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April 10, 2017

BY RESS and OVERNIGHT COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
27th Floor - 2300 Yonge Street
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: EB-2016-0152 - Ontario Power Generation Inc. (“OPG”) Application for Payment Amounts (the “Application”) – Confidential Treatment re Hearing Transcript Volume 17

Pursuant to section 6.2.4 of the OEB’s Practice Direction on Confidential Filings, OPG requests confidential treatment for the redacted portions of the transcript for the hearing day held on April 3, 2017 (attached).

OPG’s basis for this request is that the redacted sections of the transcript contain sensitive information for purposes of labour relations. In particular, many of the redactions reference portions (i.e. the notes section) of Ex. L-06.6- 15 SEC-072. If disclosed, this information could potentially interfere with OPG’s future collective bargaining negotiations. Once again, this information has previously been granted confidential treatment in Procedural Order No. 3 and in the Order and Decision on Confidentiality dated January 31, 2017.

Respectfully submitted,

[Originally Signed By]

Barbara Reuber
Regulatory Affairs
Ontario Power Generation

cc: John Beauchamp (OPG) via email
Charles Keizer (Torys) via email
Crawford Smith (Torys) via email

**UNREDACTED
CONFIDENTIAL**



ONTARIO ENERGY BOARD

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

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

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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

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MICHAEL JANIGAN
MARK GARNER
CYNTHIA KHOO

Vulnerable Energy Consumers '
Coalition

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1 Monday, April 3, 2017

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

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

7 **PRELIMINARY MATTERS:**

8 MR. SMITH: Yes, Madam Chair. There was one matter
9 that -- it arose from AMPCO's cross-examination of panel
10 3B, and it was in relation to the ESMSA scorecards, and we
11 had advised that we would come back today and advise of the
12 legal position with respect to confidentiality and whether
13 we would be in a position to produce those contracts out of
14 -- the scorecards, my apologies, in confidence.

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

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

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

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

28 MS. LONG: Thank you very much.

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

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

5 MS. LONG: Okay --

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

8 MR. MILLAR: J17.1.

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

11 MS. LONG: Thank you, Mr. Smith.

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

14 **ONTARIO POWER GENERATION - PANEL 4, RESUMED**

15 **Alex Kogan,**

16 **Donna Rees,**

17 **David Milton; Previously Affirmed.**

18 **CROSS-EXAMINATION BY MR. RUBENSTEIN:**

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

21 MR. MILLAR: K17.1.

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

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

27 I just want to start off with -- to follow up on some
28 discussion that was had on Friday. There was discussion

1 about the Hydro One shares and the lump-sum payment. I
2 just want to be clear I understand what exactly is being
3 provided to Society and PWU members.

4 So am I correct that in addition to their base salary
5 increases there is a lump-sum payment of 1 percent in 2015
6 for the PWU and 2 percent in 2016, and for the Society it's
7 1 percent in 2016 and 2 percent in 2017?

8 MR. MILTON: That's correct.

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

12 MR. MILTON: For the PWU.

13 MR. RUBENSTEIN: For the PWU?

14 MR. MILTON: Yes, for the PWU.

15 MR. RUBENSTEIN: And not the Society?

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

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

18 MR. MILTON: 2 percent.

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

22 MR. MILTON: That's correct.

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

25 MR. MILTON: Of their salary --

26 MR. RUBENSTEIN: Or 2 percent.

27 MR. MILTON: Of their salary for the PWU of April 1st,
28 2015 --

1 MR. RUBENSTEIN: All right.

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

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

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

11 MR. RUBENSTEIN: But --

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

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

15 MR. MILTON: Based on --

16 MR. RUBENSTEIN: -- April 2015 salary.

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

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

23 MR. MILTON: It continue on for a period of up to
24 1five years, provided the employees eligible under the
25 criteria, that they're still contributing to the pension
26 plan and they meet the other criteria associated with that.

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

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

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

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

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

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

19 MR. MILTON: That's correct.

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

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

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

1 confidence section.

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

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

9 Flipping over the page:

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

15 And Mr. McDonell from Hydro One replies:

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

21 Do you see that?

22 MR. MILTON: Yes, I do.

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

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

26 MR. RUBENSTEIN: I would like to talk about the Towers
27 compensation study. Mr. Millar had asked you a number of
28 questions about that last week and why you were at the 75th

1 percentile for the nuclear authorized segment. Do you
2 recall those discussions?

3 MS. REES: Yes, I do.

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

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

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

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

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

27 MS. REES: That was just an example indicating that
28 there were others beyond OPG that felt there were

1 differences between the U.S. and Canada.

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

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

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

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

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

26 What Donna and myself have referred to is if you look
27 at CANDU technology that is generating the electricity, not
28 some of the ancillary things like heavy water that is in

1 this adjustment here, it has more systems and those systems
2 are highly integrated, and therefore it introduces more
3 complexity whatever CANDU -- whether Pickering A, Pickering
4 B, or Darlington, compared to a U.S. PWU. There's less
5 systems in U.S. PWR.

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

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

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

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

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

27 MR. RUBENSTEIN: What about in the general category?
28 Did you look and determine if the position OPG has similar

1 title, similar task, but the nature of the work is just
2 simply less complex at OPG, for whatever reason? Did you
3 do that investigation?

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

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

9 MS. REES: We did not.

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

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

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

27 So as I understand it, as of April 2015, Towers took
28 the annual salaries at that point in time for the OPG

1 employees; is that correct?

2 MS. REES: That is correct.

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

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

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

17 MS. REES: That is correct.

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

21 MS. REES: That is correct.

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

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

26 MR. RUBENSTEIN: So let me --

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

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

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

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

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

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

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

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

24 MS. REES: Yes, I do.

25 MR. RUBENSTEIN: This is for 2015, correct?

26 MS. REES: Correct.

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

1 to people getting below the target score?

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

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

8 MS. REES: If I could, just one correction. In 2015,
9 it wasn't the seven-point scale. So my reference to
10 4 would have been incorrect; it would have been a 3.

11 MR. RUBENSTEIN: Sorry, this is the 2015.

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

14 MR. RUBENSTEIN: You're reading from below.

15 MS. REES: Yes.

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

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

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

24 MS. REES: Correct.

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

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

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

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

15 MR. RUBENSTEIN: Okay. So then the compensation study
16 is supposed to replicate 2015 salaries, at least as April
17 1st, as I understand it -- just one second. Correct?
18 Break this down.

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

26 MR. RUBENSTEIN: No, I understand that, but that makes
27 sense if on average you actually paid the target, and as I
28 understand for 2015, looking at this, more people are

1 getting above the target than below the target, so target
2 is actually not the average score in practice in 2015,
3 correct?

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

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

18 MR. RUBENSTEIN: Do we -- do you have -- I don't know
19 where we are in the year. It's April. Do you have,
20 essentially, this -- are you able to recreate this for the
21 2016 actuals, the distribution?

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

23 MR. RUBENSTEIN: Can you please --

24 MS. REES: Oh, we have that information.

25 MR. RUBENSTEIN: Can you provide that information?

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

27 MR. MILLAR: J17.2.

28 **UNDERTAKING NO. J17.2: TO RECREATE THE COMPENSATION**

1 **STUDY WITH THE 2016 ACTUALS, THE DISTRIBUTION.**

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

6 MS. REES: Yes, I do.

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

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

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

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

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

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

1 the single most significant driver.

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

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

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

8 MS. REES: Yes, it is.

9 MS. LONG: Okay.

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

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

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

25 MS. REES: Some may.

26 MR. RUBENSTEIN: Do you know if they do?

27 MS. REES: I would definitely expect some of the
28 utility organizations would for sure. That data is not

1 gathered as part of the collection of the survey data.

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

4 MS. REES: Yeah.

5 MR. RUBENSTEIN: -- the data. Okay.

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

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

19 MR. RUBENSTEIN: But for the Appendix 2A which
20 includes all compensation it would include the 2015 -- in
21 2015 at least the lump-sum payment and going forward the
22 lump sum and the value of the shares, correct?

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

24 MR. RUBENSTEIN: Great.

25 MS. REES: Those costs.

26 MR. RUBENSTEIN: If we can turn to page 34 of the
27 compendium. This is back to the Goodnight study. And one
28 of the things Goodnight did in there when they were trying

1 to determine the staffing benchmark is they made an
2 adjustment to take into account -- they added additional an
3 additional 160 FTEs to the benchmark to account for the
4 many OPG positions worked 35 hours per week, while their
5 comparators worked 40 hours a week. Essentially they're
6 normalizing for hours in the week. Do you see that?

7 MS. REES: Yes, I do.

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

10 MS. REES: No, they did not.

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

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

21 MR. RUBENSTEIN: I'm not talking about the number of
22 people required. Did it make an adjustment to take into
23 account that for a number of positions, at least a number
24 of positions, Goodnight identified there were a number of
25 positions that compared to the U.S. nuclear facilities --
26 and maybe this exists in other ways -- OPG's employees are
27 working 35 hours a week while the comparators are working
28 40 hours a week. They're working more.

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

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

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

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

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

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

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

27 MS. LONG: And the Society?

28 MS. REES: The Society would be predominantly 35, but

1 there is a mix of 35 and 40.

2 MS. LONG: Okay. When you say "most", can you give me
3 a percentage? Are there specific areas that work 35 versus
4 40 in the PWU?

5 MR. MILTON: Within the PWU, typically the clerical
6 classifications that work 35 hours and a small number of
7 technical positions that work less than 40; in fact, some
8 work 37 and a half. On the operators, the trades all work
9 40 hours on base salary.

10 MS. LONG: Thank you.

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

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

17 MS. REES: Correct.

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

21 MS. REES: Correct.

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

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

1 and benefits is from a separate survey.

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

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

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

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

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

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

26 We are, to some degree, dependent on who participates
27 in the studies. But again, this is a pretty standard
28 methodology. This is the same thing AON had done in the

1 previous one was as well.

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

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

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

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

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

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

22 MS. REES: That is correct.

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

28 MS. SPOEL: What page?

1 MR. RUBENSTEIN: Page 6.

2 MS. SPOEL: Of the compendium?

3 MR. RUBENSTEIN: Yes.

4 MS. REES: Yes, that's correct.

5 MR. RUBENSTEIN: So if we're looking at the results on
6 page 9, and I think it's about -- as I understand, you're
7 providing about -- compared to the median, you're a third
8 more generous, correct, roughly speaking?

9 MS. REES: You're looking at?

10 MR. RUBENSTEIN: Back at page 9. You're about a third
11 more generous compared to the market?

12 MS. REES: Approximately, yes.

13 MR. RUBENSTEIN: But if the base pay amounts differ
14 between you and the market, we assume they're similar to
15 the compensation study. On an absolute basis, it's
16 actually more than a third, you'd agree with me, the value?

17 MS. REES: That assumption you're making is based on a
18 premise I don't agree with. You're assuming that the basis
19 for this study is tied to the costs of -- the base salary
20 and the costs of the comparator organizations, which it's
21 not.

22 So again, similar to how in the compensation study we
23 try to normalize, we do the same thing on the pension and
24 benefits analysis. So this is a pure reflection using OPG
25 base salaries as a comparison.

26 MR. RUBENSTEIN: That's a good clarification. So when
27 we're talking about the market P50 as a percentage of the
28 base salary, that's a percentage of OPG's base salary?

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

5 MR. RUBENSTEIN: Please.

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

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

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

26 MS. SPOEL: Can I just make sure I understand this.
27 So what you would do it -- let's just say you would take a
28 40 year old male who has three dependents, and the kids

1 have braces on their teeth or whatever, so they use a lot
2 of dental, not much medical. Their pension -- they're
3 making average OPG salary, so they're contributing whatever
4 it is to the pension plan, and you come up with our cost is
5 29 -- so the pension and benefit burden to OPG ends up
6 becoming 29.7 percent, if it's a PWU member, according to
7 this chart.

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

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

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

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

1 MS. SPOEL: Let's say the base salary was \$100,000, as
2 an example. So if the base salary was 100,000 -- that's
3 probably low, but whatever. If your base salary was
4 100,000 you would use that same base salary to say it's 20
5 percent of 100 in both cases.

6 MS. REES: Correct.

7 MS. SPOEL: So it would be one case that would be
8 \$20,000 and the other case it would be \$30,000 --

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

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

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

14 MS. SPOEL: Right.

15 MS. REES: -- the plan provisions.

16 MS. SPOEL: Right. Okay. Understand that. Yeah.

17 Thank you.

18 MR. RUBENSTEIN: Now I understand. Thank you.

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

1 MS. REES: That is correct.

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

7 MS. REES: That is correct.

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

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

23 MS. REES: That is correct.

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

1 correct?

2 MS. REES: That is correct.

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

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

14 MS. REES: That is correct.

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

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

21 MR. RUBENSTEIN: Why?

22 MS. REES: So if you look at the -- on Friday we were
23 talking about the jobs that weren't matched, for example,
24 and if you take the PWU where we identified the majority --
25 or a good portion of the unmatched jobs were related to the
26 nuclear security officers, so when you're making that
27 assumption that you can extrapolate the results, you're
28 assuming that the unmatched positions have the same above

1 or under the P50 as the broader population, and for nuclear
2 security officers I'd be very surprised if that's the case
3 based on some other information we have. Just a scan of
4 the base salary information that's publicly available.

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

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

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

28 So, like, if we go to page 3 of the compendium, which

1 shows what you have -- the incumbent positions versus what
2 you've benchmarked, it's 78 -- only 78 percent of the
3 positions, correct? That you've benchmarked.

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

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

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

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

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

23 MR. RUBENSTEIN: Well --

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

26 MR. RUBENSTEIN: All right. Well, let's just say the
27 Board found it appropriate, they would want to extrapolate.
28 I'm going to walk you through some tables, and you can tell

1 me if my math is wrong and -- or Mr. Kogan can correct my
2 math.

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

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

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

18 MS. REES: Yes, I do.

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

21 MS. REES: This is actually Ms. Rees's math.

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

23 MS. REES: Yes, your math is correct.

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

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

1 MR. RUBENSTEIN: Okay. And then if we go all the way
2 down then to column I, if we took the entire population
3 using exactly the same way you've determined what is
4 regulated, what's unregulated, and what's at issue in this
5 proceeding, essentially, we get -- it would be, instead of
6 \$29.7 million being the difference in 2015, it would be
7 \$38.8 million, correct?

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

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

11 MS. REES: Okay.

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

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

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

24 MS. REES: Yes --

25 MR. RUBENSTEIN: -- correct?

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

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

1 19, the difference would be instead of 29.7 million it
2 would be 46.7 million, correct? And this is in column J,
3 correct?

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

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

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

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

16 MS. LONG: For nuclear authorized, you've used 33 in
17 management, 37 in Society, and 255 in PWU, for a total of
18 365, and you extrapolated that. Is that what you did?

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

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

25 MR. RUBENSTEIN: Yes.

26 MS. LONG: Okay.

27 MR. RUBENSTEIN: Did OPG match positions --

28 MS. LONG: 345. Do we know what the nuclear

1 authorized number is?

2 MS. REES: Yes.

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

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

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

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

12 MR. RUBENSTEIN: I get about 400 nuclear authorized.

13 MS. REES: 405.

14 MS. LONG: 405?

15 MS. REES: 405 in total.

16 MS. LONG: They're paid at the 75th percentile, all
17 405, is that correct?

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

20 MS. LONG: Thank you.

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

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

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

1 MS. REES: Correct.

2 MS. SPOEL: And similarly for management. What is it
3 about the Society positions that means that only 53 of the
4 111 were able to be benchmarked? Is there something the
5 Society members do at OPG that is particularly different
6 compared to what the PWU employees do?

