

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, CHAPTER 473

And

Re: British Columbia Utilities Commission
Project No. 3698659/G-20-12
Generic Cost of Capital Proceeding

Vancouver, B.C.
October 4, 2012

PROCEDURAL CONFERENCE

EFORE:

D. Cote, Panel Chair / Commissioner

M. Harle, Commissioner

L. O'Hara, Commissioner

R. Giammarino Commissioner

VOLUME 1

P. MILLER	Commission Counsel
M. GHIKAS	FortisBC Utilities
M. CHEESMAN	Corix Multi Utility Services Inc.
R. HOBBS	Industrial Customers Group
E. KUNG & E. PRITCHARD	British Columbia Pensioners' and Seniors' Organization (BCPSO)
R.B. WALLACE	Association of Major Power Customers of B.C. (AMPC)
D. CRAIG	Commercial Energy Consumers of British Columbia
R. SIRETT	Pacific Northern Gas Ltd. and Pacific Northern Gas (NE) Ltd.

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CAARS

VANCOUVER, B.C.

October 4th, 2012

(PROCEEDINGS COMMENCED AT 9:02 A.M.)

THE CHAIRPERSON: Please be seated.

Good morning, ladies and gentlemen. My name is Dennis Cote and I have been designated as Chair of the Panel which has been assigned to hear the generic cost of capital proceeding which has been initiated by the British Columbia Utilities Commission, pursuant to Section 82 of the *Utilities Commission Act*.

With me today are Commissioners Liisa O'Hara on my left and Ron Giammarino and Michael Harle on my right. Also in attendance today are Commission counsel, Mr. Paul Miller; our lead staff from the Commission, Ms. Eileen Cheng, who has been joined by a number of people from the Commission, and our Hearing Officer, Mr. Hal Bemister, at the back there.

The generic cost of capital proceeding has been initiated to review and decide, among other things, the following: The setting of an appropriate cost of capital for a benchmark low-risk utility. A generic methodology or process for each utility to determine its unique cost of capital in reference to that benchmark. The possible return to an automatic

1 adjustment mechanism for setting a return on equity,
2 ROE, for the benchmark low-risk utility. And the
3 establishment of a deemed capital structure and deemed
4 cost of capital methodology with particular attention
5 to those utilities without third-party debt.

6 On November the 28th, 2011, the Commission
7 issued a preliminary notification of the initiation of
8 the generic cost of capital proceeding. By Order G-
9 20-12, dated February the 28th, 2012, the Commission
10 established the generic cost of capital proceeding and
11 provided an initial regulatory timetable. The Order
12 also established that all public utilities regulated
13 by the Commission were to be considered applicants in
14 the GCOC proceeding and outlined a process to follow
15 in the event a utility did not desire applicant
16 status.

17 Also included with this Order was a
18 preliminary scoping document which set out a list of
19 matters to be examined and determined within the
20 proceeding and invited submissions from registered
21 participants by March the 20th, 2012.

22 Submissions regarding the preliminary
23 scoping document were received from FortisBC
24 Utilities, Corix, Pacific Northern Gas, B.C. Hydro,
25 Industrial Customers Group of FortisBC Inc., the
26 British Columbia Old Age Pensioners' Organization et

1 determined. This is a matter which will be discussed
2 today.

3 On June the 8th, 2012, the Survey of Cost of
4 Capital Practices in Canada Report, which was prepared
5 by the Brattle Group on behalf of the Commission, was
6 released. This report was intended to provide context
7 and background for the establishment of a benchmark
8 low risk utility and its cost of capital. Order G-84-
9 12 issued on June the 20th, 2012, provided an amended
10 preliminary timetable in response to a proposal of
11 FortisBC Utilities to vary dates in the preliminary
12 regulatory timetable. To date we've had one round of
13 information requests. This brings us to today's
14 procedural conference.

15 The purpose of today is to set the stage
16 for the balance of this proceeding. Specifically each
17 of the participants is asked to address the following.
18 Firstly, the appropriate benchmark utility for
19 determination of the generic cost of capital. The
20 Panel believes it's important that there be some
21 continuity in what the parties view as the benchmark
22 utility ought to be. To provide assistance the
23 Commission has provided four options of potential
24 benchmark utilities. For clarity they are as follows:
25 FEI today as described in its company profile; FEI in
26 2009 frozen in time; FEI in 2012 but only as a pure

1 play or traditional gas distribution utility; and
2 four, another hypothetical construct or a utility.

3 The Panel asked its submissions from all
4 parties to address the following: the pros and cons
5 of each of these alternatives, and in the case of FEI
6 today whether the impact of the alternative energy
7 solutions businesses and potential amalgamation can be
8 isolated and separated. With respect to process, it's
9 our intention to deal with this matter first before
10 proceeding with other matters.

11 Now, the second matter which we will deal
12 with secondly or following a discussion of the first
13 is whether it's appropriate to schedule a Stage 2 to
14 the proceeding which will follow immediately after the
15 first stage. This would involve applying the generic
16 benchmark utility in the determination of an
17 appropriate return on equity and capital structure for
18 each utility in the affected utility group.

19 And the third issue, whether an oral phase
20 is required for this hearing, and an outline and
21 proposed timetable going forward. And then finally,
22 any other matters that will assist in the efficient
23 review of the evidence.

24 As noted previously, it's our intention to
25 deal with a matter related to the appropriate
26 benchmark first before proceeding with other matters.

1 MS. CHEESMAN: Good morning, Chair and Commissioners. My
2 name is Melanie Cheesman, C-H-E-E-S-M-A-N. And I'm
3 appearing on behalf of Corix Multi Utility Services.

4 MR. MILLER: The Industrial Customers' Group.

5 MR. HOBBS: Mr. Chair, Robert Hobbs, H-O-B-B-S, and I'll
6 be appearing on behalf of ICG.

7 THE CHAIRPERSON: Thank you, Mr. Hobbs.

8 MR. MILLER: B.C. Pensioners' and Seniors' Organization.

9 MR. KUNG: Good morning, Mr. Chair and panel. Eugene
10 Kung, K-U-N-G, appearing on behalf of B.C. Pensioners'
11 and Seniors', BCPSO, Organization. I'm appearing this
12 morning with our articling student, Erin Pritchard, P-
13 R-I-T-C-H-A-R-D. Thank you.

14 THE CHAIRPERSON: Thank you.

15 MR. MILLER: Association of Major Power Customers.

16 MR. WALLACE: Good morning. R. Brian Wallace appearing
17 on behalf of AMPC.

18 THE CHAIRPERSON: Thank you, Mr. Wallace.

19 MR. MILLER: Commercial Energy Consumers of British
20 Columbia.

21 MR. CRAIG: Good morning, Mr. Chairman and Panel. David
22 Craig, C-R-A-I-G, appearing for the Commercial Energy
23 Consumers and the Association of Major Power Consumers
24 will be speaking for us as we have joined with them in
25 the process here.

26 THE CHAIRPERSON: Okay, thank you.

1 MR. CRAIG: Thank you.

2 THE CHAIRPERSON: Thank you, Mr. Craig.

3 MR. MILLER: Is there any party that I have missed who
4 wishes to appear?

5 MR. SIRETT: Good morning, Mr. Chair and Commissioners.
6 Robin Sirett, S-I-R-E-T-T. I'm representing Pacific
7 Northern Gas and Pacific Northern Gas (Northeast).
8 Thank you.

9 THE CHAIRPERSON: Okay.

10 MR. MILLER: I believe that concludes the order of
11 appearances, Mr. Chair.

12 THE CHAIRPERSON: Thank you, Mr. Miller.

13 **Proceeding Time 9:12 a.m. T4**

14 **SUBMISSIONS BY MR. GHIKAS:**

15 MR. GHIKAS: Mr. Chairman and Commissioners, the
16 fundamental -- I filed yesterday on behalf of FortisBC
17 Utilities a written outline of my oral submissions
18 today. That was intended to make the process more
19 efficient. I don't propose to read that to you. What
20 I will do is -- you're welcome. What I will do is
21 touch on a few aspects of that, and then speak broadly
22 to the principles that are set out within it.

23 Now, the fundamental submission -- and
24 pardon me, it has an exhibit number now. It's B1-22.

25 THE HEARING OFFICER: Marked B1-22.

26 (WRITTEN SUBMISSIONS OF M. GHIKAS ON BEHALF OF

1 FORTISBC UTILITIES, MARKED AS EXHIBIT B1-22)
2 MR. GHIKAS: The fundamental submission, Mr. Chairman, is
3 that the appropriate benchmark in this generic
4 proceeding ought to be FEI as it exists today, as
5 described in the company profile to use the wording of
6 the Commission. And in paragraph 2 of the written
7 outline I identify six reasons why the Commission
8 ought to adopt that position. I'll just briefly touch
9 on each of those. They're outlined in sub-bullets in
10 paragraph 2.

11 The first point is that using a real
12 utility rather than a hypothetical construct permits
13 greater understanding of the characteristics of the
14 benchmark, and thus permits more efficient
15 comparisons.

16 The second point is that among the B.C.
17 Utilities, FEI is best suited as the benchmark because
18 of its large diverse geographic customer and asset
19 base as well as other attributes.

20 The third point is that FEI as described in
21 the company profile, and FEI of 2012 but as a pure
22 play utility, are one and the same.

23 The fourth point is that there are no
24 advantages, and potential disadvantages, to using FEI
25 of 2009 frozen in time as the benchmark.

26 The fifth point is that the potential

1 amalgamation of the Fortis Energy Utilities, and the
2 expansion of the alternative energy services, need not
3 be a factor in the determination of the appropriate
4 benchmark.

