BRITISH COLUMBIA UTILITIES COMMISSION

IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, Chapter 473

and

An Application by FortisBC Inc.
for Approval of a Certificate of Public Convenience and
Necessity for the Nk’Mip (East Osoyoos) Transmission
and Substation Project

OSOYOOS, B.C
January 21, 2006

PRE-HEARING CONFERENCE

BEFORE:

L.K. KELSEY, Chairperson
A.J. PULLMAN, Commissioner
L.A. O’HARA Commissioner

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(PROCEEDINGS RESUMED AT 8:30 A.M.)

THE CHAIRPERSON: Please be seated.

Well, good morning, ladies and gentlemen.

My name is Len Kelsey and with me are Commissioner Tony Pullman on my right and Commissioner Liisa O'Hara on my left. I am acting as the Chair of this proceeding.

This is a pre-hearing conference to consider certain procedural issues arising from an application by FortisBC filed on October the 12th, 2005. The application is for a Certificate of Public Convenience and Necessity with respect to the Nk'Mip Transmission and Substation project. This project is also referred to as the East Osoyoos Transmission and Substation Project. The application is being made pursuant to sections 45 and 46 of The Utilities Commission Act.

The pre-hearing conference will be followed by an opportunity for participants to make presentations relating to the application, in a format we have characterized as a "Town Hall Meeting". I will speak to the Town Hall Meeting portion of today's proceedings in a few minutes.
I would like to welcome everybody to this proceeding today. We're pleased to be in Osoyoos this weekend to deal with an issue of importance to citizens of this area.

My opening comments are somewhat lengthy. However, I hope they will be helpful to you to understand the process we will follow, and to assist you to participate effectively. Ultimately, the Commission panel must make a decision on the application, and your participation in the process is an essential part of that decision-making.

It's my pleasure to introduce a number of individuals who will play an important role in this and subsequent proceedings relating to this application and filings. Commission Counsel for this proceeding is Paul Miller from the firm of Boughton Law Corporation. Mr. Miller, I'm going to rely on you to keep us on track this morning and throughout the proceedings from a legal and procedural point of view, and I certainly welcome your comments in that respect at any time.

It's also my pleasure to introduce and identify Bob Rerie from the Commission staff. Bob? The Hearing Officer is Hal Bemister. You will note that today's proceedings will be recorded and a transcript will be available next week. Mr. Miller,
Mr. Rerie, and Mr. Bemister are available to assist you on procedural matters, and I encourage you to contact them during the break if you have any questions in this regard.

I will now describe the chronology of events from the filing by FortisBC in October, 2005 to today.

Following receipt of the FortisBC application, the Commission, on November the 7th, 2005, issued Order G-114-05, which established a regulatory timetable. In accordance with that timetable, the Commission issued Information Request No. 1 to FortisBC on December the 2nd, 2005. As we go forward, I will refer to Information Requests as IRs.

On December 19, 2005, FortisBC responded to the Commission IRs. On December 23rd, the Commission issued IR No. 2 to FortisBC. This was also the date on which intervenor IRs were due. On January the 6th, 2006, FortisBC responded to the second round of Commission IRs and to intervenor IRs. On January 11th, in response to some intervenors' desire to have some expert consultants appear on their behalf to address technical issues, the Commission reconsidered its earlier determination with respect to intervenor funding, and by letter L-106, advised intervenors that the Commission had varied Order G-114-05 that would
consider requests for -- sorry, and would consider requests for participant funding pursuant to the participant cost award guidelines issued under Order G-15-04. And I might add that those guidelines are available to anybody who wishes to review them, either on the Commission website or on request we would forward those to you.

On January 16, 2006 FortisBC, in response to a request from intervenor Osoyoos Now, suggested that the Commission consider re-scheduling the hearing planned for today, January 21st, to a future date and that the January 21st date be used to hold a pre-hearing conference to establish the regulatory process.

Proceeding Time 8:35 a.m. T2/3

The Commission, by Order G-3-06, directed that firstly the format for the public hearing originally scheduled for today, January 21st, be changed to a pre-hearing conference to address procedural issues and the rescheduling of the formal evidentiary portion of the hearing. It also covered two items dealing with a pre-hearing conference, which I'll deal with later.

Those are the significant procedural matters to today. Our principal purpose for this pre-hearing conference this morning is to hear submissions
that may assist the Commission panel in determining the issues and timetable for the regulatory agenda for the hearing and to clarify other matters. The pre-hearing conference agenda was attached as Appendix A to Order G-3–06 dated January 17th.

I think there are three elements to the regulatory agenda and these are captured in Appendix A in the first two bullet points. First, an identification of the issues related to the applications and filings; second, the process steps from this point forward for their review; and third, being the schedule we will follow.

So that issues identification process steps and timetable have some individual focus. Without concerns about the other elements, I'm going to ask that participants first speak to the issues, followed by the process steps, and then finally the timetable.

Suggested issues were detailed in Mr. Pellatt’s letter dated January 17th, 2006, which was sent to all intervenors, interested parties, and FortisBC, and referenced as proposed issues list. In that same letter, in the second attachment referenced as proposed reschedule, Commission staff suggested a rescheduled regulatory timetable.

The strawman nature of those suggestions was intended to be helpful for parties to consider in
advance of making any submissions to Commission panel. They were not intended in any way to constrain your view or your views with respect to the issues and what the appropriate process steps or timetable might be. In considering the timing of and for the oral hearing, the Commission panel is interested to hear the views of Fortis and the intervenors as to how many experts they intend to have testify and the extent of cross-examination of the experts that they anticipate.

Following the review of these topics we will address the other agenda items identified in Appendix A, which are the presentation of evidence and evidentiary cross-over from other hearings as proposed by Osoyoos Now and participant funding. Thereafter I will ask if there are any other matters that anyone wishes to raise.

So again, for clarification, the agenda for this pre-hearing conference will be, first, the identification of issues; second, process steps for the regulatory application -- sorry, process steps for the review of the regulatory application and filings; and third, the regulatory timetable, and fourth and fifth, evidence from other hearings and participant funding. Following these matters there will be an opportunity to raise any other matters germane to the purpose of today's pre-hearing conference.
As we move forward with the agenda today I will first ask Fortis to address the topic at hand, followed by intervenors who wish to speak, followed by an opportunity for FortisBC to make any comments on any new topics raised. In the process I might ask questions of the participants, and Commissioner Pullman and Commissioner O'Hara may also have questions to ask.

Proceeding Time 8:40 p.m. T04

Before we proceed, I would like to make a few comments with respect to the general discipline of the process we will follow for this pre-hearing conference and for subsequent steps in the process as they eventually unfold. Participants have certain responsibilities in this proceeding, particularly with respect to the dissemination of information. These expectations are well described in previously-published Commission material. As I mentioned earlier, that material is available on the Commission website or, if you require it in another form, it can be requested. These expectations, as I say, are well described in previously-published Commission material, and I expect adherence to them.

The filing and communication protocols ensure efficient and timely communication, and facilitate the work of the Commission in a cost-
effective manner. These protocols include an electronic format, which ensures instant communication of material. I expect filing deadlines as they are ultimately established to be met. There is a need to be efficient and effective in our individual and collective use of time and resources. In the proceeding, I encourage all participants to stay focused on the topic at hand, to adhere to the process and the timetable when they are established, and to use each step in the process for the purpose for which it was intended. I intend to do my best to keep the process on track, and would appreciate everybody's sincere attempt to do likewise.

I would remind everyone again that the Commission staff and counsel are available to guide you in understanding and participating effectively in the proceedings, and encourage you to take advantage of this aspect of their respective roles.

Before we proceed with the pre-hearing conference, I had planned to make a few comments about the Town Hall portion of today's meeting. Before I go into that, I'd ask Mr. Miller if anyone has registered to speak at the town hall meeting.

MR. MILLER: Thank you, Mr. Chairman. I've canvassed the participants here today, and so far no one has expressed an interest in speaking at the Town Hall
Meeting. Rather, they would rather reserve their rights to make a presentation at the formal evidentiary hearing. If there's any participant that does wish to speak at the Town Hall Meeting, I'd ask them to approach me and let me know.

THE CHAIRPERSON: Thank you. We can attend to that during the break, and I'll check back after we complete the pre-hearing conference section to see if we'll proceed with the Town Hall Meeting portion. And I'll hold my comments that I had intended to make on the Town Hall Meeting until that time.

From a housekeeping point of view, we'll break at ten o'clock for about twenty minutes, and I'm just not sure how long we'll take this morning, but if we do continue, we intend to break around noon for a lunch break.

We want everyone to be comfortable today, and so we would ask you to certainly feel free to get up from your seats during the proceeding at any time, if you wish to. I'd just ask you to do so as discreetly as possible.

Just in that regard, is there anyone here from the press today? Thank you. Again, firstly welcome, and again, I'd just ask you to be as discreet as possible with your activity today.

I'm now going to ask Mr. Miller to call
individuals forward in the order in which he has
developed for them to speak to the agenda items. I'll
ask them to introduce themselves and, as appropriate,
to indicate the organizations they represent. When
the introductions are complete, I will then call on
these individuals to address the agenda items.

    Mr. Miller, I'll turn the proceedings over
to you.