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

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

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

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

23 MS. SPOEL: Thank you.

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

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

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

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

10 MR. RUBENSTEIN: So there's --

11 MS. REES: They were excluded from the study.

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

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

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

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

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

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

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

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

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

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

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

23 MR. RUBENSTEIN: Okay. No augmented staff?

24 MS. REES: Augmented staff is a type of purchased
25 service. They are people we bring in. They report to an
26 OPG supervisor, but they're brought in under a contract.
27 So it could be, for example, a temporary rental admin staff
28 that would come in for a fixed period of time, and we do

1 not pay their salary, we pay the firm that employs them.
2 So they are an employee of another company.

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

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

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

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

18 MR. RUBENSTEIN: Okay.

19 MS. REES: Okay?

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

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

27 MS. REES: So just a simple way of thinking of it
28 might be that anyone that we have to prepare a T4 for that

1 we pay salary to is considered an employee. They may be
2 regular, they may be non-regular, they may be part of this
3 new classification of term, but if we're paying them
4 through our payroll systems and they are a direct employee
5 and we have to submit information to Revenue Canada on
6 their -- on the salaries we paid and take the appropriate
7 deductions they're an employee. The contract or the
8 augmented staff are going to be purchased through a third
9 party.

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

15 MS. REES: Mm-hmm.

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

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

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

28 MS. REES: So with the other purchased services

1 groupings there often can be labour involved. There can be
2 labour. It can be materials. There can be services
3 provided. So it can be -- it can reflect a combination of
4 those.

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

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

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

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

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

15 MR. RUBENSTEIN: And just --

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

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

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

2 MS. REES: Yes.

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

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

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

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

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

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

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

14 MR. KOGAN: Okay.

15 MR. RUBENSTEIN: Are you able to do that?

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

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

20 MR. KOGAN: In the associated FTEs? Is that --

21 MR. RUBENSTEIN: Yes.

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

23 MR. MILLAR: J17.3.

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

27 MR. RUBENSTEIN: Now, there was a discussion with Mr.
28 DeRose about staff who leave the company, then show up

1 later on as augmented staff. Do you recall that?

2 MS. REES: Yes.

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

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

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

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

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

21 MR. MILTON: After they retire?

22 MR. RUBENSTEIN: Yes.

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

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

28 MR. MILTON: In the laundry example, no, because the

1 work is done in the United States, so it's not likely that
2 the staff would move to the United States to do the
3 laundry.

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

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

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

17 MS. REES: That were rehired, yes.

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

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

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

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

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

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

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

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

1 OPG for about six years. His total earnings in
2 the sixth year as a temporary employee were
3 \$331,000, which included an executive allowance
4 of 12,000, an IP award of 98,200, double his
5 annual amount as a regular employee. Another
6 employee who chose to draw his pension as a
7 significant lump sum returned to OPG a month
8 after his retirement. His total earning that
9 year as a temporary employee working three days a
10 week were 328,000, which included an AIP award of
11 147,000 for his performance before retirement.
12 And shortly after leaving OPG, two nuclear
13 employees who chose to receive their pensions in
14 a lump sum payment were rehired as contract
15 employees."

16 Do you see that?

17 MS. REES: Yes, I do.

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

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

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

25 In part C, you were asked -- you were asked in part A
26 how many employees, how many of the FTEs added after the
27 2015 were former employees; if yes, how many. If yes to A,
28 was the process described at page 630 of the 2015 auditor

1 general of Ontario report below followed.

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

5 MS. REES: That is correct.

6 MR. RUBENSTEIN: And this is a quote here and maybe --
7 this is as well in Mr. DeRose's compendium. He provides
8 the full excerpt and the full report; that's K15.6, page
9 85, just for reference.

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

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

22 Do you see that?

23 MS. REES: Yes, I do.

24 MR. RUBENSTEIN: And your response is:

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

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

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

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

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

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

26 MS. SPOEL: Ms. Rees, can I interrupt you one second?
27 A few minutes ago, Mr. Milton said people who have been
28 collecting a pension are not rehired directly by OPG, that

1 they come in on a contract basis. So once you collect a
2 pension, you can't come back and work as an employee?

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

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

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

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

26 MR. MILTON: To attempt to clarify, the term is a new
27 relatively classification for PWU only tied to Pickering A
28 and supporting Pickering A only. An employee who retires

1 from OPG and collects a pension can come back as a term
2 employee, but it's very specific that they don't get a
3 pension, they don't get benefits, they don't get those
4 issues. It's enumerated in the agreement, and they can't
5 build any more.

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

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

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

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

22 MS. REES: Sorry? I recall --

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

27 MS. REES: Sure. So the one, for example, they talked
28 about a rehired employee who continued to receive annual

1 incentives, so which would now be our stakeholder return
2 program, the pay for performance. That situation could
3 still happen because if he retired this year, his
4 performance -- he still may be eligible for performance
5 payout related to his last year working, so that's where
6 you can have instances like that.

7 MS. FRY: Okay. Okay.

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

11 MS. FRY: Okay. Thank you.

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

16 MS. REES: No.

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

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

23 MS. LONG: Okay. Thank you.

24 MR. RUBENSTEIN: I just want to go back to -- so as I
25 understood the time line here, the 2013 report is critical
26 of your policy. You then make changes, and we see this --
27 this is in the -- if we look on page 49 of the compendium,
28 where you have the chart, where it says

1 "past rehire policy", is that the policy in 2013 or the
2 policy when the auditor general looked at it in 2015?

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

5 MR. RUBENSTEIN: The 2015?

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

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

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

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

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

27 So it's -- I would really characterize it -- it's a
28 balancing act between -- you know, we -- some rehires, it

1 does make business sense to proceed with. But as a -- you
2 know, our preference would be that if an employee was
3 retiring, that they would continue to -- if they're
4 planning to retire, that they would continue to work,
5 because that is the cheap option available for us.

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

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

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

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

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

28 MR. RUBENSTEIN: Can you confirm that?

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

2 MR. MILLAR: J17.4.

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

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

8 MR. RUBENSTEIN: My split is different than --

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

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

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

17 MS. LONG: Mr. Rubenstein?

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

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

23 "The number of OPG staff on the sunshine list has
24 grown steadily since the organization was created
25 in 1999, albeit at a slower pace after the 2010
26 pay freeze legislation. Over the last ten years,
27 the number has doubled from 3980 employees in
28 2013 to 7960 in 2012, representing about 62

1 percent of the employees on OPG's payroll. The
2 corresponding increase in total salaries and
3 taxable benefits paid to those on the list were
4 513 million in 2003 and 1.11 million in 2012. The
5 number of top earners, people who earn \$200,000
6 or more, on the sunshine list increased at a
7 faster rate. In 2012, it was almost four times
8 higher, 448 employees, than it was in 2000, 317
9 employees."

10 Do you see that?

11 MS. REES: Yes, I do.

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

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

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

19 MS. REES: Yes, I do.

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

23 MS. REES: Correct.

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

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

1 MR. RUBENSTEIN: If we use the same language as
2 Auditor General, we're looking at the top earners category,
3 so 200,000 or more. That number again went down 2013 to
4 2014, but then it's gone up again in the last two years
5 quite significantly. Do you see that?

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

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

14 MS. REES: I do, yes.

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

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

28 MR. RUBENSTEIN: When I look again at the 200,000, the

1 top earners category as the Auditor General put it, and
2 then the 300,000, we are see seeing some very significant
3 increases. Do you see that?

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

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

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

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

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

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

25 MR. RUBENSTEIN: Is the difference between, say, 2016
26 and 2014 in the 200,000 -- I see an increase from 169 to
27 505 employees making over that amount. Has the total
28 population of OPG's employees increased at the that same

1 rate from 2014 to 2016?

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

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

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

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

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

18 MR. RUBENSTEIN: You're in charge of -- I recognize
19 you don't have a specific number. But just directionally,
20 would you agree that the increase from 2014 to 2016 in both
21 200,000 greater, 300,000 greater are growing at a higher
22 rate than the total head count of OPG between those two
23 years?

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

27 MR. RUBENSTEIN: So the 396 over the total head count
28 is going to be the same as 500 -- in 2014, will be the same

1 as 505 over the total head count in 2016? Is that what
2 you're saying?

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

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

8 MS. REES: Yes.

9 MR. RUBENSTEIN: What's the difference?

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

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

20 MR. RUBENSTEIN: Maybe you can provide the numbers if
21 you can show us, let's say, the 200,000, the top earners
22 category. You can show us the 369 over whatever
23 appropriate number that you think represents total
24 employees, total head count, not exactly sure, versus the
25 2016 number of 505 over the same number or the same
26 methodological number.

27 MS. REES: That information would be available.

28 MR. SMITH: We can do that, yes.

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

4 MR. SMITH: Yes, we can do it.

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

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

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

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

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

18 MS. REES: We would have that information.

19 MS. FRY: I guess what --

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

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

26 MS. LONG: I think separately, please.

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

1 **UNDERTAKING NO. J17.5: FOR \$200, 000 AND GREATER, TO**
2 **PROVIDE BREAKDOWN BY UNIONIZED STAFF VERSUS MANAGEMENT**
3 **UNDERTAKING NO. J17.6: TO BREAK DOWN THE TOP EARNER**
4 **FIGURES BETWEEN UNIONIZED EMPLOYEES AND MANAGEMENT**

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

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

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

23 MS. REES: Definitely. We have that information.

24 MS. FRY: Thanks.

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

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

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

1 MS. LONG: Mr. Smith --

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

5 MS. LONG: Okay. Thank you.

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

9 MR. RUBENSTEIN: If we can turn to page 44 of the
10 compendium. It's the 2015 follow-up Auditor General's
11 report and excerpt. I'm looking at recommendation number
12 5, under "absenteeism". One of the recommendations for the
13 -- from the Auditor General was to minimize cost of sick
14 leaves and avoid potential misuse or abuse of sick-leave
15 entitlements. Do you see that?

16 MR. MILTON: Yes, I do.

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

20 MR. MILTON: Yes, I do.

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

26 MR. MILTON: Yes, I see that.

27 MR. RUBENSTEIN: All right. And as I understand, your
28 response here with the -- we see this under -- during our

1 follow-up -- OPG's response was it simply couldn't make any
2 headway during the collective agreement with the PWU,
3 correct, to change that?

4 MR. MILTON: That's correct.

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

8 MR. MILTON: Yes.

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

11 MR. MILTON: No.

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

19 MS. REES: Yes.

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

23 MS. REES: That is correct.

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

28 "Performance objectives are required to include

1 both quantitative and qualitative metrics and be
2 more specific, measurable, achievable, realistic,
3 and time-bound smart so staff performance can be
4 easily -- can be adequately assessed."

5 Do you see that?

6 MS. REES: Yes, I do.

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

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

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

17 MS. REES: Yes, I do.

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

20 MS. REES: Yes, I do.

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

25 MS. REES: Yes, I do.

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

28 MS. REES: Yes.

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

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

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

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

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

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

1 MR. RUBENSTEIN: All right. And so we don't know the
2 results for the 2017 objectives that you're setting --

3 MS. REES: We don't know the results of the 2017, and
4 there is, I guess by June of this year, the plans to review
5 and assess them for quality assurance. Whether we get to
6 100 percent compliance, I'm not sure that's a realistic
7 goal, but we would definitely expect to see considerable
8 improvement over the last findings.

9 MR. RUBENSTEIN: Sorry, when you say considerable -- I
10 agree 100 percent -- look, you'll never be 100 percent, but
11 are you expected to be 95 percent or are you talking about
12 instead of being in this case 57 percent that met the
13 minimum requirements at the 70 percent? What is the
14 magnitude we're talking about here?

15 MS. REES: I'm not sure we have a specific target. I
16 would need to confirm that.

17 MR. RUBENSTEIN: Well, aren't you -- I would assume
18 you're putting in place a plan to get to the 95, 100
19 percent, correct?

20 MS. REES: We are putting in place a plan to -- I just
21 don't know what the final end target would be. Again, it
22 would not be 100 percent. I don't know if we have a
23 quantified position we're aiming to get to.

24 MR. RUBENSTEIN: Is this your group that is
25 responsible for overseeing the -- not the audit, but the
26 overseeing to ensure that objectives are being met and --

27 MS. REES: No, it is not.

28 MR. RUBENSTEIN: All right. Well, is there a -- would

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

3 MS. REES: I would suspect there would be.

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

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

6 MR. MILLAR: J17.8.

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

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

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

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

24 MR. RUBENSTEIN: Sure. I'm just trying to get a sense
25 of how when we talk about forecast head count or forecast
26 FTEs how this actually gets derived, and is it that each
27 business unit says we're going to need ten employees and
28 those levels of approval about that, and then you determine

1 what the salaries are going to be for those individuals and
2 then, you know, that builds its way up essentially to the
3 final number of how many FTEs you will have and what the
4 costs are?

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

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

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

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

28 MR. KOGAN: I think we had an interrogatory about

1 that, so we can look that up. But in the meantime, the
2 short answer is that the business plan is based on the work
3 that needs to be done, and therefore it reflects the demand
4 for resources. As such, we don't build in a vacancy rate
5 because the presumption is that that work needs to be done,
6 by it has to be done by somebody, whether it's going to be
7 a regular resource, or a non-regular resource, or some
8 other augmentation should there be a vacancy -- should a
9 vacancy arise. That's the assumption that work needs to be
10 carried out. That's how the business units do their plans.

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

14 MR. MILTON: Correct.

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

18 MR. MILTON: Correct.

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

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

1 consulting to get the work done.

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

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

9 MR. RUBENSTEIN: But not always?

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

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

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

26 MR. KOGAN: Certainly. But again, all that is -- I'll
27 call it the colour of money, whatever type of resource we
28 need is all based on the work program. And all I'm saying

1 is that if your work program is less, then you won't need
2 as much, or you'll be able to live with a vacancy, should
3 one arise.

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

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

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

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

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

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

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

28 MR. MILTON: It's our understanding it's a legal

1 requirement, not a policy or procedure of the company.

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

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

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

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

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

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

20 MR. MILLAR: J17.9.

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

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

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

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

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

14 MS. REES: So our security at the nuclear offices are
15 PWU employees, and their salaries will range from 52 to
16 85,000 dollars, just for example. The markets that we
17 typically attract people from, they tend to come from the
18 police, military, those sorts of organizations, and their
19 salaries range from 58 up to 90,000 for -- if I was to
20 compare, say, to Durham Regional Police, and it would be
21 even higher for the OPP.

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

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

1 MS. REES: That's the band range.

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

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

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

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

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

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

28 MR. RUBENSTEIN: Okay. I want to ask if we could just

1 turn to page 60 of the compendium. And as I understand,
2 this is a letter from OP -- to OPG from the minister, the
3 then minister, to the then CEO, Mr. Mitchell, setting out
4 the bargaining mandate; am I correct?

5 MS. REES: That's correct.

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

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

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

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

20 Do you see that?

21 MR. MILTON: Yes, I do.

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

24 MR. MILTON: Correct.

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

1 MR. MILTON: That's correct.

2 MR. RUBENSTEIN: So on one hand if you provided an
3 increase in compensation you have to extract savings in
4 other places.

5 MR. MILTON: That's correct, in base compensation.

6 MR. RUBENSTEIN: Sorry, does it say base compensation
7 there? I must have missed it. Does it say base
8 compensation?

9 MR. MILTON: In the letter? No, it does not.

10 MR. RUBENSTEIN: Oh, okay. And this is not the first
11 time you've had to meet a net zero result?

12 MR. MILTON: No, it's not.

13 MR. RUBENSTEIN: All right. And was that a
14 requirement for your last proceeding?

15 MR. MILTON: Yes. For the PWU it was, yes.

16 MR. RUBENSTEIN: And for the Society I believe...

17 MR. MILTON: It was zero.

18 MR. RUBENSTEIN: All right. Is there a difference
19 between that zero and zero?

20 MR. MILTON: Yeah, zero is zero. You can't find any
21 off-settings to offset any base wage increase. That's why
22 we went to mediation and arbitration.

