BRITISH COLUMBIA UTILITIES COMMISSION

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

And

British Columbia Utilities Commission - An Inquiry into Gasoline and Diesel Prices in British Columbia - Project No. 1599007

VANCOUVER, B.C.
July 17th, 2019

ORAL WORKSHOP

BEFORE:

D. Morton,	**Chair/Panel Chair**
D. Cote,	**Commissioner**
M Doehler,	**Commissioner**

VOLUME 1

Allwest Reporting Ltd.
#1200 - 1125 Howe Street
Vancouver, B.C. V6Z 2K8

APPEARANCES

L. BUSSOLI,	Commission Counsel
M. GHIKAS, T. AHMED, M. NOEL-BENTLEY,	Parkland Fuel Corporation
T. OLENIUK, C. HUSTWICK, J. MCLEAN, B. WALLIN, J. VAILLANT,	Suncor Energy
K. WRIGHT, N. LIU,	7-Eleven Canada Inc.
I. THOMSON	Advanced Biofuels Canada Association
J. CHARLEBOIS, B. VAN SLUYS,	National Energy Board
L. DINELEY,	Husky Energy Inc.
M. KEEN, N. JONES,	Shell Canada Limited
T. GELBMAN, S. CHRISTENSEN, B. SCAMMELL,	Imperial Oil
M. CLARKE, W. VAN DEKERKHOVE, J. ALLEN,	Super Save Group

INDEX

PAGE

INDEX OF EXHIBITS

INFORMATION REQUESTS

JULY 17, 2019 - VOLUME 1

Pages: 163, 192, 210, 212, 221, 224, 226, 283, 242 x 2, 245

VANCOUVER, B.C.

July 17th, 2019

(PROCEEDINGS COMMENCED AT 8:02 A.M.)

THE CHAIRPERSON: Please be seated. Thank you.

Good morning. I would like to welcome you to today's oral workshop for the BCUC Inquiry into gasoline and diesel prices. I would also like to acknowledge that today's workshop is taking place on the traditional territory of the Musqueam, Squamish and Tsleil-Waututh First Nations.

My name is Dave Morton, I'm the chair and CEO of the British Columbia Utilities Commission and I'm also the chair of this Inquiry Panel. I'm joined today by my fellow panel members, on my left Commissioner Denis Cote and Commissioner Murray Doehler on my right. Commissioner Doehler has been specially appointed to this panel. He served as a member of the Nova Scotia Utilities and Review board for approximately 13 years. And he has extensive experience working in the area of gasoline regulation.

I would like to thank everyone for attending today. Thank you to the members of the public who have submitted 49 letters of comment and I would like to say we appreciate that level of interest and we appreciate the comment letters.

And I would also like to acknowledge the

1 interveners who are willing participating in this
2 process. The timing of the inquiry is aggressive and
3 it's placed some strain on you. We really appreciate
4 the effort that you've made to prepare and provide
5 evidence and submissions in accordance with the tight
6 timelines, so thank you very much.
7 And on that note I would also like to thank
8 my fellow Commissioners and the BCUC staff. It's
9 similarly been -- it's been a lot of work for all of
10 us. And there's been a lot of midnight oil burnt and
11 I would like to thank and acknowledge them also.
12 Before we begin the workshop I'm going to
13 provide an overview of the inquiry scope, the next
14 steps, what we expect at the oral workshop, as well as
15 some reminders regarding conduct.
16 On May 21st, 2019, we established this
17 inquiry and the scope of the inquiry is to explore
18 factors that may be influencing gasoline and diesel
19 prices in British Columbia, particularly since 2015,
20 and also the mechanisms that the province could use to
21 moderate price fluctuations and increases.
22 **Proceeding Time 8:04 a.m. T02**
23 Now, some of the -- I'm not going to repeat
24 the wording of the Order-in-Council that established
25 this inquiry, but some of the key issues that we're
26 looking into are the difference, if any, in refining

and retail margins between British Columbia and other parts of Canada. The factors that contribute to both retail and wholesale price fluctuations, such as access to refineries, the amount of fuel in storage, refinery and pipeline capacity, market size and demand, distribution methods and seasonal variations. How competition impacts pricing and what other jurisdictions are doing to enhance transparency in how gasoline and diesel prices are determined.

The exact terms of reference can be found in Order-in-Council number 254. However, at this time though I would like to briefly review two particular sections of the OIC. In section 1 of the OIC provides these two definitions; one is for refining margin and that's defined as the difference between the amount a refiner pays for crude oil and other components and the amount refiners charges its customers for gasoline and diesel. And again, this is a definition that's provided in the OIC. Similarly the retail margin is defined as the difference between the amount a retailer pays for gasoline and diesel and the amount the retailer charges its customers for gasoline and diesel, excluding taxes.

It appears to the Panel that not all parties share the same definition of these terms. Further, there is other terms such as, for example,

1 crack spread, whole prices profit margin, that are
2 used. But it's not clear how they relate to the above
3 definitions.
4 It's essential that we all have the same
5 understanding of these terms, so I'm going to ask that
6 when you address the Panel and use any of these terms
7 in your presentation or in your questions or your
8 answers that you ensure that your usage of these
9 terms, the refining margin and the retail margin, is
10 consistent with the definitions in the OIC. And if
11 not, if you could please make it clear that it isn't
12 and how you are defining those terms.
13 And then the second part of the OIC I would
14 like to point to is section 3(2) which states,
15 "The Commission may not inquire into the effects
16 of provincial enactments or policy on gasoline
17 and diesel prices in British Columbia."
18 This inquiry is focused only on the ex-tax
19 price of gasoline and diesel and the effects of these
20 enactment or policies are out of scope. Any
21 discussion of these enactments or any discussion of
22 such enactments or policies is for the sole purpose of
23 understanding the amount that the refiner and the
24 retailer charges its customers for gasoline and
25 diesel.
26 **Proceeding Time 8:07 a.m. T03**

To date we've received three reports from independent consultants; one from Navius Research and two from Deetken group. In some cases, in particular in the media, these have been described as BCUC reports. However, I want to note that these reports have been written by independent consultants that have been contracted by us. They don't reflect the Panel's opinions. The Panel has not participated in the preparation of those reports. Any findings in those reports will be considered by the Panel as we prepare our final report to government. The Inquiry Panel has not conducted any of the inquiries that those consultants have and we haven't issued any reports and we have not made any findings to date.

The purpose of the oral workshop this week is for the Panel to ask questions of interveners based on their submissions. And also for interveners to ask questions of these independent expert reports. Following the oral workshop, interveners will have until August the 8th to make final submissions. And members of the public may continue to submit letters of comment until that date.

There will be an opportunity on Friday of this week at this oral workshop for interveners to make any final statements regarding items such as further questions or requests to submit additional

evidence. When possible, the Panel will consider adjustments to the timetable to accommodate these requests. However, as I've discussed and as you're well aware, we are working to a tight deadline. But if possible we will ensure that your -- we will try to accommodate your requests in that regard.

The Panel will then prepare a final report for the Minister of Jobs, Trade and Technology by August the 30th of this year.

The oral workshop today and over the course of the next few days will generally take place in the following order: Following my opening remarks we will move to appearances, when each of the interveners that are presents will introduce themselves. After appearances, a witness panel for the Deetken group will be sworn in or affirmed for questioning by interveners that choose to do so. And then the order in which the interveners will questions Deetken has been posted in Exhibit A-6 and A-6-1, which is available on our proceeding webpage.

Proceeding Time 8:10 a.m. T04

On Thursday morning, tomorrow morning, Deetken group will be available again for further questions by interveners who are not in attendance today. And then on Friday morning our second consultant, Navius Research, will be available for

1 intervener questions in a similar manner. Following
2 questions by -- today following questions by all
3 interveners to the BCUC independent expert, the Panel
4 may also ask questions of the Deetken Group.
5 So once the Panel and all the interveners
6 present have had a opportunity to ask questions of
7 Deetken, we'll move to presentations by interveners.
8 And the presentations which will be regarding their
9 submissions, or at least the non-confidential part of
10 their submissions. Each intervener will be given up
11 to 40 minutes to provide an opening statement and I
12 would ask interveners to please not use this time to
13 reiterate what has been included in their submissions.
14 And again, I'd like to note the definition
15 for retail margin and refining margin, they're
16 provided in the Order and please be clear of your use
17 of those terms as I previously mentioned. Following
18 your opening remarks, the intervener opening remarks,
19 your witness panel will then be sworn in or affirmed
20 and the Panel will ask questions of them. When the
21 Panel's completed its questions our staff may have
22 questions and may ask questions of the panel also.
23 And if there's questions of a confidential
24 nature, those questions will not be dealt with in this
25 forum. We will adjourn to an *in camera* session that
26 will be held in a separate room in this facility. And

it will only be attended by the witness panel, this Panel and Commission Staff and attorneys for the intervener and for the Commission.

Once Panel questions have been completed for one intervener, then the next intervener will begin with its opening statement and questioning. And we'll continue through this process in the same order that the interveners asked the witnesses -- sorry, asked the BCUC experts.

And then on Friday, interveners will be given an opportunity to make closing remarks. And as I mentioned before, this will include submissions on whether you have additional evidence that you wish to prepare and any other adjustments that you feel are appropriate to the timetable to accommodate any requests around evidence or testing of evidence. And if you do intend to file further evidence or intend to seek leave to file further evidence, please during your closing remarks identify the nature of the evidence and when it will be ready to file.

Proceeding Time 8:13 a.m. T05

I'd also like to confirm that if interveners aren't able to provide a response in full or in part to a question that's posed at this workshop, that likely because you don't have the information or you need to check with someone back at

your office or you need some further time to consider it, you will have an opportunity to file the answer to those questions after the workshop, provided it's done in a timely manner. You can do that through an undertaking after the proceeding here is completed.

And I'd also like you to please note that while some of today's presentation will be taking place in person, we'll also have some people participating by video. And so there may be some interruption while we get the video set up, turned on and activated. What We'll likely do is, if it's convenient, we'll take breaks at those times. Otherwise we'll take breaks throughout the day as required.

We'd also like to point out, as you can see the space in this hearing room is limited and if we reach capacity we will not permit access to any additional members of the public who wish to observe. However, we do have a room at the back which is set up as overflow seating and we also have a room at our office which is roughly two blocks down Howe Street, that if there are members of the public that would like to join there and listen live to the proceeding, they're more than welcome to.

Otherwise, the hearing is -- audio is being streamed at allwestbc.com and a recording of the

1 proceeding would be available on that website after
2 the proceeding -- it will not be. The transcript, the
3 written transcript, sorry.
4 I'd like you to please note that
5 photography and taking of videos are not permitted in
6 the hearing room. Accredited media may use electronic
7 device to make an audio recording of the proceeding
8 for the sole purpose of verifying their notes and for
9 no other purpose, subject to the following
10 restrictions: Electronic recording devices may only
11 be used when the proceeding is in session. They must
12 be turned off when it's adjourned. There's no
13 recording of conversations between people that are
14 made here. And the recording devices must not be left
15 unattended in the hearing room. And any audio
16 recording must be destroyed once the verification of
17 your notes is complete. And if you don't comply --
18 anyone who doesn't comply with these rules will be
19 asked to leave.
20 The BCUC Panel will not be taking questions
21 from the public or the media at the workshop. If you
22 do have questions, please direct them to our staff at
23 the back of the room. And on that note I would like
24 to make a few introductions.
25 **Proceeding Time 8:16 a.m. T6**
26 Sitting in the front we have Lino Bussoli,

who is BCUC Counsel. Sitting over here is Mr. Keith Bemister, who is our Hearing Officer. And we have some members of our staff team here who are -- who have been assisting in the proceeding and the questions and so on, and we have Ian Jarvis, who is the COO of the Commission and he's also the project manager for this inquiry. Sitting with him is Leon Cheung who is the lead staff on this project, and I think he's at the back somewhere, we have Patrick Wruck, who is a Commission Secretary and I think he's been helping with the sign in. There's Patrick, thank you; with the sign in process. And rounding out the BCUC team is Josh O'Neal, Arun Siva and Miriam Kresivo.

Also in attendance is Krissy van Loon who is our communication manager, and I would ask Chrissy to put up her hand, and if anyone from the media who's here hasn't met her, please direct any of your inquiries to Krissy, thank you.

So on that note, Mr. Bussoli, are we ready for appearances?

MR. BUSSOLI: Yes, thank you, Mr. Chair. The fist in the order of appearances is Parkland Fuel Corporation.

MR. GHIKAS: Good morning Mr. Chairman, Commissioners, my name is Matthew Ghikas, G-H-I-K-A-S. With me appearing as counsel are Tariq Ahmed, A-H-M-E-D, and

from Parkland in-house counsel and director of regulatory is Matthew Noel-Bentley, N-0-E-L hyphen B-E-N-T-L-E-Y. Thank you.

THE CHAIRPERSON: Than you Mr. Ghikas.

MR. BUSSOLI: Second is Suncor Energy.

MS. OLENIUK: Good morning Chair.

THE CHAIRPERSON: Good morning.

MS. OLENIUK: Commissioners. My name is Terri-lee Oleniuk, O-L-E-N-I-U-K, and I'm joined by Suncor in-house legal counsel Chris Hustwick, H-U-S-T-W-I-C-K. We're also joined by James McLean, M-C-L-E-A-N, Brent Wallin, W-A-L-L-I-N, and Jason Vaillant, V-A-I-L-L-A-N-T. Thank you.

THE CHAIRPERSON: Thank you.

MR. BUSSOLI: Next in the order of appearances is 7-Eleven Canada Inc.

MR. WRIGHT: Good morning, Mr. Chairman and Commissioners. My name is Kevin Wright, I am counsel to 7-Eleven Canada Inc. I have today with me a student at our firm Natasha Liu. A representative of 7-Eleven Canada will be appearing tomorrow in accordance with the schedule for questions.

THE CHAIRPERSON: Thank you, sir.

MR. BUSSOLI: Next is Advanced Biofuels Canada.