5 And finally, the Fortis Utilities have
6 presented evidence based on FEI of today being the
7 benchmark. And were the Commission to adopt a
8 different benchmark midway through this process, it
9 does introduce unique challenges both on the
10 efficiency side and the fairness side.

11 So here's where I'm going to depart from my
12 written submission and just speak generally to the
13 themes. Broadly speaking, if we step back, the
14 current approach of using a benchmark has been in
15 place since 1994, and since that time the benchmark
16 has been a real utility, FEI. And the reason, in my
17 submission, why that approach has made sense since
18 it's been done is twofold. First of all,
19 transparency, and second of all, efficiency.

20 Let me speak first to the transparency
21 point. It's transparent in the sense that by using a
22 real utility as it exists at the point of whatever
23 proceeding you're involved in at that time, all of the
24 features of the benchmark are known to everyone.
25 Everybody understands the attributes of the benchmark.
26 And it's then possible for each utility, and the

1 parties and interveners with respect to each utility,
2 to come in and effectively argue why -- or effectively
3 argue the cost of capital, the fair return of those
4 utilities in relation to the benchmark. It's a known
5 benchmark.

6 **Proceeding Time 9:16 a.m. T05**

7 Related to that is the efficiency
8 rationale. And it stems in part because the benchmark
9 itself is known. But let me highlight four points.
10 First of all, it avoids the need to debate and
11 determine the attributes of the benchmark. The
12 attributes are what they are, because you're using a
13 real utility. Secondly, it avoids the need to debate
14 the attributes of the benchmark when you move to
15 determining the risk premium or the relative cost of
16 capital of each of the other utilities.

17 Thirdly, it allows current conditions to be
18 considered all at once, to the extent that they're
19 common to all of the utilities. And (d), the fourth
20 point is that it avoids having to have a separate
21 proceeding with respect to FEI, which happens to be
22 the largest investor-owned utility in the province,
23 because you're dealing with that at the same time as
24 setting the benchmark.

25 Now, the option of using a hypothetical
26 utility, and in my submission even the option of

1 taking FEI and then modifying it to some extent to
2 meet what the Commission determines is a pure play
3 utility, is inherently problematic. And the reason
4 it's problematic relates back to the two principles
5 that make a benchmark useful in the first place, and
6 that is transparency and efficiency.

7 On the transparency side, no matter how
8 careful the Commission is, it is not possible to
9 articulate every characteristic of a hypothetical
10 benchmark and have it be free from debate. It's
11 simply a practical -- as a practical matter, it is
12 more problematic to do that than to simply use what
13 is, in fact, a real utility, with its real
14 characteristics as of today.

15 On the efficiency side, it involves the
16 extra step of determining what those characteristics
17 are of the hypothetical, or what those characteristics
18 are that make what the Commission considers a pure
19 play utility to be different from what FEI is as of
20 today. That debate can take place in this proceeding,
21 and it can also take place in the subsequent
22 proceedings related to the individual utilities of the
23 province who are seeking to compare themselves to the
24 benchmark.

25 And of course it also gives rise to the
26 need to determine FEI's cost of capital, which may be

1 necessary anyway in the event that FEI amalgamates.
2 But again, it may not. But by adopting either of the
3 hypothetical or a variant of FEI's actual
4 characteristics to meet the definition of pure play,
5 we're ensuring that that occurs.

6 And of course, finally, in the current
7 circumstances, you have the efficiency consideration
8 that FEI of today as it exists in fact is the basis on
9 which all of the evidence has been filed in this
10 proceeding. We're well down the road in this process.
11 And that point isn't just an efficiency one, it's a
12 fairness one. Because by virtue of how the process
13 has unfolded, and how the evidence has been
14 formulated, there really would be a need to -- for
15 each of the parties, the affected utilities, to step
16 back and look and see whether the evidence that's been
17 filed does indeed meet what is -- what they consider
18 to be necessary to meet the evidentiary requirements
19 of what the Commission deems to be the new benchmark.

20 This concern has troubled the FortisBC
21 Utilities from the outset, and it continues to trouble
22 the Fortis Utilities at this time, and it does have,
23 in our submission, implications for the procedural
24 timeline.

25 **Proceeding Time 9:21 a.m. T06**

26 So, I have outlined what I see as being the

1 difficulties involved in using other benchmarks other
2 than FEI of today. Why would we depart from that?
3 Now, the Fortis Utilities understand that the
4 Commission is raising the issue because of two facts,
5 two changes that are occurring. One of them is that
6 there are -- that the company, FEI, is undertaking new
7 initiatives. And the other is that FEI has applied to
8 amalgamate with the other Fortis Energy Utilities.

9 In my submission, the Commission can
10 proceed using FEI of today as the benchmark, putting
11 aside those concerns, both of those concerns, because
12 in my submission they do not relate to the selection
13 of the benchmark.

14 And I will spell that out in a little bit
15 more detail now, and I will revert to my written
16 submission here, and I'm starting at paragraph 10.

17 Dealing first with the new initiatives.
18 First of all, we just need to make sure that we're
19 operating on the same factual basis, and the first
20 thing is that the TES business isn't actually being
21 undertaken by FEI. So, as far as a non-gas business
22 is concerned, that is set aside. To the extent that,
23 in the future, that were to be brought back in to FEI,
24 the nature of the *Utilities Commission Act* is such
25 that it would have to be considered separately from a
26 cost of capital perspective, because the provisions

1 dealing with classes of service require it. And what
2 that means is that the benchmark truly would be FEI's
3 natural gas business, to the exclusion of the TES
4 business.

5 But the point is that the TES business can
6 be isolated in these circumstances from the
7 perspective of selecting the appropriate benchmark.

8 Now, moving on to the natural gas for
9 transportation and biomethane initiatives, these are
10 truly natural gas services, in the sense that they
11 make use of the natural gas infrastructure that exists
12 today. The development of those programs will have an
13 effect on customer composition. It will have an
14 effect on the size of the rate base. It will have an
15 effect on the end use that is driving the through-put
16 on the system, the end use that is driving revenues on
17 the system. But it doesn't change the fact that it is
18 all simply throughout on the system.

19 And we can see that in the near term, the
20 time between now and the next review, just how small
21 the overall impact of those alternative energy
22 services are when they're put in the context of the
23 overall utility. In my submission, these truly are --
24 that FEI truly is a natural gas business remains so,
25 and to the extent that one were to say it is not, it
26 is certainly as close as you can reasonably expect to

1 get to it, notwithstanding the new initiatives.

2 And if we step back and we look at this for
3 a moment, Mr. Chairman, the business of FEI has never
4 been static. The utility today is different than it
5 was in 1994 when the benchmark was first used. The
6 FEI has undergone significant changes in terms of
7 customer make-up. We have seen an NGV program in the
8 1990s increase up to 700,000 GJs a year, and decline
9 from there. We have seen a change in the industrial
10 customer mix. And we've seen the infrastructure move
11 from three separate utilities, the Whistler utility,
12 the Vancouver Island utility and the mainland, all get
13 combined into a single utility structure during that
14 period of time, and yet each time the Commission has
15 found it appropriate to use FEI as it exists at the
16 date of whatever hearing they're engaged in, as the
17 benchmark.

18 **Proceeding Time 9:27 a.m. T7**

19 In my submission that makes sense, because
20 the bottom line is business change does not affect the
21 ability for a company to act as a benchmark. A
22 benchmark is simply a point of comparison, and as long
23 as it's defined clearly it will remain an effective
24 point of comparison.

25 I make that point specifically in paragraph
26 17 of the outline, and stated in the written

1 submission that the benchmark is being used to compare
2 utilities that don't look necessarily anything like
3 FEI. It's an electric utility on one hand. It's
4 going to be thermal -- small micro utilities providing
5 thermal energy services, and it's going to be a
6 relatively small gas utility in PNG.

7 Whether FEI is taken as it is today, or
8 whether some parts of it are carved out to make it
9 whatever the Commission deems to be a pure play
10 utility, those comparisons are going to be no easier
11 and no harder than if we were to use a real utility.
12 It's simply a point of reference that we need to nail
13 down, and once we've got it the exercise is going to
14 be the same regardless.

15 I'll touch on in paragraph 18 FEI frozen in
16 time. In my submission, part of the advantage of
17 using a benchmark to begin with, as I mentioned
18 earlier, is the fact that considerations common to the
19 utilities can be considered all at once. And some of
20 those considerations are going to be current
21 conditions, and to the extent that you freeze the
22 benchmark in time in 2009 you are giving up that
23 benefit.

24 Now, if the Commission is raising that as
25 an option because 2009 predates the alternative energy
26 services, for example, I would just simply apply my

1 previous submissions to it and submit to you that you
2 need not be concerned about those issues, and that
3 2009 frozen in time should be excluded as an option.

4 So what about amalgamation? Well, in
5 paragraph 19 I set it out, and quite simply the
6 approach that's been taken in the amalgamation
7 application and the approach that the Fortis Utilities
8 submit ought to be taken in this proceeding is simply
9 to take the utility FEI as it exists today, pre-
10 amalgamation, as the benchmark. And in the event
11 amalgamation is approved, it will require a comparison
12 between FEI Amalco and FEI as it exists today. That's
13 one more step than we would normally have in past
14 proceedings. But the equity risk -- pardon me, the
15 difference in the fair return for Amalco can simply be
16 a matter that is addressed just like every other
17 utility in the province. And going forward, the
18 Commission has the option of moving to FEI Amalco as
19 the benchmark as it exists at that time in the future,
20 in which case we will move back to a scenario where
21 the termination of the benchmark itself is knocking
22 off having to deal with a proceeding for the largest
23 investor owned utility in the province.