MR. MILLER: Thank you, Mr. Chairman. The first
organization is the applicant, FortisBC Inc.

MR. McDONELL: Thank you. Good morning. My name is Rob
McDonell, I'm counsel for FortisBC, pleased to be here
today in Osoyoos. I have with me David Bennett,
general counsel for FortisBC. We're ready to proceed,
Mr. Chairman, with the agenda as proposed.

MR. MILLER: The first of the intervenors is the
Coalition to Reduce Electropollution.

MR. KAROW: Thank you very much, Mr. Chairman,
Commissioners.

    A piece of the record, I would like to
inform you I'm hard of hearing, and people who are
standing with their back to me, I cannot understand.
I might not get the whole hearing, the understanding
of it, but I will rely on the transcript later on. So
if you could understand that it could be possible that
I repeat some questions that have been put forwards,
if you can direct me a little bit. Thank you.

MR. MILLER: Just for the record, that was Mr. Karow.

THE CHAIRPERSON: Thank you.

MR. MILLER: The next intervenor is the Osoyoos Now Society.

Proceeding Time 8:45 a.m. T5

MR. RYAN: My name is Michael Ryan and I'm representing the Osoyoos Now Society.

We'd like to first of all thank the Commission for the intervenor funding that they have agreed to, and also to the postponement of the official evidentiary part of the hearing. Thank you.

MR. MILLER: The next intervenor is the Town of Osoyoos.

MR. SLATER: Good morning, Mr. Chairman, Commissioners. My name is John Slater. I'm the Mayor of Osoyoos, and we also thank you for the extension. I think it's very important that all the citizens of Osoyoos have the opportunity to gather as much information as possible before the formal hearing, so thank you.

MR. MILLER: Mr. Chairman, the next intervenor is Cy Murseli.

Mr. Murseli has indicated that he will not be speaking at the pre-hearing conference.

The next intervenor is Mr. Colin White.

Mr. Colin White has also indicated that he will not address matters at the procedural conference.
The next intervenor is Barry Wonch.

MR. WONCH: My name is Barry Wonch. I live on Kingfisher, and if I have something to say later I've at least registered. Thank you.

MR. MILLER: Mr. Chairman, the next intervenor is Del Zita.

MR. ZITA: Good morning. I am Del Zita. I am representing myself and a number of people in my neighbourhood. I consider myself to be great friend of utility company. The reason being is that I save them over a decade or more I mean a whole bundle of money. I really mean so, money, cash.

Now, I would like to be considered in all next meetings, but since I have a very urgent point to present, I will not drag my feet and I will present it now.

This urgency is so effective onto Walkerton case in Ontario a couple of years back. What I am --

THE CHAIRPERSON: Mr. Zita, the intention at the moment is for you to identify yourself as an intervenor and as a participant in our process today.

MR. ZITA: Okay.

THE CHAIRPERSON: This isn't the time in the proceeding to make your comments.

MR. ZITA: Okay, I just make one more sentence, if I may.

THE CHAIRPERSON: Okay, yes, please.
MR. ZITA: I am calling for urgent meeting with mayor of the town, sergeant of RCMP, CEO of Fortis, and appropriate witnesses and attorney. Reason being I don't want to get this information in the public, please, because today information public is, you know, being taken by all kind of people and that's all what I'm asking as of today.

I feel that I should not drag my feet, okay, because of urgency. That's all.

THE CHAIRPERSON: Thank you.

MR. ZITA: Thank you.

MR. MILLER: Mr. Chairman, the next intervenor is Ms. Buryl Slack.

MS. SLACK: Good morning, and thank you for the opportunity to be here. I intend to reserve my comments for the proper hearing. However, I am a long-time intervenor, and again I thank you.

MR. MILLER: Is there any other intervenor that wishes to speak at the procedural conference that I have yet to identify?

That concludes the intervenor list of appearances, Mr. Chairman.

Proceeding Time 8:50 a.m. T06

THE CHAIRPERSON: Thank you very much. We'll proceed, then, with the first item on the agenda, which is the identification of the issues. And as I mentioned
earlier in my opening comments, our communication material did include a suggested list of issues which was intended to be a bit of a strawman, so again I would not want that to constrain people's views on what the issues are from their perspective.

I'd ask Fortis to begin.

MR. McDONELL: Thank you, Mr. Chairman.

Fortis has had an opportunity to review the proposed list of issues and our position is that it fully and fairly outlines and completely outlines the issues to be dealt with at the hearing. The only addition I would raise is in the context of the -- some tight timelines in terms of the construction of this project, depending on how and when the Commission disposes of this application and, for example, which option in the application may be chosen, different construction timelines come up. That may give rise, possibly, to an issue of mitigation to deal with service in future years, and so we may see a -- what I would think would be a minor amendment to the application to deal with mitigation.

So the only proposal I would have in terms of possible additions to the issue list would be mitigation. Otherwise, I think it adequately deals with the issues to be dealt with at the hearing.

THE CHAIRPERSON: Thank you very much. Mr. Karow?
MR. KAROW: I would really suggest -- I very much appreciate that we have gotten the extension to March 11, and I would really appreciate because of the new issue that came up because the undergrounding of the Lakeshore Drive that has not been in the application, if we can restart the application process with the Information Request, and information response by Fortis.

THE CHAIRPERSON: Mr. Karow, at the moment, we're talking about the issues, we're not talking about the process we're going to follow. So if I could ask you to please comment on the issues you think should be addressed in the hearing, that's what we're supposed to be doing at this stage.

MR. KAROW: I must submit I'm a little bit lost because of my hearing. I would suggest maybe Mr. Ryan could take over. He knows my points and maybe he can present it better because I'm getting a little bit lost.

THE CHAIRPERSON: Okay, thank you.

MR. RYAN: The -- I think that Mr. Karow has shared with me some of the points he's going to make. I think that they're -- the only -- the only one that he would add, Mr. Chairman, would be some land -- legal issues involved with power lines and substations, and he's -- I am sure he's prepared to make some comments to that
later on. And there were some other -- some other
concerns I know he had about the notification and the
public notice and so on, of this -- so I've -- I would
offer those as what I understand of his position, as a
couple more.

THE CHAIRPERSON: Thank you.

Yes, perhaps you could continue at this
stage, and speak on behalf of the Osoyoos Now.

MR. RYAN: Osoyoos Now. If I may, yes, thank you.

We find these -- the list of issues fairly
comprehensive, and the only other one that concerns us
is perhaps a broadening of the issue of service in the
area. I know that the timetable for the building and
for the line and the substation has already been layed
out, and we're really -- there has been a fairly tight
focus on the route. We feel that -- and in one of our
papers that was already submitted to the Commission
that if one took a more mega-view of the whole issue,
that it might be more productive.

So that's -- I know that's changing it a
little bit, but we'd like to propose that issue for a
broader view of service to the area and that might
involve some amendment in future if that's agreed upon
to the certificate.

Proceeding Time 8:55 a.m. T7

THE CHAIRPERSON: Thank you.
MR. McDONELL:  Before this gentleman sits down, Mr. Chairman, if I could ask him to clarify, and I apologize, I didn't catch your name, sir.

MR. RYAN:  Mr. Ryan.

MR. McDONELL:  Mr. Ryan, thank you; what he meant or what Mr. Karow may have meant by legal issues. If we could get some better identification, perhaps, of that it would be very helpful.

THE CHAIRPERSON:  Thank you.

MR. McDONELL:  You mentioned plant and power stations but in what context?

MR. RYAN:  Perhaps you want to elaborate on the matter of legal issues.

MR. KAROW:  Okay, yeah. I have already introduced the legal issue and so far that we know what the electromagnetic field coming from the transmission lines, they're a by-product of this transmission of electricity. I see this as a pollution into the environment, which pollution is encroaching on private property and into people's body and at a level which is not acceptable, and so far as we still don't know how those magnetic fields level are safe or not safe.

I see this as a tortious conduct and this should be discussed in length by a lawyer and I'm still in the process of finding one. I have now approached the sixth lawyer. They are all so tied up
timely and also involved in the Vancouver transmission line application. And I will do my best to get this lawyer introduced and inform the Commission. I really would like to see that this issue will be discussed.

MR. McDONELL: Mr. Chairman, I thank Mr. Karow for that clarification and I understand now what he means by legal issue.

THE CHAIRPERSON: Thank you. Thank you, Mr. Karow.

MR. MILLER: Mr. Slater.

MR. SLATER: The Town of Osoyoos is satisfied with the list of issues.

THE CHAIRPERSON: Thank you very much.

Mr. Wonch, I just wanted to clarify, are you wanting to speak today?

MR. WONCH: No, I've got it wrong.

THE CHAIRPERSON: Okay, great.

MR. WONCH: I can't speak on that today.

THE CHAIRPERSON: Okay, thank you. Mr. Zita, are you wanting to comment on the issues list today?

MR. ZITA: No, and thank you very much for my -- because of the urgency, again I stress it, the meeting is very necessary.

THE CHAIRPERSON: Thank you.

MR. ZITA: Please.

THE CHAIRPERSON: Again just to clarify, Ms. Slack, are you wanting to comment on the issues list today?
MS. SLACK: Not on the issues, Mr. Chairman. However, if there is time later to speak to a procedural matter I would like to do that.