MR. THOMSON: Good morning, Mr. , my name is Ian Thomson, T-H-O-M-S-O-N, president of Advanced Biofuels

1 Canada Association.
2 THE CHAIRPERSON: Thank you, sir.
3 MR. BUSSOLI: Next is the National Energy Board of
4 Canada.
5 MR. CHARLEDOIS: Good morning Mr. Chair and panel
6 members, I am Jean-Denis Charlebois, C-H-A-R-L-E-B-O-
7 I-S, representing the National Energy Board. With me
8 is my colleague Bryce Van Sluys, V-A-N S-L-U-Y-S.
9 Thank you.
10 THE CHAIRPERSON: Thank you Mr. Charlebois.
11 MR. BUSSOLI: Next is Husky Energy Inc.,
12 MR. DINELEY: Good morning Mr. Chairman and Panel
13 members, my name is Luke Dineley, D-I-N-E-L-E-Y,
14 counsel for Husky Energy Inc. Tomorrow a
15 representative for Husky will appearing by video
16 conference to answer questions. That will be Krista
17 Friesen, F-R-I-E-S-E-N, who is the vice president
18 downstream business and operational services.
19 THE CHAIRPERSON: Thank you, Mr. Dineley.
20 MR. BUSSOLI: Next is Shell Canada Limited.
21 MR. KEEN: Good morning Mr. Chairman, commissioners.
22 My name is Matthew Keen, K-E-E-N, on behalf of Shell
23 Canada Limited. Appearing with me this morning is
24 Nathan Jones, J-O-N-E-S, a student at our firm.
25 Appearing before you later this afternoon remotely is
26 a larger cohort of Shell representatives and counsel,

1 and I'll introduce them at that time.
2 THE CHAIRPERSON: Thank you, Mr. Keen.
3 MR. BUSSOLI: Next is Imperial Oil.
4 MR. GLEBMAN: Good morning, Commissioner and Chairs --
5 or Chair and Commissioners. Thomas Gelbman appearing
6 for Imperial Oil. Appearing also as counsel for
7 Imperial Oil is in-house Shawn Christensen, C-H-R-I-S-
8 T-E-N-S-E-N, and Brian Scammell will be appearing on
9 behalf of Imperial Oil, and he's a revenue management
10 lead. Thank you.
11 THE CHAIRPERSON: Thank you, Mr. Gelbman.
12 MR. BUSSOLI: Next is the Super Save Group.
13 MR. CLARKE: Good morning Mr. Chairman and
14 Commissioners, my name is Matthew Clarke, C-L-A-R-K-E,
15 in-house counsel for Super Save Group of Companies.
16 With me today chairman William Van Dekerkhove, V-A-N
17 D-E-K-E-R-K-H-O-V-E, and Jim Allen, president of
18 retail. Allen, A-L-L-E-N.
19 THE CHAIRPERSON: Thank you, Mr. Clarke.
20 MR. BUSSOLI: Are there any other interveners that I
21 have not called that are in attendance today?
22 Okay, Mr. Chair that looks like all the
23 interveners that are present for today's proceeding.
24 THE CHAIRPERSON: Thank you, Mr. Bussoli. Mr. Bussoli
25 is the Commission's expert ready to be affirmed?
26

Proceeding Time 8:23 a.m. T07

MR. BUSSOLI: I will call the representative of Deetken Group.

THE CHAIRPERSON: Thank you.

We're just going to take a five minute break. My apologies for breaking so soon into the proceeding, but there's just a logistical issue that needs to be resolved here. We'll just take five minutes. Thank you.

(PROCEEDINGS ADJOURNED AT 8:24 A.M.)

(PROCEEDINGS RESUMED AT 8:38 A.M.) T8/9

THE CHAIRPERSON: Please be seated.

My apologies for that. What appears to have happened is this Inquiry may be more popular than our normal proceedings, and it seems that the website has -- the website where the audio streaming happens has crashed. And I understand that Mr. Bemister has taken some steps to try to bring it up, but it's -- working on it right now. So, I would say this is for anybody that's listening on-line, but I guess it wouldn't be anybody listening on-line. I do apologize for that.

Transcripts, of course, will be available, and what we're going to try to do is set up an alternative phone-in feed for -- and publish the phone number, but we can't let that stop the proceeding. So

1 I just want to let everyone here know in case you have
2 colleagues that are listening on-line, that's the
3 situation and we're working -- at least Mr. Bemister's
4 working hard to fix that.
5 Mr. Bussoli, I understand that you have
6 some introductions for us?
7 MR. BUSSOLI: Yes, thank you Mr. Chair. The Commission
8 Staff has made available the consultant, the Deetken
9 Group, which provided a report as Exhibit A2-1, as
10 well as A2-1-1. And Ms. Elise Lepine is here on
11 behalf of the Deetken Group, along with her colleagues
12 Samir Shaw. Ms. Lepine will be answering the
13 questions that interveners may have proposed to her or
14 to the Deetken Group about their reports. And Mr.
15 Shaw is just simply here in support, as I understand
16 it.
17 Along with the consultant report I've got a
18 resume of Ms. Lepine that I'd like to enter and have
19 marked as the next exhibit. It has been provided to
20 some of in the interveners that requested it this
21 morning and is available to any other intervener that
22 would like a copy right now. And there's a copy in
23 front of each of the panel members.
24 THE CHAIRPERSON: Thank you. Thank you, Mr. Bussoli.
25 MR. BUSSOLI: And I believe that would be marked as
26 Exhibit A2-2. My apologies, I meant to say A2-1-2,

1 that would be the exhibit number.
2 **(RÉSUMÉ OF ELISE LEPINE MARKED EXHIBIT A2-1-2)**
3 MR. BUSSOLI: And as mentioned in your opening, we will
4 proceed through the order of appearances for any
5 questions that the interveners may have in respect of
6 the reports of the Deetken Group. And first up would
7 be Parkland Fuel Corporation.
8 THE CHAIRPERSON: Can we have the witnesses affirmed
9 first, please? Thank you.
10 **ELISE LEPINE, Affirmed:**
11 **SAMIR SHAW, Affirmed:**
12 THE CHAIRPERSON: Thank you, Mr. Bemister.
13 Mr. Ghikas, are you prepared to continue?
14 MR. GHIKAS: Yes, thank you, Mr. Chairman.
15 **EXAMINATION BY MR. GHIKAS:**
16 MR. GHIKAS: Q: Good morning, Ms. Lepine and Mr. Shaw.
17 My name is Matt Ghikas, I'm counsel for Parkland. I
18 have a number of questions for you and hopefully we
19 can move through these as quickly as we can.
20 I wanted to start this morning just dealing
21 with retail margin. And Mr. Chairman this morning
22 defined that simply as the pump price, less taxes,
23 less the wholesale price, correct?
24 MS. LEPINE: A: Yes.
25 MR. GHIKAS: Q: And that's the definition you've been
26 using in your report, correct?

1 MS. LEPINE: A: Yes.
2 MR. GHIKAS: Q: Okay. That's not synonymous with
3 profit, is it?
4 MS. LEPINE: A: No.
5 MR. GHIKAS: Q: So retail margin has to cover the costs
6 associated with items that aren't directly accounted
7 for in the wholesale price, doesn't it?
8 MS. LEPINE: A: Yes.
9 MR. GHIKAS: Q: And that would include land costs,
10 right?
11 **Proceeding Time 8:42 a.m. T10**
12 MS. LEPINE: A: Correct.
13 MR. GHIKAS: Q: And including property taxes?
14 MS. LEPINE: A: Correct.
15 MR. GHIKAS: Q: Rents?
16 MS. LEPINE: A: Correct.
17 MR. GHIKAS: Q: Any amount that would have to be
18 recovered in order to justify not converting it to the
19 next best use or the opportunity cost, right?
20 MS. LEPINE: A: Yeah, I think that would be close to
21 the land cost that you had defined before.
22 MR. GHIKAS: Q: And staffing costs?
23 MS. LEPINE: A: Yes.
24 MR. GHIKAS: Q: Machinery and equipment costs?
25 MS. LEPINE: A: Yes.
26 MR. GHIKAS: Q: Capital costs of the facilities on the

1 land?
2 MS. LEPINE: A: Yes.
3 MR. GHIKAS: Q: Financing costs on past capital
4 investments?
5 MS. LEPINE: A: Yes.
6 MR. GHIKAS: Q: The cost of capital upgrades that have
7 to incurred?
8 MS. LEPINE: A: Yes.
9 MR. GHIKAS: Q: Any advertising or branding costs that
10 are incurred by or allocated to the retailer?
11 MS. LEPINE: A: Yes.
12 MR. GHIKAS: Q: And based on your retainer, you were
13 essentially focused on differentials in the margin
14 relative to other jurisdictions, correct?
15 MS. LEPINE: A: Correct.
16 MR. GHIKAS: Q: So you weren't -- it wasn't part of
17 your scope to quantify all of those costs we've just
18 listed for a retail in British Columbia, was it?
19 MS. LEPINE: A: No.
20 MR. GHIKAS: Q: Okay. And similarly I wasn't part of
21 your scope to determine whether those costs had
22 changed over time, correct?
23 MS. LEPINE: A: Correct, insofar as they -- it would be
24 in scope if they had changed differentially in B.C.
25 relative to other regions.
26 MR. GHIKAS: Q: Okay. Now, with respect to all of

1 those costs that we went through in that list there,
2 it would surprise you if those costs were made
3 publicly available by participants in the market,
4 wouldn't it?
5 MS. LEPINE: A: I'm not sure. I don't have an opinion
6 on that.
7 MR. GHIKAS: Q: Okay, well generally speaking in a
8 competitive market competitors aren't really
9 exchanging and publishing details of their own costs,
10 are they?
11 MS. LEPINE: A: Not generally.
12 MR. GHIKAS: Q: And you would expect, generally
13 speaking, that many of the costs that we talked about
14 would be subject to inflationary pressures, correct?
15 MS. LEPINE: A: Yes.
16 MR. GHIKAS: Q: Now, with respect to staffing costs for
17 a moment, that is something that you did examine the
18 differential impact of, correct?
19 MS. LEPINE: A: Yes.
20 MR. GHIKAS: Q: Okay. But just focusing on what's
21 happened in B.C., the minimum wage in BC has gone up
22 three times since 2015 based on your information,
23 correct?
24 MS. LEPINE: A: I believe it did, yeah, it's gone up a
25 few times.
26 MR. GHIKAS: Q: Okay. And you concluded in your report

that minimum wage is likely -- well, I'll quote it to you. You concluded that,

"Minimum wage is likely the key factor in determining wages at retail stations."

Correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And you'd agree with me though, that companies pay more than minimum wage in some markets to attract and retain employees, correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And that's, for example, occurs in the areas with high living costs?

MS. LEPINE: A: I'm not sure that that -- I wouldn't necessarily agree with that.

MR. GHIKAS: Q: Okay, but it could be in the sense if you have to attract an employee to come to a certain area that has high living costs you may have to pay them more, correct?

MS. LEPINE: A: You may have to if there aren't other reasons that would attract them to live there.

MR. GHIKAS: Q: Now, one of the principles that I took from your report as well is that economic theory suggests that market wide increases or other inflationary cost pressures that are faced by the participants generally in a market tend to get passed onto consumers, correct?

1 MS. LEPINE: A: Yes, in cases when the product is --
2 has an elastic demand.
3 MR. GHIKAS: Q: Okay. And in that case an across the
4 board cost increase would, other things being equal,
5 also tend to show up as an increase in retail margin,
6 wouldn't it?
7 MS. LEPINE: A: Yes.
8 MR. GHIKAS: Q: Now, if I can turn you to your phase 2
9 report, page 2, and for the record that's Exhibit A2-
10 1-1, page 2. And I'm interested in the chart that's
11 on that page, Chart 0.0, where it says, "Explained
12 retail margin differential between Vancouver and the
13 Western Region," do you have that in front of you?
14 MS. LEPINE: A: Yes.
15 **Proceeding Time 8:47 a.m. T11**
16 MR. GHIKAS: Q: Okay. Now, in this chart, just so
17 we're all on the same page with what you're doing
18 here, in this chart you're addressing factors that
19 could account for the differential in retail margins
20 between Vancouver and the Prairie provinces, right?
21 MS. LEPINE: A: Correct, yeah, the western region is
22 what we defined.
23 MR. GHIKAS: Q: Okay. And just for clarity, when we're
24 talking about Vancouver, when you're talking about
25 Vancouver, you mean all of Greater Vancouver, correct?
26 MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Okay. And so what you're showing here is the extent to which two factors, land value and credit card fees, could be contributing to the differential with western provinces, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And it reflects your conclusion that I believe you set out on page 10 that, and I'll just read it to you,

> "The most important factor that may be influencing retail margins in the Vancouver area is the rising cost of land."

Right?

MS. LEPINE: A: Yeah.

MR. GHIKAS: Q: And as we referred to previously, land value, it comes into play not just with respect to rent and taxes, but also with respect to the opportunity cost, right?

MS. LEPINE: A: Yes. Particularly if you're owning the land.

MR. GHIKAS: Q: Particularly if you're owning the land?

MS. LEPINE: A: Yeah.

MR. GHIKAS: Q: And when we say "opportunity costs" we're talking about the value of the next best use, right?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: So, to make it real, if you want to

1 maintain a retail station instead of converting your
2 property to condos, you would need to return a
3 sufficient return that would make that worthwhile?
4 MS. LEPINE: A: Correct.
5 MR. GHIKAS: Q: Okay. And now with respect to credit
6 card fees -- just, I'm sure everyone here understands
7 the rising cost of land issue if you're from
8 Vancouver. But if -- credit card fees, that's a
9 little bit, maybe, not so clear to people. So let's
10 just walk through this.
11 They're contributing to the differential
12 because they're charged on the total purchase price,
13 right?
14 MS. LEPINE: A: Yes.
15 MR. GHIKAS: Q: And that's inclusive of taxes?
16 MS. LEPINE: A: Yes.
17 MR. GHIKAS: Q: So the fact, for instance, that we have
18 higher taxes in this jurisdiction, Greater Vancouver,
19 than other places in the country, that's actually
20 contributing to the credit card fee differential,
21 correct?
22 MS. LEPINE: A: Yes, as well as the other higher costs
23 that we've looked at in this report.
24 MR. GHIKAS: Q: Thank you. Now, turning back to the
25 chart itself, Chart 0.0. So, just so that everybody's
26 on the same page as to how to interpret this chart.

The amount of the retail margin differential between Greater Vancouver and the Western provinces in each of the years you're showing here, is shown by the black horizontal dash with the number of cents indicated above it, right?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And the extent to which the land values may be contributing to the retail margin differential, that's shown by the combination of the green bar and the dashed green bar, correct?

MS. LEPINE: A: So it's shown as a range. The minimum being the solid green and the maximum being indicated by the dotted green.

MR. GHIKAS: Q: Right, so the range is from the bottom of the green to the top of the dash green?

MS. LEPINE: A: Yeah.

MR. GHIKAS: Q: And the blue is the credit card fee differential?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: So on your analysis, if we look at this, the entire differential between Greater Vancouver and the Western provinces can be explained by the combination of land values and credit card fees alone, right?

MS. LEPINE: A: It appears that it can be fairly well explained, yes.

1 MR. GHIKAS: Q: And -- well, it is, based on your
2 analysis it covers the entire differential, correct?
3 MS. LEPINE: A: So the green bar and the dotted green,
4 as I said, is a range. So there's a level of
5 uncertainty there. So I wouldn't be able to say with
6 confidence that it covers the full range, particularly
7 for the year of 2019. There remains some portion that
8 might be unexplained. But with this margin of error I
9 would say that it covers a fairly substantial portion
10 of the differential.
11 MR. GHIKAS: Q: Okay. Well let's talk about 2015
12 first. So you've got 1.9 cent differential there.
13 And the green -- the dash green bar comes right up to
14 -- right up to the differential line, right?
15 MS. LEPINE: A: Correct.
16 MR. GHIKAS: Q: Okay, so that full differential is
17 covered by the things that you are reflecting in this
18 figure?
19 MS. LEPINE: A: So again, I would say it may be because
20 this is represented as a range to reflect the
21 uncertainty in estimating the marginal contribution of
22 the land to retail margins.
23 MR. GHIKAS: Q: Okay. So if we go to 2016 then, the
24 combination of those three bars, they actually exceed
25 the differential in that year, right?
26 MS. LEPINE: A: Correct.