24 So that brings me to my conclusion, and
25 it's effectively summed up in paragraph 23. The first
26 point is that the Commission does not need to change

1 Commissioner Harle, and that is first of all whether
2 -- the Commission can determine that at the end of
3 this proceeding, the extent to which that's been taken
4 into account. But it doesn't preclude you from making
5 whatever -- it doesn't preclude you from designating
6 this utility as the benchmark, regardless of the
7 extent to which that's been taken into account. That
8 really is an issue that deals with the cost of capital
9 of the gas side of the business.

10 The second point that I would make is there
11 really is no indication of that in anything that's
12 been filed to date. I skimmed back through the credit
13 reports and analysis in anticipation of today, and
14 there really is not any indication that would cause me
15 to think of FEI as anything other than a gas
16 distribution utility.

17 COMMISSIONER GIAMMARINO: I'd like to ask a clarifying
18 question. At one point when you talked about the
19 efficiency, you mentioned that it would be -- it
20 avoids the risk premium debate and I just didn't catch
21 your reasoning on that.

22 MR. GHIKAS: Oh. Well, there are two points. The first
23 is that in this Phase 1 it avoids the need to have a
24 debate on what the attributes of the benchmark should
25 be, because we simply take them for what they are.
26 That's the first point.

1 The second point is that we're going to
2 move on to either a Phase 2 where -- or a separate
3 proceeding for each of the utilities in the province,
4 where they seek to compare themselves to the benchmark
5 and seek to determine what a fair return is for those
6 utilities. And even if the debate about the
7 uncertainty in the parameters doesn't take place here,
8 it has the potential to take place each time one of
9 those issues comes up, because you have a -- they're
10 measuring themselves against a benchmark that isn't
11 sufficiently clear to make the comparisons. If your
12 benchmark isn't clear, you end up debating what the
13 characteristics of the benchmark are in a hearing
14 where you should be debating what the characteristics
15 of the real utilities that are trying to compare
16 themselves. That was all I meant. Does that clarify
17 it?

18 COMMISSIONER GIAMMARINO: So critical to that is an
19 assertion that the risk premium for Fortis today is
20 clear. There's no debate about that.

21 MR. GHIKAS: No, it's not. It's not with respect to the
22 -- it has nothing to do with the substance of what the
23 risk premium is, and has everything to do with what
24 the business characteristics are, because the debate
25 that we're undertaking today, in my submission, is
26 really one of what should be the benchmark, not what

1 MR. GHIKAS: Okay.

2 COMMISSIONER O'HARA: Because I think they are both --
3 they are so intertwined.

4 MR. GHIKAS: Mm-hmm.

5 COMMISSIONER O'HARA: And if we look at, like, FEI over
6 the last 12 months, I don't have anything here with
7 me, but in the various materials at the Commission,
8 and just what I have seen as a member of the public in
9 the community, like, the way FEI is branding itself,
10 it comes across as something else than just a pure gas
11 play.

12 So, I'm still having difficulty with this
13 item (c) here you have on page 1 that FEI today is the
14 same as FEI of '12, but as a pure play of gas
15 distribution utility. So perhaps if you could speak
16 to it a bit more today, and is there perhaps later on
17 possibility you could file some more materials about
18 how FEI is being branded, or has been branded over the
19 last couple of years.

20 MR. GHIKAS: Yeah. And I'm happy to speak to that now.
21 What the utilities -- the FortisBC Utilities have
22 stated from the outset of the proceeding was,
23 Commission, if you tell us what the benchmark is, we
24 will file evidence in support of what the cost of
25 capital of the benchmark is. And we just need to know
26 what the benchmark is, and then we can provide the

1 evidence to meet it. And the evidence that we file
2 with respect to that benchmark, whatever it may be,
3 the substance of that evidence can deal with issues
4 like branding. But, in my submission, it's not an
5 issue that should determine whatever the Commission
6 chooses as the benchmark. It's simply -- it doesn't
7 matter, the extent to which the public perceives FEI
8 as a natural gas business, because there is no magic
9 to saying that any particular type of utility needs to
10 be the benchmark. I'm saying it's efficient to use
11 FEI, but there really -- it could be an electric
12 utility. And if there was an electric utility that
13 had the characteristics of FEI in this province, we
14 may be having a debate about whether or not FEI -- or,
15 sorry, whether or not the electric utility is. And
16 I'd still be saying, "Let's use a real utility."
17 Because we know what the parameters are.

18 So, the issue of the branding is a fair
19 question with respect to what the cost of capital is
20 for the gas utility, for the gas utility assets. We
21 will have an answer for that. But on the issue that's
22 been presented today, it's my submission that it just
23 isn't relevant. You will pick what the utility is as
24 FEI today, and it has the characteristics that it has.
25 And then we will determine what the cost of -- you
26 will determine what the cost of capital with respect

1 to whatever it is that you select today, and you will
2 consider whatever factors you consider necessary to do
3 so.

4 But the issues that you're raising, in my
5 submission, are ones that you should be asking
6 yourself at the conclusion of the proceeding and not
7 with respect to whether the benchmark is -- what the
8 benchmark is.

9 COMMISSIONER O'HARA: So, what you are telling me, that
10 we will still see some material -- that link, for
11 instance, to relate to the branding issue and now that
12 is affecting --

13 MR. GHIKAS: Well, we hadn't intended --

14 COMMISSIONER O'HARA: Because they are the business
15 risks, you think, to the --

16 MR. GHIKAS: I mean, the -- well, let me start -- excuse
17 me.

18 The first thing is that -- let me deal
19 specifically with the branding, because what we're
20 engaged in here is -- I am saying it's FEI, the
21 company, the corporate entity, the corporate entity
22 that has the debt ratings, that has -- you know,
23 that's the entity that we're dealing with. There are
24 other FortisBC utilities that are not part of that,
25 and the alternative energy -- thermal energy stuff is
26 being undertaken by another company. Whether or not

1 not, I would think in your opinion is irrelevant. Is
2 that a fair statement?

3 MR. GHIKAS: Yes, it is. And there have been a variety
4 of IRs and -- that have related to the low-risk, is it
5 low-risk, is it not. And really it's almost a shame
6 that we got into that debate to begin with, because it
7 depends on your point of reference.

8 It's low-risk relative to the unregulated
9 market. Is it low-risk compared to, you know, in the
10 utility world in British Columbia? Well, there's
11 differences of opinion. But frankly if we just call
12 it the benchmark utility, we avoid the need to get
13 into that debate which, in my submission, is truly
14 unnecessary. It doesn't matter what it is. It could
15 be a high-risk utility that we end up picking, and you
16 can still compare to it just as easily as you could if
17 it was low-risk.

18 THE CHAIRPERSON: So, it would be fair to say that once
19 we set that and agree on that, that when comparing
20 other utilities, some may be above that, some may be
21 the same and some may be below, depending upon
22 circumstances.

23 MR. GHIKAS: In theory, that is absolutely the case. I'm
24 sure the various parties in this room would have
25 different views on that, but --

26 THE CHAIRPERSON: I'm sure they do.

1 MR. GHIKAS: But in theory, I'll stick with theory at the
2 time being and, yes, in theory that absolutely plays
3 out that way.

4 THE CHAIRPERSON: Okay. Good, then. One more -- it's
5 more of a clarification than anything else, and the
6 amalgamation that is coming up. And you indicated
7 that you would likely come back if amalgamation is
8 approved, and would be comparing yourself against a
9 benchmark with the Amalco. If that were the case,
10 then FEI effectively would cease to exist as this
11 entity. Wouldn't that in a way make that a bit of a
12 hypothetical construct, as such? On a go-forward
13 basis, rather than not -- even though it's based on a
14 lot of fact right now?

15 MR. GHIKAS: Yeah. I mean, when we're -- that's a fair
16 point. It's -- what it is is, it's real in terms of
17 being able to define it with accuracy. And when I'm
18 talking about a hypothetical, I'm talking about a
19 construct that really you're stepping back and you're
20 trying to identify exhaustively what all the
21 attributes of that entity are, and simply saying that
22 we -- using a real utility now avoids the need to do
23 that.

24 THE CHAIRPERSON: Okay.

25 MR. GHIKAS: But certainly, you know, in 1994, the
26 utility was what it was at the time of that hearing,

1 and the very next day it's different than what it was
2 on that day. So, that never changes. The only issue
3 here is just the fact that, you know, FEI is going to
4 look very different the next day after the
5 amalgamation takes place. And will necessitate a
6 consideration of whether that in fact changes the fair
7 return of FEI Amalco.

8 But, you know, going forward in the future,
9 if we were to apply the same logic that I'm applying
10 today, you would likely end up with FEI Amalco as the
11 benchmark in the future. And for the similar reasons
12 that I have articulated. And certainly that would be
13 a matter that could be debated going forward.

14 THE CHAIRPERSON: Yeah, and I'm sure it will.

15 Okay, thank you very much, Mr. Ghikas.

16 MR. GHIKAS: Thanks.

17 THE CHAIRPERSON: I believe we have Ms. Cheesman. Corix.

18 MS. CHEESMAN: Thank you very much.

19 **Proceeding Time 9:47 a.m. T11**

20 **SUBMISSIONS BY MS. CHEESMAN:**

21 Corix has made the point in its submissions
22 through the course of these proceedings, and I'll just
23 briefly mention it again that Corix obviously is a
24 small utility operator in the province, and as such
25 has a somewhat more narrow interest perhaps in this
26 generic cost of capital proceeding.