23 MR. RUBENSTEIN: All right. If we can turn to
24 confidential tab 102, which for the record is Staff 70 --
25 sorry, SEC 72. And what we essentially asked you in this
26 interrogatory is essentially to provide us the numbers of
27 the results of those collective agreements and where the
28 savings were and where the costs were. If you can break

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

6 MR. KOGAN: Yes.

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

10 MR. KOGAN: That's right.

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

14 MR. KOGAN: Yes.

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

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

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

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

26 MR. RUBENSTEIN: And then below we have the value of
27 the increased employee pension contributions at
28 [REDACTED]?

1 MR. KOGAN: Yes.

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

5 MR. KOGAN: Yes, you read that correctly.

6 MR. RUBENSTEIN: So when I add all those things up I
7 get a [REDACTED] [REDACTED], correct?

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

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

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

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

17 MR. RUBENSTEIN: [REDACTED] [REDACTED]
18 [REDACTED]

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

1 it, accepted by the government as having met the net
2 neutral mandate.

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

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

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

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

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

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

28 MR. RUBENSTEIN: What was the Staff interrogatory you

1 were --

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

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

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

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

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

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

19 MR. RUBENSTEIN: Can you provide that?

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

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

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

27 MR. MILLAR: Madam Chair, the practice when marking
28 undertakings under a confidential section is to give them

1 an X. I don't think that necessarily means the responses
2 are confidential. They may or may not be. But I'll mark
3 it in that fashion. SO it's JX17.10, and the previous one
4 should be JX17.9.

5 MS. LONG: Thank you.

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

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

11 MR. MILTON: So --

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

13 MR. MILTON: [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 MS. LONG: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

1 MR. RUBENSTEIN: Net zero.

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

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

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

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

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

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

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

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

6 MR. RUBENSTEIN: All right.

7 MR. MILLAR: JX17.11.

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

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

14 MR. KOGAN: Yes, that's right.

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

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

21 With respect to PWU, [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED] [REDACTED]
24 [REDACTED] -- and Mr. Milton can elaborate
25 [REDACTED] [REDACTED] [REDACTED]
26 [REDACTED] [REDACTED]
27 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
28 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

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

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

22 MR. RUBENSTEIN: Yes.

23 MR. KOGAN: I can do that.

24 MR. RUBENSTEIN: As I understand the current
25 collective agreement length, the PWU goes to end of March
26 2018 and the Society goes to the end of December 2018?

27 MR. MILTON: That's correct.

28 MR. RUBENSTEIN: So for the purposes of this

1 application, I think we've discussed you're going to
2 negotiate another agreement and potentially multiple
3 agreements for each of the Society and PWU?

4 MR. MILTON: That could be possible correct.

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

9 MR. MILTON: That's correct.

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

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

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

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

20 And as I understood, your response [REDACTED]

21 [REDACTED] for the collective
22 agreements and [REDACTED]

23 [REDACTED] Is that the understanding?

24 MR. MILTON: That's correct

25 MR. RUBENSTEIN: So what you're forecasting is that
26 the [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 [REDACTED]

2 MR. MILTON: That is correct.

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

7 MR. MILTON: So as Mr. Kogan mentioned, [REDACTED]
8 [REDACTED] [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED]

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

16 MR. MILTON: Excuse me?

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

20 MR. MILTON: I've covered the PWU, I believe. If you
21 want to look at the Society, [REDACTED] [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
23 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
26 [REDACTED] [REDACTED]

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

1 [REDACTED]

2 [REDACTED]

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

4 MR. RUBENSTEIN: [REDACTED]

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

6 MR. RUBENSTEIN: Sorry, no -- no problem. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

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

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

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

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 [REDACTED] [REDACTED] We haven't done the math, but I think
2 looking at these numbers and saying, oh, hey, [REDACTED]
3 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED]

6 MR. RUBENSTEIN: Well, that's why I'm asking the
7 question. I'm trying to understand what I'm missing if I
8 was doing a calculation, [REDACTED] [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

10 [REDACTED] Or --

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

13 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
16 [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED] [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED] [REDACTED]
26 [REDACTED]
27 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
28 [REDACTED] [REDACTED] [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 MR. RUBENSTEIN: [REDACTED]

21 [REDACTED]

22 MR. KOGAN: Sure.

23 MR. RUBENSTEIN: [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

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

3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED]

5 MR. RUBENSTEIN: [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED]

8 MR. KOGAN: Correct.

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

11 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

14 2021? MR. KOGAN: [REDACTED] --

15 MR. RUBENSTEIN: Well, if the [REDACTED] --

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

17 MR. RUBENSTEIN: -- if you've made [REDACTED]

18 [REDACTED] [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED] [REDACTED] what
20 did you -- well, let me back up. What did you build in --

21 [REDACTED] [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED]

23 MR. KOGAN: Let me back up, because I may have -- I
24 didn't mean to confuse you, but I think when I'm referring
25 to [REDACTED] -- and I still, by the way, say that
26 it's equally rigorous, it would just be a little bit [REDACTED]

27 [REDACTED] -- I'm talking about [REDACTED] [REDACTED]

28 [REDACTED] It's something you're going to try and say,

1 well, [REDACTED] [REDACTED] [REDACTED] [REDACTED]

2 [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

4 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED]

6 [REDACTED] [REDACTED] And I'm

7 talking about these numbers to the end of '18.

8 I'm then extrapolating and saying that if I'm sitting

9 three years from now, two years from now, doing a similar

10 calculation for the next, say, three-year period, and it is

11 a [REDACTED], then [REDACTED]

12 [REDACTED]

13 The hypothetical calculation, because it looks at

14 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED] [REDACTED] Does that help?

18 MR. RUBENSTEIN: Yes. So let me just understand. The

19 -- backing a few steps back to what the propose -- [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED] [REDACTED]

25 Now, the differential may be different, so it may not

26 -- you can't just double the first line to get a sense and

27 keep the costs the same. That's what I understood, you

28 know, at a high level what we were just talking --

1 MR. MILTON: [REDACTED]
2 [REDACTED]

3 [REDACTED]
4 MR. RUBENSTEIN: But what you're [REDACTED]

5 [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED]

10 MR. KOGAN: [REDACTED]
11 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED]

13 MR. RUBENSTEIN: Well, the [REDACTED],
14 correct?

15 MR. KOGAN: It's a planning assumption that we feel is
16 reasonable, given [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED] [REDACTED]

19 MR. RUBENSTEIN: And as I understand as well, there
20 was discussion with Mr. Millar with respect to this.

21 [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED]
23 [REDACTED]

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

28 MR. RUBENSTEIN: [REDACTED] [REDACTED]

1 MR. KOGAN: That's correct. [REDACTED]

2 [REDACTED]

3 MR. RUBENSTEIN: [REDACTED]

4 [REDACTED]

5 MR. MILTON: That's correct.

6 MR. RUBENSTEIN: [REDACTED]

7 [REDACTED]

8 MR. KOGAN: [REDACTED]

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

14 "[REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 [REDACTED]

27 MS. REES: [REDACTED]

28 [REDACTED]

1 [REDACTED]

2 MR. RUBENSTEIN: [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

4 MS. REES: [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED]

7 MR. RUBENSTEIN: [REDACTED]

8 [REDACTED]

9 MS. REES: [REDACTED] [REDACTED] [REDACTED]

10 [REDACTED]

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

14 MS. REES: Yes, I do.

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

18 MS. REES: That is correct.

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

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

1 16 of my compendium, you talk about the methodology in that
2 report essentially you can't do the same thing like you
3 could do with compensation.

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

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

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

13 [REDACTED] [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]

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

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

26 Because as I understood from the response in SEC 83
27 is, well, that's the value to the employee, not the cost to
28 OPG. I understand that's how this differs -- it's a

1 difference from if you were doing it on a compensation
2 basis. So what guidance can you provide us or the Board of
3 how we should go about looking at the numbers?

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

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

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

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

3 MR. RUBENSTEIN: When I go back to page 16 from SEC
4 83, where you essentially said, as I took it -- at least I
5 thought until your comment it was not an appropriate way.
6 You say cost impacts associated with OPG's pension and
7 benefits benchmarking above market are not available,
8 because the benchmarking is based on a value of these forms
9 of compensation to the employees, not the cost to employer.

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

12 MR. KOGAN: Yes.

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

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

26 That's why our response was you can't do a cost. I
27 think your question is, okay, with a gun to your head, if
28 you have this data and you really needed to put a value on

1 it, I would say that going the percentage of pay, but
2 recognizing the general sort of imprecision and directional
3 nature and then applying some judgement to that and
4 balancing the two data points I've mentioned across the two
5 studies, both the benefits index and this, I think those
6 would be the kind of parameters that if you're asking us
7 what we would suggest would be what we suggest.

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

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

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

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

24 MR. SMITH: Sorry, Madam Chair.

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

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

28 MR. SMITH: That doesn't matter for this portion. But

1 unless the Panel has questions that would be in camera, if
2 it was administratively easier I have one question that I
3 might ask in re-examination which would save us from going
4 in camera later, but I'm in your hands as to process. We
5 just have the people out of room. We wouldn't have to do
6 it again. I realize this is out of order.

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

9 MR. SMITH: Okay.

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

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

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

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

21 MR. SMITH: Thank you.

22 MS. LONG: Thanks.

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

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

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

27 **PRELIMINARY MATTERS:**

28 MR. SMITH: Just briefly, members of the Panel, just

1 by way of update. This morning OPG filed answers to some
2 eight undertakings.

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

4 **CROSS-EXAMINATION BY MR. BUONAGURO:**

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

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

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

19 So if somebody under this policy is rehired by OPG,
20 they can sign a contract up to the maximum amount, either
21 18 months or three years, it looks like?

22 MS. REES: Depending on their circumstances.

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

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

27 MR. BUONAGURO: So once somebody leaves OPG under
28 these circumstances, they have one shot at a contract of up

1 to these maximums and once they're done, that's it?

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

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

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

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

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

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

1 this is new as of March of this year, correct?

2 MS. REES: That is correct.

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

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

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

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

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

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

28 MR. KOGAN: The application is based on the old

1 organizational chart, because that was what was reflected
2 in the underpinning business plan.

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

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

15 MR. KOGAN: No, it has not. And in general, as you
16 know, we did do an impact statement based on our 17 to 19
17 business plan, which may not have fully reflected this
18 reorganization. But probably some level of reorganization
19 already would have taken place as you compare to the 16 to
20 18 plan, because the 16-18 plan was struck now close to two
21 years ago.

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

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

28 MR. KOGAN: It would have reflected our assessment of

1 the items to update per the business plan that reflects the
2 changes to that point, subject to the considerations
3 regarding updates that are outlined in the impact state.
4 So kind of a macro assessment we would have done.

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

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

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

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

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

27 I'm trying to figure out to what extent that's been
28 reflected in the filing going forward, and it sounds like

1 you may have discussed part of the impacts, but they may
2 have been netted off against other impacts somewhere else.

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

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

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

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

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

25 MR. BUONAGURO: And I would like to compare it to the
26 old top level chart. So if you can give me a compensation
27 number for org chart 1, the old one, and a compensation
28 number for org chart 2, I can see how much this part of the

1 organization cost has gone, or changed. Presumably it's
2 gone down with the fewer FTEs, but I don't know that for
3 certain.

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

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

21 MR. KOGAN: Oh, sorry --

22 MS. LONG: Sorry, I --

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

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

26 MR. KOGAN: That's right.

27 MS. LONG: -- Buonaguro, are you asking what -- if
28 there is one less -- I could see how you might ask if there

1 was one less VP and what the impact of that might be, but
2 to go through and recost the org chart when there's
3 divisions of people, I mean, there's lawyers in and out all
4 the time, I imagine. That's just the nature of an
5 organization.

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

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

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

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

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

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

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

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

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

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

1 percentile appropriate comparators and prohibit signing
2 bonuses, retention bonuses, so on and so on.

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

6 MS. REES: Correct.

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

11 MS. REES: That is correct.

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

15 MS. REES: Approximately 80.

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

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

25 MR. BUONAGURO: And what do you mean by "included in
26 this application"? So for example, I'm going to pull up a
27 reference. This is -- and I've lost it. It's the
28 compensation evidence, F4, tab 3, schedule 1, Appendix A.

1 And this is the chart that shows all the FTEs and the
2 compensation costs as forecast. And if we look down under
3 line 25, we have the management line. Do you see that?

4 MS. REES: Yes, I do.

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

8 MS. REES: Yes, they would.

9 MR. BUONAGURO: And that management category, there's
10 an amount there for 2017 plan and then there's amounts for
11 2018, 2019, 2020, and '21 that go up over time, correct?

12 MS. REES: Correct.

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

19 MS. REES: So I think it -- correct. I think it may
20 help to understand that there are -- if we look at our
21 executive compensation overall, with the introduction of
22 the new program this year OPG's overall costs for that
23 portion of the population is expected to increase circa
24 2019. However, that increase, we are not asking for
25 recovery in our rates.

26 MR. BUONAGURO: Okay. So when you say it's not -- it
27 doesn't affect the application, you're not saying that the
28 compensation for those -- and I'll call them executives.

1 You're not saying that won't change as a result of the
2 management, you're saying what you asked for in the
3 application hasn't changed.

4 MS. REES: That is correct.

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

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

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

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

22 MR. BUONAGURO: Now, there's a part C to that
23 interrogatory and it is redacted, and as we all found out
24 today, I haven't seen that. So I want to know what kind of
25 information is in there because there is no indication of
26 what the answer was. I don't know if the answer was we're
27 not going to answer that question, or whether the answer is
28 here is what we project in terms of compensation for those

1 80 employees over the next five years, but we're not going
2 to show you on the public record. So he what kind of an
3 answer is there?

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

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

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

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

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

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

28 MR. BUONAGURO: Are you suggesting that even on an

1 aggregate basis, it would still be required on a
2 confidential basis?

3 MR. KOGAN: Yes.

4 MR. BUONAGURO: I'll put it out there. I would like
5 to see, on an aggregate basis, how compensation for those
6 80 executives has changed as a result of new framework on
7 forecast basis from 2017 to 2021.

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

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

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

28 MS. LONG: Mr. Buonaguro?

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

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

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

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

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

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

1 of it is capitalized, correct?

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

6 So it would be -- we wouldn't, for example, capitalize
7 1.5 percent of my salary in finance and attribute it to
8 some project. It would have to be an individual who is
9 fully dedicated or working a good chunk of their time.
10 Those are usually working level individuals. They are
11 unlikely to be vice presidents.

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

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

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

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

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

28 MR. BUONAGURO: I'm just reacting to the suggestion it

1 has no impact on rates. I think at least some, if not most
2 of those costs are going to be spent on projects like the
3 DRP, where cost variations are captured in the CRVA, there
4 is a pass-through of these costs unless the company is
5 warranting that there won't be.

6 MR. KOGAN: There would be, I would say, minimal pass-
7 through for those individuals who are captured. But again,
8 my understanding is that that's still within the overall
9 envelope for the 48 and 128 we've committed to managing.
10 Yes, for those few individuals, there would be some pass-
11 through -- or rather could be put into the account for
12 consideration by the Board.

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

16 MS. REES: Yes, it was.

17 MS. LONG: So there is some information available?

18 MS. REES: Yes, there is.

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

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

25 MR. BUONAGURO: Thank you. Now I'm going to turn to
26 J3.1, which is the 2017 corporate scorecard, if I may.
27 Having read through your evidence on the stakeholder return
28 program, my understanding is that the corporate 2017 -- the

1 corporate scorecard is used in conjunction with what I'll
2 call personalized scorecards to come up with the incentive
3 payments for any particular employee. Is that correct?