1 **Proceeding Time 8:52 a.m. T12**
2 MR. GHIKAS: Q: And so in fact what that is essentially
3 saying is that land value and credit card fees alone
4 would have explained a margin differential even larger
5 than it actually was, potentially?
6 MS. LEPINE: A: Potentially.
7 MR. GHIKAS: Q: And the same is true in 2017, right?
8 MS. LEPINE: A: Yes.
9 MR. GHIKAS: Q: And the same is true in 2018, correct?
10 MS. LEPINE: A: Yes, it may if it were the maximum
11 contribution modeled.
12 MR. GHIKAS: Q: Right. And the only bar then that has
13 a gap between the top of the land differential and the
14 essentially the total differential is 2019, correct?
15 MS. LEPINE: A: Yes, again, if you're using the
16 maximum. If you're using the minimum, then all of
17 them have some level of unexplained differential.
18 MR. GHIKAS: Q: Right. But you've presented it as a
19 range because there's uncertainty?
20 MS. LEPINE: A: Correct.
21 MR. GHIKAS: Q: Okay. And now there's a little box
22 over on the right that says the area between the total
23 differential, which is the top of the green -- sorry,
24 the total differential and the stacked bars is the
25 quote-unquote "unexplained differential", right?
26 MS. LEPINE: A: Yes.

1 MR. GHIKAS: Q: And there may be a perfectly good
2 reason for the quote-unquote "unexplained
3 differential", it's just that you haven't done all the
4 analysis that you would need to do to determine the
5 explanation, correct?
6 MS. LEPINE: A: Correct.
7 MR. GHIKAS: Q: And what you do know is that based on
8 your analysis, it's simply unexplained by the two
9 variables in this graph?
10 MS. LEPINE: A: As well as the other ones that were
11 looked at in the retail margin analysis.
12 MR. GHIKAS: Q: Right, okay. So you looked at a couple
13 of other factors, again, and those would -- I take
14 your point on that.
15 MS. LEPINE: A: Yeah.
16 MR. GHIKAS: Q: Okay. Now, the bar says 2019, but
17 we're actually only part way through 2019, right?
18 MS. LEPINE: A: Yeah.
19 MR. GHIKAS: Q: Okay, so what was the currency date of
20 the data that you were using in that analysis?
21 MS. LEPINE: A: That was up to June, 2019.
22 MR. GHIKAS: Q: So essentially six months?
23 MS. LEPINE: A: Correct.
24 MR. GHIKAS: Q: So essentially 2019 really, if we were
25 to be perfectly accurate, that bar would say Q1, Q2
26 2019, effectively?

1 MS. LEPINE: A: Yes.
2 MR. GHIKAS: Q: And I would suggest, you can't reliably
3 predict the whole year's margins from six months of
4 data, can you?
5 MS. LEPINE: A: It may be possible. But retailers
6 distribute their capture of margin differentially
7 through the year. That is -- yeah, I would say that's
8 possible. So it may be that the first two quarters
9 are not a representative sample.
10 MR. GHIKAS: Q: And because you're looking at a
11 differential, you're looking at changes potentially of
12 retail margins in B.C., right? And also in the other
13 provinces that you're comparing to, right?
14 MS. LEPINE: A: Yeah.
15 MR. GHIKAS: Q: So both of those are variables that may
16 change over the course of a year?
17 MS. LEPINE: A: Yeah. So if there are systematically
18 ways that -- again retailers change how they capture
19 margin through the year. So, for example, if they
20 were capturing more margin in the first two quarters
21 than in the second to quarters, for some business
22 reason decide that in those quarters it was better to
23 reduce margins and distribute the total margin capture
24 throughout the year that way, then -- and that only
25 happened in B.C. and didn't happen in other provinces,
26 then the first two quarters wouldn't be

1 representative.
2 MR. GHIKAS: Q: And on a month-to-month basis we know
3 that retail margins can swing considerably, right?
4 MS. LEPINE: A: Yes.
5 MR. GHIKAS: Q: In B.C., right? In B.C. that's true,
6 correct?
7 MS. LEPINE: A: Yeah. So in the phase one report we
8 showed a view of retail margins in Vancouver, Kamloops
9 and the western regions. And you can see the month-
10 to-month variability was very high. We do not have
11 daily data, but month-to-month, yes, was very high.
12 MR. GHIKAS: Q: And the same is true if you were
13 looking at any of the individual prairie provinces as
14 well, correct?
15 MS. LEPINE: A: Yes.
16 MR. GHIKAS: Q: And so if we were to -- I think I can
17 help you by pointing you to that specific diagram that
18 you're looking at. I think it's in phase 1, page 26.
19 THE CHAIRPERSON: So that's exhibit A2-1, Mr. Ghikas?
20 MR. GHIKAS: Exhibit A2-1, page 26.
21 Q: And there's a chart at the top of the page that
22 -- chart 4.3.1 which shows monthly average gasoline
23 and retail margins in B.C. and Canadian regions,
24 correct?
25 **Proceeding Time 8:58 a.m. T13**
26 MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Okay, and so that is depicting the actual volatility in retail margins for various provinces, correct?
MS. LEPINE: A: Yes.
MR. GHIKAS: Q: Okay, over an 18 year period.
MS. LEPINE: A: Yes.
MR. GHIKAS: Q: Okay, and there was so much volatility in that you actually had to use a six month rolling average to make sense of it, correct?
MS. LEPINE: A: Yes, well to visualize the differentials, yeah.
MR. GHIKAS: Q: Okay. All right, what -- changing gears slightly here. What I wanted to ask you about now is the competitive factors. Competitive factors was actually one of the factors that you looked at, correct?
MS. LEPINE: A: Yes.
MR. GHIKAS: Q: To account for the differential?
MS. LEPINE: A: Mm-hmm.
MR. GHIKAS: Q: That's a yes?
MS. LEPINE: A: Yes.
MR. GHIKAS: Q: And in your view the increased retail margin differential is not due to a lack of competitiveness, is it?
MS. LEPINE: A: Yeah, we found no difference in competitiveness in the Greater Vancouver area both

pre- versus post-2015, nor in comparison to other provinces.

MR. GHIKAS: Q: Okay, thank you. And so changing now to talk about diesel for a moment and your finding with diesel. You were asked to look at regional differentials in diesel prices and margins as well, correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And on the diesel side you found that there hasn't actually been a material change in retail margin or whole price differentials in recent years, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: All right, so now let's talk about the wholesale gasoline market. Big picture here, just so we orient ourselves, Ms. Lepine, the -- you found a wholesale price differential exists between Seattle and Vancouver, correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And the starting point, the theoretical staring point that you were working with when you were doing this analysis was that in theory, other things being equal prices in Seattle, Vancouver and Edmonton, should not diverge by more than the cost of transportation of fuel between the regions, correct?

MS. LEPINE: A: From the cost of transporting fuel.

MR. GHIKAS: Q: Thank you for that clarification. Because there could be other costs other than the truck itself is really what you're saying?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Yes, okay. And that's because economic theory has it that is there is a divergence between the wholesale prices in one region and the other, that participants would be expected to capitalize on the arbitrage opportunity and ultimately prices would move towards each other across the markets, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Okay. Now, your analysis was then that the differentials between Seattle and Edmonton and Vancouver, they diverged by more than your estimate of the cost of transport, correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And so the upshot of that was that you simply recommended that more work would be needed to explain why that might be the case.

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Okay. So, if we look at the results of your analysis, I'd start with page 47 of your phase 2 report, which is Exhibit A2-1-1. And there's a figure on there that's called "chart 4.3.13, six month rolling average of Vancouver less the estimated tanker truck delivery price," do you see that?

1 MS. LEPINE: A: Yes.
2 MR. GHIKAS: Q: Okay. So just to -- before we dive
3 into what this is actually showing, first of all you
4 would agree, I expect, that, you know, this analysis
5 that you're doing here depends entirely on the
6 estimated transport costs being accurate, correct?
7 MS. LEPINE: A: Correct.
8 MR. GHIKAS: Q: And it assumes an absence of other
9 barriers, whether they be formal or logistical that
10 might impose additional costs, correct?
11 MS. LEPINE: A: Correct.
12 **Proceeding Time 9:08 a.m. T14**
13 MR. GHIKAS: Q: Okay, so now looking at what this chart
14 is saying, effectively if we wanted to understand
15 where the arbitrage opportunity is here from Vancouver
16 to Seattle, anything between the top of the shading,
17 so zero, up to the blue line is effectively an
18 arbitrage opportunity that you had identified based on
19 your estimates, correct?
20 MS. LEPINE: A: Yes, anything up from the zero line.
21 MR. GHIKAS: Q: Up from the zero line to the blue line?
22 MS. LEPINE: A: So when you say "blue line", do you
23 mean up to the Vancouver less delivered Seattle line?
24 MR. GHIKAS: Q: Yes.
25 MS. LEPINE: A: Yes, and anything above that also is an
26 arbitrage opportunity.

MR. GHIKAS: Q: Okay. Thank you, I appreciate the clarification. With respect to -- with respect to Seattle we're focused on the differential I assume?
MS. LEPINE: A: Yes.
MR. GHIKAS: Q: Okay. And so, essentially what your figure is showing is on the basis on your estimates there has been an arbitrage opportunity since the end of 2012 when the blue line crossed above zero, correct?
MS. LEPINE: A: Yeah, around the end of 2012, beginning of 2013, it appears that there was an arbitrage opportunity then.
MR. GHIKAS: Q: Okay. Based on your estimates?
MS. LEPINE: A: Correct.
MR. GHIKAS: Q: Okay, and so based on your estimates then what this is effectively saying is that for the past seven years nobody has taken advantage of that differential as economic theory would suggest, correct?
MS. LEPINE: A: I wouldn't say nobody had necessarily taken advantage of it, I would say an insufficient number have taken advantage of it to equalize those prices.
MR. GHIKAS: Q: Okay, so they're not taking full advantage of it.
MS. LEPINE: A: Yes.

1 MR. GHIKAS: Q: Okay. Based on your estimates.
2 MS. LEPINE: A: Correct.
3 MR. GHIKAS: Q: Okay. And you would agree with me, Ms.
4 Lepine, that there are a lot of sophisticated players
5 in this market?
6 MS. LEPINE: A: Yes.
7 MR. GHIKAS: Q: And the same is true in the Seattle or
8 the U.S. markets?
9 MS. LEPINE: A: I believe so, yeah.
10 MR. GHIKAS: Q: And is it your view that despite all of
11 that collective expertise, that that market hasn't
12 figured out that there is money to be made and has
13 been for the last seven years?
14 MS. LEPINE: A: No, I think the calling out of the
15 arbitrage opportunity was more so to identify that
16 there are other additional factors that have to be
17 analyzed, more so than saying that there are folks who
18 aren't taking advantage of an opportunity that exists.
19 MR. GHIKAS: Q: Okay, because after four weeks you've
20 been able to discover this based on your analysis and
21 you'd expect that industry experts having seven years
22 to do it probably would have been able to do it as
23 well?
24 MS. LEPINE: A: Correct.
25 MR. GHIKAS: Q: Okay. And so -- and in fact as you
26 alluded to earlier, industry participants, a lot of

1 them are already engaging in arbitrage, aren't they?
2 MS. LEPINE: A: It appears that there is cross-border
3 trade, so I would think part of that may be arbitrage,
4 but there could be many reasons for cross-border trade
5 as well.
6 MR. GHIKAS: Q: Okay. Can you think offhand whether
7 there is any rational reason why some participant
8 would identify a profitable opportunity to arbitrage
9 and then decide actually we'll just take half of it
10 and not the full thing?
11 MS. LEPINE: A: No.
12 MR. GHIKAS: Q: Now, rather than this being sort of an
13 aberration from basic market economics, isn't it more
14 likely that the arbitrage opportunity doesn't actually
15 exist in the way that you're suggesting?
16 MS. LEPINE: A: Yes, so part of this was a suggestion
17 also that there may be other factors, such as implicit
18 market barriers, which could be adding costs that we
19 can't see through the direct costs of tanker truck
20 transportation. And I think those types of factors
21 which would require some more participation likely
22 from folks who are making these trades to understand
23 what those costs are and how they exhibit themselves
24 in these marker trades, that those contribute to a
25 closing of the arbitrage opportunity.
26 MR. GHIKAS: Q: Okay, and another explanation would be

that the estimates you were using for transportation costs are too low?

MS. LEPINE: A: It's possible.

MR. GHIKAS: Q: Okay. And you didn't seek to quantify any barriers, logistical or otherwise because you didn't have the information to do that, correct?

Proceeding Time 9:08 a.m. T15

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: All right, now with respect to your transportation cost estimate, your primary source for estimating trucking costs in the Seattle differential analysis was an eight year old report, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And it was actually related to biofuels and not gasoline?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And did you escalate it?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And when you did that you had to make some significant assumptions about what the inflationary effects would be, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And did you assume that all of the inputs in those trucking costs were essentially rising in a linear fashion?

MS. LEPINE: A: Yes.

