its steps to mitigate those risks, but they can't eliminate them.

MR. RICHLER: Do you think that credit rating agencies and notional investors in OPG would take into consideration the high level of planning that went into the DRP and the high level of confidence that underpins OPG's plan?

MR. DANE: I think as part of any due diligence process to understand the financial health of the company that that would be a consideration.

MR. RICHLER: Okay. Going back to page 19, the second risk you associated with nuclear power is increases in costs and/or outage durations related to emerging safety regulations, e.g. Fukushima response costs. And on page 23 you elaborate on this in the second paragraph. You say, starting at the second sentence of the second paragraph, "While the CNSC" -- that's the Canadian Nuclear Safety Commission -- "has made its recommendations for changes in the industry and closed out its Fukushima-related action items for OPG specifically, the risk remains for additional requirements as the CNSC evaluates nuclear plant owners' implementation of their Fukushima-related projects and adopts any additional safety standards being developed in the industry both in Canada and internationally."

On what basis did you make that specific finding? Was it from talking to OPG or the CNSC or from your own general knowledge of the industry?

MR. DANE: It was a mix of factors. We did do our own research on the implementation specifically of Fukushima-related reaction in Canada. We also spoke with the company as subject-matter experts on OPG's specific implementation of any findings from Fukushima reactions.

MR. RICHLER: The Fukushima incident was six years ago. As you say on page 22, it was on March 11th, 2011, before OPG's last payments amounts case, EB-2013-0321, right?

MR. DANE: That's correct. The Fukushima accident happened in 2011.

MR. RICHLER: So if anything, wouldn't the regulatory risk have been much higher at the time of the EB-2013 proceeding? In fact, in the immediate aftermath of Fukushima, some countries like Japan and Germany were making moves to radically reduce their reliance on nuclear power and to move to alternative sources of power, and there must have been a great deal of uncertainty in the nuclear industry generally; isn't that right?

MR. DANE: Yeah, our view is that the risk remains elevated. The risk in the nuclear industry is that an accident anywhere affects plants everywhere. And as you said, there were immediate after-effects of the Fukushima accident, and the risks don't just drop because of the time period between when the accident happens and future risks.

In fact, as -- and one of the things we point to here is that as the industry implements its changes, you know, it's very much an international community in the nuclear industry, and so as changes are implemented the risks relate to every plant that similar safety requirements, et cetera, are required to be made across the international fleet.

MR. RICHLER: So you said the risk remains elevated, but that's not the same thing as saying the risk has increased since EB-2013, right?

MR. COYNE: Yeah, and that is not our view. We have not said that it's increased, only that it remains elevated.

MR. RICHLER: So this factor then is neutral, doesn't weigh in favour of changing the equity ratio one way or the other; is that right?

MR. COYNE: I would say yes. Would you concur?

MR. DANE: Yes, that's correct.

MR. RICHLER: Okay. Again on page 19, the third risk is age-related degradation of station components, discovery of unexpected conditions, and/or extended outage durations that put nuclear plants at further risk of producing lower than forecasted power.

Wouldn't you expect that OPG's projects to refurbish Darlington and to extend the life of Pickering would actually reduce this risk? I mean, if OPG did no work on Darlington and Pickering, which are approaching the end of their useful lives, wouldn't there be a higher risk during the test period of unplanned outages?

MR. COYNE: Yeah, in the case of -- by the way, these are the five risks we've evaluated. We haven't said that all five were elevated. And perhaps you're aware of that. But in the case of age-related degradation, there, in the case of OPG we would focus on the fact that Pickering would -- the plan to extend its life to 2022 and 2024, this would be the longest that any CANDU reactor has had its life extended.

So not all -- not all elements of these plants will be upgraded as a result of life extension, so as a result of that we're in unknown territory out to 2022 and 2024 in terms of the ability of these CANDU reactors to react that long.

So I think that's probably the difference that we would note here versus any other company in the same situation. But we would agree that once Darlington is refurbished that should lower this risk, certainly for those components that are refurbished.

MR. RICHLER: So just to make sure I understand, on this factor -- and I hear you. You're not saying that all of these five factors necessarily weigh on the same side of the scale.

MR. COYNE: Yes.

MR. RICHLER: But just so I understand, on this factor are you saying that overall it actually weighs in favour of a lower equity thickness?