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

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

9 MS. REES: Yes.

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

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

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

22 MS. REES: Yes, I can do that. So the corporate
23 scorecard can be thought as establishing the budget or the
24 pot of money that's available for distribution as part of
25 the pay it -- for performance program. So the budget is
26 set using -- assuming that a corporate score of 1 is
27 achieved, and everybody achieves target -- individual
28 target performance, so it would be achieving a 4 on that

1 seven-point scale we talked about. So that sets the
2 maximum amount that we would target.

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

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

17 Was that clear?

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

21 MS. REES: All management group, yes.

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

26 MS. REES: Sets the limit.

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

28 And I can't say that I've seen an individual

1 scorecard. Is there a sample individual scorecard on the
2 record?

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

4 MR. BUONAGURO: Okay.

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

7 MR. BUONAGURO: Right.

8 MS. REES: -- management group employee.

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

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

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

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

19 MR. BUONAGURO: Okay.

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

1 seek to do to ensure the corporate scorecard is achieved --

2 MR. BUONAGURO: Okay. Maybe --

3 MS. REES: -- at an individual level.

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

7 MS. REES: Yes.

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

12 MS. REES: Correct.

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

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

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

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

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

27 But is it -- and I guess it -- is it strictly true
28 that there is nothing contradictory between the corporate

1 scorecard and the individual scorecards?

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

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

10 MS. REES: It would be a project.

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

13 MR. SMITH: Yes, that's correct.

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

17 MS. REES: Subject to check, yes --

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

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

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

28 MR. BUONAGURO: Okay. So the incentive that a

1 particular employee can earn is based on corporate-wide
2 figures, but presumably the others in allocation to rates
3 versus non-rates is a result of the different -- the
4 inclusion of unregulated versus regulated factors?

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

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

11 MS. REES: It's an allocation.

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

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

19 MR. KOGAN: That is million.

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

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

27 MR. BUONAGURO: Okay. And if we go over to the -- I
28 guess it's the target, the last one, which presumably is

1 the best you can do, correct, is to meet the target, the
2 stretch target? You want to hit the target for your -- in
3 terms of earning incentive, correct? Stretch target.

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

6 MR. BUONAGURO: Right.

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

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

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

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

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

1 continue to operate with this target in mind in future
2 years.

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

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

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

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

26 MR. KOGAN: Yes, to limit the need for the adjustments
27 or at least directionally, that might have been the
28 thinking that informed why it was done this way. Again,

1 like I said, this is the first time we've introduced this,
2 so presumably as we have more experience in the sense that
3 we have valued ourselves against this target, the executive
4 and ultimately the Board will consider whether there should
5 be adjustments. But this is sort of one way to try and
6 deal with that within the target.

7 MR. BUONAGURO: Thank you. A very specific question:
8 The D20 project, my understanding is it's planned for in-
9 service in 2017 still; is that correct?

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

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

18 So I'm wondering how that type of scenario is handled
19 on the scorecard. For example, I think -- I don't have the
20 numbers correct in my head, but I think the current
21 forecast in-service amount for the D20 project is in the
22 order \$400 million, and is well over the original budget.
23 But it's been taken out of the application. It's not being
24 sought for in rates.

25 So I'm wondering how that's been accounted for in this
26 scorecard. And perhaps, since you don't know the details,
27 that's an undertaking to see how the D20 project affects or
28 doesn't affect, or how it's been handled in the D20

1 scorecard.

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

6 MR. BUONAGURO: Fair enough. I'm sorry, maybe the way
7 my questions came out you thought I was still stuck on that
8 line. In addition, I have the question about the D20
9 project.

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

12 MS. REES: We're not sure.

13 MR. BUONAGURO: Perhaps an undertaking to describe how
14 the removal of D20 project from the application and the
15 circumstances surrounding that has been handled on a
16 corporate scorecard basis for the years in which they would
17 have impacted the scorecard.

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

20 MR. BUONAGURO: As you pointed out, the refurbishment
21 project cost -- presumably there was spending on the D20 in
22 2016, for example, and may have appeared in the 2016
23 scorecard as a result. I'm wondering how it appeared on
24 the 2016 scorecard analysis.

25 MR. KOGAN: We can do that.

26 MR. MILLAR: J17.12.

27 **UNDERTAKING NO. J17.12: TO DESCRIBE HOW THE REMOVAL**
28 **OF D20 PROJECT FROM THE APPLICATION AND THE**

1 **CIRCUMSTANCES SURROUNDING THAT HAS BEEN HANDLED ON A**
2 **CORPORATE SCORECARD BASIS FOR THE YEARS IN WHICH THEY**
3 **WOULD HAVE IMPACTED THE SCORECARD**

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

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

13 MS. REES: Our business plan would include the
14 incentive based on target.

15 MR. BUONAGURO: Based on stretch target?

16 MS. REES: Based on target, sorry, so based on the
17 business plan.

18 MR. BUONAGURO: That's what I thought, but I thought I
19 would confirm that while I was looking at it.

20 And lastly, I would like to look at L 4.32, AMPCO 86.
21 You probably haven't seen this. It's not a six series
22 question, but I think there is a compensation related
23 question in here.

24 This is a question that was asked about resources
25 management/bridging between units contingency. And as I
26 understand it, basically there is 50 million dollars' worth
27 of contingency projected for projected for having to pay
28 employees for being on standby, or for idle time in the

1 event that, for whatever reason, they are unable to do the
2 work they're supposed to be doing, but the company wants to
3 retain them while they're waiting for the opportunity to do
4 the work. Does that sound familiar to you?

5 MS. REES: My understanding is it's actually for the
6 contract. So it's the employees of the services that are
7 being contracted out. So it's a purchased service again;
8 it's not something we're paying to employees.

9 MR. BUONAGURO: Maybe that's part of the answer then.
10 For employees, there is no such thing as a standby amount?

11 MR. MILTON: That's correct.

12 MR. BUONAGURO: For contractors, is the standby amount
13 -- is it different than their rate? Is it negotiated
14 separately? Do you know?

15 MS. REES: I do not know.

16 MR. BUONAGURO: Okay. That sounds like it may have
17 been for a different panel that I have now missed.

18 MS. REES: It was for a different panel.

19 MR. BUONAGURO: I can confirm, though, that from an
20 employee compensation point of view, there is no such thing
21 as a standby or idle rate.

22 MS. REES: That is correct.

23 MR. BUONAGURO: So the forecast compensation costs are
24 based on them actually doing work at their actual rates, so
25 on and so forth?

26 MS. REES: Yes.

27 MR. BUONAGURO: The only difference between there
28 might be a forecast for overtime, but that has nothing to

1 do with idle time.

2 MS. REES: Yes.

3 MR. BUONAGURO: Thank you, those are my questions.

4 MS. LONG: Thank you, Mr. Buonaguro. This Panel has
5 questions to ask you.

6 **QUESTIONS BY THE BOARD:**

7 MS. FRY: Just a couple of things. You've talked
8 about the fact that you had a project to reduce head count,
9 which basically was very successful. It culminated around
10 the end of 2015, and you talked about using attrition as a
11 tool for that.

12 I'm wondering were there other tools you used to
13 reduce head count in that project?

14 MR. MILTON: No, there were not.

15 MS. FRY: One of the things I was wondering about, for
16 example, were there any functions that you had done in-
17 house that you ended, that you decided would be more
18 efficient to shift outside and contract for?

19 MS. REES: As part of the transformation project, the
20 short answer is yes. There are a number of initiatives
21 that looked at ways to reduce work, eliminate work,
22 streamline, and some of that may have involved considering
23 alternative ways of resourcing the work such as contracting
24 out.

25 MS. FRY: At a high level, are there major examples of
26 work, say in 2014, an area of work you did in-house, but
27 now as part of business transformation, you actually
28 contract out for it?

1 MS. REES: In terms of large contracts, we can't think
2 of any in particular. We would have to confirm that.
3 There were definitely areas where that was done. Just not
4 sure if the --

5 MS. FRY: Okay. I'm not talking about quantifying.
6 Can you give me a few examples of areas where that was
7 done?

8 MS. REES: I know that within my own area, we
9 contracted out more of the pension administration to a
10 third party provider, Morneau Shepell. We also did the
11 same thing with our health and dental benefit provider, Sun
12 Life -- now Sun Life. That was really about doing some of
13 the activities that were a little handoffs that we were
14 doing that we didn't need to do.

15 MS. FRY: Great. And the other thing I want to ask
16 you about, there was some discussion in the compensation
17 benchmarking, there were some positions that couldn't be
18 benchmarked. And you've said that generally speaking,
19 compensation benchmarking gives you directional guidance
20 which obviously you can bring into play when you're
21 negotiating salaries, for example.

22 So what do you do for the positions where you couldn't
23 do compensation benchmarking, so you don't have the same
24 kind of directional guidance? What kind of sources of
25 information do you use? What do you do?

26 MS. REES: Well, if there is a particular area we're
27 looking at, we can do things like we had done, for example,
28 for the police force, where we see what's publicly

1 available and try to do some gauging. But generally we --
2 when it comes to looking at bargaining and preparing for
3 that, we are looking -- we tend to be standing back and
4 looking at the broader population, not little -- not
5 segments or sub-segments.

6 MS. FRY: So you're doing your own -- basically your
7 own informal survey --

8 MS. REES: We may do our own informal survey as part
9 of that if there is a particular area we want to focus on,
10 definitely.

11 MS. FRY: Okay. Thanks.

12 MS. SPOEL: Thank you. So I have a couple of areas
13 which aren't necessarily particularly connected to each
14 other. So some of them relate to the whole question of
15 attrition and employees leaving, which I think your
16 evidence was you had a number of people who left, more than
17 you'd anticipated, in the 2015 range.

18 What -- when an employee decides to retire, assuming
19 you've got someone in that category who is still working
20 but has reached the entitlement to an undiscounted pension
21 -- I think that's the right terminology -- what sort of
22 notice do they have to give you that they intend to retire
23 on a particular date?

24 MS. REES: So there is no formal notice requirement.
25 However, our guidelines to employees is to give us at least
26 three months' notice. This is mainly if they are retiring
27 so that we have a transition that they aren't without
28 either pay or pension payroll during the period, but there

1 is no formal notice.

2 MR. MILTON: That notice is particularly encouraged of
3 our represented staff who can give either notice this
4 morning that this is their last day legally. But we then
5 tell them you may be without income because you haven't
6 provided us sufficient notice to process all the paperwork
7 and do all the calculations, but they can literally come in
8 and tell their supervisor this morning this is their last
9 day, they've retired.

10 MS. SPOEL: So if you -- if one of those people were
11 one of the certified nuclear operators and they had managed
12 to make an arrangement to work on a contract basis employed
13 by someone else, they could come on Friday and say, I'm
14 retiring today --

15 MR. MILTON: That's absolutely correct.

16 MS. SPOEL: -- and on Monday morning, because you
17 don't have any requirement for those people to have a delay
18 -- and of course you would be short a certified person --
19 or an author -- or authorized, I guess, is the word you
20 use, that person could then show up, and they might not
21 mind being without pay for a period because they've
22 actually got a job lined up to come back and work doing the
23 same thing but on someone else's payroll? I'm not saying
24 it happens, I'm just wondering if that in fact is possible.

25 MR. MILTON: Academically, yes, I guess it would be
26 possible.

27 MS. SPOEL: Okay. Just asking. And then when a
28 person does retire there was some reference earlier during

1 Mr. Rubenstein's cross-examination about the entitlement to
2 sick days and banked sick days, and I think there was a
3 fairly high number -- well, it was what I consider to be a
4 fairly high number of sick days that have been accumulated
5 by members of the represented staff.

6 Does that payout come at a lump sum when they retire?
7 Is it paid as they work? What's the mechanism for
8 paying --

9 MR. MILTON: Our represented staff and our management
10 staff get no payout for whatever is in the bank. There's
11 no cash equivalency to what's in their sick bank.

12 MS. SPOEL: So if -- so the references in the Auditor
13 General's report to the 160 days and so on, there is no
14 payout of that.

15 MR. MILTON: Correct. There is no payout.

16 MS. SPOEL: Okay. So they can accumulate the money,
17 they can accumulate the sick days indefinitely, but they
18 don't actually get a -- they don't get a payout as some --

19 MR. MILTON: That's correct. Their --

20 MS. SPOEL: -- people have done in the past in certain
21 -- certain employers?

22 MR. MILTON: No, in our company there isn't a payout
23 of unused sick days. Those are for sick and illness.

24 MS. SPOEL: Okay. Great. Thank you. I just wanted
25 to clarify that.

26 The other thing I wanted to ask you about is on the
27 benchmarking summary -- and I'm looking at page 34 of
28 School -- Exhibit 17.1, the compendium filed by the School

1 Energy Coalition. And I just wanted to understand this a
2 little bit better, and I crunched a couple of numbers, so I
3 just wanted to make -- I want to ask you if I'm correct in
4 these calculations.

5 It's the page with the adjustments for the nuclear to
6 take into account things like the 35-hour work week, the
7 adjustments made.

8 So looking at that 35-hour work week adjustment, I
9 think your evidence earlier, Mr. Milton, was that most of
10 the PWU employees in fact work a 40-hour work.

11 MR. MILTON: That's correct.

12 MS. SPOEL: And it's only some employees who work 35.

13 So I took that 55 people, and using a basis that it
14 represents an additional -- each of those 55 people would
15 represent seven times five extra hours per week to make it
16 for 35 hours, that gives me a total of 385 people who have
17 to be topped up to create -- to -- to -- out of the -- to
18 give that equivalence of 35 to 40 hours.

19 I'll tell you what I did. I took -- I took that a
20 person -- those 55 -- that 55 number, I take it that's the
21 equivalent number of people -- additional people that you
22 would have to have on staff to make up for the fact that
23 it's a 35-hour week rather than a 40-hour week. Is that
24 correct?

25 MS. REES: I'm not completely versed in this -- the
26 methodology how Goodnight approached this. But I follow
27 your logic.

28 MS. SPOEL: Okay. So if we follow --

1 MS. REES: Yes.

2 MS. SPOEL: -- the logic, they've taken that there's
3 944 people at Pickering, then they've added an adjustment,
4 you said earlier, to account for the fact that there is the
5 CANDU technology, and then an adjustment for the 35-hour
6 work week.

7 So I just assumed if it was 55 extra people and they
8 were each working in effect 35 hours a week, that would be
9 top -- that would be adding on five hours per employee who
10 was working 35 to making the equivalent of 40 hours, and
11 then multiplied the 70 -- the -- that seven by 55, and I
12 came up with 385.

13 And I just wondered whether that's the right -- I
14 realize Goodnight did the work. I'm just wondering if
15 that's about the right ratio but of the 944 people you have
16 listed that about 385 of them are working 35 hours a week
17 and the rest are working 40? Does that sound like the
18 right kind of ratio?