1 MR. GHIKAS: Q: And you'd agree with me that one of the
2 significant input costs for any trucker is going to be
3 the price of the fuel that they put in the tank?
4 MS. LEPINE: A: Yes, the price of diesel.
5 MR. GHIKAS: Q: The price of diesel, right. And you'd
6 agree with me that diesel doesn't increase -- it
7 hasn't exhibited a linear increase over time, has it?
8 MS. LEPINE: A: I mean certainly not smoothly linear
9 over time.
10 MR. GHIKAS: Q: It goes up and down, doesn't it?
11 MS. LEPINE: A: Yeah.
12 MR. GHIKAS: Q: So the other thing that you would have
13 had to do is convert to Canadian dollars, correct?
14 MS. LEPINE: A: Correct.
15 MR. GHIKAS: Q: Okay, and so I believe your footnote
16 says that in 2011 the exchange rate was close to par.
17 So you applied a simple 1 to 1 conversion, correct?
18 MS. LEPINE: A: Yes.
19 MR. GHIKAS: Q: And does that mean that you applied the
20 1 to 1 conversion across the board since -- across in
21 ever year coming up to today?
22 MS. LEPINE: A: So, because the estimate was from 2011,
23 we took those to be the true costs and used the
24 exchange -- the par exchange rate. And then just took
25 those as Canadian dollars and escalated them from
26 there. So it didn't apply a differential exchange

1 rate year-over-year.
2 MR. GHIKAS: Q: Okay, so the upshot of that is, to the
3 extent that the exchange rate has differed from par
4 over the years that would result in -- would produce
5 different result, correct?
6 MS. LEPINE: A: So in our analysis the thinking is that
7 it wouldn't produce different results, because we're
8 looking at the cost in the country of interest. So if
9 you're an American trucker then you're paying in
10 American dollars, if you're a Canadian trucker you're
11 paying in Canadian dollars. So in that way we
12 wouldn't want the exchange rate to impact the cost of
13 transportation in Canada.
14 MR. GHIKAS: Q: Okay. But to the extent that somebody
15 is driving something across the border, they could
16 potentially have Canadian costs and U.S. costs
17 involved, correct?
18 MS. LEPINE: A: Yes.
19 MR. GHIKAS: Q: Now, the other source that you used was
20 something called truckersreport.com?
21 MS. LEPINE: A: Yes.
22 MR. GHIKAS: Q: Okay. Did you convert the
23 truckersreport.com costs to Canadian dollars as well?
24 MS. LEPINE: A: I would have to get back to you on
25 that. I didn't check that -- that was basically, sort
26 of one other estimate that was found to test the order

1 of magnitude of the transportation costs. So it
2 wasn't used directly in any of the cost estimates.
3 MR. GHIKAS: Q: And what can you tell me about who
4 produces truckersreport.com?
5 MS. LEPINE: A: I would also have to return to you with
6 a description of that source.
7 MR. GHIKAS: Q: But up to this point you don't know
8 because you haven't looked, correct?
9 MS. LEPINE: A: Because I haven't used it, correct.
10 MR. GHIKAS: Q: Okay. But you used it as a check,
11 right?
12 MS. LEPINE: A: Correct.
13 MR. GHIKAS: Q: And so up to this point you haven't
14 done the analysis to go and figure out who it actually
15 is that's behind truckersreport.com?
16 MS. LEPINE: A: Correct.
17 MR. GHIKAS: Q: And do you know the currency date of
18 the information that truckersreport.com uses in their
19 modeling?
20 MS. LEPINE: A: Not offhand, I would need to go back
21 and look at that.
22 MR. GHIKAS: Q: Did you know at the time that you did
23 the analysis what it was?
24 MS. LEPINE: A: Yes, well it was on the publication.
25 **Proceeding Time 9:12 a.m. T16**
26 MR. GHIKAS: Q: And it's sort of a model that you plug

1 numbers into and it spits it out, correct?
2 MS. LEPINE: A: No. No, it was estimates of different
3 costs and how those filter into trucking costs
4 generally. And then converted that to -- took all of
5 those costs and converted to a cents per litre per
6 kilometre basis.
7 MR. GHIKAS: Q: Okay. And did they have a special
8 cross-border transport functionality or --
9 MS. LEPINE: A: No.
10 MR. GHIKAS: Q: All right. Now, if we can turn to page
11 63 of your phase 2 report, Exhibit A2-1-1. The chart
12 I'm interested in is chart 4.6.3, remaining wholesale
13 price differential between B.C. and Edmonton. Do you
14 see that?
15 MS. LEPINE: A: Yes.
16 MR. GHIKAS: Q: So this is based, again, on the
17 transportation cost estimates that we've just talked
18 about, right? You used the same methodology?
19 MS. LEPINE: A: Yes.
20 MR. GHIKAS: Q: And the differential that comes out of
21 that methodology is as we saw in that retail slide,
22 indicated by the horizontal dashed bar with the number
23 of cents per litre on top?
24 MS. LEPINE: A: Yes.
25 MR. GHIKAS: Q: Now, the blue in this is your estimate
26 of transport costs from Edmonton based on the

1 methodology we've gone though, correct?
2 MS. LEPINE: A: Correct.
3 MR. GHIKAS: Q: And again, the -- whether or not the
4 blue is correct or not will depend entirely on the
5 accuracy of the simplifying assumptions you had to
6 use, correct?
7 MS. LEPINE: A: Correct.
8 MR. GHIKAS: Q: Now, truckers.com is U.S. based so they
9 don't -- this is a Canadian shipping route here. Did
10 you make any adjustments for that when you were using
11 truckers.com as a check?
12 MS. LEPINE: A: So again -- oh, as a check?
13 MR. GHIKAS: Q: Yeah.
14 MS. LEPINE: A: No.
15 MR. GHIKAS: Q: So the dashed green box, that's your
16 estimate of regulatory impact, right?
17 MS. LEPINE: A: Correct.
18 MR. GHIKAS: Q: Okay, and when we talk about regulatory
19 impact that means the impact of having, sort of, B.C.
20 specific regulations imposed that affect how fuel is
21 -- the composition of the fuel and the like, correct?
22 MS. LEPINE: A: Correct. So specifically it's the
23 renewable low carbon fuel standard requirement
24 regulation, Part 3 of that regulation.
25 MR. GHIKAS: Q: Right, okay. So now if we just look at
26 2019 for example, again we're only part way through

2019. So what is the currency date on the figures that you've used for the differential on 2019?

MS. LEPINE: A: June.

MR. GHIKAS: Q: June, okay, so it's six months again?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: All right. And again, as we saw with retail prices, the wholesale prices again, they're not constant through the year either, are they?

MS. LEPINE: A: No.

MR. GHIKAS: Q: They're subject to a fair bit of variability as well?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And that's both true in B.C. and in the other provinces that you're comparing to?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Now, if we look at Kamloops in 2015. That -- the 2015 differential for Kamloops is entirely explained by those two factors alone. The regulatory impacts and the transportation costs based on your assumptions, correct?

MS. LEPINE: A: It may be. So just to clarify, what we were doing here for the transportation costs is using the highest marginal cost of transportation which we could identify, which was the tanker truck transport. Now, that -- it may be that in 2015 that was not the marginal cost of transport. In which case there would

be -- the marginal cost of transport, for example, could be by rail. And so just add that caveat to the transportation cost in 2015.

MR. GHIKAS: Q: Okay, thank you. And you're pointing that out because the combination of those two are actually greater than the actual differential, correct?

MS. LEPINE: A: Correct.

Proceeding Time 9:17 a.m. T17

MR. GHIKAS: Q: And the same is true in 2016, that those two factors alone can account for the entire differential for Kamloops, correct?

MS. LEPINE: A: Potentially, and again just noting that that dashed green box is dashed because it is the maximum regulatory impact. And the dashing is to indicate the uncertainty there as we’ve stated in other sections of the report.

MR. GHIKAS: Q: Okay, and just with respect to that regulatory impact, you’ve had to make some assumptions that go into your analysis of that, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Now, so 20 -- we’ve looked at 2015 and 2016 for Kamloops. In 2017 the same is true, correct, essentially? It almost covers the entire differential.

MS. LEPINE: A: For Kamloops versus Edmonton in 2017?

1 MR. GHIKAS: Q: Yes.
2 MS. LEPINE: A: In 2017. Yes.
3 MR. GHIKAS: Q: And in 2018 it potentially accounts for
4 the entire differential in Kamloops again, correct?
5 MS. LEPINE: A: Correct.
6 MR. GHIKAS: Q: Okay, so for every year that we have
7 complete data with Kamloops essentially the
8 differential is accounted for entirely by those two
9 factors alone, correct?
10 MS. LEPINE: A: If we -- if you're including the
11 maximum regulatory impact, then it is nearly accounted
12 for in all years.
13 MR. GHIKAS: Q: Okay. It's accounted for in all years
14 but nearly accounted for just in 2017, correct?
15 MS. LEPINE: A: Correct.
16 MR. GHIKAS: Q: Okay. Now, if we look at Vancouver, in
17 2015 again those two factors could explain the
18 differential entirely on your estimates, correct?
19 MS. LEPINE: A: Correct.
20 MR. GHIKAS: Q: And again it could actually explain
21 more than the actual differential, correct?
22 MS. LEPINE: A: Correct.
23 MR. GHIKAS: Q: And the same is true in 2016?
24 MS. LEPINE: A: Yes.
25 MR. GHIKAS: Q: And again if we skip 2017, and I'll
26 come back to is, but again in 2018 they account for

1 essentially all of the differential as well, right?
2 MS. LEPINE: A: Yes, with the -- close to all of the
3 differential with again, the maximum regulatory impact
4 which is likely not the actual regulatory impact.
5 MR. GHIKAS: Q: Okay. And so Vancouver of the years
6 for which we have full data, Vancouver in 2017 is the
7 only one that doesn't either reach or come very close
8 to reaching the full differential for those two
9 factors?
10 MS. LEPINE: A: In 2017, yes.
11 MR. GHIKAS: Q: Okay. And now you examined again, like
12 the retail, what -- sorry, you examined -- I should
13 say, let me back up.
14 One thing that you've ruled out as
15 accounting for any differential was "any market
16 competition dynamics" involving the players in the
17 wholesale markets, right?
18 MS. LEPINE: A: Yes, we didn't find any changes,
19 apparent changes in the market dynamics at the
20 refining level for -- sorry, you're talking about
21 wholesale still?
22 MR. GHIKAS: Q: Yes.
23 MS. LEPINE: A: Yes, at the refining level in B.C. or
24 in the nearby jurisdictions that we are getting supply
25 from.
26 MR. GHIKAS: Q: Than you. Now, if you can turn to page

34 of your phase 2 report, Exhibit A2-1-1. And I am under the heading of 4.3, marginal wholesale unit. Do you see that?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Now, you say under that, and I'll just read it out,

> "The price of gasoline will be set by the marginal unit, that is the most expensive delivered source of supply that would be required in order to satisfy local demand. B.C. has several supply channels to satisfy demand as described in the phase 1 report. The most expensive source required to satisfy local demand will set the marginal cost of supply."

And when you say that, essentially what you mean is that the most expensive source of supply that is needed to fulfill the B.C. market, that is what will determine the wholesale price in B.C. based on economic theory.

MS. LEPINE: A: Correct.

Proceeding Time 9:22 a.m. T18

MR. GHIKAS: Q: Okay. And what you're really saying is that's how competitive markets are known to behave at their most basic level, correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And you show this actually, if you go

1 over to page 35, there's a chart 4.3.4 which I thought
2 was a very helpful chart actually. And so I just
3 wanted to walk --
4 COMMISSIONER COTE: Excuse me, is that 4.3.1?
5 Mr. GHIKAS: 4.3.1 on page 35. Sorry, did I misspeak?
6 Okay, thank you.
7 Q: It's called marginal unit of supply and
8 equilibrium price. Are you with me there, Ms. Lepine?
9 MS. LEPINE: A: Yes.
10 MR. GHIKAS: Q: And that -- so just so we orient
11 ourselves, that illustration is essentially showing
12 that if supply sources one, two and three are
13 insufficient to meet the demand in this market, the
14 wholesale price will reflect the cost of source four,
15 correct?
16 MS. LEPINE: A: Correct.
17 MR. GHIKAS: Q: And that's despite the fact that source
18 four's cost is more than the marginal cost of supply
19 -- or more than the cost of supply for any of sources
20 one, two and three, correct?
21 MS. LEPINE: A: Yes.
22 MR. GHIKAS: Q: And so in your illustration the
23 marginal source of supply here, so we're on the same
24 page, is source four, correct?
25 MS. LEPINE: A: Correct.
26 MR. GHIKAS: Q: And the horizontal line, you're

1 indicating that that it's source four that's going to
2 be determining the wholesale price, correct?
3 MS. LEPINE: A: Yes.
4 MR. GHIKAS: Q: Now, you agree with me that there's
5 nothing antithetical to a functioning competitive
6 marking about sources one, two and three charging the
7 same price as source four, right?
8 MS. LEPINE: A: Right.
9 MR. GHIKAS: Q: And you would in fact expect that to
10 occur in a functioning market?
11 MS. LEPINE: A: Yes.
12 MR. GHIKAS: Q: And essentially if we get our
13 terminology right, I'll do my best here not as an
14 economist, but the owners of source one, they can be
15 said in effect to have the greatest competitive
16 advantage in that illustrative market, right?
17 MS. LEPINE: A: Yes.
18 MR. GHIKAS: Q: And that causes them to potentially be
19 the most profitable supplier relative to their
20 competitors who only sources two, there and four,
21 correct?
22 MS. LEPINE: A: Yes.
23 MR. GHIKAS: Q: And the differentials in the profits
24 then are consistent with a normal functioning market,
25 right?
26 MS. LEPINE: A: Yes.

1 MR. GHIKAS: Q: Now, in real world terms B.C.'s
2 marginal unit of gasoline, so supply source four,
3 that's an imported unit, right?
4 MS. LEPINE: A: So that is something that we haven't --
5 we haven't looked directly what the costs are to
6 produce a unit in Vancouver, say, versus what the
7 imported units are. So what we can observe are the
8 wholesale prices in different jurisdictions. But we
9 can't observe what the actual costs of producing the
10 supply are for different markets. So I wouldn't be
11 able to say whether or not the marginal source is
12 imported.
13 MR. GHIKAS: Q: Maybe if -- can you just flip back to
14 page 31? Because I think you actually did say that,
15 so. It is the paragraph that begins "Given" on page
16 31. It says,
17 "Given B.C.'s import profile and proximity to
18 the two refining hubs, this section compares
19 Edmonton and Seattle prices with prices in
20 Kamloops and Vancouver to estimate causal
21 factors that may be contributing to the
22 wholesale price differentials observed across
23 these locations."
24 And here's the sentence:
25 "Since the B.C.'s market marginal unit of
26 gasoline is imported and B.C.'s closest sources

1 of imported fuel supply are Alberta and
2 Washington State, prices in Edmonton and Seattle
3 provide useful comparisons."
4 So, you have a general feeling at least,
5 having said that, that the marginal unit is typically
6 going to be something that's imported, correct?
7 MS. LEPINE: A: So I would say that the -- so we would
8 expect that because local suppliers do not have to
9 face the costs of transportation of those refined
10 products, that the costs would be potentially lower
11 for local markets. But that precise analysis of, kind
12 of, where those folks lie in the rising supply curve
13 has not been done. So we know that we need to import
14 fuel to satisfy our demand, but the precise cost of
15 the different suppliers are not known.
16 **Proceeding Time 9:27 a.m. T19**
17 MR. GHIKAS: Q: Thank you, okay. So if we go to a
18 useful diagram maybe to looking at the composition of
19 the imports, is in phase 1 report, on page 12. So
20 that's Exhibit A2-1, page 12. Are you with me there?
21 MS. LEPINE: A: Yes.
22 MR. GHIKAS: Q: So the -- just focusing on the top
23 chart, chart 3.2.3, gasoline imports to B.C. So this
24 is essentially showing the composition of imports to
25 British Columbia over time, correct?
26 MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And it shows that, I would suggest, that the market for wholesale supply in B.C. is actually continent wide, correct?

MS. LEPINE: A: So, yes, I believe that's true. And I just wanted to call out that this gasoline imports to B.C. includes the entire group of gasoline fuels that was defined in this report and not just clear road-use gasoline.

MR. GHIKAS: Q: Okay, all right. Thank you. And in this diagram you're showing that most gasoline, with the caveat you just noted, most gasoline imports are coming from Alberta, right?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And most of that is on the Trans Mountain pipeline?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And in recent years the Trans Mountain pipeline has been constrained, right?

MS. LEPINE: A: So in our report we found that based on the capacity figures published by the National Energy Board, that the Trans Mountain pipeline has been close to or at capacity for the entire period of our analysis.