1 Corix shares with Fortis a common interest
2 in setting the appropriate benchmark to be used by all
3 utilities, but Corix is also specifically interested
4 in establishing an appropriate framework to determine
5 the risk premium applicable to the low-risk benchmark
6 to reflect challenges faced by smaller utilities in
7 the province. Because of this interest of Corix's and
8 in light of the considerations already presented to
9 the Commission by Mr. Ghikas, I intend to make my
10 comments quite brief. We certainly appreciate the
11 opportunity to share our views with the Commission.

12 Regarding the item in question, namely the
13 appropriate benchmark utility, we can state that we
14 generally agree with the recommendation of FEI, that
15 it continue as the benchmark for the purposes of
16 determining the allowed rate of return for B.C.
17 utilities.

18 Corix concurs that using an actual utility
19 in the present time versus a hypothetical construct
20 would allow for a better, more objective understanding
21 of the characteristics of the benchmark, and therefore
22 more efficient comparisons with other utilities.

23 As mentioned by Mr. Ghikas, the interests
24 of transparency and efficiency, in my submission, is
25 supported by using a real utility for the benchmark.
26 Also, as Corix has indicated in some of its IR

1 responses, we agree that because of the large and
2 diverse geographic customer and asset base of Fortis
3 and it's the largest investor owned utility in the
4 province, FEI is a logical choice for the benchmark.

5 I would just note that Corix does, however,
6 share some of the concerns of the Commission's in
7 respect of alternative energy solutions, businesses
8 and their potential impact on the risk profile of FEI.
9 Corix has made submissions to the Commission in that
10 regard as part of the separate and parallel
11 alternative energy solutions inquiry. As noted by FEI
12 in its written submissions, the TES businesses are
13 currently operated by a separate Fortis entity pending
14 a decision by the Commission on the AES inquiry. If
15 that separation is maintained, it's my submission that
16 their risk profile of FEI more closely approximates
17 the pure play gas utility, and for the purposes of the
18 benchmark and in the future perhaps allow for more
19 efficient comparisons with other utilities. But
20 nevertheless, Corix is content with allowing that
21 matter and the related issues to be decided as part of
22 this separate AES proceeding, and for the purposes of
23 this hearing today to continue with FEI as the
24 benchmark regardless of the outcome on the AES issues,
25 just because of its characteristics and given that
26 it's a current real actual utility.

1 Commission should adopt FEI as it exists today, as the
2 appropriate benchmark for the reasons that Mr. Ghikas
3 has outlined. We think that the case is clear. For
4 the use of FEI, the continued use of FEI as it is, as
5 the appropriate benchmark, and that there are really
6 no advantages or good reasons to adopt another
7 utility, whether it be a hypothetical utility or
8 another real utility, for purposes of this benchmark,
9 and establishing a point of comparison against which
10 the other utilities under the Commission's
11 jurisdiction can be compared.

12 So those are my submissions.

13 THE CHAIRPERSON: Thank you very much.

14 MR. SIRETT: Thank you.

15 THE CHAIRPERSON: Now we'll have Mr. Hobbs from the
16 Industrial Customers Group.

17 **SUBMISSIONS BY MR. HOBBS:**

18 MR. HOBBS: Mr. Chair, Commissioners. I'm going to focus
19 on the points of departure from Mr. Ghikas, and in
20 order to do that, I'll quickly dispose of two matters
21 that we agree with him on, and that is whether or not
22 it should be a hypothetical construct. We do not
23 think so. And whether or not it should reflect
24 current conditions, we think so.

25 That then leaves me with two options that
26 have been listed by the Commission, and that is

1 whether it's FEI of today or whether it's FEI in 2012,
2 but only as a pure play gas distribution utility.

3 Let me begin by saying that we agree with
4 the comments in the Commission's letter that the
5 benchmark should as closely as reasonably possible
6 represent a mature and stable pure play gas
7 distribution utility.

8 So turning to Mr. Ghikas' item number 2(c)
9 in support of it being FEI of today, Commissioner
10 O'Hara has already taken Mr. Ghikas to this. And let
11 me say that at the outset the evidence does not
12 support that conclusion. However, it's very early in
13 the proceeding to make that determination and we would
14 discourage you from doing that at this time. Wait
15 until you've heard from our experts, wait until you
16 get responses to the second round of Information
17 Requests, and we'll later get to the issue of the
18 hearing, but it's -- I would submit to you that is an
19 issue for consideration in your final argument and not
20 until then.

21 That does leave two items, as I've pointed
22 out, on the table for consideration for the benchmark.
23 And I would suggest to you in reference to item 2(f)
24 of Mr. Ghikas' comments, that given the nature of
25 those two options available to the Commission, that it
26 does not raise procedural fairness issues if you leave

1 those two options in this proceeding for
2 consideration. And as I said, we would encourage you
3 to do that.

4 And let me make a comment -- I can't resist
5 the opportunity, really, to make a comment about
6 whether or not the benchmark needs to be a low-risk
7 utility. It doesn't, and in this regard we also agree
8 with Mr. Ghikas. But we should never lose sight of
9 the fact that it needs to be a pure play utility. And
10 it should also probably be said that ideally it
11 wouldn't be a low-risk or a high-risk utility. It
12 shouldn't really be on either end of the spectrum.
13 Preferably a moderate risk utility. And I think that
14 brings us back to the comments that Commissioner Cote
15 made, that I think we need to keep in mind, perhaps
16 not as part of this proceeding but in future
17 proceedings, that the benchmark is not going to be, if
18 you will, the baseline. It will be a reference point
19 and other utilities may be higher or may be lower.
20 That's a matter for future consideration. But in
21 setting the benchmark, I'd encourage you to keep that
22 before you as a consideration.

23 **Proceeding Time 9:57 a.m. T13**

24 The other comment I'd like to make about
25 benchmarks is that the cost of capital needs to be
26 considered, and I guess this goes without saying but

1 I'll mention it, with reference to other utilities.
2 Whether they're formally a benchmark or not, when we
3 get to determining the cost of capital for the other
4 utilities, we will be making reference to, if you
5 will, benchmarks. Can't avoid that. And so in that
6 context FEI as the benchmark has considerable merit
7 for the reasons that Mr. Ghikas mentioned. One of
8 them is you need to determine cost of capital for FEI
9 so it might as well be the benchmark.

10 Those are my comments this morning on this
11 first issue.

12 THE CHAIRPERSON: I just have one question. You made a
13 strong statement that you were absolutely convinced
14 the benchmark must be pure play. Could you give me
15 some reasoning behind that?

16 MR. HOBBS: Well, if the benchmark isn't a pure play
17 utility, then the market's evidence, if you will, that
18 we will be referring to in this proceeding becomes
19 problematic because we don't know how the markets
20 perceive the utility and it needs to come back to
21 being a pure play utility in order to make it an
22 appropriate reference point for other utilities. And
23 so there are going to be some adjustments that need to
24 be made in order to -- if we begin with FEI of today,
25 there needs to be adjustments to be made to what the
26 market says the appropriate return is for that utility

1 before we can use it as a reference point.

2 THE CHAIRPERSON: Thank you very much.

3 MR. HOBBS: Thank you.

4 THE CHAIRPERSON: B.C. Pensioners' and Seniors'
5 Organization, Mr. Kung.

6 **SUBMISSIONS BY MR. KUNG:**

7 Good morning, thank you. I'd like to start
8 by agreeing with my friend Mr. Hobbs' discussion
9 around the desirability of having a pure play utility
10 as a reference point. In BCPSO's view, having a
11 benchmark utility that's a pure play is a much more
12 conceptually efficient and pure way of making the
13 comparisons and setting the appropriate rates of
14 return for the other utilities, including FEI as it
15 changes into the future.

16 The benchmarking approach is inevitably
17 going to be an exercise in conceptual thinking,
18 whether we use a hypothetical construct or whether we
19 use FEI of 2009 or FEI of today or FEI of today minus
20 the impacts. It's going to be a snapshot in the last
21 case, frozen in time, and as was mentioned earlier the
22 week after the decision is going to already be a
23 hypothetical construct.

24 BCPSO agrees that the best evidence
25 available is something that's desirable for all
26 parties involved. We want to have the best

1 information in order to make this decision, and the
2 question around whether FEI today reflects the best
3 information available is something for the Panel to
4 decide.

5 In our view, the large amount of
6 information filed that reflect that FEI as it is today
7 is appropriate and should be used and should be taken
8 into consideration. But what you as the Panel have to
9 decide on is what are the impacts of what FEU's CEO
10 John Walker called in their revenue requirement
11 statement "significant changes in the operating
12 environment". Repeated that same language in their
13 corporate report, 2011 corporate report, calling them
14 major internal and external changes.

15 I don't think anyone here is of the view
16 that the changes that are pending or that are under
17 review by the Commission are insignificant or minor,
18 and in our submission that is a factor that the
19 Commission is going to have to take into account as we
20 set this benchmark moving into the future.

21 They will have an impact, these changes.
22 We don't know what they're going to be. The exercise
23 at this point in time is to try and figure out the
24 appropriate benchmark to which to compare other
25 utilities and setting the rates, and we can't
26 necessarily just wait for all of that to fall into

1 place and for the markets, for example, to respond or
2 ratings agencies.