19 MS. REES: Again, we do follow the math you're
20 providing. I would like to be able to take this away and
21 just --

22 MS. SPOEL: Oh, sure. Yeah, no, I just wanted to get
23 a sense of --

24 MS. REES: Yeah.

25 MS. SPOEL: -- if that was about the right -- about
26 the right number, that approximately 40 percent of those
27 944 people at Pickering, for example, what is 944
28 equivalent people --

1 MS. REES: Yeah, you know what, I'm --
2 MS. SPOEL: -- are working --
3 MS. REES: -- I'm -- I'm --
4 MS. SPOEL: -- 35 --
5 MS. REES: -- really not confident in that --
6 MS. SPOEL: Sorry --
7 MS. REES: -- so --
8 MS. SPOEL: -- that's fine.
9 MS. REES: -- sorry.
10 MS. LONG: Mr. Smith, are you able to check that for
11 us?
12 MR. SMITH: Why don't we do that.
13 MS. LONG: Okay.
14 MR. SMITH: Why don't we try and find out --
15 MS. LONG: Yeah --
16 MR. SMITH: -- the proportion of employees that fall
17 in -- I think there were three categories, 35, 37-and-a-
18 half, and 40 hours.
19 MS. LONG: Right.
20 MR. SMITH: Maybe we can try and find that out.
21 MR. MILLAR: So it's J17.13.
22 **UNDERTAKING NO. J17.13: TO ADVISE OF THE PROPORTION**
23 **OF EMPLOYEES THAT FALL INTO THE THREE CATEGORIES OF**
24 **HOURS.**
25 MS. SPOEL: And then the other thing I wanted to ask
26 about, and there's just a question about -- I'm going to
27 ask this question based entirely on publicly available
28 information, although it did come up during the in camera -

1 - the basis for my question came up during the in camera
2 session this morning, but I had a look at the sunshine
3 list, and I find that there are 272 people on OPG with the
4 word "security" in their job title who are listed on the
5 sunshine list as making over 100,000 dollars last year, so
6 I just -- and of course that doesn't -- anyway, that is
7 what it is. There it is.

8 Can I take it from that, given that you gave us the
9 salary range for those people, those jobs -- some of course
10 are supervisors and management, but most of them are not --
11 that the salary range for those jobs, since it was less
12 than 100 -- quite a bit less than \$100,000, they're all
13 working at the top of their range or they are working
14 significant amounts of overtime? Is that a reasonable
15 inference from that information?

16 MS. REES: I would need to check to see what the
17 average salaries were, but the PSST would also include
18 allowances, shift allowances. It would include overtime
19 that could drive the employees above -- I would expect it
20 to be above salary.

21 MS. SPOEL: It won't be below, I guess.

22 MS. REES: Obviously, yes.

23 MR. SMITH: Do you want to us check that? We can try
24 to dig into that number a bit more.

25 MS. SPOEL: Perhaps a bit more, since we don't know
26 what component of your -- obviously, there were at least
27 272 people, and presumably more who are in those job
28 classifications. And given it's confidential, I'm not

1 going to ask what the total number is.

2 But it would be useful to know directionally, because
3 it represents a fairly large proportion in fact of your
4 payroll.

5 MS. LONG: I think the range you gave this morning was
6 52 to 82.

7 MS. REES: 85 based on 2015; it was 2015, for base
8 salary alone.

9 MR. SMITH: Yes, we're happy to do that. I'm thinking
10 about -- just framing it in my mind. We're happy to
11 provide more information.

12 MS. SPOEL: I know you've given an undertaking to
13 provide whatever the reference is that requires you to keep
14 some of this information confidential. So if you can't
15 answer the question within that framework, you can explain
16 why not.

17 MR. SMITH: Yes.

18 MS. SPOEL: As I said, I was just looking at the
19 publicly available stuff.

20 MR. MILLAR: J17.14.

21 **UNDERTAKING NO. J17.14: TO CONFIRM THE ROLE OF**
22 **OVERTIME IN THE HIGHER COMPENSATION AMOUNTS**

23 MS. SPOEL: The one other question I wanted to ask
24 about -- sorry, there was one more. There was a reference
25 in the Auditor General's report, or the response to the
26 Auditor General's report about succession planning, and it
27 refers to management.

28 I can't find the reference, I'm sorry, but there is a

1 reference to improving succession planning for management
2 employees so you don't end up in situations where you have
3 to have former employees come back and train their
4 successors.

5 My question is whether you're going to be able to do
6 that for the non-management positions, and I guess Mr.
7 Milton has effectively answered that question by saying
8 people don't necessarily have to give you much notice when
9 they want to retire. Is there anything you've tried to do
10 to deal with that change over staff and the need for
11 sufficient replacement staff to be trained before people
12 leave?

13 MR. MILTON: We have staffing plans and we forecast
14 our attrition and look at work programs, and we develop a
15 staffing model. And what we try and do is anticipate
16 attrition and bring people in so we can start to train
17 them, so it's less of an inconvenience if people do retire.

18 If the attrition is higher than what we've
19 anticipated, then we could be into a situation with a
20 delta.

21 MS. SPOEL: Thank you. Those are my questions.

22 MS. LONG: Thank you, those are the panel's questions.
23 Mr. Smith, redirect?

24 MR. SMITH: Thank you, Madam Chair. Let me go back to
25 you, Ms. Rees. On Friday, and it may be useful for you to
26 take a look at the transcript, during Mr. Millar's cross-
27 examination -- it's at page 65, around line 19, you were
28 being asked questions about the Towers Watson study. And

1 so that people have it, if we could briefly pull up Exhibit
2 K 16.2, page 7.

3 Actually before we do that, don't leave the screen.
4 The question is -- and I'll give you the context. Mr.
5 Millar asks you, "So whatever the reason for the lower
6 amounts that you were able to benchmark under general
7 industry," and that's a reference to the fact, Ms. Rees,
8 there were fewer positions that were benchmarked. We don't
9 need to pull up the compendium.

10 "The end result of that is that general
11 industry has less relative weight than the other
12 categories in the overall analysis, just because
13 you were able to benchmark a lower percentage of
14 them,"

15 And you indicate yes, that would be correct.

16 My question is what do you mean by less relative
17 weight?

18 MS. REES: So by less relative weight, it has to do
19 with the impact that this has on the overall results of the
20 benchmarking. So while technically the math, if you have
21 fewer matches, it's going to impact how that is
22 attributable to the overall total. But in this case,
23 because general industry represents about 27 percent of the
24 population overall, the actual materiality of that is
25 negligible, small.

26 MR. SMITH: And the materiality on what is negligible?

27 MS. REES: The materiality on the gap to market the
28 overall results for the total compensation.

1 MR. SMITH: Sorry, just so that we have it. If we
2 were to look at Mr. Millar's compendium, are you referring
3 to the overall percentage by which OPG is above or below
4 market? Is that what you're referring to?

5 MS. REES: Yes, that's what I'm referring to.

6 MR. SMITH: Thank you. There is a question I'm going
7 to ask and I will try to do it without going in camera.
8 Without discussing it at all did, Mr. Milton, or Mr. Kogan
9 for you, did the government ever respond to your net zero
10 calculation in relation to the PWU, and how you had
11 performed relative to the negotiations and the mandate?

12 MR. MILTON: They provided a written letter that's in
13 Board Staff 147 that acknowledged we had met --

14 MR. SMITH: Sorry, don't talk about it. Is that filed
15 in this proceeding?

16 MR. MILTON: Yes, it is.

17 MR. SMITH: And it's filed confidentially?

18 MR. MILTON: Yes, I believe it is.

19 MR. SMITH: Thank you. That's fine. Those are my
20 questions.

21 MS. LONG: Thank you, Mr. Smith. We are going to take
22 our afternoon break. Thank you very much, panel. You are
23 excused. We'll take our afternoon break and be back in 15
24 minutes with the next panel ready to go.

25 --- Recess taken at 2:55 p.m.

26 --- On resuming at 3:14 p.m.

27 MS. LONG: Mr. Smith.

28 MR. SMITH: One brief preliminary matter, and this is

1 a correction to something I said, but I don't want to
2 confuse anybody on the record. In re-examination I
3 referred to interrogatory 147, I believe, indicating that
4 it was confidential. I believe the Board had invited us to
5 reconsider whether that was truly confidential, and OPG
6 advised it was not.

7 So for anybody reading the transcript, they need not
8 be concerned about going to that. The attachment -- the
9 letter from the minister is not confidential and it's
10 publicly available on the record.

11 MS. LONG: Thank you for clarifying.

12 MR. SMITH: Members of the Board, with that we have
13 OPG's panel 5Ai, cost of capital. And we have closest to
14 you Mr. Dan Dane and closest to me Mr. Jim Coyne, both of
15 Concentric, who are the authors of the report that can be
16 found at Exhibit C1, tab 1, Schedule 1, attachment 1, and
17 I'd ask that they be affirmed.

18 **ONTARIO POWER GENERATION - PANEL 5AI**

19 Dan Dane,

20 Jim Coyne; Affirmed.

21 **EXAMINATION-IN-CHIEF BY MR. SMITH:**

22 MR. SMITH: Madam Chair, I understand that there's no
23 challenge to the witnesses' qualifications, so I plan to
24 move through that relatively quickly.

25 Maybe we can start with you, Mr. Coyne. I understand
26 that you are a senior vice-president at Concentric?

27 MR. COYNE: Yes, I am.

28 MR. SMITH: And for how long have you been at

1 Concentric?

2 MR. COYNE: Ten, 11 -- 11 years.

3 MR. SMITH: And I understand that prior to that you
4 were employed by FTI Consulting?

5 MR. COYNE: Yes.

6 MR. SMITH: And before that with Arthur Andersen?

7 MR. COYNE: Yes.

8 MR. SMITH: And then indeed, you've been employed as a
9 consultant, I understand, with the exception of a period at
10 Total Fina Elf, since approximately 1984; is that correct?

11 MR. COYNE: That's right. Prior to that I worked for
12 state government.

13 MR. SMITH: And, sorry, maybe you can just expand on
14 that.

15 MR. COYNE: Prior to that I worked for the state of
16 Massachusetts and the state of Maine in -- working in
17 Reg -- as a regulatory staffer and energy policy staffer.

18 MR. SMITH: I understand, sir, that you have a
19 bachelor's degree from Georgetown University; is that
20 correct?

21 MR. COYNE: Yes.

22 MR. SMITH: And that you have a master's in resource
23 economics from the University of New Hampshire; is that
24 correct?

25 MR. COYNE: Yes.

26 MR. SMITH: And is your CV set out as attachment 1,
27 Appendix B?

28 MR. COYNE: It is.

1 MR. SMITH: And that, members of the Board, begins at
2 page 47 of attachment 1.

3 And I see there, sir, a number of what you've
4 described as representative project experience. Do you
5 have that?

6 MR. COYNE: Yes.

7 MR. SMITH: And as it -- particularly as it relates to
8 the cost of capital, is that an area in which you have
9 testified before?

10 MR. COYNE: Yes, I've provided testimony both in
11 Canada and the U.S. before state and provincial bodies,
12 including the Federal Energy Regulatory Commission on cost-
13 of-capital matters pertaining to electric utilities, gas
14 utilities, as well as electric transmission companies.

15 MR. SMITH: And have you testified before this Board
16 before?

17 MR. COYNE: Yes.

18 MR. SMITH: And is that in relation to cost of
19 capital?

20 MR. COYNE: Yes, I've testified on cost of capital, in
21 consultation on cost of capital, and also advised the Board
22 on cost-of-capital matters.

23 MR. SMITH: Thank you very much. And your cost-of-
24 capital experience, sir, has that extended to utilities
25 which have hydroelectric and nuclear assets as well?

26 MR. COYNE: Yes, it has.

27 MR. SMITH: And your resume also refers beyond your
28 representative project experience to regulatory support.

1 The regulatory support, has that similarly involved cost-
2 of-capital-related issues?

3 MR. COYNE: In some cases it has, yes. In other cases
4 I've worked as a manager of regulatory affairs as well for
5 a generating company.

6 MR. SMITH: And publications and research, I see that
7 you have written and also spoken at a number of conferences
8 and produced a number of papers.

9 Have those extended to the issue of cost of capital?

10 MR. COYNE: Yes, rather so.

11 MR. SMITH: I should have begun with this question,
12 but can you briefly describe the business of Concentric
13 Energy Advisors?

14 MR. COYNE: Sure. Concentric is a management,
15 consulting, and economic advisory firm. We specialize in
16 North American energy and water utilities industries. We
17 specialize in regulation -- litigation support,
18 transaction-related financial advisory services, energy
19 market strategies, market assessments, energy commodity
20 contracting, things pertaining to those matters. Our cost-
21 of-capital-related practice provides consulting and expert
22 testimony in the cost of capital in both Canada and the
23 U.S., as I mentioned.

24 In addition to that we have a financial advisory
25 practice, where we advise buyers and sellers and investors
26 and corporate entities, electric and gas utilities, as well
27 as those that own generation assets, including nuclear
28 assets and/or hydroelectric assets.

1 MR. SMITH: And I take it you have been involved in
2 that aspect of Concentric's business?

3 MR. COYNE: Yes.

4 MR. SMITH: Mr. Dane, perhaps I can turn to you. I
5 understand that your CV can be found beginning at page 59
6 of 73; is that correct?

7 MR. DANE: Yes, that's correct.

8 MR. SMITH: I understand, sir, that you have a B.A. in
9 economics from Colgate University?

10 MR. DANE: Yes.

11 MR. SMITH: And an M.B.A. in Boston College?

12 MR. DANE: Yes, that's correct.

13 MR. SMITH: And I understand, sir, that you began your
14 career as an information -- or in the information analysis
15 group?

16 MR. DANE: Yes, that's correct.

17 MR. SMITH: And then thereafter you were at Ernst &
18 Young?

19 MR. DANE: Yes, I was in public accounting at Ernst &
20 Young.

21 MR. SMITH: And you've been at Concentric since
22 roughly 2004; is that correct?

23 MR. DANE: Yes, that's correct.

24 MR. SMITH: And in your period at Concentric Energy
25 Advisors can you describe for the Board your involvement in
26 the area of cost of capital?

27 MR. DANE: Yes. I would break down my involvement to
28 two main areas. The first has been in rate cases such as

1 this, developing cost-of-capital analyses, testimony, on
2 behalf of other experts, and I've also submitted testimony
3 myself. And that's been the broad part of my experience at
4 Concentric.

5 In addition, I'm the CFO of CE Capital Advisors, which
6 is a broker dealer subsidiary of Concentric, and CE Capital
7 provides investment banking and valuation services to the
8 energy industry. So I've specialized to a large degree as
9 well in valuation -- in our valuation practice and advised
10 clients on valuation-related issues in the energy industry
11 which inherently often involve an assessment of the cost of
12 capital.

13 MR. SMITH: And I understand you have not testified
14 before this Board before?

15 MR. DANE: I have not. I advised the Board on cost-
16 of-capital-related issues with Mr. Coyne back in the 2007
17 time frame, but I have not testified before this Board.

18 MR. SMITH: And I understand that you have testified
19 before other utilities commissions; is that correct?

20 MR. DANE: Yes, that's correct.

21 MR. SMITH: And have you been accepted by those
22 utilities commissions as an expert before?

23 MR. DANE: Yes, I have.

24 MR. SMITH: And does that include in relation to the
25 issue of cost of capital?

26 MR. DANE: Yes, it does.

27 MR. SMITH: Members of the Board, I would tender Mr.
28 Coyne and Mr. Dane as expert witnesses to provide evidence

1 in relation to the appropriate cost of capital for OPG in
2 relation to its regulated nuclear and hydroelectric assets.

3 MS. LONG: Thank you, Mr. Smith. I'm just going to
4 confirm with the intervenors here that there is no one that
5 wishes to challenge Mr. Coyne or Mr. Dane's qualifications?

6 Seeing none then the Board accepts both Mr. Coyne and
7 Mr. Dane as experts in the area of cost of capital.

8 MR. SMITH: Thank you very much.

9 Just, examination in-chief, if I may, I'll start first
10 with you, Mr. Coyne, just to confirm, are you and Mr. Dane
11 the authors of the report that can be found at Exhibit C1,
12 tab 1, schedule 1?

13 MR. COYNE: Yes, we are.

14 MR. SMITH: And do you adopt that evidence for the
15 purpose of testifying here today?

16 MR. COYNE: We do.

17 MR. SMITH: Similarly, there were a number of
18 interrogatories that were asked in relation to that report.
19 Do you adopt those interrogatories, i.e. those that are set
20 out on Exhibit A1, tab 9, schedule 1, for the purpose of
21 testifying here today?