MR. GHIKAS: Q: Okay. And there's some terms in this chart here that I just wanted to define here to make sure that we're on the same page. The green bar which

1 is labeled PADD 2, P-A-D-D 2?
2 MS. LEPINE: A: Yes.
3 MR. GHIKAS: Q: That's the U.S. Midwest, isn't it?
4 MS. LEPINE: A: Yes.
5 MR. GHIKAS: Q: So the product -- some of the product
6 entering the B.C. market is actually being trucked or
7 railed from refineries in the U.S. Midwest, correct?
8 MS. LEPINE: A: Correct.
9 MR. GHIKAS: Q: And obviously Chicago is further away
10 than Edmonton?
11 MS. LEPINE: A: Correct.
12 MR. GHIKAS: Q: So if you were trucking that you would
13 expect that the trucking costs would probably be
14 higher than Edmonton, correct?
15 MS. LEPINE: A: All else being equal, yes.
16 MR. GHIKAS: Q: And the western United States is PADD
17 5, right? P-A-D-D 5, as shown by the yellow?
18 MS. LEPINE: A: Yes.
19 MR. GHIKAS: Q: And since 2015 we now have an
20 appreciably amount of product in this province from
21 PADD 3, which is the U.S. Gulf Coast, right?
22 MS. LEPINE: A: Yes.
23 MR. GHIKAS: Q: And that's the black portion of the
24 bar?
25 MS. LEPINE: A: Yes.
26 MR. GHIKAS: Q: And that's been actually increasing

1 notably since 2015, hasn't it?
2 MS. LEPINE: A: Yes.
3 MR. GHIKAS: Q: Now, if we can go back to that chart --
4 I'm sorry to make you bounce around. But back to that
5 original chart on page 35 of the phase 2 report that
6 we were just looking at, which is -- so that's Exhibit
7 A2-1-1, phase 2 report, page 35. And back to this
8 nice illustration that you had, chart 4.3.1, giving us
9 a basic economics lesson, which I found very useful.
10 So I want to give you a scenario here using
11 your illustration, okay? So bear with me for a
12 moment. Let's suppose there's a scenario where in
13 your illustrative market here, suddenly supply sources
14 two and three can't supply anymore because of a
15 pipeline constraint, okay? So let's assume that
16 sources two and three completely disappear in your
17 illustrative market, okay?
18 MS. LEPINE: A: Okay.
19 MR. GHIKAS: Q: Now, suddenly as a result this
20 illustrative market needs to get -- to meet the same
21 demand, needs to go to source number five, okay?
22 MS. LEPINE: A: Okay.
23 MR. GHIKAS: Q: In that scenario, what would the price
24 of -- what would the wholesale price in that market
25 do? All other things equal.
26 MS. LEPINE: A: Right, so the price would likely rise

in that case.

MR. GHIKAS: Q: And so supply source five would then determine the price in the market?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Okay, and now I want to back up again and give you another scenario referring to this. Let's suppose in this illustrative market that government was unhappy about the owner of supply source one charging more than its costs and decided to cap the market price at the price of supply source one, okay?

MS. LEPINE: A: Mm-hmm.

MR. GHIKAS: Q: Is that a yes?

MS. LEPINE: A: Yes.

Proceeding Time 9:33 a.m. T20

MR. GHIKAS: Q: Yes, okay. And you'd agree with me that in that scenario supply source two in longer profitable selling into the B.C. market?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And you’d agree with me that supply source 3 is no longer profitable selling into the B.C. market?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And the same would be true of supply source 4 and 5, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And what would basic economics and finance tell you would happen to supply sources 2, 3, 4 and 5 in that circumstance?

MS. LEPINE: A: So, if we're -- if we are in a bubble where this is the only market that exists and there is no opportunity for those folks to sell outside of this particular market that we're looking at, then they would -- then I would expect they might go out of business.

MR. GHIKAS: Q: Okay, right, they can't run forever without profits, right?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: Okay. Now, the assumption that you put in there, which was a fair one, which is if this market was in isolation, and we know that in the real world markets aren't in isolation. So, if they had the ability to sell outside the market what would they do?

MS. LEPINE: A: So depending on the prices in other nearby markets, so if, for example, we see -- if we call this equilibrium price in this market P1, and there's another equilibrium price in another nearby market that's P2, which is say the cost of the source 3, then if -- baring transportation costs source 3 and source 2 could both go and sell in that market, as well as source 1.

MR. GHIKAS: Q: And what would you expect to happen to the availability of supply in this local market if that were to occur?

MS. LEPINE: A: All else being equal, I would expect a shortage of supply.

MR. GHIKAS: Q: Okay. And now one of the things I gave to Mr. Bussoli and to pass along to you was a *Canadian Press* article. Did you end up receiving that?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: I passed that along I think yesterday. And have you got that in front of you?

MS. LEPINE: A: Yes.

MR. GHIKAS: Okay, I believe, Mr. Chairman, that we provided copies for you and for Mr. Bemister, the Hearing Officer. Do you have those?

THE CHAIRPERSON: Is that the *National Post* article?

MR. GHIKAS: The *National Post* article, yes

THE CHAIRPERSON: It's already marked as an exhibit, Mr. Bussoli?

MR. BUSSOLI: I believe that would be A-12.

THE CHAIRPERSON: Thank you. C2-1-4?

MR. BUSSOLI: Yes, my apologies, C2- --

THE CHAIRPERSON: I'll let you go ahead.

MR. GHIKAS: It will be, I think it’s C2-1 -- sorry.

MR. BUSSOLI: C5-7.

THE CHAIRPERSON: Thank you.

1 MR. GHIKAS: We have a winner. Thank you.
2 (NATIONAL POST ARTICLE "GASOLINE COMPANIES TO SPEAK AT
3 PUBLIC INQUIRY INTO B.C. PUMP PRICES WEDNESDAY" MARKED
4 EXHIBIT C5-7)
5 MR. GHIKAS: Q: All right. Now, Ms. Lepine, this is an
6 article, this version is in the *National Post* but it's
7 a Canadian Press article by Amy Smart dated July 14th,
8 2019. And it's titled, "Gasoline Companies to speak
9 at public inquiry into B.C. pump prices Wednesday."
10 And have you reviewed that?
11 MS. LEPINE: A: Yes.
12 MR. GHIKAS: Q: Okay. Now, the reporter interviewed --
13 is recounting an interview with Michael Ervin of the
14 Kent Group. You're familiar with the Kent Group?
15 MS. LEPINE: A: Yes.
16 MR. GHIKAS: Q: Okay, and you rely in fact extensively
17 on the Kent Group data in your analysis and reports,
18 correct?
19 MS. LEPINE: A: Correct.
20 MR. GHIKAS: Q: And I -- they're a recognized authority
21 in the area of gasoline and diesel markets and
22 pricing?
23 MS. LEPINE: A: Correct.
24 MR. GHIKAS: Q: Okay. And yes, you did -- I did take
25 the trouble to actually word search Kent in your
26 reports and in phase 1 it wouldn't surprise you that

1 the word Kent appears 15 times in a 38 page report?
2 MS. LEPINE: A: Yeah, no, that doesn't surprise me.
3 MR. GHIKAS: Q: Okay, and another 18 times in the phase
4 2.
5 MS. LEPINE: A: Yeah.
6 MR. GHIKAS: Q: Okay. So if we go to page 3 of 5, I
7 won't dwell on this, all of it, but you'll see in the
8 middle of the page there, "Ervin," being Mr. Ervin
9 from the Kent Group, "said there were a few options
10 facing the province as to what could come out of the
11 inquiry which he referred to as problematic." And
12 then here's the paragraph that I want to focus on. It
13 says:
14 **Proceeding Time 9:38 a.m. T21**
15 "'Crude and wholesale gasoline are globally
16 traded commodities," he said. 'That means for
17 example if a wholesale gasoline prices are
18 capped low, American wholesale buyers may buy
19 them up leaving B.C. dry."
20 And that, based on our prior conversation, Ms. Lepine,
21 is absolutely true, isn't it?
22 MS. LEPINE: A: So as we identified in our report, it
23 appears as though there may be some barriers to trade
24 for investigation. So whether or not a particularly
25 capped price would necessarily lead to American buyers
26 buying up wholesale product, I couldn't say for

1 certain.
2 MR. GHIKAS: Q: Okay. So to the extent that there's an
3 arbitrage opportunity such that there's a price
4 differential between the capped price in B.C. and a
5 non-capped price anywhere else in the region of the
6 United States, you would find people buying gas in
7 B.C. and selling it in the United States, correct?
8 MS. LEPINE: A: To the extent that there's a true
9 arbitrage opportunity, I would expect to see that.
10 MR. GHIKAS: Q: So you'd be creating that arbitrage
11 opportunity for American wholesalers effectively?
12 MS. LEPINE: A: You may be if you -- yes.
13 MR. GHIKAS: Q: If the pricing is right you would be
14 creating that opportunity?
15 MS. LEPINE: A: Correct.
16 MR. GHIKAS: Q: Now, let's assume, going back to our --
17 going back to our illustration that we looked of our
18 market. One of the scenarios with the price caps that
19 I gave you on -- at the level of supply source one,
20 right? That made the others unprofitable and they
21 would either go out of business ultimately or sell
22 their product elsewhere, correct?
23 MS. LEPINE: A: Correct.
24 MR. GHIKAS: Q: Okay. So now let's assume that
25 resulted in reduced supply in British Columbia, okay?
26 So, and retailers in B.C. are faced with fighting over

less supply, okay? And let's assume the same B.C. demand exists for gasoline. You'd agree with me that the law of supply and demand would suggest that prices at the pump would actually go up, other things equal, wouldn't they?

MS. LEPINE: A: So if you were regulating the wholesale price and not the retail price?

MR. GHIKAS: Q: That's right.

MS. LEPINE: A: Okay. Yeah, so if you're in a state of constricted supply, artificially constricted supply, and no final price cap, then I would expect that prices would go up, yes.

MR. GHIKAS: Q: And retail margins would go up along with them, correct?

MS. LEPINE: A: I would expect so, yes.

MR. GHIKAS: Q: Right. The wholesale price is the same and the retail price goes up. That means retail margin gets thicker, correct?

MS. LEPINE: A: Correct, holding taxes constant.

MR. GHIKAS: Q: Right. Now, Mr. Ervin's article goes on to discuss -- or sorry, the article talks about, goes on to discuss after that paragraph we looked it, the effect of regulating prices at the pump. And the article says, I'll just read it out:

> "The Atlantic provinces regulate prices at the pump but that may have a counterproductive

1 effect in B.C. Retail margins aren't large and
2 have actually declined over the last 20 to 30
3 years when inflation is taken into account,
4 Ervin said:
5 'It would most certainly have the consequence of
6 putting gas stations out of business,' he said."
7 And my question to you then is, it is
8 absolutely true that regulating prices at the pump
9 would, quote, "most certainly have the consequence of
10 putting gas stations out of business," unquote, isn't
11 it?
12 MS. LEPINE: A: So, insofar as the retail margins are
13 the minimum required to keep those stations in
14 business today, then falsely reducing them would
15 likely put them out of business.
16 **Proceeding Time 9:43 a.m. T22**
17 MR. GHIKAS: Q: Now, I want to deal briefly with -- you
18 can put that aside, thank you, Ms. Lepine. I want to
19 deal briefly with Trans Mountain and capacity, because
20 I don’t know whether you’re aware of this but
21 information was filed by Ms. Allan and Mr. Eliesen and
22 they have some theories about there being additional
23 capacity available on Trans Mountain that could be
24 used to serve the local market at a low cost. Are you
25 familiar with what they’ve said?
26 MS. LEPINE: A: Yes.

1 MR. GHIKAS: Q: Okay, and you alluded to this earlier
2 but your assessment based on the National Energy Board
3 data was that Trans Mountain pipeline has essentially
4 been operating at capacity since 2015, correct?
5 MS. LEPINE: A: Correct.
6 MR. GHIKAS: Q: And the National Energy Board for those
7 who aren't familiar with it, they're the regulator of
8 that pipeline?
9 MS. LEPINE: A: Correct.
10 MR. GHIKAS: Q: Now, there is a secondary market for
11 capacity on Trans Mountain Pipeline, correct?
12 MS. LEPINE: A: Yes.
13 MR. GHIKAS: Q: Okay. So when we're talking about a
14 secondary market, that effectively means that parties
15 who have capacity on the pipeline can actually sell it
16 to other people for a higher price, correct?
17 MS. LEPINE: A: Yes, so it you're allotted capacity on
18 the pipeline then you do have the opportunity to sell
19 it in a secondary market.
20 MR. GHIKAS: Q: Okay, did you say, "allotted"?
21 MS. LEPINE: A: Yes.
22 MR. GHIKAS: Q: If you're allotted it. Okay, I wasn't
23 sure if you said a lot or allotted.
24 MS. LEPINE: A: No, allotted.
25 MR. GHIKAS: Q: Allotted, thank you. And I don't know
26 whether you've seen this, but Parkland's evidence has

in it some statistics and they say that the average successful bid in that after market has ranged between 7 and 34 times the Trans Mountain Pipeline base tariff, did you see that?

MS. LEPINE: A: I did.

MR. GHIKAS: Q: Okay, so I won't ask you to confirm those numbers specifically. I wanted to ask you more from a theoretical economics perspective. Is there any world in which a company behaving rationally would pay between 7 and 34 times the Trans Mountain Pipeline base tariff if there was capacity on that pipeline that could be purchased for the base tariff price?

MS. LEPINE: A: I do not believe so.

MR. GHIKAS: Thank you very much, Ms. Lepine and Mr. Shaw, I appreciate the time this morning. Mr. Chairman thank you for you indulgence.

THE CHAIRPERSON: Thank you, Mr. Ghikas.

Let's just take a five-minute break and when we come back Shell will have an opportunity to ask the panel questions. Thank you, back in five minutes.

(PROCEEDINGS ADJOURNED AT 9:46 A.M.)

(PROCEEDINGS RESUMED AT 9:53 A.M.) T23/24

THE CHAIRPERSON: Thank you, please be seated.

Thank you. So the next -- we're going to be going in the order of questioning on Exhibit A-6.

So the next on my list is Shell. Mr. Keen?

MR. KEEN: Thank you, Mr. Chairman, Shell Canada has no questions.

THE CHAIRPERSON: All right, thank you, Mr. Keen. So the next after that on my list is Mr. Gelbman for Imperial Oil.

MR. GELBMAN: Thank you, Mr. Chair. Imperial Oil has no questions.

THE CHAIRPERSON: Thank you, sir. And then Ms. Oleniuk for Suncor.

MS. OLENIUK: Suncor has no questions either, thank you.

THE CHAIRPERSON: Thank you, Ma'am. For Husky, Mr. Dineley.

MR. DINELEY: Thank you, Mr. Chairman, Husky has no further questions.

THE CHAIRPERSON: Thank you. And for Super Save, Mr. Clarke?

MR. CLARKE: Super Save Group has no questions.

THE CHAIRPERSON: Thank you. 7-Eleven, Mr. Wright?

MR. WRIGHT: Mr. Chair, I have a few questions.

THE CHAIRPERSON: Great, thank you. Please go ahead sir.

EXAMINATION BY MR. WRIGHT:

MR. WRIGHT: Q: Good morning, Ms. Lepine.

MS. LEPINE: A: Good morning.