THE CHAIRPERSON: Yes, the procedure issue is the next one on the agenda, so you'll have an opportunity there, thank you.

I'd ask FortisBC if they have any additional comments to make, anything that has come up.

MR. McDONELL: On the subject of issues, no, thank you, Mr. Chairman.

THE CHAIRPERSON: My colleagues here may have a question to ask. Mr. Pullman, do you have --

COMMISSIONER PULLMAN: Thank you, Mr. Chairman.

Mr. Miller, maybe you ought to help me. I noticed that the local school board had intervened. Have they not made an appearance this morning?

MR. MILLER: Mr. Pullman, I have canvassed the room on several occasions asking for parties that wish to speak today to please present themselves to me and the school district has not identified itself.

COMMISSIONER PULLMAN: That's too bad. Thank you.

THE CHAIRPERSON: Okay, let's move then to the next agenda item, and that's the process or the procedure we will use to move this hearing forward from this point. So I will ask FortisBC to address this matter,
and again this item was addressed from a strawman
point of view in the communication material that was
put forward.

Proceeding Time 9:00 a.m. T8

Just to clarify, we're talking now about
the process steps. We're not talking about assigning
dates to those steps, we're talking about the process
steps. After we do that, we'll then move on to, okay,
what should be the timing be. So, let's address the
issue of process steps at this point.

MR. McDONELL: Thank you, Mr. Chairman. And I may break
that into pre-hearing and hearing. I don't know if
you intend --

THE CHAIRPERSON: That's fine.

MR. McDONELL: -- to have those sub-categories. We've
had a chance to review the proposed re-schedule for
the evidentiary portion, and those -- those headings,
to jump ahead a little bit, those dates are acceptable
to the company.

The date, of course, as I think as you
referred to earlier, the Commission Order regarding
the Information Request to be submitted from
intervenors -- I'm sorry, did you wish to speak?

Oh, I'm sorry. It's a request that I get a
little closer to this.

THE CHAIRPERSON: One suggestion I might make, perhaps
to assist Mr. Karow, I think there is a loudspeaker
over there. Mr. Karow, you might be more comfortable
if you were to move your chair over right next to the
loudspeaker. You certainly would be -- that won't
exclude from the hearing in any way, sitting over
there, so -- no, just right -- you may want to go
right over by the speaker, if that would --

MR. KAROW: No, that doesn't help me, because I lip-
read.

THE CHAIRPERSON: Oh, okay. That's fine. I'm just
trying to make it as effective as possible for you.

MR. McDONELL: Thank you, Mr. Chairman. On the -- as
the Commission has previously determined in an earlier
Order, the date and time for Information Requests from
intervenors has now passed, and given what I'm going
to call the relatively tight timelines, I'm urging the
Commission to not amend that in any way. The company
has responded to the Information Requests and fully
responded to them, and doesn't now wish to see any of
these further, rather tight timelines prejudiced by
any new processes or any new Information Request
processes from intervenors to the companies.

Subject to what we hear later in terms of
identification of witnesses proposed to be called by
intervenors, there is a schedule, of course, in the
future for the -- Fortis to serve Information Requests
on the intervenors, and that time of February 17th is acceptable, subject to what may else occur today in terms of scheduling.

There have been certain -- you may have referred to this earlier, Mr. Chairman, in regard to discipline in respecting the Commission's processes. There were certain Information Requests or correspondence sent directly to Fortis employees, which is an inappropriate use of this Commission's process. Of course the application outlines the address for Information Requests to be directed to the company, and I would ask that direct communication with company employees not be repeated.

I'm just trying to separate pre-hearing from hearing as we go through this. What will be very helpful is an identification and clarification of a schedule for identification of witnesses, experts, panels, evidence to be relied upon by any intervenors at the hearing, that they propose to lead as evidence at the hearing, and more certain identification than we have to date as to opinion evidence that will be tendered at the hearing, and witnesses tendered for cross-examination.

I can advise that Fortis will be tendering two experts for cross-examination at the hearing. That's Dr. Bailey, whose report has been received, and
Mr. Palocovic, that will be made available for cross-

examination.

I wonder, and ask that we deal with

schedule for written submissions after the hearing
today, if we might, as part of the scheduling. Again,
in the context of the rather tight timelines for this

project and the disposition of the application.

So, largely, Mr. Chairman, our concerns are
certainty as to the intervenors' participation and the
evidence they're going to lead at the hearing, is a
matter of major concern, and timelines set for those,
so that we can have an efficient hearing and Fortis
can be fully prepared to deal with those matters as
they're presented.

Those basically are my points on process.

Proceeding Time 9:05 a.m. T9

THE CHAIRPERSON: Thank you.

I'll ask Mr. Karow, do you have any

comments you'd like to make on the process we're to

follow from this point forward?

MR. KAROW: I'm not quite sure what was just mentioned.

Because of my problem, if I can ask the Commission

that I can comment on once I have the transcript

handy, then I will put my comments into this hearing

instead of here. I'm lost, I'm sorry.

THE CHAIRPERSON: Yes, I think that presents a bit of a
problem, Mr. Karow, because Fortis really has to have
an opportunity to provide comment on the comments that
you make, and so waiting until after this pre-hearing
conference is over to provide your comments is really
not being fair to the applicant, but also fair to
other intervenors who may have a position that differs
somewhat from yours.

So, again I'd ask if you, in consideration
of your own needs, and I'm not asking you to -- if you
are not in a position to comment on Fortis's comments
but I'd really appreciate hearing, and my colleagues
would appreciate hearing what your needs are, what
your thoughts are with respect to the process as we go
forward, what you need, what you would like to have
included in the process to be as effective as
possible.

Now, it could be that you might want to
join together with Osoyoos Now and combine your
thoughts, and if that would be a more effective way of
dealing with this I'm prepared to give you five
minutes, we could recess for five minutes and you
could get together with Mr. Ryan and compare notes and
perhaps he could present on your behalf, if that would
be a good solution.

MR. KAROW: Yeah.
THE CHAIRPERSON: Does that seem reasonable?
MR. KAROW: If we could sit down together, yeah, that would be helpful, yeah.

THE CHAIRPERSON: Mr. McDonell, would that be acceptable to you?

MR. MCDONELL: Mr. Chairman, I think that's an excellent suggestion, and Commission Counsel could participate, and of course I would be happy to meet with Mr. Karow and want to accommodate his having difficulty in hearing any way we can. So if we --

THE CHAIRPERSON: Okay, is five minutes enough time? I certainly don't want to delay people too long.

MR. KAROW: That should be okay, yeah.

THE CHAIRPERSON: Okay, well let's recess for five minutes and if you need a couple of more just let us know, and then we'll get back together and Mr. Ryan will present on your behalf.

Thank you.

(PROCEEDINGS ADJOURNED AT 9:07 A.M.)

Proceeding Time 9:18 a.m. T10

(PROCEEDINGS RESUMED AT 9:18 A.M.)

THE CHAIRPERSON: Please be seated.

Now, Mr. Ryan and Mr. Karow, have you been able to come to an understanding?

MR. RYAN: Yes, Mr. Chairman, thank you for that opportunity. So we did confer, and we would offer -- I would offer on both Osoyoos Now and Mr. Karow's
behalf the following -- the following items.

First of all, a time extension for the filing of more evidence, and in that regard we have indicated a desire to work together on some of the witnesses, so we're still looking for a lawyer to assist us.

The second would be the issue of the cross-over evidence from the Vancouver hearing, and because of the date of that, the timeframe in which that could be provided for this hearing specifically.

THE CHAIRPERSON: We're going to deal with the cross-over later. There are some procedural and legal implications which I'll ask Mr. Miller to speak to, and we'll have a discussion on that item later.

MR. RYAN: Good. Okay, yes, I knew that was coming up.

The third is the identification of witnesses, and fourthly, the specific evidence to be presented, and that's -- that ties into our witnesses and their availability, and the time that they need to put their presentations together. And Mr. Karow and Osoyoos Now both would opt for written arguments in the hearing, so.

Oh, yes. And then there's also the matter of additional Information Requests. That needs to be dealt with.

THE CHAIRPERSON: Those would be additional Information
Requests of Fortis?

MR. RYAN: Of Fortis, from intervenors, correct.

THE CHAIRPERSON: Yes, thank you.

MR. RYAN: Yes. Yes. So we didn't -- didn't speak too much about dates for those, but --

THE CHAIRPERSON: We'll deal with the dates as another matter.

MR. RYAN: Separately. Good. Thank you, Mr. Chairman.

COMMISSIONER PULLMAN: Just before you sit down, Mr. Ryan, when you say written argument, you mean submissions at the end of the hearing?

MR. RYAN: At the evidentiary -- I believe at the evidentiary hearing we were talking with Mr. Miller, and he -- he was saying that we should make it clear that -- how we would wish to present our evidence, whether in writing or in -- orally.

MR. MILLER: Mr. Chairman and Mr. Pullman, the issue we addressed was with regard to written or oral submissions after the end of the hearing, and the Osoyoos Now, at least as I understood it, indicated a preference to take advantage of the written submission rule, which would be more full, they believe, than the oral submission route.

COMMISSIONER O'HARA: I also have a question of clarification, Mr. Ryan, regarding these additional Information Requests to Fortis. What is that
regarding?