22 MR. COYNE: Yes, we do. We also responded to a few
23 undertakings that are perhaps part of this record as well
24 following a technical conference.

25 MR. SMITH: Do you adopt those?

26 MR. COYNE: We do.

27 MR. SMITH: Thank you very much. Turning to your
28 report, why don't you begin by setting out the purpose of

1 your testimony. What is it that Concentric was asked to
2 do?

3 MR. COYNE: We were asked to prepare an independent
4 report as to whether the application of the capital
5 structure last approved by this Board in EB-2013 is an
6 appropriate basis for setting OPG's nuclear and
7 hydroelectric payment amounts in this proceeding for the
8 2017-2021 rate setting period.

9 MR. SMITH: Were you able to reach a conclusion in
10 that respect?

11 MR. COYNE: We were.

12 MR. SMITH: We'll come to your conclusion in a minute.
13 But turning to how you went about reaching a conclusion,
14 can you describe for the Board what the framework was for
15 you're an analysis.

16 MR. COYNE: Yes, our framework was primarily
17 threefold. One was we performed a risk analysis of OPG
18 along with changes to the risk profile, both since OPG's
19 last rate case as well as an examination of OPG's risk
20 profile on a going forward basis, consistent with how an
21 investor would analyze the company.

22 Our approach also included an assessment of OPG's risk
23 compared to a similar group of North American utilities.

24 And then thirdly, our analysis was guided by the fair
25 return standard and specifically an examination of its
26 three requirements, the comparable investment standard, the
27 financial integrity standard, and the capital attraction
28 standard. So we examined the appropriateness of the

1 capital structure through all three of those lenses.

2 MR. SMITH: Let's talk about your assessment of OPG's
3 risk. And I take it that involved an assessment of OPG's
4 risk on the hydroelectric and nuclear side, is that
5 correct?

6 MR. COYNE: Right. We focused on the regulated
7 hydroelectric business and the regulated nuclear business,
8 and also we considered the company's regulatory proposals
9 in this proceeding as a factor in that analysis.

10 MR. SMITH: Let's talk about the hydroelectric
11 business. Can you describe for the Board your analysis of
12 the hydroelectric business?

13 MR. COYNE: In examining the hydroelectric business,
14 we looked at it as a regulated utility business and we
15 examined the primary risks that a regulated operator of a
16 hydroelectric business faces, namely licensing, permitting
17 and water power lease risks, water availability risk, risks
18 related to water management plans, environmental and water
19 level regulations, and risks related to capital
20 expenditures, and finally risks related to the ability to
21 recover costs including a return in a timely manner.

22 MR. SMITH: So what was your overall result of that
23 analysis?

24 MR. COYNE: We concluded that the risk, the operating
25 risk of the business had remained relatively the same since
26 EB 2013, with the exception of regulatory risk. There we
27 concluded that regulatory risk is expected to increase over
28 the rate setting period for two reasons, movement towards a

1 five-year rate plan whereas the company has traditionally
2 operated under a two-year rate plan, and also movement to
3 an incentive regulation program for the rate setting
4 period.

5 MR. SMITH: Let's turn if we could to the nuclear side
6 of the house, as it were. What was the approach you took
7 there?

8 MR. COYNE: There we examined the major risks
9 typically faced by a regulated utility operating a nuclear
10 business and those included execution risk related to large
11 and complex projects.

12 The risks related to emerging safety regulations in
13 the business, risks related to age, degradation of station
14 components, risks related to decommissioning and finally
15 the ability to recover costs including return in a timely
16 manner.

17 MR. SMITH: What was your overall conclusion on the
18 nuclear side?

19 MR. COYNE: On the nuclear side, we concluded that
20 OPG's execution risks related to large and complex projects
21 has increased significantly. In addition, risks relating
22 to emerging safety regulations continue to be elevated, as
23 does the risk of component degradation. Lastly, OPG's
24 regulatory risk will increase due to the longer rate making
25 period, also a five-year rate plan, as well as the proposed
26 smoothing account. All those factors suggested to us that
27 the nuclear risk is increasing significantly in this rate
28 setting period.

1 MR. SMITH: And we know that nuclear rate base is
2 increasing, sir, throughout the period. What if any impact
3 does that have on your assessment?

4 MR. COYNE: We found that the generation mix for OPG
5 will reflect a significant change in the nuclear rate base
6 over this period of time. And specifically, also more than
7 when the Board last set the common equity ratio for the
8 company at 45 percent in the last rate case.

9 In fact, it will exceed the level when the Board set
10 OPG's common equity ratio 47 percent in the prior two
11 cases. The projection is for the nuclear rate base to
12 reach 51 percent by the year 2021, and continues to grow
13 through 2026 to 64 percent when the Darlington project is
14 completed.

15 MR. SMITH: Mr. Coyne or Mr. Dane, one of the things
16 you mentioned, Mr. Coyne, was the use of a proxy group.
17 Can you tell us how that factored into your analysis?

18 MR. DANE: Sure. Consistent with the comparable
19 return requirement of the fair return standard, we also
20 looked at a proxy group of North American utilities and
21 specifically their equity ratios to provide market-based
22 data about a comparable capital structure for this case.

23 MR. SMITH: And how did you go about compiling your
24 proxy group in this case?

25 MR. DANE: We screened North American publicly-traded
26 electric utilities for certain criteria that we deemed were
27 important and necessary for the purposes of evaluating
28 OPG's comparable risk.

1 MR. SMITH: What were those criteria?

2 MR. DANE: Those criteria included companies that have
3 regulated generation assets such as OPG, and particularly
4 nuclear and/or hydroelectric assets that are in rate base.
5 We screened companies so that our group was made up of
6 companies that the regulated portion of their operations
7 was a high proportion of their overall business
8 performance. And we also screened companies based on
9 credit rating, which is a broad measure of overall risk for
10 the companies.

11 MR. SMITH: And did you include in your proxy group --
12 I gather from your earlier answer the North American base,
13 did they include both U.S. and Canadian entities?

14 MR. DANE: It did. None of the Canadian companies we
15 screened met all our criteria, but to include some amount
16 of Canadian companies, we relaxed some of our criteria to
17 allow us to include Canadian companies as well in the
18 group.

19 MR. SMITH: And which were those?

20 MR. DANE: Those were Ford and Emera.

21 MR. SMITH: Did you include any other Canadian Crown
22 corporations?

23 MR. DANE: We did not include Canadian Crown
24 corporations in our evaluation. Canadian Crown
25 corporations aren't publicly-traded, so their capital
26 structures may not be indicative of a market-based
27 structure. In addition, the ratings agencies in the
28 investment community view Canadian Crown utilities as

1 having indistinguishable risks from their provinces, which
2 is not the case for OPG.

3 So those companies tend to have a lot -- a very
4 significant amount of leverage in their capital structure
5 which is reflected in their rates, and their rates are
6 often set on a different basis than for OPG.

7 MR. SMITH: So let me ask you what was the result of
8 your proxy group analysis?

9 MR. DANE: The result was that we had a group of 20
10 North American utilities that again we screened to be
11 comparable to OPG, and we reviewed those for various risk
12 aspects, including the extent of their capital programs.
13 OPG is undergoing a significant capital program, so we
14 thought that was an important risk metric.

15 We also evaluated them to the extent to which they are
16 generation utilities or have other utility operations. OPG
17 is a hundred percent a generation company. Many of the
18 proxy companies have significant generation, but also have
19 significant transmission and distribution operations.

20 And we also looked at their credit ratings and found
21 that our group to be overall within either having the same
22 credit rating as OPG, so for Standard & Poor's that's a
23 triple B plus, or to be within one or two, what's called
24 notches of that, so from triple B to A minus.

25 MR. SMITH: And did you look at the equity ratios of
26 your proxy group?

27 MR. DANE: We did. We looked at the equity ratios,
28 the authorized equity ratios across the group.

1 MR. SMITH: What were your findings in that respect?

2 MR. DANE: Our findings were that the average and
3 median were both a little bit north of 49 percent, so a
4 little bit above 49 percent.

5 MR. SMITH: And what were your conclusions, or what,
6 if any, conclusions did you draw from those findings?

7 MR. DANE: In going through our analysis we looked at
8 the risk aspects of the comparable companies and then
9 compared them to OPG. So in terms of -- again, I said OPG
10 is 100 percent regulated. That's been found by the Board
11 to be a riskier element of utility operations in the past,
12 and we agree with that conclusion. And so based on that
13 aspect of our analysis, OPG, we determined them to be above
14 average risk for the group.

15 In terms of the capital programs that the utilities
16 are going through, we evaluated their forecasted capital
17 programs and compared them to OPG's forecasted capital
18 program. OPG was around the median for the group, but when
19 we considered the overall scope of the Darlington
20 refurbishment project even beyond this rate-setting period,
21 that becomes an element of increased risk for OPG
22 comparative to the proxy group that we used.

23 And so another aspect we looked at is, OPG has a
24 number of deferral and variance accounts that allow for
25 clearance between rate cases and rate-setting proceedings,
26 and so we looked to our group of proxy companies to see
27 what level of adjusted mechanisms they have that allowed
28 them to similarly adjust rates between rate cases, and we

1 determined that the group on the whole has a broad range of
2 automatic or adjusted mechanisms that allow for changes in
3 rates between rate cases in some -- in many cases that
4 that's quite broad coverage. So we considered OPG to be a
5 risk comparable on that metric.

6 So overall our conclusion was that OPG was of higher
7 risk on average than the proxy group, and so based on our
8 finding that the average and median proxy group equity
9 ratio was in the 49 percent range, we consider that a floor
10 for purposes of our recommendation in this case.

11 MR. SMITH: So maybe just picking up on that, what is
12 Concentric's overall opinion with respect to the
13 appropriate equity ratio for OPG?

14 MR. DANE: Our overall opinion is that again 49
15 percent provides a floor for OPG. We consider that a
16 reasonable equity ratio, but on a minimal basis.

17 MR. SMITH: You're aware, members of the panel, that a
18 report has been prepared by the Brattle Group titled
19 "Common Equity Ratio for OPG's Regulated Generation"?

20 MR. COYNE: Yes.

21 MR. SMITH: And I take it you've had an opportunity to
22 review that report?

23 MR. COYNE: We have.

24 MR. SMITH: Just at a high level, can you advise the
25 Board those areas of agreement between yourself and
26 Brattle?

27 MR. COYNE: The area -- by way of approach, Brattle
28 approached the issue very much the same way we did, by

1 virtue of looking at the changes in risk since EB-2013 to
2 today and anticipated changes in risk over the rate-setting
3 period, and when they did so we largely concurred that the
4 risk of OPG has changed since EB-2013; secondly, that the
5 Darlington project will have adverse impact on OPG's credit
6 metrics over this period of time, and they also concurred
7 that the shift to incentive regulation will increase risk
8 for the company over the rate-setting period.

9 They approached the issue of looking at the proper
10 equity ratio through the same type of analysis that we did
11 in looking at the change in risk and also in looking at a
12 proxy group analysis. They took issue with how we
13 approached our proxy group and thought that a narrower
14 proxy group would be more appropriate. Whereas we used 20
15 companies, Brattle narrowed their analysis down to seven
16 companies and made their recommendation based on an average
17 of that smaller proxy group that they felt had less
18 merchant exposure.

19 MR. SMITH: And as you understand it, what was
20 Brattle's ultimate recommendation?

21 MR. COYNE: Brattle's recommendation was 48 percent
22 versus our 49 percent.

23 MR. SMITH: Thank you.

24 I have no further questions in examination in-chief.
25 I tender the witnesses for cross-examination.

26 MS. LONG: Thank you, Mr. Smith.

27 Mr. Richler, are you ready to begin cross-examination
28 of this panel?

1 MR. RICHLER: I am, thank you, Madam Chair.

2 MS. LONG: And it's our intent to sit to 4:30 today.

3 **CROSS-EXAMINATION BY MR. RICHLER:**

4 MR. RICHLER: Okay. Good afternoon, Mr. Coyne and Mr.
5 Dane.

6 MR. COYNE: Good afternoon.

7 MR. DANE: Good afternoon.

8 MR. RICHLER: My name is Ian Richler. I'm with OEB
9 Staff.

10 First of all, have you got a copy of our compendium?

11 MR. COYNE: We do.

12 MR. DANE: Yes.

13 MR. RICHLER: Madam Chair, this is a compendium of
14 materials we intend to refer to today. It consists mainly
15 of materials that are already on the record. The
16 exceptions are there are some excerpts from the Board's
17 previous decisions on OPG's payment amount applications in
18 respect of cost of capital. There is also one short
19 excerpt from an OEB staff report on cost of capital. We
20 did circulate this compendium on Friday to the other
21 parties, so I would propose that we introduce this as an
22 exhibit and mark it as K17.2.

23 MS. LONG: Thank you.

24 **EXHIBIT NO. K17.2: BOARD STAFF CROSS-EXAMINATION**
25 **COMPENDIUM FOR PANEL 5A1.**

26 MR. RICHLER: Mr. Coyne and Mr. Dane, I heard you say
27 that there were three parts to your analysis, and I
28 understand the first part was comparing the risks faced by

1 OPG today and going forward to the risks OPG faced at the
2 time the Ontario Energy Board set the equity ratio at 45
3 percent in the EB-2013-0321 decision. Is that a fair
4 characterization of the first part of your analysis?

5 MR. COYNE: Yes, we went back further as well. We
6 also looked at the decisions and the analysis of the Board
7 back in 2007 and 2010.

8 MR. RICHLER: So let's look at the section of your
9 report called "Changes in business and financial risk since
10 the EB-2013-0321 decision", which begins on page 14 of your
11 report. I'll be toggling between our compendium and your
12 report. And when I say page 14 I'm referring to the page
13 numbers on the top right of the document.

14 MR. COYNE: And just to be clear, that's page 12 of
15 our report and page 14 is the exhibit number?

16 MR. RICHLER: Correct.

17 MR. COYNE: Yes.

18 MR. RICHLER: On the next page, page 15 of the
19 exhibit, you summarize your findings in the second
20 paragraph, and I won't read that entire paragraph back to
21 you, but is it fair to say you conclude that OPG's overall
22 risk level will increase over the 2017 to 2021 test period
23 both in terms of business risk and financial risk?

24 MR. COYNE: Yes.

25 MR. RICHLER: And so the current approved equity ratio
26 of 45 percent is no longer adequate to reflect that
27 increased level of risk?

28 MR. COYNE: Yes, and we make the further determination

1 that it would not satisfy the fair return standard on that
2 basis as well.

3 MR. RICHLER: Let's look at figure 1 on page 16 of
4 your report. This shows the proportion of hydroelectric
5 and nuclear generation in rate base over the years, right?

6 MR. COYNE: Yes.

7 MR. RICHLER: And I take it the point of this figure
8 is to show that the hydroelectric portion of OPG's rate
9 base peaked during the EB-2013-0321 rate period after 48
10 additional hydroelectric facilities were added to OPG's
11 regulated portfolio and the Niagara Tunnel project was
12 completed, but that it will decline during this test period
13 when the Darlington refurbishment program will result in
14 major additions to the nuclear part of the rate base. Is
15 that a fair summary?

16 MR. COYNE: Very much, yes.

17 MR. RICHLER: Now, another way to look at OPG's
18 portfolio mix might be to focus on production, that is
19 megawatt-hours, rather than rate base.

20 So can you turn to page 40 of our compendium, please?
21 This is from OPG's evidence Exhibit E2, tab 1, schedule 1,
22 and there's a chart which shows OPG's nuclear production
23 historically and going forward into the test period. And
24 it looks like production from its nuclear facilities will
25 actually be lower over the test period than it has been.
26 Do you see that?

27 MR. COYNE: Yes.

28 MR. RICHLER: Were you aware of that trend when you

1 wrote your report?