1 MR. WRIGHT: Q: I act for 7-Eleven Canada and they
2 retail gasoline and diesel in British Columbia and
3 various places in Canada. And I have a few questions
4 today for you relating to your analysis with respect
5 to retail margins.
6 So just to recap the questions from -- and
7 the evidence you gave earlier today. In your reports
8 you looked at the average differentials between
9 Vancouver and Western Canada for each of the years of
10 2015 to 2019?
11 MS. LEPINE: A: Correct.
12 MR. WRIGHT: Q: And the highest differential in that
13 range was in 2019, and that was 8.4 cents a litre?
14 MS. LEPINE: A: Yes.
15 MR. WRIGHT: Q: You were able to account for the
16 difference looking at the factors that you report in
17 your report. Other than in 2019 and for about 1.4
18 cents a litre?
19 MS. LEPINE: A: Correct.
20 MR. WRIGHT: Q: Okay. Now, I want to take a few
21 moments looking at your reports to see what's
22 happening to the retail margins in Vancouver and in
23 western Canada. And when you refer to western Canada
24 you're referring to a simple average of the average
25 margins in Edmonton, Calgary, Regina and Winnipeg?
26 MS. LEPINE: A: Correct.

1 MR. WRIGHT: Q: So if you could turn up your phase 1
2 report, I believe that's Exhibit A2-1. It's the
3 report that came out on June 20th. And turn to page
4 26. Counsel for Parkland took you to this page
5 earlier. Do you have that?
6 MS. LEPINE: A: Yes.
7 MR. WRIGHT: Q: I'd like to draw your attention to the
8 chart on the bottom, that's chart 4.3.2. And this
9 depicts a six month rolling average for gasoline
10 retail margins in British Columbia and other Canadian
11 regions, right?
12 MS. LEPINE: A: Yes.
13 MR. WRIGHT: Q: So if you look at the lines on this
14 chart, the light blue line corresponds to the six-
15 month rolling average gasoline retail margin for
16 Vancouver, right?
17 MS. LEPINE: A: Yes.
18 **Proceeding Time 9:58 a.m. T25**
19 MR. WRIGHT: Q: And if you look at the period, let's
20 say, from about the end of 2017 to the present, to
21 2019, you'll see that the line is relatively speaking
22 flat. It bumps up and down but the trend is
23 essentially flat.
24 MS. LEPINE: A: Yes, it appears so.
25 MR. WRIGHT: Q: Okay. In other words, the six month
26 rolling average gasoline and retail margins for

Vancouver have been relatively stable over that period?

MS. LEPINE: A: Correct.

MR. WRIGHT: Q: Okay. Now, the Western figure is depicted in light green, do you see that?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: And focusing again on the period from around the end of 2017 through to the present, you'll notice that the trend in that is downwards.

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: And I don't have the actual numbers, I'm trying to read off what I see in the chart. You have the actual numbers, right?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: And these are the numbers that were derived from the Kent Group?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: Okay. So, if you look at that it looks like at the beginning of 2018 or the end of 2017 the figure, the six month rolling average gasoline retail margin for Western Canada is about 8 cents a litre. And then it drops to under 4 cents a litre by 2019.

MS. LEPINE: A: That looks right based on this chart. I don't have the precise numbers in front of me right now.

MR. WRIGHT: Q: Right, but you prepared the chart based

on the precise numbers?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: Okay. And the last time we see an average, six month rolling average retail margin for Western Canada that low you have to go all the way back to 2004. Just following the light green line.

MS. LEPINE: A: Yes, that appears to be correct.

MR. WRIGHT: Q: Okay. So, the next thing I would like to do is to drill down a little bit on this, is turn to your phase 2 report, which I believe is Exhibit A2-1-1. This is the July 10th report and I'd ask you to turn up page 27. Do you have that?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: Okay, so here, this is chart 3.3.6 and there's three charts shown, one for each Calgary, Edmonton and Regina. And this shows a correlation between residential real estate and gasoline retail margins. Now I don't have questions about the correlation as such, but I'm going to ask you about -- some questions about the retail margin, which is depicted in these charts. And if you turn to the chart, let's say, for Calgary, the line in black, that is the four month rolling average -- I assume it's the four month rolling average for the retail margin for gasoline, is that right?

MS. LEPINE: A: Yes.

1 MR. WRIGHT: Q: Okay, and the same thing, the black
2 lines in the Edmonton and Regina would also correspond
3 to the retail margin in those markets.
4 MS. LEPINE: A: Correct.
5 MR. WRIGHT: Q: So if you look again, so the period
6 from 2018, 2019, you'll see that there is a big drop
7 for Calgary and Edmonton. It looks like the figures,
8 the retail margins are in the order of at or close to
9 8 cents a litre towards the beginning of 2018 and by
10 2019 they're at or under 2 cents a litre.
11 MS. LEPINE: A: Yes, that's what it looks like.
12 MR. WRIGHT: Q: So, when we come back to the
13 differences between Vancouver on one hand and Western
14 Canada on the other, and a large differential is in
15 2018 of 8.4 cents, I'm going to suggest that if the
16 drop in the retail margins in the Western provinces
17 had not been as severe that we wouldn't have any
18 unexplained differential, the 1.4 cents that you
19 referred to in you reports.
20 MS. LEPINE: A: So just strictly speaking by the
21 calculation, yes, I would agree with that.
22 **Proceeding Time 10:02 a.m. T26**
23 MR. WRIGHT: Q: Yes, and in your reports nowhere do you
24 specifically discuss the decline in the average retail
25 margins in western Canada in 2018 and 2019?
26 MS. LEPINE: A: No.

MR. WRIGHT: Q: And nowhere in your reports do you assess the reasons for such decline in western Canada in 2018 and 2019?

MS. LEPINE: A: No.

MR. WRIGHT: Thank you, those are my questions.

THE CHAIRPERSON: Thank you. Mr. Charlebois, does the NEB have any questions?

MR. CHARLEBOIS: No questions from the NEB, thank you.

THE CHAIRPERSON: Okay, thank you. And Advanced Biofuels, Mr. Thomson.

EXAMINATION BY MR. THOMSON:

MR. THOMPSON: Q: Ian Thomson, Advanced Biofuels Canada. We have a few fairly straightforward questions.

First, thank you for the report. A lot of work done in a relatively short period of time. And we concur that there are unexplained difference between adjoining jurisdictions and other comparable jurisdictions in Canada.

I want to just ask a couple of questions. One pertains to the first report and the discussion about retail sites and the relationships between owners and suppliers of retail sites. I think it's on page 17. There are three categories of relationships that are described. And I was wondering whether you assessed kind of a fourth category that was a refiner

1 marketer that was operating retail sites under the
2 brand of another refinery? So a Parkland would
3 operate the Chevron brand, it's not its own -- well,
4 arguably its own brand, but it might operate an Esso
5 brand. It might also operate a Shell brand. Did you
6 assess any of those relationships?
7 MS. LEPINE: A: So when you say "operate a Shell
8 brand", do you mean Parkland owning the retail
9 facility and selling gasoline that was refined by a
10 Shell refiner?
11 MR. THOMPSON: Q: As an example, yeah.
12 MS. LEPINE: A: I will have to check that. So these
13 definitions and the categorizations came from the
14 categorizations that were provided in the Kent Group
15 data. So that is dependent on their categorization.
16 My recollection is that it's a simple count of if
17 Parkland is a refiner and they are operating a
18 facility, then that is counted as a refiner-integrated
19 retail location. But I would have to go back to check
20 the Kent Group's definition to confirm that for you.
21 MR. THOMPSON: Q: Okay. And I -- just by way of
22 comment. And we've got -- you can't mark these
23 concurrence on this. So in British Columbia 75
24 percent of the retail sites were operated by
25 integrated marketers -- pardon me, 75 percent of
26 retail sites in the provinces were operated under the

1 brand of a refiner. So that would be Husky, Parkland,
2 Co-op, Shell, Suncor. And that was 64 percent in the
3 rest of Canada. Did you inquire of any of the refiner
4 marketers about the nature of the fuel supply
5 relationships that those refiner branded retail sites
6 had with respect to any restrictions about their
7 ability to acquire fuel from a rack?
8 MS. LEPINE: A: No. We had no visibility into the
9 private agreements of the retail facilities and
10 refiners.
11 MR. THOMPSON: Q: Okay. My second question skips to
12 the second report.
13 THE CHAIRPERSON: Excuse me sir, just for a moment.
14 Ms. Lepine, when you are able to provide that
15 additional information, can you please make sure it's
16 provided for the record? Either subsequently in this
17 oral proceeding or a written copy for the record?
18 MS. LEPINE: A: So the confirmation of the Kent Group
19 groupings?
20 THE CHAIRPERSON: Yes. Answers to whatever questions
21 for -- and generally. As an undertaking or in here.
22 MS. LEPINE: A: Yes.
23 THE CHAIRPERSON: Sorry, go ahead.
24 MR. THOMPSON: Q: Second question simply pertains to an
25 assumption about the percent of renewable content,
26 specifically ethanol, in the gasoline pool. I believe

that your assessment used the minimum requirement for the -- either the provincial or the federal regulation, they happen to be same, at five percent. And that you found a discount to gasoline at wholesale vis-à-vis ethanol at wholesale -- ethanol was underneath gasoline.

Proceeding Time 10:07 a.m. T27

If you had used the actual fuel, ethanol content in the B.C. gasoline pool, which from about 2015 onward was higher than the minimum five percent, would that have changed your assessment of the regulatory impact, i.e. there was a higher percentage of a more deeply discounted fuel in the gasoline pool?

MS. LEPINE: A: So the regulatory impact assessment in so far as it related to the ethanol content, that price differential was not factored into the maximum regulatory impact because the comparator jurisdictions also have an ethanol requirement. That being said, if there's a higher ethanol content and the more ethanol and the cost of ethanol is below the wholesale price of gasoline, then the more you're using ethanol I would expect that to, yes, provide a larger discount.

MR. THOMSON: Q: Okay, great. And then related to the assumption about the cost of that regulation, regulatory impact and using the average credit prices as reported by BC Energy Mines to assess the cost of

1 the impact, if the actual cost to refiners replacing
2 fuel into the market, because I think the credit price
3 is the highest marginal cost, and the data from 2018
4 indicate that it was -- one-sixth of the debits were
5 acquired -- I think your report notes this, about one-
6 sixth of the debts were required by way of the credit
7 transactions. And those would be the highest marginal
8 cost of compliance. You use that credit price as your
9 benchmark if the actual compliance costs were lower
10 than that highest marginal rate, that would also
11 reduce the maximum potential regulatory impact, would
12 that be accurate?
13 MS. LEPINE: A: Yes, so if the -- seeing as all -- not
14 all of the compliance was done by way of purchasing
15 compliance units, and we modeled it as all compliance
16 was done by way of purchasing compliance units at the
17 maximum cost, the maximum price of a transaction
18 absorbed in the market in each individual year, then
19 insofar as you could purchase those or reduce the
20 carbon intensity for a lower cost, then that would
21 reduce the cost of the regulation.
22 MR. THOMSON: Q: Okay. Great. And last question, it's
23 just simply a question about data. We may have missed
24 it in the report. Are you able to provide reference
25 to for instance fuel pricing on the ethanol side? We
26 maintain an extensive database on fuel pricing, we

1 would like to compare it to the database that you
2 used. Is it possible to do that?
3 MS. LEPINE: A: Yes.
4 MR. THOMSON: Q: Okay. Thank you very much.
5 THE CHAIRPERSON: Thank you.
6 (PANEL ASIDE)
7 THE CHAIRPERSON: So, that bring us to the end of the
8 interveners asking questions of Deetken, and at least
9 on my piece of paper to the end of the morning
10 session. But I suggest that we move on into the
11 afternoon session now and the NEB is the first on the
12 list to provide any opening remarks and be available
13 for questions of the panel. Mr. Charlebois, are you
14 prepared to move to that now instead of this
15 afternoon? Thank you. Do you need a break before we
16 start?
17 MR. CHARLEBOIS: So, Mr. Chair, yes we are ready to
18 go. And I'm in your hand as to whether we break of
19 not. There might be a bit of a transition here
20 between us and the Deetken Group, so I'm in your hand.
21 THE CHAIRPERSON: Thank you very much. We'll just wait
22 a moment.
23 **Proceeding Time 10:12 a.m. T28**
24 MR. BUSSOLI: Mr. Chair? So the National Energy Board
25 is here. We'd ask the Hearing Officer to swear in the
26 panel.

NATIONAL ENERGY BOARD PANEL:

JEAN-DENIS CHARLEBOIS, Affirmed:

BRYCE VAN SLUYS, Affirmed:

THE CHAIRPERSON: Thank you, Mr. Bemister.

Did you have any opening remarks?

MR. CHARLEBOIS: Yes Mr. Chair. We have a short opening statement and a somewhat, a bit longer, answers to the questions that were put to the NED on July 10th.

THE CHAIRPERSON: Please go ahead.

MR. CHARLEBOIS: Thank you. So good morning, Mr. Chair, panel members.

THE CHAIRPERSON: Good morning.

OPENING STATEMENT BY MR. CHARLEBOIS:

MR. CHARLEBOIS: My name is Jean-Denis Charlebois, I'm the National Energy Board's chief economist. With me this morning is Bryce Van Sluys, my colleague, who's director of energy markets at the NEB. I would like to thank the BCUC for asking us to participate in the inquiry. We welcome the opportunity to share our knowledge on pipeline regulation, tolls and tariffs, and energy market expertise.

Before we address questions from the panel issued on July 10, let me start with a short opening statement about the NEB. We are an independent federal regulator established in 1959. We're located

in Calgary with three regional offices. One here in Vancouver, one in Yellowknife and one in Montreal. With a total of about 480 employees. Our regulatory oversight extends over 73,000 kilometres of pipelines, as well as 14,000 kilometres of international powerline.

The NEB is a life cycle regulator. Our main responsibilities include regulating the construction, operation of internationals and inter-provincial pipelines, one of which is the Trans Mountain pipeline. And we also regulate international powerlines. We oversee and regulate tolls and tariffs on pipelines, as well as we regulate the export of natural gas, oil, natural gas liquids and electricity. And we also regulate the import of natural gas.

One of the NEB's main responsibilities is to inform Canadians on trends, events and issues that may affect energy markets. This includes certain advisory functions, which the NEB may perform upon request. The evidence that we have filed in this proceed and our appearance today falls under this advisory function.

I would like to note that the NEB has not undertaken analysis specific to B.C. gasoline and diesel markets beyond what is described in our evidence that has been submitted. Other participants

in this inquiry will be better placed to comment on issues such as market concentration, detailed factors affecting refining and retail margins in B.C.

On June 21st, Bill C-69 became law. This means that the NEB will become the Canadian Energy Regulator. The mandate of the NEB will remain essentially the same under the CER. The date at which we will become the CER is not known yet. But nevertheless, the passing of Bill C-69 does not affect our participation or the information that we have submitted on the record.

We have filed on June 27 our direct evidence and a small clarification on the Navius report. Our evidence covers the role of the NEB, the regulation of tolls and tariffs and three energy information products.

So before opening up to questions, with your indulgence I would like to go into answering the questions that you have put to us on July 10th.

THE CHAIRPERSON: Yes, thank you.