MR. RYAN: Well, it's simply, Ms. O'Hara, to say that we need to program that into the timeline in terms of when -- when we would -- when we would set a date for those to be submitted, and to give Fortis adequate time to respond. We assume that there might be more, but I think we just need to identify that and put a date beside it.

THE CHAIRPERSON: Just to maybe help to clarify at this stage, you don't have a particular Information Request topic in mind, you're just assuming there may be the requirement for additional Information Requests.

MR. RYAN: Correct. Yes.

COMMISSIONER O'HARA: Is that providing Fortis finds some new evidence, or would those questions concern about the evidence that has been filed to date by Fortis?

MR. RYAN: I think it could be either, if they file new -- we just thought that we needed to address the issue of timing for our requests that might be made.

THE CHAIRPERSON: Okay, thank you. Fortis will have an opportunity to comment on that.

Anything else, Mr. Ryan?

MR. RYAN: No, that's everything. Thank you.

THE CHAIRPERSON: Mayor Slater.

Proceeding Time 9:24 a.m. T11
MR. SLATER: Thank you. I think from our perspective we're satisfied with the process. We do thank the Commission for allowing an oral hearing. We know late in the fall it was changed from a written hearing to an oral hearing and it certainly gives the opportunity for all the public to attend.

My only question is, during the hearing we will be submitting oral information as well as written information. Does the public have an opportunity to see all the written material during -- or before the hearing or is it presented at the particular hearing?

THE CHAIRPERSON: I'll ask Mr. Miller to explain that. That question, I think, Mr. Miller, is probably a question that's on other people's minds as well, so perhaps you could address the entire group.

MR. MILLER: Thank you, Mr. Chairman.

Both the applicant and the intervenors are required to file written evidence in advance, so that every party has an opportunity to analyze it and make good use of the hearing time so that time is not taken in trying to understanding what the evidence is. So there usually is a cut-off date for filing of evidence in advance of the hearing so that parties are not taken by surprise at the hearing.

MR. SLATER: Thank you.

THE CHAIRPERSON: Just to clarify for everyone then,
really the purpose of the hearing is not to present
new evidence but rather to allow an opportunity for
cross-examination on the evidence that has been
presented, typically in writing, in this case probably
that's the way it would be presented, and we'll
certainly advise on that. So it's an opportunity for
everybody to review that ahead of time and then,
obviously, if they have questions or disagreement they
cross-examine the individual who presented the
evidence.

MR. SLATER: Thank you.

THE CHAIRPERSON: Thanks. I'll assume that Mr. Wonch and
Mr. Zita do not want to comment further but if they do
I'll give them an opportunity now. It was my
impression that they didn't.

MR. WONCH: Not at this time.

MR. ZITA: Thank you very much, sir, no.

THE CHAIRPERSON: Thank you. Ms. Slack, do you want to
comment on the process at all?

MS. SLACK: Yes.

THE CHAIRPERSON: Thank you.

MS. SLACK: Mr. Chairman, under the rules of the game
intervenors were to be copied. No correspondence from
intervenor Osoyoos Now reached me vis-à-vis their
request for postponement. As a registered intervenor
I expect to hear, I would expect to hear in future. I
would like to know if all others have been copied and my first intimation of capitulation to their request was Fortis' letter saying if the BCUC were to allow this, then at least turn the hearing date into a pre-hearing conference, which has happened.

It does give people more time, I'm not arguing with that, if that suits them, suits the counsel, suits the company, but I do feel that the 13th to the 21st was not a reasonable time period for those who must have planned attendance.

Thank you.

THE CHAIRPERSON: Thank you.

Does Fortis have any additional comment to make?

MR. McDONELL: Yes, perhaps in response, Mr. Chairman, it appears there's no controversy in terms of -- leaving scheduling aside for the moment, in terms of filing of evidence, identification of witnesses and experts and written argument. I'll wait, if I may, until Commission Counsel deals with the issue of VITR evidence. I understand that that will come up in a few moments.

Mr. Chairman, on the subject of further information requests, I would submit that -- the hearing was originally scheduled, of course, to start today. The time for information requests has long
past. The company has responded to those information requests, and you haven't heard really any necessity other than we think we might need to do it in the future but we don't really know what those requests might be. There really hasn't been shown with any certainty or specificity any need for any further information request process by the intervenors to Fortis.

So without that, there are and have been letters coming in from intervenors, certain parties, to Fortis. We want to do everything we possibly can to avoid what would appear to become or have a risk or potential of becoming a never-ending repetitive process that is not in keeping with the pre-hearing procedure of this Commission. So I would ask that there be no further information requests allowed. I'll keep any further comments I may have in terms of scheduling of those in a few moments.

THE CHAIRPERSON: Any questions from my colleagues? No.

Okay, let's move on then to the next agenda item, which is the timetable. Again, a strawman timetable was proposed. It was attached to the items on the strawman process. There have been comments made about additional steps in that process, so I would ask as you address the timetable issue address it in the context of the additional items perhaps that
you've suggested.

Mr. Miller.

**Proceeding Time 9:30 a.m. T12**

MR. MILLER: Mr. Chairman, while we had the brief recess, and were speaking with Osoyoos Now and Mr. Karow, it appears that as a cross-over of issues with regard to the issue about using evidence from the VITR proceeding which may impact on the scheduling. So when the intervenors and the applicant do speak, I think they should address both options. One, what happens if evidence is allowed in from other hearings, because that will impact the timing, as I understand it, from the intervenors' point of view -- or else we could just move on to address the issue about cross-over now and then address scheduling.

THE CHAIRPERSON: Okay, I think maybe that's a good suggestion. Why don't we, for the time being, set timing aside, we'll come back to that one, and let's move on to the next agenda item which is the issue of addressing evidence and the evidentiary cross-over from the VITR hearing as proposed by Osoyoos Now.

And perhaps as a starting point, it would be useful to have Mr. Miller just address the group on the sort of legal and procedural issues related to this matter.

MR. MILLER: Thank you, Mr. Chairman.
As Commission counsel I'm going to strongly recommend that the use of evidence from the VITR proceeding not be allowed into this hearing, and I'll state my reasons why, and I realize the proposal was put forward in an attempt to be expeditious and cost-saving. However, legal difficulties arise as a result of the proposal.

The first difficulty arises as a result of the function that you as Commissioners have to perform. One of your functions is that you need to assess the evidence, and particularly the credibility of the witnesses. I expect that in this hearing there will be various points of view coming forward from experts and others, and when the Commissioners must decide which evidence should carry more weight, or is more persuasive, one of the things that they will be assessing is credibility. If you use the transcript from the VITR proceeding in this proceeding, you will lose the opportunity to assess such things as credibility -- as body language, tone of voice, all the things which go into assessing credibility. So, the Commissioners themselves, by just having a written transcript, would be somewhat hampered in being able to assess credibility.

The second issue arises -- or the second difficulty arises as a result of -- and this is really
a legal issue. That the parties to the VITR proceeding are not the same as the parties to this proceeding. So when evidence is used in other scenarios, it -- in a legal sphere, it's only used where the parties are identical. Here we do not have the identity of interest among the parties. So potential prejudice would be that one party was not participating in the VITR hearing, would not have the opportunity to cross-examine on that evidence, and there would be greatly -- legal difficulties in using that evidence because of that procedural hampering.

The last, really, obstacle, I guess, is if any party to this proceeding objected to the use of the VITR evidence in this proceeding, I strongly suspect a Court challenge would be successful, based on the grounds which I have just outlined.

THE CHAIRPERSON: Thank you, Mr. Miller.

It just occurred to me while you were making your comments, and using the term "VITR," there's probably a fair number of people in the room today who don't have a clue what we're talking about, and let me just take a moment to explain that, and hopefully this will be helpful.

There currently are -- and I'll be as simple as I can about this. There are two applications before the Utilities Commission for
transmission lines, major transmission lines to carry power from the Lower Mainland of British Columbia across the Strait of Georgia to serve the increasing energy needs on Vancouver Island, and I guess in the broadest of terms, the situation there is not unlike the situation here. There's a continuing growth on Vancouver Island in terms of population and industry and so on, and their energy needs are increasing, and, you know, there's a tight timeline as well on when that energy has to be delivered to meet the load requirements on Vancouver Island.

And so there is a hearing underway at the moment, which is dealing with certainly some of the same issues that have been put forward so far with respect to this issue in Osoyoos. And evidence is being filed and in the course of the hearing experts will appear and be cross-examined on that evidence.

And what Osoyoos Now is proposing was that that evidentiary record, the filings and the cross-examination, would simply be transported over and injected into this hearing. And I think what I hear Mr. Miller talking about is some of the -- some of the issues that certainly this panel is going to have to address in deciding whether we will allow that or not. Ultimately, it's up to the Commission panel to decide whether we allow the transporting across and injecting
in of that evidence, or whether we exclude that
evidence and require evidence to be filed that's
unique to this hearing, and so we'll have to decide
that.

So that's really what that issue is all
about. I hope that explanation is helpful to people.

COMMISSIONER PULLMAN: Mr. Chairman, can I --

THE CHAIRPERSON: Yes, certainly.

Proceeding Time 9:36 a.m. T13

COMMISSIONER PULLMAN: Mr. Kelsey and I are not sitting
on that panel. I think that should be clear.