3 **Proceeding Time 10:02 a.m. T14**

4 Now, I spoke about our support for my
5 friend Mr. Hobbs' view of having a pure play utility,
6 and agree and adopt his reasoning for that. Mr.
7 Ghikas mentioned that -- or made a submission that FEI
8 today is just that, a pure play utility. And we can
9 agree with that point. There are significant changes.
10 They have been very public and indeed, as Commissioner
11 O'Hara mentioned, they have been promoted through
12 FEI's branding, through their website, through all of
13 their communications to the public, and it cannot not
14 have an impact on the perception that the public has
15 on the utility, unless they're doing a very poor job
16 of that branding, which we are not saying.

17 And so, in continuing with the point of
18 this exercise, in setting a benchmark utility, when we
19 move to phase 2, and we'll make submissions on that
20 shortly, we will need to compare the benchmark,
21 whatever is set, with other utilities - PNG, Corix.
22 And FEI as a pure play, or at least the pure play
23 version of FEI as we -- inasmuch as that can be
24 determined, it's going to be much easier to compare
25 those other utilities -- in particular, PNG, who is
26 not engaged in AES or new initiatives in the same way

1 that FEI is.

2 Corix is also very different from FEI,
3 whether it's with the new initiatives or not. But the
4 point is having a mature stable pure play utility is
5 in our view conceptually the most effective way to
6 have this comparison.

7 And whether we do it in this proceeding or
8 in Phase 2, that adjustment for the significant
9 changes is going to have to happen. In our view, it's
10 preferential to have that happen in this stage,
11 because, as I said at the beginning, the week after,
12 the day after the decision, that is going to start to
13 become a hypothetical construct. And so having --
14 recognizing that and then using that pure play as a
15 basis for comparison in our submission makes the most
16 sense.

17 I just want to touch a little bit on some
18 of what my friend, Mr. Ghikas, spoke about and some of
19 the changes in his suggestion, for example, that the
20 new initiatives don't amount to a significant change
21 to the conceptual pure play FEI.

22 It's true that the AES inquiry is still
23 pending, and a lot of answers will come from that.
24 But even despite that moment right now, we are seeing
25 a lot of new initiatives that are currently being paid
26 for by FEI ratepayers. There is a lot of activity

1 around natural gas vehicles, CNG and LNG. We have a
2 situation -- and I'm not making submissions on whether
3 that's desirable or not. I'm just pointing out that
4 these are significant changes that are happening.
5 Yes, they increase throughput, and to a large extent
6 we like that. But we have a situation already where
7 natural gas ratepayers are paying for trucks, they're
8 paying for infrastructure, some of that is directed
9 from the province. But the point of -- and the result
10 of that is that the activities that FEI is engaged in
11 today is not pure play gas distribution.

12 The incentives for NGV trucks and for the
13 infrastructure, the fueling stations and so on, not to
14 mention the generous sharing of LNG tanker storage,
15 these are all already -- these are all impacts that
16 are already happening and that are, as Mr. Walker
17 said, significantly changing the nature of FEI.

18 So, in closing, just it's our submission
19 that a pure play utility is conceptually better to
20 work with, easier to work with, to compare.
21 Regardless of whether it's FEI of today or FEI of
22 2009, or some other hypothetical construct, it's going
23 to be a conceptual benchmark. And in our submission,
24 for all the reasons I have stated, FEI today, but as a
25 pure play, is the most effective use of this process
26 and of our time.

1 whether it's here or in Phase 2 in setting the
2 comparators. In our view, having that benchmark as
3 something that's easiest to compare the rest of the
4 utilities to is preferable and conceptually
5 advantageous.

6 COMMISSIONER GIANMARINO: Thank you.

7 THE CHAIRPERSON: Thank you very much, Mr. Kung.

8 MR. KUNG: Thank you.

9 THE CHAIRPERSON: That brings us to the Association of
10 Major Power Customers, Mr. Wallace.

11 **SUBMISSIONS BY MR. WALLACE:**

12 Thank you, Mr. Chair, Commissioners. I
13 find myself in a fairly unique position in that I
14 agree with Mr. Ghikas that the benchmark should be
15 FEI. We may have a few procedural agreements today,
16 but I suspect it'll go downhill from there in this
17 proceeding. But Mr. Ghikas's letter was very helpful
18 to us in understanding his position, as was the
19 Commission raising this, and we appreciate that.

20 I'd like to step back a little, if I could,
21 because I think we're getting generic utilities or
22 hypothetical constructs mixed up, or maybe I was at
23 least initially, with the concept of a benchmark. And
24 from a benchmark, my point of view is that that is the
25 utility used to set the returns and the capital
26 structures as a reference point for all the smaller

1 utilities in the province. FEI has played that role
2 for a long time, and I think it's a role we
3 understand. We're used to thinking is PNG more risky
4 or less risky than FEI? Maybe not as used to Corix to
5 generally that concept is out there. And so I think
6 that's very helpful. Yes, FEI is changing and you are
7 caught at a period of change, probably in financial
8 markets I hope we're going to be heading up in the
9 future. Also for FEI with amalgamation.

10 So I guess we would suggest focus this year
11 on what you've got. We will probably have to come
12 back at some point, not just because of FEI changes
13 but also because of changes in the market, doesn't
14 mean an automatic adjustment mechanism in the interim
15 might not be useful. So we do say work with what you
16 have. Now -- for that purpose of comparison to other
17 utilities.

18 With respect to the use of information,
19 which has been raised a number of times, the experts,
20 as the evidence shows here and it will show further, I
21 think, look, because of lack of financial data for FEI
22 as a separate tradable security, because of all sorts
23 of things, tend to look -- and fairness across the
24 country, appropriateness in comparison to other
25 utilities, like investments being the tests that you
26 will be looking at, do look at unregulated returns and

1 To the extent that includes the type of
2 data I have discussed, then, you know, I think that's
3 fair enough.

4 So, and then Phase 2, which should be a
5 separate phase in which AMPC at least, I think some of
6 the other customers will be involved and will deal
7 with the smaller utilities, AMPC does not intend to
8 get involved in that phase. And accordingly we do
9 have a self-interest in seeing the Fortis
10 determination made. It is a determination for Fortis
11 and it is a determination by reference for B.C. Hydro.
12 So it's terribly important to the large industrial
13 customers, but frankly the returns on some of the
14 smaller utilities are just not something we want to
15 get involved in, and will not be making submissions
16 with, is our plan at this point.

17 So, that's the way we see it. We think it
18 is a good reason to use Fortis -- agree with Mr. Hobbs
19 that it's early time to decide the pure play issue. I
20 think you've heard arguments on both sides of that
21 today. We will have a chance to look at it. It
22 clearly is not a huge element. Maybe an influential
23 element, but I think you should hear the submissions
24 from the experts, have your chance to ask the experts
25 and the company witnesses the questions that you have,
26 and decide where it goes.

1 Even then, it would appear -- and I won't
2 argue against the fact that it's too early, but they
3 are relatively minor influences at this stage, and how
4 best to handle them is best decided after the evidence
5 is in.

6 With respect to amalgamation, clearly
7 that's on the horizon. But you are looking at what is
8 an appropriate return on rate base. You have the gas
9 utility assets. If amalgamation happens, you will
10 have the electric utility, but presumably at least at
11 this stage you still have enough information to
12 determine the electric utility return on the basis of
13 a traditional type of comparison to what you would be
14 making a decision on FEI. So, we think you can
15 probably bridge that at this time without difficulty,
16 by weighting the returns proportionally should it
17 happen.

18 I think that probably, on this issue,
19 covers my points.

20 COMMISSIONER GIAMMARINO: I have a question. I'm trying
21 to follow through the logic. You have agreed that
22 Fortis would be an appropriate benchmark at this time?

23 MR. WALLACE: For the Phase 2 decisions, yes. Make the
24 decision on Fortis and then we think it's appropriate
25 for phase 2.

26 COMMISSIONER GIAMMARINO: Okay. And Fortis has argued

1 that -- in fact they've stated that they are a pure
2 play. Currently.

3 MR. WALLACE: And I think we should look at the evidence
4 on that. The experts will be looking at it. As a
5 lawyer, I don't want to tell you at this stage, at
6 least till the evidence is in, that they are pure play
7 or they're not pure play.

8 COMMISSIONER GIAMMARINO: Okay.

9 MR. WALLACE: It's a bit of a twist, but frankly in
10 return on equity hearings, and I've been doing them
11 for an awful long time, there is nothing that's clear.
12 If there is anything that's more fuzzy than an ROE
13 proceeding, I don't know what it is.

14 COMMISSIONER GIAMMARINO: Right. And --

15 THE CHAIRPERSON: We need to hear that.

16 COMMISSIONER GIAMMARINO: So what I was really getting at
17 is, for clarification, would you -- are you agreeing
18 that a pure play, if it existed and was easy to find,
19 would be the ideal benchmark?

20 MR. WALLACE: I think it would be helpful, yes, because
21 it eliminates one more factor you've got to do, look
22 at, in that comparison to the benchmark, when you go
23 to set the returns for the others. But, you know, it
24 is -- I would say, one factor depending on the
25 evidence and how strong it is, and you are looking at
26 other factors. You'll be looking at how fixed the --

1 how tied the customers are. What the risks PNG weighs
2 in gas prices. There are a whole pile of factors that
3 come up and until the evidence is in, I would say
4 that's one more factor.

5 COMMISSIONER GIAMMARINO: Thank you.

6 THE CHAIRPERSON: Just one question, sorry.

7 MR. WALLACE: Sure.

8 THE CHAIRPERSON: You'd suggested that we hold off making
9 a decision on the benchmark and the description of the
10 benchmark, until all the evidence is in.

11 MR. WALLACE: No, no. I'm sorry.

12 THE CHAIRPERSON: Did I misunderstand?

13 MR. WALLACE: Yes, you are misinterpreting me. I am
14 saying that Fortis should be the benchmark for Phase
15 2. I want to be very clear on that.