ANSWERS TO QUESTIONS PUT TO NEB:

MR. CHARLEBOIS: Starting with issue 1A, the transport of crude to refinery. We offer the following as it relates to the Trans Mountain Pipeline and after-market lines based.

Proceeding Time 10:17 a.m. T29

So, overall the Trans Mountain Pipeline plays an important role in supplying oil to the B.C. market. The pipeline ships crude oil to the Burnaby Refinery, the Westridge dock for export and to refineries in the Pacific Northwest. It also ships RPPs to Kamloops, or refined petroleum products to Kamloops and Burnaby. In 2018 the pipeline delivered on average 50,000 per day of oil to Burnaby, and in the first quarter of 2019 that figure is about 64,000 barrels per day.

The pipeline is also highly utilized. NEB data provided by Trans Mountain show that the pipeline utilization was above 98 percent in the first quarter of 2019. The pipeline has also been under apportionment. This means that the demand for pipeline capacity exceeds the capacity that is available to shippers. The apportionment has averaged about 30 percent from the period from 2015 through to the first quarter of 2019. Apportionment is applied to all land shippers nominations on a pro rata basis. If a shipper cannot move all of its product on the Trans Mountain Pipeline it must rely on other modes of transportation such as rail, truck or marine. It can also purchase pipeline capacity on the secondary market.

The NEB has indicated in the past in its MH2-2012 reasons for decision, that it is the responsibility of the shippers to design their portfolio of supply options to support their operations. The NEB has also said that in some instances refineries may be required to utilize supply options that are not profitable at the margin but are nonetheless required to meet their minimum run rates. This is the reality in most instances of operating in a competitive market place.

The secondary market is where after market transactions occur for pipeline capacity. Such markets are present on both oil and natural gas pipelines and allow shippers to sell their transportation rights to other shippers. An efficient secondary market has a number of benefits. One of them is it provides a mean for capacity to be transported to those users who value it the most. It also helps the pipeline system to be used efficiently and at high level of utilization.

Finally it also increases the ability the shippers to manage the risk of holding long-term transportation contracts. The NEB is aware that secondary markets are active on many pipelines. However, we do not have specific knowledge of the capacities and the purchase price at which that

capacity is transacted on the secondary market. The NEB does not regulate transactions on the secondary market. And that concludes our submission for issue 1A.

Now moving to issue 2H, which relates to refining margins. The preamble to the question refers to an NEB report, our market snapshot where we outline refining and marketing margins. The data was sourced from the Kent Group, supply of petroleum pricing data in Canada. The data appears in several other interveners submission to BCUC and is used by the NEB to conduct high level market analysis.

In terms of explaining why those margins are at that level and why they might diverge from the rest of Canada, the NEB had not conducted specific analysis into those matters specifically above and beyond what is noted in our submission.

Now, turning to issue 2I, regarding how refining capacity related to retail prices. We know that the proximity of refining capacity is one factor that may determine the costs of refined petroleum products in surrounding area. But there are also many different reasons for the regional price differences. These may include the availability and cost of different transportation options, supply in market dynamics, proximity to rented markets and differences

in taxes and regulation in different regions. The NEB obviously does not regulate refineries or retail prices of petroleum products and we have no conducted analysis on the reason for the retail price differentials across different provinces.

Proceeding Time 10:21 a.m. T30

Now let me speak to the second question in section 2I regarding the potential for building new refineries or expanding existing refining in the region.

Refineries are expensive to build, and costs are recovered over a long time horizon. Case and point, the Sturgeon refinery in Alberta is just being completed right now, and it has a price tag of about -- or close to $10 billion.

Crude oil costs, regulations, supply and market dynamics, technology, as well as society's values and preferences all evolve through time and are difficult to predict. The NEB expects though that potential investors and refining infrastructure would account for all of those factors, and even more potentially, before making any investment decision rather than just focusing on current refining margins.

So that concludes our submission for issue number two. The third issue, and the last one that the NEB will speak to relates to the transportation of

1 refined petroleum products to wholesalers. Questions
2 6 and 7 ask about the impact of Trans Mountain
3 apportionment on transportation and other costs, and
4 the unit costs of transporting refined petroleum
5 products by rail and truck.
6 First off, we need to understand that
7 apportionment on the pipeline itself does not impact
8 the relative share of each product shipped on the
9 pipeline, and does not impact Trans Mountain's ability
10 to ship various products. All shippers to land
11 destinations, including shippers of heavy, light and
12 RPPs, are affected by apportionment to some extent,
13 and on a pro rata basis.
14 Regarding transportation costs, the unit
15 tolls set out in Trans Mountain tariff are applied on
16 a dollar per cubic metre basis. Shippers who have had
17 their nominated volumes reduced by apportionment
18 continue to pay the same posted toll as it is in the
19 tariff. Therefore, apportionment does not impact
20 shippers, transportation costs for the pipeline
21 capacity that they have been awarded through the
22 nomination process. That said, under apportionment
23 each shipper only receives a portion of the pipeline
24 capacity that it has nominated for. This means that
25 in such circumstances shippers may choose to rely on
26 alternative source of transportation, such as rail or

1 truck.
2 We have no information on the unit costs of
3 alternative source of transportation, including the
4 secondary market transactions. We would expect though
5 that each shipper would face different rail and truck
6 costs depending on their specific circumstances.
7 Generally speaking, pipeline is a cheapest option on a
8 unit cost basis followed by rail and truck. We would
9 also expect prices on the secondary market to be
10 higher than the posted tolls as discussed in other
11 intervenor's evidence, which reflects the capacity
12 constraints on the system.
13 For question 8, regarding the degree to
14 which transportation costs have been passed on to
15 consumers, as I mentioned before, we do not regulate
16 retail prices, and we have no specific insights on how
17 those costs are passed through to consumers.
18 Final question I will address is the amount
19 of capacity to the Westridge Marine Terminal that is
20 being re-sold in the secondary market. And by that
21 time, you will not be surprised to hear we have no
22 information about that because we do not regulate that
23 specific area of the market.
24 So, in closing, I want to recognize the
25 work that has been done by NEB analysts, our project
26 manager and counsel who are in Calgary, that have

1 enabled our participation here. And with that, Mr.
2 Van Sluys and myself are ready to answer any questions
3 you may have on those remarks, or the submissions that
4 the NEB has made previously on the record here.
5 THE CHAIRPERSON: Thank you, Mr. Charlebois. And I
6 would also like to thank the NEB for the work that
7 you've done and for the submissions that you made, and
8 the fact that you've attended here today, thank you.
9 I do have a couple of questions. I wonder
10 if you could clarify some questions I have about
11 nominations and allocation, please. So, as I
12 understand it then, certain parties have the right,
13 let's say, to ship a certain quantity of material
14 through the pipe and that's what's called their
15 allocation, is that correct?
16
17 **Proceeding Time 10:26 a.m. T31**
18 MR. CHARLEBOIS: A: The capacity that is awarded to
19 shipper, yes, is a right that the shippers have on a
20 monthly basis to use that capacity to ship their
21 product.
22 THE CHAIRPERSON: Okay, so that's on a monthly basis so
23 that may change from month to month?
24 MR. CHARLEBOIS: A: Correct. And let me just add one
25 precision, is that there is some capacity on the Trans
26 Mountain Pipeline that is contracted on a long term

1 basis. And these are the 54,000 barrels per day that
2 are contracted for the Westridge dock. So for those
3 shippers there is certainty regarding their award for
4 capacity on a month-to-month basis.
5 THE CHAIRPERSON: Thank you. And so the allocation
6 then that an individual party has, can they ship any
7 product within that allocation or is it an allocation
8 for crude, an allocation for diesel, an allocation for
9 gasoline? Or it can be any amount of anything, is
10 that correct?
11 MR. CHARLEBOIS: A: The allocation, or the award of
12 capacity that a shipper receives is based on a
13 nomination that they submit to the pipeline. That
14 nomination includes the quantity and the type of
15 product that they want to ship, including the receipt
16 and delivery point. So when capacity is awarded it is
17 based on those nominations, which includes the type of
18 product that he intends to ship.
19 THE CHAIRPERSON: So just for clarity then, if I have
20 an allocation for August for a certain number of
21 barrels of crude oil, I couldn't sell that to you and
22 you could use it to ship gasoline. Is that correct?
23 MR. CHARLEBOIS: A: Subject to check?
24 THE CHAIRPERSON: Yes.
25 MR. CHARLEBOIS: A: It would need to depend on the
26 availability and the ability of Trans Mountain to

1 accommodate that change in the nomination. Because
2 again, the award or the allocation has parameters
3 around it. It has volumes, type of product, receipt
4 and delivery points.
5 THE CHAIRPERSON: So it would be up to -- I don't want
6 to put words in your mouth, but it's up to Trans
7 Mountain to vary the terms of nominations and -- is
8 that correct?
9 MR. CHARLEBOIS: A: Correct.
10 THE CHAIRPERSON: And then would it be subject to your
11 approval -- NEB's approval also?
12 MR. CHARLEBOIS: A: Actually the framework by which
13 nominations are submitted and the framework by which
14 capacity is allocated is codified in the tariff that
15 is approved by the NEB. The manner in which Trans
16 Mountain manages its capacity on a month-to-month
17 basis is the responsibility of the pipeline operator.
18 So if a nomination -- if a change in nomination were
19 to be accepted by Trans Mountain, because it has the
20 ability to do so, it is not subject to regulatory
21 approval on a month-to-month basis.
22 THE CHAIRPERSON: Okay. And so far as you're aware
23 then, are there -- I imagine there's some physical
24 constraints, but are there limits on the proportion of
25 various materials? Is there a limit on the amount of
26 gasoline that can be shipped in a particular month

1 versus the amount of crude that would be driven by,
2 say, physical limitations?
3 MR. CHARLEBOIS: A: I'm not aware of such limitations.
4 That said, what determines the amount of -- the share
5 of each produce to be shipped on the pipeline is
6 dependent on the nomination or the intent of shippers
7 to do so.
8 THE CHAIRPERSON: Okay, thank you. And who can make a
9 nomination? Can any party make a -- could I nominate
10 -- could I join the party in September and make a bid
11 for some allocation?
12 MR. CHARLEBOIS: A: Nominations need to be verified by
13 the pipeline. So there's a process outlines in the
14 tariffs that explains how Trans Mountain goes about
15 verifying the nomination. So, a shipper -- or
16 nomination to be approved by the pipeline, a shipper
17 needs to show that it has the product available to
18 inject upstream and the ability to withdraw it down
19 stream. And there's also other constraints around
20 what a valid nomination is in terms of the quantities.
21 THE CHAIRPERSON: Okay, thank you. And just to switch
22 gears, you may not be able to answer this question,
23 but do you know if crude prices in Washington State
24 are based on a blend of synthetic crude and WCS
25 indices? Or what they're based on if they're not?
26 **Proceeding Time 10:30 a.m. T32**

MR. CHARLEBOIS: A: No, we have no information about that.

THE CHAIRPERSON: Okay, thank you.

COMMISSIONER COTE: Are you familiar with the submission from Allan and Eliesen? Have you read them by any chance?

MR. CHARLEBOIS: A: I have read them, I am generally familiar with it, yes.

COMMISSIONER COTE: Yeah, if I can just ask you a few questions. In their submissions they state that Trans Mountain has had capacity to deliver refined product to the B.C. market, but it was not used. Further they state that analysis reveals that capacity on the Trans Mountain is 400,000 barrels a day, falling to 300,000 barrels a day, only if 20 percent of the capacity is taken up by heavy oil. Trans Mountain in their contention rarely ships 20 percent heavy crude, and therefore capacity is generally greater than the 300,000 barrels a day.

Now for my question. They claim that Trans Mountain Pipeline rarely ships to 20 percent heavy oil, and therefore has un-utilized capacity to deliver additional refined product to B.C. However, the NEB reports that available capacity is fully utilized. Could you shed some light on this?

MR. VAN SLUYS: A: Absolutely. So, the information that we have is filed by Trans Mountain on their capacity. So that is provided to us subject to our toll information regulations. So, we require them to file their operating capacity, and so it is found on our website. It has been relied on a fair amount in this hearing.

So, our information is that the pipeline is operating at or near capacity right now.

COMMISSIONER COTE: Yeah, so you refute their position, okay.

In addition, they, as well as a number of interveners, have depicted NEB data showing that the volume of refined products going over the pipeline has declined in recent years. Question I guess we have with regards to this is, the capacity on the Trans Mountain revised when shippers of heavy oil resell their contracted service in the after-market to shippers of light oil or refined petroleum products. In other words, when it's resold, is there a revision in terms of the amount of space that is available to run through the pipeline?

MR. CHARLEBOIS: A: The throughput data that gets reported to the NEB on a quarterly basis that my colleague Mr. Van Sluys just referred to is the actual throughput that flows on the pipeline. It's not an

1 estimation, it's a reflection of what has actually
2 flowed. So to the extent that there has been more
3 RPPs or more light oils shipping than what was planned
4 at the beginning of the month, the actual throughput
5 is being reflected in the data.
6 COMMISSIONER COTE: Okay, and it's still at capacity in
7 either case.
8 Now, Allan and Eliesen claim that the Trans
9 Mountain two-stage approach to apportionment
10 calculations gives rise to a false positive result of
11 oversubscription. That the NEB and the shippers both
12 recognized, but they have not publicly communicated.
13 Again, this is incongruent with your remarks.
14 Could you shed some light on this? Do you
15 refute their statement or agree with it?
16 MR. CHARLEBOIS: A: We really are here to talk about
17 our submissions and the explanations that I have
18 provided in my opening remarks here. To the extent
19 that other interveners have a different views, then
20 they are entitled to have those views, and from our
21 perspective, the allocation procedures that are
22 outlined in the tariff have been approved by the NEB
23 and they are being complied with by the pipeline and
24 shippers. Those procedures have been deemed to be
25 appropriate as per the *NEB Act* and if there is
26 something inappropriate going on, then it is always

1 possible for the pipeline shippers or any interested
2 party to raise the matter in the formal manner to the
3 NEB and the NEB will conduct an evaluation or an
4 assessment of the matters being raised and make a
5 decision.
6 **Proceeding Time 10:35 a.m. T33**
7 COMMISSIONER COTE: Looking ahead to when they -- or if
8 the Trans Mountain extension is put on and the
9 additional twinning of the pipeline is done, what
10 impact on the cost of -- what impact with that have on
11 future tariffs?
12 MR. CHARLEBOIS: A: So now I can say that the expansion
13 has been approved, and if and when it gets built and
14 put into service the expanded pipeline will be
15 subjected to a tariff, i.e. terms and conditions to
16 access service that have actually already been
17 approved by the NEB. There will be more capacity
18 available. More of that capacity will be subject to
19 long-term contracts. And there will also be capacity
20 available on an uncommitted basis, i.e. on a month-to-
21 month basis. How shippers will actually --
22 COMMISSION COTE: Will that be for accommodation of crude
23 oil and for additional capacity for refined products
24 as well?
25 MR. CHARLEBOIS: A: Yes. Ultimately though it is the
26 decision on the shippers how to nominate and how to