2 MR. COYNE: Let me just check with Mr. Dane in terms
3 of when we first saw that profile.

4 Yes. I wanted to make sure. We'll do that from time
5 to time, to make sure we give you one answer.

6 MR. RICHLER: Fair enough. I suppose the trend makes
7 sense when you consider that OPG will need to take each of
8 the Darlington units off line as it under goes
9 refurbishment?

10 MR. COYNE: Yes.

11 MR. RICHLER: As far as you know, OPG's production
12 from its hydroelectric facilities is not going to change
13 significantly, is it?

14 MR. COYNE: No, it's expected to be relatively stable
15 within the boundaries of fluctuations and water conditions.

16 MR. RICHLER: Your argument rests largely on the
17 proposition that nuclear facilities are inherently riskier
18 from a business and financial perspective than
19 hydroelectric facilities, right?

20 MR. COYNE: Well, it's not just our argument. That's
21 the Board's finding in the past. But we agree. Based on
22 work we do in the industry, we think the Board had it
23 right.

24 MR. RICHLER: Let's go back to what the Board has said
25 on this.

26 MR. COYNE: I want to make sure, before we leave the
27 point if I could, though, at the outset of your question,
28 you indicated that we based our opinion on the change in

1 the rate base over time and not based on the production.

2 If I could, I just want to address why we did that and
3 that's because from a financial and operating risk
4 perspective, it's the change in investment that's really
5 creating the risk. And the fact that the generation is
6 decreasing during that period, if anything, just
7 exacerbates that risk because at the same time the capital
8 investment is increasing, the production that creates
9 revenue from those assets is actually decreasing. So if
10 anything, that would accentuate the financial risk as a
11 result of that continuous investment and not diminish it
12 would be our opinion.

13 MR. RICHLER: So if OPG were investing the same amount
14 in say refurbishing its fleet of dams as it is on the DRP,
15 would your analysis be the same? Would the risk increase
16 in the same way?

17 MR. COYNE: It would not, because we would expect the
18 change in rate base would reflect the investment and the
19 risk in dams versus the nuclear units, and could
20 prospectively lead to a different conclusion as a result of
21 that. It's following the investment and the risk
22 associated with that investment as well as the execution
23 risk that really is creating that risk, not the production
24 profile.

25 MR. RICHLER: Okay. As you mentioned a moment ago,
26 the Board has acknowledged that nuclear is riskier than
27 hydroelectric. So let's look back at exactly what they
28 have said in that regard, because I would like to explore

1 this a little further with you.

2 Let's start with page 15 of the compendium. This is
3 from the OEB's first payment amounts decision, EB-2007-
4 0905, and the Board says in the third full paragraph:
5 "The Board finds that while the dispatch risk for the
6 regulated facilities is low, the operation and production
7 risks, particularly for the nuclear assets, are
8 significant. Some of these risks are mitigated by the
9 existing and ongoing deferral and variance accounts, but
10 the accounts do not cover all of the risk, particularly not
11 the risk of forced outages and the corresponding impact on
12 costs and production."

13 So it seems that the risk the Board was concerned
14 about at the time were the operational and production
15 risks, in particular the risks of forced outages. Would
16 you agree?

17 MR. COYNE: I would agree because at that point in
18 time, the Pickering and Darlington plans weren't in place.
19 So that would have been naturally the risks they would
20 focus on.

21 MR. RICHLER: And in the last payment amounts decision
22 EB-2013-0321, the Board had more to say about the riskiness
23 of nuclear assets relative to hydroelectric assets. If we
24 turn to page 36 of the compendium, the third paragraph
25 begins:

26 "The Board finds that including additional hydroelectric
27 units to the roster of prescribed assets lowers the
28 business risk for several reasons. One of the reasons was

1 that the proportion of regulated assets between
2 hydroelectric and nuclear generation has changed, with
3 hydroelectric facilities now having a much larger share the
4 generating capacity of OPG than previously. It was
5 acknowledged by OPG's consultant that hydroelectric
6 facilities have lower risks than nuclear."

7 It seems from that passage that the Board was
8 concerned by how much power is produced by OPG's nuclear
9 facilities as compared to hydroelectric facilities, and not
10 how much of OPG's rate base is ascribed to nuclear or
11 hydroelectric. Would you agree with me that that seems
12 like the Board's rationale in this case?

13 MR. COYNE: Only in part. I think perhaps more
14 fundamentally up above in the paragraph begins "where the
15 Board cannot accept". If I follow you. I want to wait
16 until we're there, where the Board says these assets
17 together, and here they're referring to the hydroelectric
18 facilities, together with the Niagara Tunnel which was
19 brought into service in 2013 and increased the proportion
20 and share of rate base related to hydroelectric facilities
21 from about half to approximately two-thirds now, and the
22 relative business risk of hydroelectric generation versus
23 nuclear has been accepted by the Board as being lower in
24 previous proceedings.

25 So it seems to me the focus there is very much on rate
26 base.

27 MR. RICHLER: I don't want to get into an argument
28 with you about interpreting previous decisions of the

1 Board. It seems they've said -- in one paragraph, they
2 stress rate base and in the next paragraph, they stress
3 production. Will you agree with me that that's a fair
4 summary?

5 MR. COYNE: Down below, I'm seeing that the Board is
6 focused on generating capacity. So I see rate base and I
7 see capacity and as -- I guess as we have interpreted the
8 Board's view, it was very much focused on those two issues
9 more so than production at that period of time.

10 So I'm not sure if we're interpreting it quite the
11 same way. I would acknowledge, however, they did also
12 naturally look at production from the facilities as would
13 have been appropriate to do so because they're moving hand
14 in hand.

15 But the quantitative measures the Board seems to be
16 using were more based on rate base. I see them as more
17 directly leading to the conclusion that they reached than
18 production per se.

19 MR. RICHLER: Let's look for a moment at what the
20 credit rating agencies say about the riskiness of nuclear
21 versus hydroelectric.

22 Can we turn to page 44 of the compendium? This is a
23 response you provided to an interrogatory from OEB staff.
24 Starting on line 7, you say that "nuclear generation is
25 generally considered to be the highest risk generation
26 source," and then you have a quotation from DBRS, one of
27 the rating agencies that reads:

28 "Nuclear generation faces higher operating risk

1 than other types of generation because of its
2 complex technology, approximately 57 percent of
3 OPG's production in 2015. Financial implications
4 of forced outages, especially with older units,
5 e.g. Pickering nuclear generating station, are
6 greater given the high fixed cost nature of these
7 plants as well as the fact that lost revenues
8 from outages are not recoverable through rates."

9 It seems to me that DBRS is making what I thought the
10 Board had made in its previous payment amounts decisions,
11 which is that the reason nuclear is particularly risky is
12 essentially that it is prone to outages. Do you think I'm
13 interpreting that correctly?

14 MR. COYNE: No, I do not. If you go back -- I agree
15 that production risk from nuclear facilities is an issue,
16 and especially planning for forced outages that are not
17 planned for. So I would agree with you in that sense, but
18 if you look at the complete answer -- that's the last
19 paragraph in this long answer. If you go back to page 42,
20 you'll see that DBRS focusing specifically on OPG in this
21 case says that it believes that given the complexity and
22 scale of the Darlington refurbishment there is significant
23 execution risk, as well as the potential for cost overruns.

24 High capital expenditure is required, albeit spread
25 over a ten-year period, in addition to ongoing maintenance
26 cap ex, total cap ex forecasts of approximately 2 billion
27 in 2016, are expected to pressure OPG's key credit metrics.
28 And the better part of 42 and 43 are quotations that are

1 similar to that for both S&P and Moody's that focus on the
2 execution risk around these projects.

3 So we did look at production risk for OPG, but our
4 finding was it was primarily execution around the
5 Darlington and Pickering projects, the impact of these --
6 of cap ex surrounding these projects and their execution
7 risk. It was far more fundamental to this determination
8 than the ongoing production risk that it will have.

9 We do believe, however, that its production risk is
10 not status quo, because when you take units such as these
11 out of service and place them back into service there is an
12 increased risk that the units will not perform exactly as
13 the vendors projected they will. We've seen that with
14 other refurbishments.

15 So we wouldn't say that it's status quo for production
16 risk, but the more primary change that we see is associated
17 with the Pickering life extension and the execution around
18 the Darlington refurbishment project.

19 So I think that's the proper context that we were
20 trying to establish in this response.

21 MR. RICHLER: Thank you. So if the real risk is
22 around execution and cap ex, I'm still not seeing how there
23 is anything uniquely nuclear about that and why -- I mean,
24 I get that argument that big spends creates a risk to the
25 company, but what I'm not seeing is why the proportion of
26 nuclear to hydroelectric in terms of rate base matters and
27 whether you spend that cap ex on a dam or on a nuclear
28 reactor should matter.

1 So can you help me out a little further?

2 MR. COYNE: I'm not grasping the essence of your
3 question, I think, perhaps. Why does a proportion of rate
4 base matter then --

5 MR. RICHLER: Yes.

6 MR. COYNE: -- associated with nuclear versus hydro,
7 and why did the Board reach its initial interpretation that
8 it did around that. The -- it's a broadly understood
9 within the industry that nuclear units are just more
10 difficult to refurbish and to build new, more difficult to
11 refurbish, and more difficult to operate than other
12 generating assets. They're more complex technologies.

13 And the reasons for that are that they operate in a
14 nuclear-safe environment. That creates a certain set of
15 standards, and those standards are the highest for any
16 other generation resource, so requires more complex
17 engineering and the costs associated with that.

18 There are also fewer vendors that are capable of doing
19 nuclear quality work in the U.S. and North America in
20 general. So as a result of that you have to rely on a
21 smaller pool of vendors that can do that work for you.
22 That creates contracting complexities in a nuclear business
23 that you don't have when you're trying to refurbish your
24 dam. You have a broader number of contractors that can do
25 that work for you.

26 And it's well understood that with both new nuclear
27 projects as well as refurbished nuclear projects that there
28 is a history of these projects having cost overruns and

1 time delays in terms of their completion, so as a result
2 that it creates more execution risk for companies that only
3 do this so often.

4 OPG probably has as much or more experience than any
5 other North American utility in this regard, but when one
6 undertakes a project of this scope it creates a far greater
7 risk than one would undertake typically when one is
8 refurbishing a dam.

9 So for that reason, based on the industry track
10 record, and consistent with the findings of the credit
11 rating agencies, nuclear is a riskier technology to build
12 and refurbish and to operate than the other generation
13 technologies, and we cite that in response -- in this
14 response pertaining to opinions from Moody's, for example,
15 and DBRS.

16 MR. DANE: And I would add here that in terms of
17 Darlington specifically where one unit is taken off for
18 refurbishment, the other three will be operating, and they
19 do share facilities, so that adds an element of both
20 operational and outage risk.

21 MR. RICHLER: Imagine a hypothetical utility that owns
22 one dam and one nuclear reactor. Let's say they both cost
23 the same, they both produce the same amount of electricity.
24 After a period of time our hypothetical company decides to
25 invest a lot of money in refurbishing the nuclear reactor.
26 In the meantime the dam has been depreciating.

27 So at the end of that project, the proportion of rate
28 base has shifted. There is a higher proportion of nuclear

1 than hydroelectric, whereas at the outset it had been 50-
2 50. But the production mix is still 50-50.

3 Has that company gotten riskier?

4 MR. COYNE: Just to understand your question, in your
5 hypothetical you're saying there is no refurbishment plan
6 for the nuclear unit, it's just operating through its
7 existing normal life?

8 MR. RICHLER: I'm saying after a refurbishment has
9 been completed.

10 MR. COYNE: So it has been completed?

11 MR. RICHLER: Yes.

12 MR. COYNE: And your question is after completion of
13 the refurbishment --

14 MR. RICHLER: Yes.

15 MR. COYNE: -- is it -- has its risk profile changed?

16 MR. RICHLER: So the rate base has changed. It's
17 shifted towards the nuclear side, but the production
18 profile has -- remains 50-50.

19 So my question is, is that company riskier than it was
20 on day one?

21 MR. COYNE: It's a little bit hard in the
22 hypothetical, but you're exposing more dollars at risk to
23 the nuclear portion of the business whether it's tenant
24 operating risks that are greater in that case. So the
25 execution risk is no longer there associated with the
26 refurbishment. The project is complete. But the rate base
27 is now tilted towards nuclear, and we would say that the
28 operating risk for the nuclear rate base is greater than it

1 is for the hydroelectric rate base. So we would say it has
2 shifted risk and it's shifted upward as a result of that.

3 MR. RICHLER: Sorry, I don't want to belabour this.
4 I'll move on in a second, but I'm still having trouble
5 understanding that part of your -- the first part of your
6 answer why the shift in rate base makes a difference.

7 MR. COYNE: Well, with a hydroelectric unit, you know,
8 within the normal bounds around water conditions, primarily
9 you get what you get out of your hydro in a year in, year
10 out basis, and it lasts for a hundred years. With the
11 nuclear unit you can have forced outages, you can have
12 degradation of -- even with a refurbished unit you can have
13 degradation of complex nuclear components, you can have
14 changes in safety regulations and operating requirements
15 associated with them.

16 So if you have shifted more of your portfolio towards
17 nuclear you are going to have a riskier exposure with those
18 dollars than you do with your hydro dollars.

19 So from a financial risk perspective you are a riskier
20 company than you were prior to that evolution or that
21 change from day one, as you described it.

22 MR. RICHLER: But isn't the risk really the
23 technology-related risk that there is a forced outage and
24 then there is some period where you're not able to charge
25 for the electricity that you had expected to produce?

26 MR. COYNE: Yes, let's take the case of Point Lepreau,
27 New Brunswick Power, is a case in point where, due to
28 complications associated with refurbishing that unit, they

1 had an extended period of outage where they had to buy much
2 higher cost replacement power. You typically don't find
3 that with a hydroelectric unit.

4 So it's a case in point as to why dealing with nuclear
5 technologies is more complex and implies a greater risk
6 than it does for other technologies, and specifically for
7 hydro in the case of your hypothetical.

8 So forced outage is one type of risk. The other is,
9 of course, refurbishment, and the other is changing safety
10 requirements associated with the unit, post Fukushima for
11 example. We haven't seen that type of primary shift in how
12 we regulate hydroelectric facilities. With hydroelectric
13 facilities, occasionally we get -- fish is typically the
14 concern there, but we don't see such platonic (sic) shifts
15 in how we go about regulating hydroelectric assets as we
16 have seen with hydro facilities post Fukushima. And prior
17 to that, post Three Mile Island, for example, when the
18 safety commissions pretty much rewrote the books for what
19 it considered to be best in practice safety mechanisms
20 associated with these facilities.

21 Reactors' designs have had to change. How personnel
22 are trained to operate these units have changed. We just
23 don't see that with other technologies.

24 MR. RICHLER: Let's return to page 16 of your report,
25 which has your figure 1. You've got a row showing the test
26 period hydro to nuclear ratio in terms of rate base, and it
27 appears from that row that in three of the five years of
28 the test period, the hydro to nuclear ratio -- in other

1 words, the share of rate base that is comprised of hydro
2 assets -- will actually be higher than it was when OPG's
3 equity ratio was set at 47 percent, that is in the years
4 2008 through 2012, is that right?

5 MR. COYNE: That's correct.

6 MR. RICHLER: And the hydro to nuclear ratio dropped
7 significantly in 2020, when Darlington unit 2 comes back on
8 line?

9 MR. COYNE: That's correct. Rate base, that doesn't
10 track capital expenditures. But that's true for rate base,
11 yes.

12 MR. RICHLER: Why did you not recommend a stepladder
13 approach, where the equity ratio would change in 2020 as
14 the hydro nuclear ratio changes, instead of a constant 49
15 percent for the entire test period?