16 THE CHAIRPERSON: Yes.

17 MR. WALLACE: Its return will be set on a combination --
18 a whole pile of evidence, including unregulated
19 returns, including actual returns, including allowed
20 returns, and there will be talk of a generic low-risk
21 utility because just about all the experts say, "Well,
22 when I look at the whole thing and amalgamate it, my
23 view is a generic low-risk utility would have this.
24 And these guys are a little bit riskier than that
25 average, or a little less riskier than that average."
26 But I am urging you to take all of that evidence and

1 set a benchmark return for FEI.

2 **Proceeding Time 10:19 a.m. T17**

3 THE CHAIRPERSON: Mr. Craig, did you have any -- did you
4 want to -- did you have anything, any submissions to
5 make or were you --

6 MR. CRAIG: We adopt the submissions of Mr. Wallace.

7 Thank you.

8 THE CHAIRPERSON: Thank you very much. It's coming up to
9 about 20 minutes after 10 and we've got reply and then
10 the second round, which hopefully won't be too long.
11 It might be a good time for a break and give the court
12 reporters a bit of a rest.

13 So what if we meet in 15 minutes, say at 25
14 to 11:00.

15 **(PROCEEDINGS ADJOURNED AT 10:20 A.M.)**

16 **(PROCEEDINGS RESUMED AT 10:37 A.M.)** **T18**

17 THE CHAIRPERSON: Please be seated.

18 Now we go to reply. Mr. Wallace, do you
19 have any further submissions?

20 MR. WALLACE: Nobody followed me, so no.

21 THE CHAIRPERSON: Yes, okay. Moving up from there, Mr.
22 Kung.

23 **REPLY BY MR. KUNG:**

24 Thank you. Just one quick note in reply
25 and this is a reply to an issue that my friend Mr.
26 Wallace raised, which is the amount of comparative

1 evidence to other utilities and other jurisdictions in
2 trying to establish the low risk benchmark which is
3 inevitably going to be a central issue in this
4 proceeding.

5 Those other utilities to which we are going
6 to be comparing FEI are not necessarily engaged in the
7 changes, the significant changes that FEI has
8 undertaken. So either way, as I said earlier, there
9 is going to have to be an adjustment and it's to you
10 to decide when that happens. Thank you.

11 THE CHAIRPERSON: Thank you, Mr. Kung. Mr. Hobbs.

12 MR. HOBBS: I have no further submissions.

13 THE CHAIRPERSON: Thank you, Mr. Hobbs. Mr. Sirett?

14 **REPLY BY MR. SIRETT:**

15 Thank you. Let me just try to say
16 something helpful about this pure play issue, if I
17 can. If there was no generic proceeding, the
18 Commission would have the task of determining the fair
19 return, the cost of capital for FEI. Now, FEI being
20 the gas distribution business of FEI in the Lower
21 Mainland and in the Interior. All we're saying is
22 once you've determined cost of capital for FEI's
23 Commission jurisdictional business, that ought to
24 serve as the benchmark for purposes of determining the
25 other utilities under the Commission's jurisdiction.

26 Questions about -- and that assessment --

1 in doing that, the Commission has to make an
2 assessment of the business and financial risks of FEI.
3 There will be submissions and arguments in that
4 determination whether the extent to which FEI has non-
5 jurisdictional businesses, and if so, the extent to
6 which they affect the business and financial risks of
7 FEI. But that's the exercise you would go through in
8 determining the fair return for FEI in any event.

9 So again, all we're saying is once you've
10 done that, that ought to form the benchmark for
11 purposes of determining, from a comparative basis, the
12 fair return for the other utilities under your
13 jurisdiction.

14 THE CHAIRPERSON: Were you finished?

15 MR. SIRETT: Those are my submissions on that.

16 COMMISSIONER HARLE: Based on what you just said, you're
17 saying in your mind, FEI will be the benchmark and
18 irrespective of this discussion around pure play.

19 MR. SIRETT: What we're saying is you need to -- you
20 ought to select a benchmark, and we say you should
21 make the determination today of what benchmark you're
22 going to use. You would, if there was no generic
23 proceeding, you would have to determine the fair
24 return for FEI.

25 COMMISSIONER HARLE: Right.

26 MR. SIRETT: So, as Mr. Hobbs says, we might as well use

1 FEI as the benchmark. Not just might as well, but
2 there's lots of good reasons why it ought to be FEI,
3 for all the reasons Mr. Ghikas mentioned this morning.
4 COMMISSIONER HARLE: But there's FEI as "a pure play" and
5 there's FEI as a pure play plus something else
6 potentially, notwithstanding Mr. Ghikas's definition
7 that that pure play plus something else is pure play.
8 MR. SIRETT: But you have to determine the cost of equity
9 -- or the cost of capital for the -- what you're
10 describing as the pure play. The gas distribution
11 business that's under the Commission's jurisdiction.
12 COMMISSIONER HARLE: Right.
13 COMMISSIONER GIANMARINO: I think it's clear, but I just
14 want to make sure.
15 MR. SIRETT: Sure.
16 COMMISSIONER GIANMARINO: Are you distinguishing --
17 you've used the word jurisdictional.
18 MR. SIRETT: Yes.
19 COMMISSIONER GIANMARINO: And you came up, I think, to
20 challenge the idea of pure play. Is there a
21 difference in your mind between those two?
22 MR. SIRETT: There may be activities that Fortis is
23 engaged in that are not under the Commission's
24 jurisdiction under the *Utilities Commission Act*.
25 You're not determining the cost of capital for those
26 activities. All I'm saying is you're tasked with the

1 it affects the fair return of whatever you select as
2 the benchmark. It does not have to be the driving
3 factor that determines what you choose to be the
4 benchmark.

5 In my submission, your decision of what to
6 choose for the benchmark, which is what we're doing
7 today, should be driven by the efficiency and the
8 transparency conditions that I articulated at the
9 outset.

10 And what the back-and-forth with Mr. --
11 with my colleagues, and with Mr. Sirett, only
12 underscored for me is that the term "pure play" is far
13 from a definitive term. And I'm going to vary --
14 sorry, venture into an area which is always a risky
15 one for a lawyer, but when I was going through my
16 research on this issue, in anticipation of this, I
17 came up with what was a useful analogy, I thought.
18 And the analogy was presented in the definition of
19 pure play. It was, you have Coke and Pepsi. And Coke
20 is -- if you define pure play based on the fact that
21 it's comestibles, or edible products, both Coke and
22 Pepsi are pure play in that respect. But if you take
23 it down a level and you say "pure play beverage
24 company", it disqualifies Pepsi because they own
25 Frito-Lay. If you take it down another level and you
26 say a "pure play carbonated beverage company", it

1 disqualifies Coke as well, because Coke owns Dasani,
2 and offers Dasani.

3 It all depends on how you define pure play.
4 And what that says to me is that this debate is all
5 levels of pure play. And what Mr. Sirett is saying is
6 that when you're determining pure play, you're looking
7 at natural gas LDC business. And you're determining
8 whether the cost -- what the cost of capital is of
9 FEI's LDC business.

10 Within the LDC business, you have -- you're
11 serving a bunch of different types of customers and
12 generating throughput in a bunch of different ways.
13 And the ways include serving industrial process loads,
14 they include serving heating and cooling loads in
15 commercial and residential spaces. And they also
16 happen to include NGV, customers that are going to use
17 it as NGV. But it doesn't change the fact that it's
18 still a regulated LDC. It's still a regulated local
19 distribution utility. And that has not changed.

20 So what I -- and again, to underscore this,
21 is I heard my friend Mr. Kung refer to the LNG tankers
22 and all of this, and I would just in response to that
23 draw your attention back to the paragraph in my
24 written submission which puts these initiatives --
25 quantifies them, in relative terms to the overall
26 company.

1 will decide whether you will file rebuttal evidence or
2 not.

3 MR. GHIKAS: That's right, that's right.

4 COMMISSIONER O'HARA: Understood, thank you.

5 MR. GHIKAS: Thank you.

6 THE CHAIRPERSON: Thank you, Mr. Ghikas.

7 MR. GHIKAS: Thank you.

8 THE CHAIRPERSON: Okay, I think we now want to deal with
9 the other remaining issues which -- whether it's
10 appropriate to schedule a Stage 2 to the proceedings
11 which will follow immediately after Stage 1, and next
12 whether an oral phase is required and any thoughts you
13 have relative to a timetable related to that decision.
14 Mr. Ghikas, do you want to start?

15 **SUBMISSIONS BY MR. GHIKAS:**

16 Thank you, Mr. Chairman. On the second
17 issue about the Phase 2 process, the submissions on
18 that are really articulated in paragraphs 24 and 25 of
19 my written submission. And whether one refers to the
20 process that follows this one as Phase 2 or something
21 else, really the crux of the submission of the Fortis
22 Utilities is that it is in fact, although it results
23 in multiple proceedings, more efficient to hive off
24 different issues as Phase 2. And so there would be a
25 Phase 2 proceeding for the Fortis Utilities. There
26 would be a Phase 2 proceeding for the PNG Utilities,

1 and there would be a Phase 2 proceeding for the micro
2 utilities, Corix, Fortis's thermal energy business in
3 Fortis Alternative Energy Services. And the real
4 driver behind that is that the utilities are in effect
5 unique, and so by having one proceeding to deal with
6 it, while it's possible to do that, it does involve in
7 all of the parties with potentially differing
8 interests and not necessarily interest in everything,
9 sitting through a long proceeding dealing with
10 evidence related to other utilities as well.