THE CHAIRPERSON: Yes. Let me further clarify that.
Commissioner Pullman and I are not sitting on the VITR
panel, and VITR stands for Vancouver Island -- help me
here.

COMMISSIONER O'HARA: Transmission Project.

THE CHAIRPERSON: Okay, it's the Vancouver Island
Transmission Project --

MR. MCDONELL: Reinforcement Project.

THE CHAIRPERSON: Reinforcement Project, that's where
the "R" came from, that's right. And Commissioner
O'Hara is a member of the Commission panel considering
those applications, the VITR applications. So just so
you understand the involvement of this panel in that
other hearing.

Okay, thank you.
COMMISSIONER PULLMAN: I assume Fortis is not a party.

THE CHAIRPERSON: And just to clarify, I understand Fortis is not a party to that hearing?

MR. MC DONELL: That's correct.

THE CHAIRPERSON: Thank you.

MR. MC DONELL: Yes.

THE CHAIRPERSON: Okay. In terms, then, of the issue of the allowance of that -- the allowing of that evidence, following Mr. Miller's comments, I'd ask Fortis to comment, please.

MR. MC DONELL: Thank you, Mr. Chairman, and I thank Mr. Miller for the thought he's put into the practical, and indeed, very substantial legal issues that would arise out of such a process, that is taking evidence that you haven't heard and was admitted in another proceeding and incorporated into this hearing. That would be -- Fortis objects to that in the strongest terms, that such a process would -- is practically not feasible and, with the greatest of respect, is legally very seriously flawed.

We have today identified the issues for this hearing for this application. No doubt in the VITR process, they have done exactly the same thing, and there may be a number of issues that one could say would overlap. But the fact of the matter is, the issues we've identified should be determined based on
the evidence heard at this hearing, for this application and no other application. Fortis, as we know, is not a party, we don't have a right of cross-examination on that evidence, and that cross-examination being a rather important pillar of justice and fair hearing, we would be substantially prejudiced by that loss of cross-examination. As would all of the parties, because the Commissioners hearing this application would not have been a part of the process, essential process and role you play in weighing the evidence to be admitted at this hearing for this application.

So, in the strongest terms, given the practical difficulties and, procedurally the legal issues that could arise and prejudice everyone in the fair disposition of the hearing, Fortis objects in the strongest terms to any such concept of cross-over evidence.

Thank you, Mr. Chairman.

THE CHAIRPERSON: Thank you. Mr. Ryan, I assume you will be speaking on behalf of -- of Mr. Karow.

MR. KAROW: Could I say one word to --

THE CHAIRPERSON: Yes, please.

MR. KAROW: -- making a comment to what YOU said about bringing the -- transferring to Vancouver. The main reason is to save money, that's the main reason, and
hopefully I could get Mr. Yardley, he's a lawyer representing one group there, Mr. Yardley, hopefully I could get him to -- get him as my legal expert. I really have a problem to get a lawyer with a little bit of background into transmission line hearings. That is the main problem. And it would save a lot of money to getting the experts, instead of here, just keeping them there to Vancouver. Thank you.

THE CHAIRPERSON: Thank you.

Yes, Mr. Ryan, please.

MR. RYAN: Mr. Chairman, I am impressed by the arguments that have been put forward by Mr. Miller, and I can appreciate that, and so I think we would agree that it doesn't sound like it's a fair and reasonable request.

THE CHAIRPERSON: Thank you.

Mayor Slater?

MR. SLATER: I agree.

THE CHAIRPERSON: Thank you.

Mr. Wonch or Mr. Zita, presumably --

MR. ZITA: Okay. Thank you very much, Mr. Chairman.

THE CHAIRPERSON: Okay. And Ms. Slack, do you want to comment on this matter at all?

MS. SLACK: Just that I agree it should not be part of this hearing.

THE CHAIRPERSON: Thank you. Just for clarification, Ms. Slack's view is that the VITR evidence should not
Okay, with that, I'm just wondering again maybe just to help clarify the process going forward, it's twenty to ten. I'm thinking that the Commission panel may take five minutes and just rule on this matter right now, and that might help to clarify the schedule going forward.

So, we'll perhaps call again a five-minute recess, and we'll -- the panel will consider this matter, and then we can -- if we've made a decision, we can feed that decision back and that, I think, will help us to go forward with more clarity in terms of exactly what the process will be.

MR. MILLER: Mr. Chairman, I'm just wondering if you want to make it ten minutes and incorporate the coffee break at this time.

THE CHAIRPERSON: Yes, I think that's a good suggestion. Mr. Bemister, I've -- have you some coffee ready for people? Okay.

We'll take fifteen minutes, then, we'll have a coffee break, and the Commission panel will have time to consider this.

(PROCEEDINGS ADJOURNED AT 9:42 A.M.)

(PROCEEDINGS RESUMED AT 10:02 A.M.)

THE CHAIRPERSON: Please be seated.

We'll commence by dealing with the issue
that was on the table when we took our break, and that
is that Osoyoos Now suggested that evidence from the
VITR hearing be used or introduced and considered in
this hearing. That suggestion I think was made in the
spirit of having this hearing be as efficient and as
effective as possible.

Mr. Miller outlined several legal issues
that made such an approach somewhat risky from a legal
point of view and perhaps undesirable. FortisBC
objected to the proposal, feeling that it would be
unfair to Fortis in that they hadn't had an
opportunity to -- they wouldn't have an opportunity to
participate and cross-examine and felt it would be
unfair to this hearing process to go forward in that
way.

Osoyoos Now indicated that with the new
understanding that they had as a result of Mr.
Miller's briefing that they would withdraw their
request. Mr. Karow indicated that he would like to
hold that request, indicating that he felt that it
might facilitate the engagement of a lawyer that is
involved in the VITR hearing for one of the parties in
that hearing.

The panel accepts and appreciates Osoyoos
Now's withdrawal of the suggestion of the use of the
VITR evidence. We don't see that the exclusion of
this evidence in any jeopardizes Mr. Karow's access to counsel, and he can proceed on his own to attempt to retain that counsel.

So it's our decision therefore that there should be no cross-over of the transcripts and arguments from the VITR hearing to this hearing, as the Commission panel in this hearing must make its decision based on evidence presented and cross-examined at this hearing.

So we'll continue then, having dealt with that issue, we'll move back to the issue of timetable and we'll consider the timetable then without the cross-over of evidence from the VITR hearing.

So I'll ask FortisBC to begin on the timetable.

MR. McDONELL: Thank you, Mr. Chairman.

We've had a chance to review the proposed rescheduling and timetable, which is what I'm working from, and that's acceptable to Fortis. I believe today we've discussed the written submissions following the hearing of the evidence, so we may wish to -- and intervenors may wish to address that in terms of what they would wish in terms of timing for submissions.

But other than to agree with the proposed scheduling that we see in the reschedule circulated by
the Minister, that's acceptable to us.

THE CHAIRPERSON: Could I ask you to comment on the timing that you would see as appropriate for the written submissions and the reply argument?

MR. McDONELL: I'm sure Mr. Bennett has a date in mind. If I could just have one moment.

THE CHAIRPERSON: Yes, please.

MR. McDONELL: Yes, we'd ask for two weeks after the conclusion of the hearing for the submission of the written argument.

THE CHAIRPERSON: And following that?

MR. McDONELL: Following that, one week for any intervenors' responding arguments and a one-week reply period for Fortis to reply to the intervenors' arguments.

THE CHAIRPERSON: Thank you very much.

MR. McDONELL: Thank you. Mr. Ryan, are you going to speak on behalf of Mr. Karow, or is Mr. Karow --

MR. RYAN: I'm not sure.

THE CHAIRPERSON: Mr. Karow, would you like to address this?

MR. KAROW: I'd like to remind the Commission that the 1998 hearing, from the onset up to the end of the decision, lasted about 20 months. And regarding the timetable here in this hearing, as late as possible, really as late as possible. Under the circumstances
that first we were not allowed to have fundings, and we had a problem to get our experts together, the Christmas season, we are really stressed out. But we try our best.

Thank you.

Proceeding Time 10:08 a.m. T15

THE CHAIRPERSON: Thank you. Mr. Ryan?

MR. RYAN: Mr. Chairman, I too would just ask the -- perhaps the Commission and the Panel to, in terms of the usual dates that, you know, if we are re-setting to the 11th of March, to use your usual -- usual ratios and so on. Again, mindful, as Mr. Karow said, that we have been scrambling to identify and to schedule witnesses as well as legal counsel to assist us at the hearing.

So we leave it in your hands and with your good judgment.

THE CHAIRPERSON: Thank you. Mayor Slater?

MR. SLATER: I'm satisfied with the schedule.

THE CHAIRPERSON: Thank you. Mr. Wonch or Mr. Zita, any comments?

MR. ZITA: I would like to send my proxy to Mr. Miller -- sorry.

Sorry. I would like to leave my proxy to Mr. Miller, because of the extremely complex legal issue which I cannot handle at this moment, and I am
deducting that he's the right guy to talk on our behalf, and obviously the Commission too. Thank you very much.

MR. MILLER: Mr. Chairman, as much as I'd like to take Mr. Zita at his -- for his proposal, I cannot speak on his behalf, I am Commission counsel. So he'll have to make his own submission.