MR. COYNE: I would not go that far. I would say by the time you get to the refurbishment of Darlington in 2026 you could say that Darlington is now in a better position from that standpoint because of the refurbishment.

But insofar as Pickering is concerned, I would not say so. First of all, this life extension has not been approved yet; and second of all, it remains to be seen if CANDU reactors can operate over this long a period of time. So I would not say that tilts in the other direction from a risk perspective over the rate setting period.

MR. RICHLER: Just to tie this one off, is it neutral?

MR. COYNE: I would call it -- well, let me confer.

We would say this is neutral over this rate setting period.

MR. RICHLER: Okay. The fourth risk on page 19 is the risk of decommissioning of retired nuclear plants and long term management of used nuclear fuel and other nuclear waste, including the cost and timing of decommissioning work and the ability to fund that work. Have I got that right?

MR. DANE: Yes, that's correct.

MR. COYNE: Yes.

MR. RICHLER: I understand that Darlington and Pickering will need to be decommissioned and the used fuel and waste will need to be managed. But isn't that true regardless of the DRP and the Pickering extended operations program?

MR. DANE: Yes, the facilities will need to be decommissioned under either scenario.

MR. RICHLER: So again, where does this factor -- what side of the scales does this factor fall under? Are you suggesting that the risk will increase over the test period? Wouldn't it actually decrease in the test period, as the decommissioning dates for Darlington and Pickering are extended into the future?

MR. DANE: To Mr. Coyne's point, all of these factors are the ones that we evaluated, and we didn't come to the conclusion that the company had increased necessarily across the breadth of them. So this is one that I would say the scenario is still the same for OPG, in terms of the risk being there, and I don't think this is one that has changed materially since the last case.

MR. RICHLER: Another neutral one.

MR. DANE: Right.

MR. RICHLER: The fifth and final risk, again on page 19, is the ability to recover costs including return in a timely manner. Can you explain what you mean by that?

MR. COYNE: What we mean by that is the ability to recover its -- we say in a timely manner. For a utility, that's typically an annual basis. That's typically the base case in Canada. In the case of OPG, there have been two year rate cases. That's what we mean by a timely manner. And when a utility is constructing a program, the most timely recovery of those capital costs is, of course, using a CWIP approach. We understand that's not the case in Ontario as it is in some jurisdictions, and certainly some U.S. jurisdiction.

MR. RICHLER: Using a what approach?

MR. COYNE: A CWIP approach to recovery of investments in rate base. You're actually earning return as you build it as opposed to waiting for it to be used and useful. That would be the most timely --

MR. SMITH: Sorry, it may be helpful for the record just to specify what the acronym is you're referring to.

MR. COYNE: I'm sorry. Construction work in progress is the acronym. And there are two basic approaches to the treatment of an ongoing construction project. One is to allow for construction work in progress. So as the utility builds it, it's earning a return on it and actually earning a cash return on it as it's building the project. That's not a policy that's been in effect in Ontario.

The other approach to this is an AFUDC approach, which accounts for funds used during construction, if I remember that acronym correctly --

MR. DANE: That's correct, I think that's right.

MR. COYNE: -- which means you're earning a return as you go, but you're not earning a cash return. You have to wait for that to go into rate base before you recover any cash return on that investment. That is in essence the approach that has been embodied in Ontario in the past.

In this case, for example -- well, let me stop there. So that's the difference. And then of course a third alternative would be to wait for that construction to be put into rate base with or without a return. And obviously, if it didn't have a return, that would be the least desirable from the utility's standpoint, the cash flow standpoint, and credit metric standpoint.

So that's the factor we're measuring and in terms of the -- to anticipate your question, if I might, do we see a change this that factor vis-a-vis EB-2013, I would say on this one yes. And the reason for that is that OPG is not going into a five-year rate program for the nuclear business which is has not operated under in the past.

And in addition to that, it's also entering into this smoothing program that will defer up to about a billion dollars in costs that it will incur during the rate setting period to recovery after the rate setting period. So for those two reasons, we would say that the risk to recover its costs, including return in a timely manner, has increased vis-a-vis where it would have been in EB-2013.

MR. RICHLER: Okay. Thank you. Madam Chair, I see we're at 4:30, so perhaps I'll stop now and pick up again tomorrow morning.

MS. LONG: Thank you. We're adjourned until tomorrow morning at 9:30.

--- Whereupon proceedings adjourned at 4:32 p.m.