11 So that's not to say that the same
12 Commission Panel couldn't hear these issues, but just
13 in terms of administratively, it is, in my submission,
14 more efficient to deal with the unique aspects of each
15 of these groups on their own.

16 Now, on the third issue, shall I move to
17 that now?

18 THE CHAIRPERSON: That would be fine, yes.

19 MR. GHIKAS: Thank you. The third issue is addressed
20 starting at paragraph 27 of my written submission, and
21 it is this: that we have a record that allows the
22 Commission to embark upon a written process rather
23 than an oral one, and alternatively if the Commission
24 sees fit or sees need to hear from witnesses, that the
25 issues on which the Commission hears evidence orally
26 should be confined to the ones which are really at the

1 heart of this proceeding, and that is the return on
2 equity and capital structure for the benchmark.

3 This proceeding, what -- I would like to
4 stress in paragraph 28, I say that the Commission
5 should approach this issue with the recognition that
6 there's nothing inherently superior in an oral process
7 relative to a written one. A written process can be
8 just as fair as an oral one. And that what the
9 Commission has to do is really weigh the costs and
10 benefits and assure that we don't cross the line of
11 diminishing returns, because an oral proceeding is,
12 whether we like it or not, is a significant
13 undertaking and it's costly for everyone.

14 **Proceeding Time 10:52 a.m. T21**

15 And we have -- what is different about this
16 proceeding is that we have had the minimum filing
17 requirement stipulate a significant amount of -- body
18 of evidence that we've really never had previously in
19 prior proceedings. And the business risk evidence
20 that has been filed by the company, Fortis companies,
21 is significantly greater than what has been compiled
22 in past days, in past proceedings. And also a
23 significant number of IRs and more to come.

24 And it's my submission that when we finally
25 get through the written process, we will -- and in
26 fact there is rebuttal evidence as well, built into

1 the schedule, where I don't believe there was
2 previously as well.

3 When we come through all of that process,
4 we are left with a very good record, in my submission,
5 and so if the Commission is minded to want to hear
6 from the experts again, that it really should be
7 focused on the core of the expert evidence. And when
8 I say the core of the expert evidence, I really do
9 limit it to the return on equity and capital structure
10 of the benchmark, because there are a number of issues
11 that were addressed by the expert evidence filed by
12 the Fortis companies and presumably will probably be
13 addressed by the intervener companies as well. And I
14 include in that group the deemed debt issues, and the
15 automatic adjustment mechanism issues.

16 The deemed debt issues are an issue that's
17 not of universal interest to everyone. Those issues
18 are confined really to the issues of the micro-
19 utilities, the issues that don't -- the utilities that
20 don't issue third-party debt. And there is certainly
21 a lower level of controversy about those issues
22 certainly in the way that the Fortis utilities have
23 responded to the IRs on that. There really is in --
24 you'll see when you go through those IRs that a lot of
25 the suggestions put forward in the staff IRs are
26 really -- there is a lot of common ground in terms of

1 what the efficient -- it's really just an exercise in
2 determining what the most efficient process is, and
3 everyone agrees that there should be an efficient
4 process. Whereas there will be significantly greater
5 discord over probably what the fair return is for a
6 benchmark utility.

7 On the automatic adjustment mechanisms, we
8 have expert evidence as well, and we will likely have
9 expert evidence from the other experts. In my
10 submission, it's a confined area, and there is only so
11 much debate that can go into that issue until you
12 start spinning your wheels. And in my submission it
13 will -- we will reach that point once we get through
14 the filing, the response, and the rebuttal on those
15 issues, we will be there on those issues, and we will
16 be able to -- the Commission will be able to determine
17 those issues fairly and efficiently, based on the
18 written record on those.

19 On the business risk issue, it's my
20 submission that business risks are also well -- sorry,
21 that business risks are also well canvassed in the
22 written record. And in paragraph 29, I make a couple
23 of points there about why that is the case. I have
24 already alluded to the fact that the business risk
25 evidence is very much more substantial than it has
26 been in the past. There is no argument being advanced

1 by the Fortis utilities that there are new business
2 risks. This is -- we're three years after the most
3 recent proceeding and the submission by the Fortis
4 utilities is that in effect we're dealing with no
5 fundamentally changed changes in the way the business
6 operates over the course of that period of time. And
7 to the extent that there is debate over the factors
8 that are affecting throughput, we hear from my friends
9 about the LNG and such, that those really have been
10 well canvassed in the IRs.

11 So those are my submissions that
12 circumscribing the scope of the proceeding, the oral
13 proceeding, if it is to occur, is really an important
14 undertaking for the Commission to make it sure that it
15 runs efficiently.

16 Thank you.

17 **Proceeding Time 10:57 a.m. T22**

18 THE CHAIRPERSON: Thank you, Mr. Ghikas.

19 MR. GHIKAS: Thanks.

20 THE CHAIRPERSON: Ms. Cheesman.

21 **SUBMISSIONS BY MS. CHEESMAN:**

22 Thank you, Mr. Chair. Corix again
23 generally agrees with the comments of Mr. Ghikas with
24 respect to these remaining two issues. Firstly, Corix
25 is in favour of a two-stage process that separates the
26 initial consideration of the benchmark and in Stage 2

1 goes on to consider the particular risk of the various
2 other utilities in the province. So particularly in
3 light of some of the comments made today, we would be
4 supportive of that structure.

5 For the third issue regarding the oral
6 hearing phase, we agree that a lot of evidence has and
7 will continue to come forth through written
8 submissions, and that in our submission would be
9 adequate to enable the Commission to reach a
10 conclusion. To the extent that there is a need for
11 oral testimony and then oral procedure, we would ask
12 again that it be limited, where possible, perhaps to
13 expert testimony.

14 So those are our submissions on those two
15 points, absent any questions by the Panel.

16 THE CHAIRPERSON: Thank you very much, Ms. Cheesman.

17 MS. CHEESMAN: Thank you.

18 THE CHAIRPERSON: Mr. Sirett?

19 **SUBMISSIONS BY MR. SIRETT:**

20 So with respect to the second and third
21 issues, we again support and adopt the submissions of
22 Fortis as articulated by Mr. Ghikas. PNG does support
23 Phase 2, a Phase 2 process. We believe the Phase 2
24 process should follow after the Commission's decision
25 in Phase 1. As Mr. Ghikas indicated, we think that
26 should be specific to each utility. There's no -- it

1 would be inefficiently, frankly, to have a combined
2 proceeding with all of the utilities. And as Mr.
3 Ghikas said in his written submission, if the
4 Commission believes there's an advantage to having a
5 procedural conference after the Stage 1 decision, then
6 PNG would support that.

7 So those are my submissions.

8 THE CHAIRPERSON: Thank you very much, Mr. Sirett.

9 MR. SIRETT: Thank you.

10 THE CHAIRPERSON: Mr. Hobbs.

11 **SUBMISSIONS BY MR. HOBBS:**

12 Mr. Chair, Commissioners, once again I find
13 myself in agreement with Mr. Ghikas on the second
14 issue, and that is whether or not there should be a
15 separate proceeding or Stage 2. We agree that there
16 should be a separate proceeding, and our utility is
17 FortisBC Electric, so we would like to move as
18 expeditiously as possible to a proceeding to determine
19 the cost of capital for FEC.

20 We first brought this issue to the
21 attention of the Panel that was hearing the revenue
22 requirements proceeding. You'll remember this, Mr.
23 Chair, in the Procedural Conference of November 2011.
24 That's almost a year ago now. Adjustments were not
25 made to the cost of capital for 2012. We do think
26 it's essential that there be a full resolution of the

1 cost of capital of FortisBC Electric effective January
2 the 1st, 2013. That goes to process.

3 If you agree with me, then I would hope
4 that you would ensure that the process that follows
5 this one is expedited so that you can deal with the
6 cost of capital for FortisBC for January the 1st, 2013.
7 I rather think that a procedural conference
8 immediately following this process is not necessary,
9 but there may be some value in that. I have a slight
10 preference for you just simply to establish the
11 process. You know those process steps. There's no
12 need for a procedural conference at the beginning. I
13 would establish the process. In fact I would do it
14 coincident in time with this process, so that we
15 immediately move to that process and everyone has
16 advance notice of it. And then hold a procedural
17 conference in that process, probably in time along the
18 process steps that's similar to this one.

19 **Proceeding Time 11:02 a.m. T23**

20 So I'd encourage you to do that. As I say,
21 it was a year ago, almost a year ago now, when I asked
22 that we look at the cost of capital for FortisBC
23 Electric, and I think it's time for us to move rather
24 expeditiously to get to those numbers.

25 With respect to whether or not there is an
26 oral phase, there is strong disagreement. I am

1 surprised, in fact, that Mr. Ghikas is advancing the
2 notion that there need not be an oral phase in the
3 context of a cost of capital and rate of return
4 proceeding. You have not yet had an opportunity to
5 see evidence from the Customer Groups but it should
6 not be a surprise to anyone that there is going to be
7 very different views as to what the appropriate cost
8 of capital is going to be.

9 And as Mr. Wallace said, these proceedings
10 are challenging. I think he said they were fuzzy, and
11 maybe I won't go so far as to say that, but they are
12 challenging and you're going to need to weigh evidence
13 from the various experts. And I think you need the
14 benefit of cross-examination in order to do that.