THE CHAIRPERSON: Okay, thank you. Mr. Zita, I'd suggest that if you want somebody to speak on your behalf, you may want to talk to somebody, perhaps the Osoyoos Now group, to see where they -- if they have an interest in -- in joining with you to present your point of view.

MR. ZITA: I understand the legal meaning of Mr. Miller. I didn't mean it like that. I will speak on my behalf.

THE CHAIRPERSON: Thank you.

MR. ZITA: Thank you.

THE CHAIRPERSON: Thank you. Ms. Slack, do you have any comments to make?

MS. SLACK: The revised schedule is fine with me.

THE CHAIRPERSON: Okay, just for the benefit of the people recording this, the revised schedule is acceptable to Ms. Slack. Thank you.

Any follow-up comments from Fortis?

MR. McDONELL: Perhaps a clarification, Mr. Chairman,
thank you. The effect of the intervenors' argument being due one week following filing of the Fortis argument is to allow a three-week period for the intervenors to prepare their written submission. So it's not a one-week period they have, it's really a three-week period they have to prepare their main submissions following the hearing.

THE CHAIRPERSON: Thank you.

We'll move on now to -- unless my colleagues have any questions? Anybody? No.

We'll move on, then, to the issue of participant funding. I think our question here really relates more to the extent to which the intervenors may be wanting to have expert advice and have that expert advice participate in the hearing. I have some notes here that I'd just like to review, that I hope will be helpful in putting this issue of participant funding into a context. So if you'll allow me, I'm just going to read through my notes here.

With regard to the issue of participant funding for experts, the intervenors should be aware that the Commission strongly encourages intervenors with similar interests to retain a common expert to keep expenses at a reasonable level. Further, the Commission will usually not fund an intervenor or a group for more than one expert on each issue. If an
intervenor or a group retains more than one expert on
an issue, then it -- or they may run the risk of not
being awarded funding for more than one expert.

Proceeding Time 10:13 a.m. T16

Finally, the intervenors should be aware
that even if your draft budgets are commented upon
favourably by the Commission staff, the Commission
panel will ultimately decide whether a useful
contribution to the hearing process was made as a
result of the retention of the expert and the award
funding will be made on that basis.

Now, let me just add a few more comments to
clarify the process here. I think in this hearing we
want to get an understanding or a sense of what's
being contemplated at this time as being a need for
expert support for this hearing. We will then in our
timetable set a date for the submission of budget
estimates for intervenor funding. Typically then what
happens is the Commission staff will review the
funding estimates that have been submitted and provide
some feedback to intervenors as to whether or not
those budget estimates, firstly fall within the
guidelines that were established some time ago by the
Commission, and those guidelines are followed on a
hearing-by-hearing basis; so they'll comment on the
degree to which the submission is consistent with the
guidelines.

They'll also comment on where there may be some risk to the intervenor in terms of receiving funding. As an example, you've provided for three experts on the same topic and typically only one expert would be funding, so your best to choose your best expert and not include the other two.

Then finally, after the hearing has concluded and the panel has made its decision the intervenors submit their final billing. That final billing should obviously be based on the estimates that were provided. The final billing won't always be exactly the same as the estimate, but the panel has to ensure that there was really value provided, value added by the experts that were retained.

In most cases I think it's fair to say that the experts do provide value and the funding requests are approved, but I think you should be cautioned that in not all cases does that happen. There have been cases where an expert witness appears and, frankly, contributes little or nothing to the better understanding of the issues from a decision-making point of view. In those cases the Commission panel does not approve some or all of the funding that's been requested for that expert.

So I hope that's helpful in providing a bit
of a framework to think and work within with respect
to both the planning for expert assistance and the
value that expert brings and then the final rendering
of an invoice for the expert services.

Does Fortis have a comment they'd like to
make leading off on this topic?

MR. McDONELL: No, Mr. Chairman, other than just to refer
the Commission, Mr. Pellett's correspondence of
January 11 setting the date for the submission of
budgets for, I believe, past Monday, January 16th. So
I don't know if the Commission was contemplating the
possible extension of that, but that date I think has
been set by the Commission.

I don't know if you received any budgets or
not or if the time simply passed with no budgets being
received, but I just wanted to refer you to that date.

THE CHAIRPERSON: Yes, thank you for that and let me just
clarify that. That date was set and to my knowledge
budgets were not received. I think probably in
fairness to everyone, with the additional notice that
this hearing was being held or this pre-hearing
conference was being held, we should allow the setting
of a new date for budget submissions.

Frankly, that date I think will be
relatively soon because there is a need to move
forward, but we will set that date as part of this
pre-hearing conference decision.

MR. McDonell: Good. Thank you, Mr. Chairman.

The Chairperson: Mr. Karow?

Mr. Karow: Thank you very much, Mr. Chairman, for the clarification. I have now a little bit better understanding.

Now, talking to Osoyoos Now, they have a plan to have their experts as well, and we agreed that we maybe can have a joint expert, and hopefully -- because we do not have the resources, hopefully we could get all the expenses compensated from the Commission.

I will make sure that we get experts addressing different issues so that the issues are not overlapping represented by the experts. So it will be basically a legal expert; a medical doctor who is also capable of calculating magnetic fields and who could present physical issues of the transmission field like electromagnetic field and so on. Then Dr. Havis, she hopefully can attend the hearing if it's not consolidated to Vancouver, that she can shortly afterwards come over here. And certified appraiser. Hopefully also Dr. Gregory who has submitted to the Vancouver hearing, and I might still get, if I get the interest from the Commission and from Fortis, I might get an expert from the -- with regard to the melatonin
issue.

Melatonin is something so important that is affected by the magnetic field, reduced by the magnetic field, and this has been all disputed --

**Proceeding Time 10:18 a.m. T17**

THE CHAIRPERSON: Mr. Karow, at this stage I'd just as soon you not --

MR. KAROW: Yeah. Okay. Yeah, I won't --

THE CHAIRPERSON: -- present your evidence on melatonin.

MR. KAROW: But I'm addressing -- I might want to have an expert in that as well.

THE CHAIRPERSON: Thank you.

MR. KAROW: Thank you.

THE CHAIRPERSON: Thank you very much.

Mr. Ryan.

MR. RYAN: Mr. Chairman, as Mr. Karow has said, we have agreed that we will join together and have joint experts, and so the only -- and I appreciate that we do need a new date for that, and we'll try to -- very diligently to adhere to that date.

I can appreciate the Commission's rules about participant funding, although I find it just slightly intimidating to -- after the fact to have a decision made as to whether there was value given by them. So we, of course, will try to get people who are experts in their field, and so on. But I take it
that the Commission does generally operate on that -- with that criterion of value, value for money.

THE CHAIRPERSON: Well, I think we're all concerned about value for money, indeed. And I might just ask one question of you, and I know Commissioner Pullman has a question, and that is, how long do you think it will take you to -- if you work as rapidly as you can, to secure the experts that you're wanting?

MR. RYAN: I would hope that we could have that done by the end of the month.

MR. KAROW: Yeah, hopefully.

MR. RYAN: By the end of this month.

THE CHAIRPERSON: Thank you. Commissioner Pullman, do you have a question?

COMMISSIONER PULLMAN: Thank you, Mr. Chairman. Just get me straight here, Mr. Ryan. Are you proposing -- when you say a legal expert, do you mean a lawyer.

MR. RYAN: A lawyer, yes.

COMMISSIONER PULLMAN: A lawyer, right.

MR. RYAN: Yes.

COMMISSIONER PULLMAN: And an appraiser?

MR. RYAN: An appraiser.

COMMISSIONER PULLMAN: Certified appraiser. Did I get the impression from Mr. Karow that you're looking at
three medical men? Or was --

MR. RYAN: There's --

COMMISSIONER PULLMAN: There was a medical doctor; a
doctor whose name I didn't catch --

MR. RYAN: Havis.

COMMISSIONER PULLMAN: Havis, Dr. Havis.

MR. RYAN: Dr. Havis, yes, an epidemiologist.

COMMISSIONER PULLMAN: Okay, epidemiologist. And then
Dr. Gregory. And then somebody who'd address
melatonin. So you could be looking at four doctors
there.

MR. RYAN: My understanding is, Doctor -- is Doctor
Gregory a medical doctor? He's the -- Doctor Gregory?

MR. KAROW: Doctor Maxim?

MR. RYAN: Doctor Gregory.

MR. KAROW: I know he's a certified appraiser or
something like in that neighbourhood.

COMMISSIONER PULLMAN: Okay.

MR. RYAN: He's the appraisal.

COMMISSIONER PULLMAN: He's the appraiser, I'm sorry.

MR. RYAN: Expert, yes.

COMMISSIONER PULLMAN: Hearing doctors, I just assumed
he would be one of them, right.

MR. RYAN: Yes, one doesn't know.

COMMISSIONER PULLMAN: Okay. So it's a lawyer, an
appraiser, and there are three -- three doctors?
MR. RYAN: There are --

COMMISSIONER PULLMAN: A physical guy, an epidemiologist and a melatonin person.

MR. RYAN: And possibly the other person, but I think we're going to, you know, in light of -- of what you were saying about the rules and the criteria, we will assess them carefully and decide.

THE CHAIRPERSON: I encourage you to do that.