16 MR. COYNE: Sure. Two primary reasons. One is cost
17 of capital is forward-looking and the Board found itself in
18 the past, and most recently when it examined the cost of
19 capital generically in 2009, that cost of capital is an
20 opportunity cost concept and it's a forward-looking
21 concept, and appropriately so because in order for these
22 rate base changes to occur, that means the company needs to
23 be investing along the way in this refurbishment project,
24 for example.

25 So it needs to raise debt capital. It also needs to
26 provide its own equity, and that's happening now.
27 Expenditures for the Darlington project have already begun,
28 and capital expenditures will total over 5 billion over the

1 rate-setting period.

2 And I think actually I wish we had charted it this
3 way, I would borrow from Dr. Bilson's testimony because I
4 think it probably shows more closely than anything else,
5 frankly, that we put in our testimony.

6 If it's possible, if we can turn to her testimony for
7 just a moment, I would draw your attention to a page I'll
8 identify in a moment.

9 There it is, page 10 of her testimony, if we could
10 divert there for a second. Thank you. Whoever is
11 controlling that, it's right on. So here it shows what I'm
12 talking about. The bars in her chart are showing nuclear
13 capital expenditures over this period of time. What we're
14 tracking in our figure 1 is the change in rate base. What
15 you can see here is the capital expenditures precede the
16 movement of rate base, movement of these capital
17 expenditures into rate base, and that's because the
18 Darlington unit 2 is not completed until year 2020.

19 So the company is making these capital expenditures
20 now and the capital structure and cost of capital needs to
21 be set on a forward-looking basis, in order to accommodate
22 these capital expenditures and the fundamental change of
23 risk associated with them.

24 That's the primary reason and it would be -- I guess I
25 would also say that it certainly has not been the history
26 of the Board to set a stair stepped -- in my recollection
27 at least, a stair stepped type cost of capital approach.

28 MR. RICHLER: Let's go back to your report at page 19.

1 At the top of that page, you identify five major risks to a
2 regulated utility related to nuclear power generation, and
3 I would like to go through those one by one.

4 The first one is the ability to implement large and
5 complex projects on time and on budget. What do you mean
6 by that?

7 MR. DANE: What we meant by that is something we've
8 been talking about now today. It's the risk related to
9 large mega projects and the complexities that come out of
10 those, and the ability to do those both within the budget
11 that's prescribed as well as the schedule.

12 In a nuclear facility, there are often risks as you go
13 into any large construction project about evolving issues
14 or the like that get discovered -- new discovery scope is
15 part of the project. So that's really what this risk is
16 encapsulating.

17 MR. RICHLER: You say on page 20 that you have
18 witnessed firsthand the issues even the most well planned
19 large construction projects can face, including scope,
20 budget and schedule increases, as well as increased
21 regulatory scrutiny. Can you elaborate on that, please?

22 MR. DANE: Sure, I'll give an example. One of our
23 clients is Florida Power & Light in Florida in the United
24 States, and they own two nuclear facilities in Florida that
25 they have been doing what's called an upgrade, which is to
26 increase the capacity of those facilities. And it's not
27 too far from the word refurbishment, so it's similar in
28 scope and size of a project.

1 And FP&L is a world class nuclear operator with a lot
2 of experience, both in their regulated plants in Florida
3 and they own a fleet of unregulated plants across -- or the
4 parent company owns a fleet of unregulated plants across
5 the U.S. And even with their experience, they ran into
6 budget issues. They ran into schedule issues in terms of
7 discovery scope, as I just described, issues with scope
8 creep and additional elements of their refurbishments that
9 ended up causing the projects to cost more than initially
10 budgeted.

11 MR. RICHLER: I know your expertise is in cost of
12 capital not construction project management, but as a
13 matter of common sense, would you agree with me that there
14 is an inverse relationship between the level of planning
15 and the level of risk; in other words, the worse the
16 planning, the higher the risk that the project will go off
17 the rails?

18 MR. DANE: I would say that a lot of projects that
19 have gone wrong, the results have been poor planning. So
20 to that extent in those cases, yes, there was an inverse
21 relationship between the amount of planning and the success
22 of the project. Certainly in a project of this size and
23 scope, the more that goes into planning, the more that goes
24 into considerations of eventual outcomes, the increase and
25 likelihood of success in your project.

26 MR. RICHLER: Did you know that OPG had an expert on
27 construction risk management named Patricia Galloway, who
28 testified in this proceeding that OPG's planning was world

1 class in respect of the Darlington refurbishment program?

2 MR. DANE: I didn't hear her exact testimony to that
3 effect, but I am aware OPG had a witness testifying to that
4 topic.

5 MR. RICHLER: And were you aware that OEB Staff had
6 our own expert witness on construction project management
7 who said that OPG's planning in respect of the DRP was
8 consistent with industry standards? Checked all the boxes?

9 MR. DANE: Again, I have not seen that exact
10 testimony. I was familiar that there was an expert
11 testifying.

12 MR. RICHLER: Did you know that OPG has told the Board
13 in this hearing that it has quantified the level of
14 confidence it has in its ability to deliver the DRP on time
15 and on budget, and that OPG puts that confidence level at
16 90 percent?

17 MR. DANE: Yes, I'm aware that OPG's budget is based
18 on a P90 estimate, which would indicate a 90 percent
19 confidence level.

20 MR. RICHLER: And that was factored into your analysis
21 and your assessment of the risk that the DRP represents to
22 the company?

23 MR. DANE: Yes. I would agree that the evidence we've
24 seen is that this is a well-planned project. I know the
25 company has spent significant amount of time working on its
26 budgets, working on risk, sharing with its vendor, and
27 going through pre-planning activities to make sure that
28 they put themselves in the best position for success. So

1 we're certainly aware of that.

2 There are still risks related to any large mega-
3 project, even the most well-planned, and that's -- those
4 are the risks that we are discussing in that item 1 that
5 you pointed us to. So there's still risks related to what
6 I'll call a thin vendor pool related to undiscovered scope
7 and those types of risks, and our opinion is that they
8 still exist. OPG has done its -- taken its steps to
9 mitigate those risks, but they can't eliminate them.

10 MR. RICHLER: Do you think that credit rating agencies
11 and notional investors in OPG would take into consideration
12 the high level of planning that went into the DRP and the
13 high level of confidence that underpins OPG's plan?

14 MR. DANE: I think as part of any due diligence
15 process to understand the financial health of the company
16 that that would be a consideration.

17 MR. RICHLER: Okay. Going back to page 19, the second
18 risk you associated with nuclear power is increases in
19 costs and/or outage durations related to emerging safety
20 regulations, e.g. Fukushima response costs. And on page 23
21 you elaborate on this in the second paragraph. You say,
22 starting at the second sentence of the second paragraph,
23 "While the CNSC" -- that's the Canadian Nuclear Safety
24 Commission -- "has made its recommendations for changes in
25 the industry and closed out its Fukushima-related action
26 items for OPG specifically, the risk remains for additional
27 requirements as the CNSC evaluates nuclear plant owners'
28 implementation of their Fukushima-related projects and

1 adopts any additional safety standards being developed in
2 the industry both in Canada and internationally."

3 On what basis did you make that specific finding? Was
4 it from talking to OPG or the CNSC or from your own general
5 knowledge of the industry?

6 MR. DANE: It was a mix of factors. We did do our own
7 research on the implementation specifically of Fukushima-
8 related reaction in Canada. We also spoke with the company
9 as subject-matter experts on OPG's specific implementation
10 of any findings from Fukushima reactions.

11 MR. RICHLER: The Fukushima incident was six years
12 ago. As you say on page 22, it was on March 11th, 2011,
13 before OPG's last payments amounts case, EB-2013-0321,
14 right?

15 MR. DANE: That's correct. The Fukushima accident
16 happened in 2011.

17 MR. RICHLER: So if anything, wouldn't the regulatory
18 risk have been much higher at the time of the EB-2013
19 proceeding? In fact, in the immediate aftermath of
20 Fukushima, some countries like Japan and Germany were
21 making moves to radically reduce their reliance on nuclear
22 power and to move to alternative sources of power, and
23 there must have been a great deal of uncertainty in the
24 nuclear industry generally; isn't that right?

25 MR. DANE: Yeah, our view is that the risk remains
26 elevated. The risk in the nuclear industry is that an
27 accident anywhere affects plants everywhere. And as you
28 said, there were immediate after-effects of the Fukushima

1 accident, and the risks don't just drop because of the time
2 period between when the accident happens and future risks.

3 In fact, as -- and one of the things we point to here
4 is that as the industry implements its changes, you know,
5 it's very much an international community in the nuclear
6 industry, and so as changes are implemented the risks
7 relate to every plant that similar safety requirements, et
8 cetera, are required to be made across the international
9 fleet.

10 MR. RICHLER: So you said the risk remains elevated,
11 but that's not the same thing as saying the risk has
12 increased since EB-2013, right?

13 MR. COYNE: Yeah, and that is not our view. We have
14 not said that it's increased, only that it remains
15 elevated. MR. RICHLER: So this factor then is neutral,
16 doesn't weigh in favour of changing the equity ratio one
17 way or the other; is that right?

18 MR. COYNE: I would say yes. Would you concur?

19 MR. DANE: Yes, that's correct.

20 MR. RICHLER: Okay. Again on page 19, the third risk
21 is age-related degradation of station components, discovery
22 of unexpected conditions, and/or extended outage durations
23 that put nuclear plants at further risk of producing lower
24 than forecasted power.

25 Wouldn't you expect that OPG's projects to refurbish
26 Darlington and to extend the life of Pickering would
27 actually reduce this risk? I mean, if OPG did no work on
28 Darlington and Pickering, which are approaching the end of

1 their useful lives, wouldn't there be a higher risk during
2 the test period of unplanned outages?

3 MR. COYNE: Yeah, in the case of -- by the way, these
4 are the five risks we've evaluated. We haven't said that
5 all five were elevated. And perhaps you're aware of that.
6 But in the case of age-related degradation, there, in the
7 case of OPG we would focus on the fact that Pickering would
8 -- the plan to extend its life to 2022 and 2024, this would
9 be the longest that any CANDU reactor has had its life
10 extended.

11 So not all -- not all elements of these plants will be
12 upgraded as a result of life extension, so as a result of
13 that we're in unknown territory out to 2022 and 2024 in
14 terms of the ability of these CANDU reactors to react that
15 long.

16 So I think that's probably the difference that we
17 would note here versus any other company in the same
18 situation. But we would agree that once Darlington is
19 refurbished that should lower this risk, certainly for
20 those components that are refurbished.

21 MR. RICHLER: So just to make sure I understand, on
22 this factor -- and I hear you. You're not saying that all
23 of these five factors necessarily weigh on the same side of
24 the scale.

25 MR. COYNE: Yes.

26 MR. RICHLER: But just so I understand, on this factor
27 are you saying that overall it actually weighs in favour of
28 a lower equity thickness?

1 MR. COYNE: I would not go that far. I would say by
2 the time you get to the refurbishment of Darlington in 2026
3 you could say that Darlington is now in a better position
4 from that standpoint because of the refurbishment.

5 But insofar as Pickering is concerned, I would not say
6 so. First of all, this life extension has not been
7 approved yet; and second of all, it remains to be seen if
8 CANDU reactors can operate over this long a period of time.
9 So I would not say that tilts in the other direction from a
10 risk perspective over the rate setting period.

11 MR. RICHLER: Just to tie this one off, is it neutral?

12 MR. COYNE: I would call it -- well, let me confer.

13 We would say this is neutral over this rate setting
14 period.

15 MR. RICHLER: Okay. The fourth risk on page 19 is the
16 risk of decommissioning of retired nuclear plants and long
17 term management of used nuclear fuel and other nuclear
18 waste, including the cost and timing of decommissioning
19 work and the ability to fund that work. Have I got that
20 right?

21 MR. DANE: Yes, that's correct.

22 MR. COYNE: Yes.

23 MR. RICHLER: I understand that Darlington and
24 Pickering will need to be decommissioned and the used fuel
25 and waste will need to be managed. But isn't that true
26 regardless of the DRP and the Pickering extended operations
27 program?

28 MR. DANE: Yes, the facilities will need to be

1 decommissioned under either scenario.

2 MR. RICHLER: So again, where does this factor -- what
3 side of the scales does this factor fall under? Are you
4 suggesting that the risk will increase over the test
5 period? Wouldn't it actually decrease in the test period,
6 as the decommissioning dates for Darlington and Pickering
7 are extended into the future?

8 MR. DANE: To Mr. Coyne's point, all of these factors
9 are the ones that we evaluated, and we didn't come to the
10 conclusion that the company had increased necessarily
11 across the breadth of them. So this is one that I would
12 say the scenario is still the same for OPG, in terms of the
13 risk being there, and I don't think this is one that has
14 changed materially since the last case.

15 MR. RICHLER: Another neutral one.

16 MR. DANE: Right.

17 MR. RICHLER: The fifth and final risk, again on page
18 19, is the ability to recover costs including return in a
19 timely manner. Can you explain what you mean by that?

20 MR. COYNE: What we mean by that is the ability to
21 recover its -- we say in a timely manner. For a utility,
22 that's typically an annual basis. That's typically the
23 base case in Canada. In the case of OPG, there have been
24 two year rate cases. That's what we mean by a timely
25 manner. And when a utility is constructing a program, the
26 most timely recovery of those capital costs is, of course,
27 using a CWIP approach. We understand that's not the case
28 in Ontario as it is in some jurisdictions, and certainly

1 some U.S. jurisdiction.

2 MR. RICHLER: Using a what approach?

3 MR. COYNE: A CWIP approach to recovery of investments
4 in rate base. You're actually earning return as you build
5 it as opposed to waiting for it to be used and useful.
6 That would be the most timely --

7 MR. SMITH: Sorry, it may be helpful for the record
8 just to specify what the acronym is you're referring to.

9 MR. COYNE: I'm sorry. Construction work in progress
10 is the acronym. And there are two basic approaches to the
11 treatment of an ongoing construction project. One is to
12 allow for construction work in progress. So as the utility
13 builds it, it's earning a return on it and actually earning
14 a cash return on it as it's building the project. That's
15 not a policy that's been in effect in Ontario.

16 The other approach to this is an AFUDC approach, which
17 accounts for funds used during construction, if I remember
18 that acronym correctly --

19 MR. DANE: That's correct, I think that's right.

20 MR. COYNE: -- which means you're earning a return as
21 you go, but you're not earning a cash return. You have to
22 wait for that to go into rate base before you recover any
23 cash return on that investment. That is in essence the
24 approach that has been embodied in Ontario in the past.

25 In this case, for example -- well, let me stop there.
26 So that's the difference. And then of course a third
27 alternative would be to wait for that construction to be
28 put into rate base with or without a return. And

1 obviously, if it didn't have a return, that would be the
2 least desirable from the utility's standpoint, the cash
3 flow standpoint, and credit metric standpoint.

4 So that's the factor we're measuring and in terms of
5 the -- to anticipate your question, if I might, do we see a
6 change this that factor vis-a-vis EB-2013, I would say on
7 this one yes. And the reason for that is that OPG is not
8 going into a five-year rate program for the nuclear
9 business which is has not operated under in the past.

10 And in addition to that, it's also entering into this
11 smoothing program that will defer up to about a billion
12 dollars in costs that it will incur during the rate setting
13 period to recovery after the rate setting period. So for
14 those two reasons, we would say that the risk to recover
15 its costs, including return in a timely manner, has
16 increased vis-a-vis where it would have been in EB-2013.

17 MR. RICHLER: Okay. Thank you. Madam Chair, I see
18 we're at 4:30, so perhaps I'll stop now and pick up again
19 tomorrow morning.

20 MS. LONG: Thank you. We're adjourned until tomorrow
21 morning at 9:30.

22 --- Whereupon proceedings adjourned at 4:32 p.m.

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