15 I would not restrict that oral phase in the
16 way that Mr. Ghikas has suggested. One of the central
17 issues for this proceeding is in fact the automatic
18 adjustment mechanism. Mr. Ghikas is suggesting to you
19 that somehow that not be the subject of a cross-
20 examination. The Panel back in -- the Commission in
21 2009, decided that the automatic adjustment mechanism
22 should be discontinued. We're returning to it. If
23 we're going to return to it, there needs to be, I
24 would suggest to you, a full hearing and a full
25 hearing in this context, I think, necessarily needs to
26 include an oral phase. It's a big step. And it

1 shouldn't be taken as lightly as Mr. Ghikas seems to
2 suggest it should.

3 And I think there are some efficiency
4 issues here as well. It's going to be cumbersome, I
5 would suggest to you, to hive off issues in a
6 proceeding of this nature, and for that reason I would
7 not do it. There has been some canvassing of the
8 issues involving the automatic adjustment mechanism,
9 but you haven't yet heard the full story on the
10 automatic adjustment mechanism, and so I would
11 encourage you not to curtail that review at this
12 point.

13 And those are my submissions.

14 THE CHAIRPERSON: Just one question. Just to be clear,
15 stage 2, as I understand you, is that you do support
16 the idea of a stage 2, but not with everybody all
17 involved at one time, but basically with individual
18 utilities handling --

19 MR. HOBBS: Yes.

20 THE CHAIRPERSON: -- one after the other, and in a very
21 expeditious manner.

22 MR. HOBBS: That's correct.

23 THE CHAIRPERSON: Okay.

24 MR. HOBBS: Yes. Thank you.

25 THE CHAIRPERSON: Thank you. Mr. Kung?

26 **SUBMISSIONS BY MR. KUNG:**

1 MR. KUNG: Thank you. I've been racking my brain trying
2 to find the comparison between Crystal Pepsi and the
3 new initiative. But I'll save that, maybe, for the
4 argument stage.

5 With respect to staging, we agree that
6 stage 2 should follow stage 1, nothing radical about
7 that. The question of whether it should happen as a
8 single hearing or as individual hearings for each of
9 those utilities is less important to us than the idea
10 or ensuring that those processes are consistent and
11 their approach, you know, is as effective at comparing
12 not just the utilities to the benchmark, whatever that
13 may be, but to each other. And so in having those in
14 quick sequence, or whether that happens within one
15 proceeding, that's maybe split up, in our view it
16 doesn't make a huge difference. The key being, of
17 course, the consistency and as was mentioned, and I
18 saw some dread at the loss of possibly all of your
19 time, when Mr. Ghikas suggested that the same Panel
20 review each of those in turn. And so we share the
21 view that it should be done as expeditiously as
22 possible. But at the same time, it needs to ensure
23 consistency across the utilities.

24 **Proceeding Time 11:07 a.m. T24**

25 On timing, that need for a quick decision,
26 needs to also take into account, however, the ongoing

1 AES and Amalco decision. That Phase 2 cannot happen
2 at least for those affected utilities until those
3 decisions have come, otherwise it will be a waste of
4 everyone's time to set an FEW, for example, return
5 before we know what the ultimate fate of that decision
6 will be.

7 As far as the type of proceeding, we agree
8 with Mr. Hobbs that it must be an oral hearing and a
9 full hearing, and we adopt his views on that.

10 I have to disagree with a statement that
11 Mr. Ghikas made, that there aren't advantages to an
12 oral hearing. There are a number of advantages to an
13 oral hearing, and in this particular proceeding they
14 are appropriate and we recognize the additional effort
15 and cost involved. We're going to see competing
16 evidence from experts on what the appropriate ROE
17 should be, and those determinations are reliant on a
18 number of judgment calls and those can only and best
19 be tested by live oral cross-examination. We want to
20 know what goes into the information and what judgment
21 calls inform their ultimate determinations, and draw
22 out the assumptions that underlie the technical
23 evidence that the experts will be providing.

24 There's another advantage as well to having
25 an oral proceeding in this matter, is that it will
26 increase the role of the BCUC Staff. This is a BCUC

1 initiated process. We know from experience and just
2 the reality of our situation, that the utility's
3 resources versus the interveners' resources are not
4 even close. Having BCUC Staff involved ameliorates
5 that a little bit, and certainly the expertise that
6 we've seen in the IRs and the evidence that they've
7 filed has been very helpful and we anticipate that in
8 an oral hearing, that role will increase and will be
9 helpful for all of us in coming to the appropriate
10 decision.

11 Subject to any questions, those are my
12 submissions.

13 THE CHAIRPERSON: Thank you, Mr. Kung.

14 MR. KUNG: Thank you.

15 THE CHAIRPERSON: Mr. Wallace?

16 **SUBMISSIONS BY MR. WALLACE:**

17 MR. WALLACE: Thank you, Mr. Chair. Clearly we think
18 there should be a Phase 2, and as I said earlier, it's
19 not our intention at this time to participate in it.
20 Just reflecting on what I've heard, it doesn't seem to
21 me that it has to follow as part of the same process,
22 that it could be part of revenue requirements
23 proceedings for other hearings, but again I won't
24 advocate that strongly because I don't intend to be
25 part of it.

26 With respect to oral or written, I agree

1 completely with those who say that this needs to be an
2 oral proceeding, and an unrestricted oral proceeding,
3 in my submission. You will be hearing conflicting
4 expert and non-expert opinion evidence on key points
5 of ROE, capital structure, AAM, and business risk, and
6 those are difficult issues. They are opinionated.
7 The parties are all coming from one side or the other.
8 The Commission should hear it, the Commission should
9 have a chance to ask questions, the parties should
10 have a chance to ask questions of the others and bring
11 out the strengths and weaknesses in a way that simply
12 doesn't happen through written evidence and
13 particularly doesn't happen through information
14 requests which are good for getting background facts,
15 but they don't go much further. The truth is they are
16 prepared by the witnesses, they're reviewed by the
17 lawyers, they're very carefully crafted in the way
18 they're put out, and the way to get through that and
19 to get the real underground material is through cross-
20 examination or questions.

21 Nor is argument an adequate substitution
22 for cross-examination. When it comes to questions of
23 fact or opinion rather than law, you should be asking
24 the witnesses any questions you may have in the area,
25 not asking the lawyers during oral argument should you
26 have oral argument.

Proceeding Time 11:12 a.m. T25

1
2 Mr. Ghikas has suggested that some of the
3 issues other than ROE and capital structure are likely
4 to be non-contentious, and in my submission he picked
5 probably the best example to show why that is not the
6 case. And that's business risk. Mr. Ghikas says
7 there has been no change.

8 Well, the price of gas, if I'm right, is
9 probably dropped by 50 percent. There has been some
10 carbon tax added back. That's something that should
11 be looked at.

12 Even more so, the price of electricity is
13 heading up, and the competitive fuel, and is heading
14 up on what looks like a pretty steep incline for -- in
15 perpetuity. Or at least for the next ten years.
16 Those deeply affect business risk and I would expect
17 that there will be evidence on them.

18 If you have any inclination to hive off a
19 certain area and say that won't be part of the
20 hearing, I urge you to reconsider it, because in my
21 submission there is no advantage to hiving off a few
22 areas for the oral proceeding and some for written.
23 If an issue is not contentious, it will not take up
24 any time in the oral proceeding. There are not going
25 to be a lot of questions about it. If, however, an
26 issue is contentious, then it needs to be reviewed in

1 an oral proceeding.

2 And I would suggest if Mr. Ghikas thinks
3 that there are issues that are non-contentious, and he
4 can avoid calling a witness because everybody agrees
5 on this, then I would ask that he draft a statement of
6 agreed facts, which may say we agree the evidence of
7 witness so-and-so, circulate it, and if we all agree
8 it's non-contentious, we'll say, sure, don't call that
9 witness.

10 But let's not -- I don't want to get in the
11 hearing and have Mr. Ghikas say, "Oh, we only had ROE
12 and we only had capital structure." And all of a
13 sudden it's a sub-issue of business risk, or something
14 else. The business risk is, I mean, fundamental to
15 ROE decision, I would say. How do you separate them?
16 And all of a sudden we're in an issue of, is it
17 outside scope? Is there a fundamental fairness issue?
18 And we do waste time. We can waste more time arguing
19 about scope, fairness, than we would ever waste asking
20 questions.

21 So, I urge you to hold an oral hearing and
22 to make it a full oral hearing, unless something is
23 specifically excluded by agreement that it's non-
24 contentious. Thank you.

25 THE CHAIRPERSON: Thank you very much.

26 Now for reply, Mr. Kung? Do you have any

1 reply? No. Mr. Hobbs, anything further?

2 MR. HOBBS: No. Thank you.

3 THE CHAIRPERSON: Mr. Sirett?

4 MR. SIRETT: No, thank you, Mr. Chair.

5 THE CHAIRPERSON: Ms. Cheesman?

6 MS. CHEESMAN: Nothing further, thank you.

7 THE CHAIRPERSON: Mr. Ghikas.

8 MR. GHIKAS: No, nothing further, Mr. Chairman. I will
9 stand by my original submissions, thank you.

10 THE CHAIRPERSON: Thank you. Okay, is there any other
11 matters, Mr. Miller, that we have to attend to today?

12 MR. MILLER: Not of which I am aware, Mr. Chair.

13 THE CHAIRPERSON: Okay. Then I want to thank you all for
14 participating today, and I think you've -- with your
15 submissions, you've made things a lot clearer for the
16 panel, and perhaps not totally clear, but we will now
17 begin the process of deliberating and in as timely a
18 manner as possible, try to get you a decision so that
19 we can move forward as expeditiously as possible.

20 So I thank you again and we're going to
21 adjourn for today. Thank you.

22 **(PROCEEDINGS ADJOURNED AT 11:16 A.M.)**

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