MR. RYAN: Yes. How many would be -- would be really useful.

COMMISSIONER PULLMAN: Perhaps Fortis might like to circle back and see if your one day in Osoyoos, March the 11th, is this going to be long enough? Perhaps when you make your final remarks, you could speak to that as well.

Thank you, Mr. Ryan.

MR. RYAN: Thank you.

THE CHAIRPERSON: Mayor Slater?

Proceeding Time 10:23 a.m. T18

MR. SLATER: I'm satisfied with the expert program that you guys are paying for. My only question is the cost of these hearings, if we have all these experts testifying at these hearings, are they going to present in writing all this material first and it's the panel's job to cross-examine the expert information or are they going to be presenting it. I
just, you know, if it's going to run into more than one day obviously people have schedules to meet, et cetera.

THE CHAIRPERSON: Let me clarify that. Typically what happens is the expert will file evidence with the Commission. That evidence is filed before the hearing, before the oral hearing, and that evidence is available to all parties. During the oral hearing that evidence is available for cross-examination. In other words that expert witness takes the stand and is cross-examined on the evidence.

So the purpose of the oral hearing is not to present evidence but rather to cross-examine the expert on the evidence that's been proposed so that -- or that's been filed. So if, for instance, Party A were to file some evidence that Party B takes exception to, Party B has an opportunity to test that evidence in cross-examination.

MR. SLATER: So, and that will be the gist of the hearing on that day for, mostly for cross-examination on the evidence that is provided in writing by all the experts, from the intervenors as well as Fortis?

THE CHAIRPERSON: That's correct. Typically the expert takes the stand, swears to the evidence that has previously been filed, and then is available for cross-examination.
MR. SLATER: Have we established a date for a second day if there is indeed a necessity of that?

THE CHAIRPERSON: No. Well, the date for the hearing will be one of the issues that will come forward in our decision following this pre-hearing conference. The pre-hearing conference is really a process for us to pull all this material together and make a decision on what the process should be going forward, what the timetable will be going forward, and that timetable will include the actual hearing date.

MR. SLATER: Thank you.

THE CHAIRPERSON: I hope that additional detail was helpful to everybody, and we appreciate that many people in the room haven't been through a Utilities Commission hearing before.

Mr. Wonch or Mr. Zita?

MR. ZITA: Mr. Chairman, do I need an expert witness? If I have, let's say, 6 points which are self-explicit?

THE CHAIRPERSON: I think that's a decision you'll have to make. I think not.

MR. ZITA: I mean legally, if my argument can fly without an expert, even a legal attorney.

THE CHAIRPERSON: My suggestion to you, and I hope I'm not out of order here, Mr. Miller; but my suggestion would be that you probably should go and seek some legal advice on that, which I'm sure you can seek at
little to no cost in terms of getting some initial reaction to your concerns.

Mr. Miller?

MR. MILLER: Yes, Mr. Chairman, I can generally offer this advice. If an intervenor's purpose for attending a hearing is merely on factual issues as opposed to opinion evidence, generally an expert is not required, because experts testify to opinion evidence, not fact.

MR. ZITA: That's what I thought. I don't need expert.

Thank you very much.

THE CHAIRPERSON: Thank you, okay.

MR. WONCH: I have one question. Barry Wonch is my name. Does this give us private funding for a lawyer for ourself, like if we live on the street?

THE CHAIRPERSON: The intervenor funding is available, as I mentioned earlier, there's a process to go through, but it's available to --

MR. WONCH: You have to be a group.

THE CHAIRPERSON: -- retain counsel -- well, typically it's for a group and we encourage people with similar interests to band together to form a group, just to be more effective and more efficient. If somebody has an issue that is unique to them, if they think that it's of significant importance to the decision-making process, then they can apply for intervenor funding and retain a lawyer to present their point of view.
As I said before, if, though, that information is really not helpful in making the decision, it might be important to them but it’s really not an issue in making the decision, the chances of receiving funding after the fact will be relatively low.

MR. WONCH: Okay, thank you.

THE CHAIRPERSON: Ms. Slack, do you have a comment to make?

MS. SLACK: Mr. Chairman, I have never needed expert witness, I stand my own knowledge, previous transcript, much to everybody's disgust at times, I'm sure. But thank you, and I'd like to keep the cost of the hearing down and be as expedient as possible.

THE CHAIRPERSON: Thank you very much.

I'll ask Fortis if they have any follow-up comments.

Proceeding Time 10:29 a.m. T19

MR. McDONELL: No, just to respond to Commissioner Pullman's request, I can't say that the hearing could be done in one day. I would encourage the booking of this room for the Sunday, March 12th. As I understand it, the -- in terms of forecasting the length of the hearing, we won't get the intervenors' evidence and their expert reports until February 3rd, when we will know with some certainty what we're dealing with at
that point. But, of course, we want to see this hearing start as early in the morning on Saturday, March 11th, as we can reasonably start, and continue through to the hearing of the evidence.

But no, I have nothing further to add, Mr. Chairman.

THE CHAIRPERSON: Thank you. We'll try to be more precise on the starting time this time, in terms of whether it's 8:00 or 8:30.

The final item on this list is other procedural issues, and we have dealt with comment on the timing needed for submission of budgets, and we didn't perhaps allow everybody to comment on that. But I think it probably only applies to Mr. Slater and Mr. Karow; and Mr. Slater, you did have an opportunity to respond to my question on that, so if that has dealt with that matter sufficiently from your point of view, we won't spend any more time on it.

Is that acceptable to you?

MR. MILLER: I believe you meant Mr. Ryan rather than Mr. Slater.

THE CHAIRPERSON: I'm sorry, I -- yes, I meant Mr. Ryan, I apologize.

Is that acceptable to you, Mr. Ryan?

MR. RYAN: Yes, yes, Mr. Chairman.

THE CHAIRPERSON: Okay. Are there any other procedural
matters that anyone has to raise? Anything from Fortis?

MR. McDONELL: No, Mr. Chairman, thank you.

THE CHAIRPERSON: Mr. Karow?

MR. KAROW: I'd like to address two issues, if I can, but please let me know if I can't bring it up. The one issue is environmental impact assessment for the residential area. An assessment was made for the substation of the Osoyoos Indian Band, but there is no one for the transmission line through the trans -- through the residential area.

Another issue is the supply of information to intervenors who do not have access to Internet and fax machine. I remember from the case in the Kootenay Valley, the 230 kV case, we were supplied by then West Kootenay Power by all the information that has been -- what are now available through the Internet. And I have been approached by a few people, they -- they are not aware what has been already submitted. So we are not informed. So how can those intervenors who do not have access, how can they support their arguments and present their arguments?

I think it is fair to us, the applicant, to send all the information what has been submitted to whoever is requesting those information. Thank you.

THE CHAIRPERSON: Thank you. Mayor Slater?
MR. SLATER: No issues.

THE CHAIRPERSON: Thank you. Mr. Wonch? No. Mr. Zita?

MR. ZITA: I second Mr. Karow for his communication issue for access -- even a virus on a computer is the program sometimes, and I have personally noticed dozen people couldn't get communication straight with your Board. That's one.

Secondly, I am pleased Mr. -- the mayor offered the meeting for next week, and we will push that, if you wish to call it emergency issue. So that's good news.

THE CHAIRPERSON: Thank you. Ms. Slack?

MS. SLACK: No, no --

THE CHAIRPERSON: Okay, just for clarification, there's no additional issues from -- no additional procedural issues from Ms. Slack.

Anything else from Fortis?

MR. McDONELL: I have nothing to add, Mr. Chairman, thank you.

THE CHAIRPERSON: Thank you very much. I think that brings us, then, to the end of the formal agenda. I'll just ask if there are any other issues relating to this pre-hearing conference? So these will be issues that are related to what lies ahead, in terms of the process, in terms of the hearing, and so on. Any other issues or questions that perhaps require
some clarification at this stage, I'd invite -- I'd
invite those.

So we'll go through the order that we've
been going through, and then I'll ask anybody else in
the group here who wants to raise a question.

Anything further from Fortis?

MR. McDonnell: No, no, thank you, Mr. Chairman.

Proceeding Time 10:34 a.m. T20

The Chairperson: Okay, Mr. Karow?

Mr. Karow: The issue I'd like to address now is
notification.

We have been informed about the change of
the oral hearing to the procedural hearing just last
Tuesday. It was impossible to make this public. I
tried to convince Penticton Herald as the only daily
newspaper to bring an article and a letter to the
editor in the newspaper; they did not do this. I was
approached yesterday, it was too late.

Whatever procedure is coming up and it
needs to be notified, I would appreciate that we
get at least ten days, two weeks at notification in
the newspaper, and not only once but several times.
Thank you.

The Chairperson: Thank you. Mr. Ryan?

Mr. Ryan: I agree with Mr. Karow. I think the question
of notification is very important. It's also
difficult with weekly newspapers, but we are certainly trying to do the best we can to notify people, Mr. Chairman, so.

THE CHAIRPERSON: Thank you. Mayor Slater?

MR. SLATER: I think the comments are relevant.

THE CHAIRPERSON: Thank you. Just for the record, the major feels that the comments are relevant.

Mr. Wonch?

MR. WONCH: Fine.

THE CHAIRPERSON: Mr. Zita?

MR. ZITA: I completely agree with the previous comments. They are very valid.

THE CHAIRPERSON: Thank you. Ms. Slack, any other issues that you'd like to raise today?

MS. SLACK: I've already raised the one on communication.

THE CHAIRPERSON: Thank you.

Any questions from individuals in the room today? These wouldn't be issues but they would be perhaps questions that we might clarify for you. Anyone?

Yes, Mr. Zita.

MR. ZITA: I would like to ask you how it is impossible that such nice people are on the board.

MR. MILLER: I object to that question, Mr. Chairman.

THE CHAIRPERSON: My wife wonders why such nice people have to work on Saturday, too. Okay, thank you.
We'll perhaps return to the -- I'm sorry, somebody at the back.

MS. LAHAISE: Yes, Carley Lahaise.

THE CHAIRPERSON: Please come up to the microphone.

MS. LAHAISE: I thought I had a huge enough voice. Okay.

No, I've just heard a lot about a lot of experts that are going to come. There's doctors and there's all these people. Is there a safety expert coming? Because in my mind that is the major problem with what has been proposed, is safety. I want to know if anybody is addressing that particular aspect.

THE CHAIRPERSON: Well, I think my sense of that is that certainly there are people that are approaching safety from different points of view, but my suggestion would be that if you have a particular concern you might -- that perhaps isn't being addressed, you might talk to perhaps the Osoyoos Now group and discuss it with them and they might incorporate your particular safety concerns into their approach.

MS. LAHAISE: Thank you very much.

THE CHAIRPERSON: Again, I think it's important that people understand that the purpose of the hearing process is for the panel to have before it the information that it needs to make a decision, because ultimately the three people sitting at this table have to decide and make a decision on the application.
that's been put before it.

Now, there were a couple of other hands come up. Before I get to you, Mr. Karow, a gentleman in the back. Could I ask you to come forward. Perhaps I could ask you to identify yourself.

Proceeding Time 10:39 a.m. T21

MR. NEWPORT: I'm Peter Newport. And I'm wondering what is the purpose of the Public Utilities Commission? Is it to control the spending of the applicant? Or is it also to enhance whatever they are doing to the total safety as well as the physical and health aspects of the population that they are considering?

THE CHAIRPERSON: Thank you. I'm going to ask Mr. Miller to respond to that.

MR. MILLER: Mr. Chairman, the B.C. Utilities Commission has several functions. I think the one that Mr. Newport is addressing is whether or not economics alone will dictate the Commission's decision. And as I understand the Commission's mandate, the Commission mandate is to act in the public interest. So it requires a balancing of competing interests, and hopefully a resolution that everyone agrees with is in the public interest. So that is in the Commission's function with -- at least as I understand his particular question.

THE CHAIRPERSON: Thank you. I suggest that for
additional clarification, and I'm -- there's some caution in my voice here, but for additional clarification you might for bedside reading download a copy of *The Utilities Commission Act* and review that, because I think you'll find that helpful in better understanding the role of the Commission. There's also some additional material on the Utilities Commission website, bcuc.com, and I'd encourage you to go there as well.

Now, other questions? Mr. Karow, let me just see if there's anybody else in the room, to be fair to other people. Okay, please, you have a question.

MR. KAROW: It came to my attention that Fortis had an *in camera* meeting with the council, or with the mayor, I don't know with both of them, and I'd like to see that the Commission is asking Fortis and the council to release the information that has been discussed in that meeting. It's possible that the records will be made available.

Thank you.

THE CHAIRPERSON: Mr. Fortis -- ah, Mr. Fortis -- Mr. Karow. I think it's important that you understand it's not up to the Commission to order that to be done. If such a meeting -- if you feel such a meeting took place, and you feel that that information should
be disclosed, I suggest that in the process you ask --
you ask either the city or Fortis to disclose that
information. It's not up to the Commission to order
that information to be made available.

Okay, I think we'll move now then to the
Town Hall Meeting portion. And let me just cycle back
around and ask Mr. Miller if there have been any
requests to present at the town hall meeting.

MR. MILLER: None that have come to my attention.

THE CHAIRPERSON: Okay, thank you.

Well, I think that, then, brings our
meeting to a close. But in making some closing
comments, I'd firstly like to thank everybody for
attending today. We recognize how important this
issue is to the residents of this area, and so your
participation is both appreciated and also very
important.

Proceeding Time 10:43 a.m. T22/23

The other thing I'm going to comment on is
something I had mentioned in my opening comments, and
that is the need for us to be efficient and effective
and disciplined as we go forward. While I appreciate
that not everybody is familiar with the processes that
we use and some of the disciplines that are available,
or that are imposed on our processes, again Mr. Miller
is available for advice on the processes, and our own
Commission secretary can be approached, Mr. Pellatt, or you can contact Mr. Rearie and he would steer you -- either answer the question for you or steer you in the right direction.

So if there's any question or any misunderstanding about the process we're following, what stage we're at, what should be done at that stage, rather than just filing information perhaps at the wrong time or not filing it when you should and thinking you can file it later, I'm just using those as examples, I'd really encourage you to seek the advice you need to participate fully and properly in the hearing process.

Having said that, the deadlines that we're going to be setting, and my colleagues and I will be deliberating on today's proceeding and setting a schedule, those dates have to be adhered to. While we appreciate that there are communications issues and we'll try to be sensitive to those, we do rely on electronic communication to disseminate the information and to receive information. Not only is it more effective for everybody to have it that way, it also provides for a more efficient process, and it also allows for instant communication, so that people do have as much time as possible to consider the issues that are presented in information that's been
filed.

So while we appreciate that not everybody has personal access to electronic communication, one of the advantages of grouping together is that you can set up a little communications network within the group so that people that don't have electronic communication can kind of piggyback on the electronic communication that other people have.

Having said that, I think we also have to remind you that intervenors and the applicant and the Commission have a responsibility to communicate to all of the other parties to this hearing. So if you're an intervenor, just sending a request to Fortis is not fulfilling your responsibility. The intervenors have the intervenor list and the intervenor communication addresses, and it's up to disseminate their information to everybody who is a party to this hearing. So everybody has responsibilities in that respect in this hearing.

Let me just ask my colleagues if they have anything they'd like to comment on before we close. Commissioner O'Hara, do you have anything?

COMMISSIONER O'HARA: Well, this may be still repetition but just to make sure that we are managing the expectations for the intervenor funding.

Mr. Chairman, you mentioned that the
funding will be granted one witness per issue, and we
now have agreed on the issues list. So there would
be, for instance, one expert for the environmental
matters and then there would be one witness for EMF
health issues, or we could broaden it, public health
issues would be one witness for that area. Just to
make sure that there is no misunderstanding there.

THE CHAIRPERSON: Okay, thank you.

Mr. Pullman, Commissioner Pullman, do you
have any comments to make?

COMMISSIONER PULLMAN: No, I don't, and thank you, Mr.
Chairman.

THE CHAIRPERSON: Yes, sir. Mr. Ryan.

MR. RYAN: Mr. Chairman, I was wondering if you can give
us any idea as to when the panel will release the new
schedule, the revised schedule.

THE CHAIRPERSON: Good question. We'll be meeting this
week and I would expect by mid-week. I haven't
checked on my colleagues' availability, but I think
they're both available early in the week and so I
would expect by the middle of the week we'll have that
schedule released. I think it's in everybody's
interests to release it as soon as possible.

MR. RYAN: Yes.

THE CHAIRPERSON: Frankly, it's in everybody's interests
to move the process along as quickly as is reasonable.
I mean, the application wasn't filed because there wasn't a need. And so, it's in everyone's interest to resolve this matter as rapidly as we can.

Proceeding Time 10:48 a.m. T24

MR. RYAN: Okay.

THE CHAIRPERSON: Thank you.

MR. RYAN: I want to thank you on behalf of our society for such a useful hearing, and for your very helpful comments and guidance today, Mr. Chairman.

THE CHAIRPERSON: Thank you for that feedback.

Yes, Mr. Zita?

MR. ZITA: I'm never smart enough, but some person here is. This piggyback communication, is that legally holding the water?

THE CHAIRPERSON: I'll ask Mr. Miller to --

MR. MILLER: I'm sorry, Mr. Chairman, I missed the question.

MR. ZITA: Okay, piggyback communication, is that legally holding the water, in term of the communication?

MR. MILLER: I'm not sure I still understand the question, Mr. Chairman.

THE CHAIRPERSON: I think the question is, the imposition, if I can use that word, of electronic communication, is that legally acceptable?

MR. MILLER: Well, as I understand the Commission's
procedure, it encourages participants to a proceeding to use electronic communication, but where it's not available mail is the other route. So that is an alternate route, and usually requests are just made of the applicant to send hard copies by mail, because electronic services are not available.

MR. ZITA: I am talking about piggyback communication. If somebody's sending the mail on behalf of group or whatever.

MR. MILLER: That is fine.

MR. ZITA: Okay, thank you. Thank you. Thank you.

THE CHAIRPERSON: Thank you. Well, that brings our pre-hearing conference to a close. I again would like to thank everybody for attending today, and for their participation. And please enjoy the rest of your weekend.

Thank you.

(PROCEEDINGS ADJOURNED AT 10:50 A.M.)