1 use that capacity that is made available to them.
2 COMMISSIONER COTE: Yes.
3 COMMISSIONER DOEHLER: Excuse me, so you say the rates
4 have already been approved. Are they higher than the
5 rates from the old -- the line that's in there now?
6 MR. CHARLEBOIS: A: Yeah, maybe a couple of points of
7 clarification here. When I say "tariff" what I mean
8 is the document that outlines the terms and conditions
9 to access service on the pipeline. Those terms and
10 conditions have been approved. The rate or the toll
11 as we use in the *NEB Act* language, so to speak, the
12 toll had not been approved yet because it depends on
13 the final capital cost of the expansion.
14 COMMISSIONER COTE: One final set of questions. You
15 can confirm that the amount of refined product going
16 through the pipeline has been reduced significantly
17 over the last -- since 2015?
18 MR. CHARLEBOIS: A: Well, this is what the data shows.
19 We need to understand, though, that the tariff has not
20 changed in terms of allocating less capacity to
21 refined petroleum products. What has changed is the
22 manner in which Trans Mountain verifies nominations.
23 And that may impact the ability of shippers to
24 nominate high volumes of RPPs, for example, or even
25 high volumes of other types of commodities.
26 So, the manner in which the capacity is

1 allocated has not changed, it's the manner in which
2 nominations are verified that has changed.
3 COMMISSIONER COTE: Okay, I understand.
4 COMMISSIONER DOEHLER: I want to, if I could, please,
5 pursue a bit about, again, the claims of Allan/
6 Eliesen, and they made a claim that B.C. does not need
7 to rely upon -- they can deliver sufficient quantities
8 of finished -- or refined products from Alberta, does
9 not need to rely upon bringing anything in from the
10 United States.
11 Do you have any comment -- I know you're
12 talking about pipelines you've done over all view, do
13 you have any view on that?
14 MR. VAN SLUYS: A: So, yeah, there is both exports from
15 B.C. to external markets and there's imports to B.C.
16 from external markets. In my view that's a signal
17 that it's a well functioning market and that the B.C.
18 gasoline market is well integrated with nearby
19 markets. So there's plenty of opportunity to move
20 product back and forth.
21 COMMISSIONER DOEHLER: And I know you many regulate the
22 pipeline that goes between the countries. Has there
23 been any change since 2015 of regulatory requirements
24 or any type of environmental requirements that might
25 cause an increase in costs between Washington and B.C.
26 since 2015? Has there been any significant changes in

1 regulatory requirements that you're aware of?
2 MR. VAN SLUYS: A: Not that I'm aware of, no.
3 COMMISSIONER DOEHLER: So the pipeline tariff is the
4 pipeline tariff, so nothing has really changed there?
5 **Proceeding Time 10:40 a.m. T34**
6 MR. CHARLEBOIS: A: Well I mean, the tolls being pared
7 by shippers on Trans Mountain are a reflection of the
8 cost to provide service. And those costs will vary
9 from year to year and the reason why they change is
10 outlined in NEB applications and this is reviewed on
11 an annual basis. But in terms of a significant
12 change, we are not aware of any.
13 COMMISSIONER DOEHLER: So even the change in tariffs
14 are year to year based on operating costs or whatever
15 they are, has not been significant. Okay.
16 And I know you've commented upon the
17 statement about the publication you put out about the
18 average refined margin for regular gas in Vancouver
19 being 52.1 cents higher. And you commented that you
20 took that data from other sources, it's not from your
21 own sources?
22 MR. CHARLEBOIS: A: That's correct.
23 COMMISSIONER DOEHLER: And these other sources are
24 available to the industry as a whole, they're not
25 specific to NEB or whatever there?
26 MR. CHARLEBOIS: A: No, Kent Group data is available to

1 the marketplace.
2 COMMISSIONER DOEHLER: So it's from the Kent Group data
3 is where you're getting this from?
4 MR. CHARLEBOIS: A: Yeah.
5 COMMISSIONER DOEHLER: So I confirmed that, thank you.
6 THE CHAIRPERSON: Mr. Bussoli, does staff have any
7 questions of the NEB?
8 MR. BUSSOLI: No, Mr. Chair, no questions from staff.
9 THE CHAIRPERSON: Okay. I'd like to thank you very
10 much for answering our questions, much appreciated.
11 MR. CHARLEBOIS: Thank you.
12 THE CHAIRPERSON: Thank you.
13 (PANEL ASIDE)
14 THE CHAIRPERSON: Mr. Ghikas, are you prepared now or
15 do you want a few minutes before we get started?
16 MR. GHIKAS: Yes, thank you, Mr. Chairman. So other
17 than just needing a bit of a transition time, we have
18 presentations that need to be uploaded.
19 THE CHAIRPERSON: Okay, so why don't we take five
20 minutes.
21 MR. GHIKAS: Thank you.
22 **(PROCEEDINGS ADJOURNED AT 10:42 A.M.)**
23 **(PROCEEDINGS RESUMED AT 10:55 A.M.)** **T35/36**
24 THE CHAIRPERSON: Please be seated, thank you.
25 MR. GHIKAS: Thank you, Mr. Chairman. Again,
26 Commissioners, I am pleased to introduce the Parkland

1 panel this morning. We have three gentlemen here.
2 The closest to you is Ryan Krogmeier, he is the senior
3 vice president supply trading and refining. Sitting
4 next to Mr. Krogmeier is Ian White, the senior vice
5 president strategic marketing and innovation. And
6 sitting closest to me is Dr. Henry Kahwaty, who is of
7 the Berkley Research Group, an independent expert that
8 was retained by Parkland.
9 THE CHAIRPERSON: Good morning, sir.
10 MR. GHIKAS: Just before I let these gentlemen
11 introduce themselves in a more formal way, I just
12 wanted to -- a couple of housekeeping things, Mr.
13 Chairman. So the Parkland Exhibits are the C-5
14 series. Yesterday we filed in anticipation of this,
15 written responses to question AA workshop questions.
16 There were two of those that were confidential, but
17 otherwise they are all ready for the public record and
18 they are posted. The two confidential responses have
19 been hand delivered to my friend Mr. Bussoli. I don’t
20 believe they've been assigned an exhibit number yet,
21 but they are in your hands now.
22 THE CHAIRPERSON: Thank you.
23 MR. GHIKAS: We obviously did this to streamline
24 things. And with respect to the presentation this
25 morning, we don’t anticipate that you will have read
26 every one of those responses and committed them to

1 memory. So, the witnesses today are happy to speak to
2 any of those questions.
3 THE CHAIRPERSON: Great, thank you.
4 MR. GHIKAS: And the other thing I can tell you about
5 the presentations is, whereas Mr. Charlebois and the
6 NEB had segmented theirs and did a presentation and
7 then dealt with the questions, the Parkland
8 presentation -- those answers to the questions are
9 kind of woven in and you'll see on some of the slides
10 there is references to the questions that have been
11 answered. And so, Dr. Kahwaty has a number of slides
12 towards the end of this where he is specifically
13 addressing particular questions.
14 So the sum total of the presentation today
15 is going to be longer than 40 minutes. We took you at
16 your word that we would be able to extend that to
17 answer the questions, but the bulk of the presentation
18 definitely fits within that parameter.
19 THE CHAIRPERSON: We are well ahead of schedule.
20 MR. GHIKAS: All right. Well thank you, then we'll
21 take three hours instead. No, I'll had it over to
22 these gentlemen just to give a brief description of
23 who they are once they've been sworn in by Mr.
24 Bemister.
25 THE CHAIRPERSON: Thank you.
26 **PARKLAND FUEL CORPORATION PANEL:**

RYAN CURTIS KROGMEIER, Affirmed:

IAN WHITE, Affirmed:

HENRY KAHWATY, Affirmed:

HEARING OFFICER: Please state and spell your name for the record.

MR. KROGMEIER: Ryan Curtis Krogmeier, K-R-O-G-M-E-I-E-R.

THE HEARING OFFICER: Please state and spell your name for the record.

MR. WHITE: Ian James White, W-H-I-T-E.

THE HEARING OFFICER: Please state and spell your name for the record.

DR. KAHWATY: Henry John Kahwaty, K-A-H-W-A-T-Y.

THE HEARING OFFICER: Thank you very much.

PRESENTATION:

MR. KROGMEIER: A: Good morning, Mr. Chairman and Commissioners, thank you for having us.

THE CHAIRPERSON: Thank you for coming.

MR. KROGMEIER: A: A brief introduction of myself. Again my name is Ryan Krogmeier. In my role at Parkland is senior vice president for refining, supply, trading and health safety and environment. Again, thank you. I will pass you to my colleague.

THE CHAIRPERSON: Thank you.

MR. WHITE: A: Good morning, Mr. Chair, Commissioners. My name is Ian White, I am the senior vice president

of strategic marketing. I have been in the business of retail marketing for about 25 years, and with Parkland for the last five.

THE CHAIRPERSON: thank you, Mr. White.

MR. KAHWATY: A: My name is Henry Kahwaty, I am a managing director at Berkley Research Group. Berkley Research Group is an expert services firm, we provide independent analysis in the areas of economics, finance accounting and business -- marketing strategy, business strategy, strategic planning in a range of areas.

My background is as industrial organization economist. I have a PhD in economics from the University of Pennsylvania. I worked for four years in the Anti-trust division of the U.S. Department of Justice in Washington, D.C. doing competition cases, merger and monopolization work. Since that time, I have worked in the competition area for most of my career since 1991. My background is industrial organization economist, studying individual markets and performance in those markets that is directly relevant to what we are talking about today.

THE CHAIRPERSON: Thank you. And thank you gentlemen all for coming, and I welcome you all to Vancouver, and I'm sorry we couldn't have arranged a better summer day for you, but here we are. We are known for

1 the rain, so, thank you. So please go ahead.
2 MR. WHITE: A: Great, thank you. I am going to start
3 sir, and then I'll pass it over to my colleague for
4 some additional comments.
5 So, we appreciate the opportunity to speak
6 to you this morning. Parkland isn't a household name.
7 The general public would know us through our retail
8 service station network where we fly banners such as
9 Chevron, amongst others. We operate convenience
10 stores in many locations, and we're also the proud
11 owners of the Burnaby refinery. We directly employ
12 approximately 600 people in this province. We pay
13 millions in taxes to B.C. municipalities and
14 provincial government every year. We meet a portion
15 of the province's gasoline and diesel needs serve our
16 own stations; the stations owned and operated by
17 others.
18
19 **Proceeding Time 11:02 a.m. T37**
20 We provide jet fuel to the Vancouver
21 International Airport and to certain department of
22 national air force bases. We supply nearly all B.C.
23 Ferries fuel. We're the exclusive supplier to
24 Translink in B.C., transit covering nearly all transit
25 in B.C. And we serve thousands of British Columbians
26 every day at our stations and associated convenience

1 stores.
2 Parkland has from the outset taken this
3 inquiry very seriously. We chose to provide the
4 Commission with substantial evidence, including a
5 description of our operations and a report from Dr.
6 Kahwaty. We answered the Commission's questionnaire
7 voluntarily. We indicated to the Commission very
8 early on that we would be sending representatives to
9 this hearing. We'd also asked Dr. Kahwaty to attend.
10 And as you're aware, we have pushed the Commission to
11 ensure this process is designed to allow our voice to
12 be properly heard to the extent that it's possible
13 given the constraints imposed by the terms of
14 reference.
15 Significant reasons why we've been so
16 engaged in the inquiry is because we see it as an
17 opportunity to help educate, not just government and
18 Commission, but he public, the people who are
19 ultimately our team members, our neighbours and our
20 customers.
21 So given that there a number of lawyers in
22 the room, I'll put up our formal written statement
23 disclosure. I appreciate if you could commit it to
24 memory, because I've been asked to do that for many
25 many years now. But all kidding aside, we do take
26 this seriously and we did want to have this made

1 available to the Commission.
2 Moving on, there does seem to be a lot of
3 misunderstanding about the business and how we
4 operate. I do want to highlight a few of the notable
5 areas where we have sought to provide some clarity in
6 this inquiry. For starters, people need to understand
7 the role of the taxes and cost of crude play in
8 establishing retail pump price. This chart shows the
9 percentage breakdown of costs. And we thought it was
10 best representative, a sample.
11 Taxes are the single largest component of
12 cost everywhere in B.C.. Only Montreal has higher
13 taxes that Vancouver. It shows very clearly that
14 although the terms of reference single out refining
15 and retailing margins, over two-thirds of the price of
16 gas in Vancouver is simply taxes and the price of
17 crude. In fact, taxes alone represent more of the
18 Vancouver retail price than the entire combined cost
19 of transporting crude to a refinery, refining it,
20 transporting the refined product to a retail station
21 and then selling it to public.
22 As part of my presentation I will speak to
23 the small orange bar which references the retail
24 contribution. My colleague, Mr. Krogmeier, will speak
25 to the grey bar which references the refining and
26 wholesale contribution.

The Commission has asked for examples of recent competitive activity. The reality is competitive activity exists every day in this market, and I'd like to elaborate. Parkland's retail business is all about driving customer traffic to our locations with the intent of selling fuel and other important higher margin consumable products such as convenience store items, meals, car washes, et cetera. And trying to do it better than our competitors.

Having worked in the retail leadership positions for most of my career, in my experience there is no greater competitive environment that exists in the Canadian retail gas channel. For context, I would ask the Commission to consider what other retailer in this country would take their highest volume SKU or product and price it to the tenth of a cent and post it on a large pylon sign for customers and competitors to see and compare.

On the fuel side of our business we have one SKU with three variations, regular, mid and premium. So the opportunity to differentiate your fuel business is, needless to say, quite difficult. Our research year after year indicates that a competitive retail price, again priced to the tenth of a cent, is table stakes and a ticket to the game for us. Qualities like location, clean washrooms,

1 friendly staff also play a role, but without a
2 competitive price customers will not consider visiting
3 your location. They're simply not in the game.
4 **Proceeding Time 11:06 a.m. T38**
5 This is why our retail operations' team
6 spends hours in cars surveying competitive locations
7 which helps us determine how to price every day, hour,
8 and sometimes minute. For context, over 50 percent of
9 our Vancouver area retail sites changed its price more
10 than three times in one day in response to competitive
11 activity for the month of May alone.
12 We also offer comprehensive competition
13 training and support for our team members. Under no
14 circumstance does our team speak to competitors about
15 their tactics or intent. This is against the law and
16 not tolerated at Parkland.
17 Another aspect of driving competition is
18 the actual number of retail stations in the province.
19 Per our submission, the total station count has
20 remined largely unchanged over the past number of
21 years. This map shows only a fraction of the gas
22 stations in the Greater Vancouver area. You will
23 notice that a number of these facilities are on the
24 same street, the same traffic patterns, which makes
25 for an intense competitive environment.
26 Another important element to competition is

the operating model. As we outlined in our submission there are two key operating models, company and dealer operated. As a reminder the company operated model gives companies like Parkland the ability to set and control the retail selling price. On the other hand, the dealer operating model gives each independent dealer the ability to set and control price. Parkland has zero influence or dialogue with dealers regarding their retail selling price. This chart would have a mix of company and dealer operations included.

The final element is brand and brand marketers. Parkland is proud to fly the Chevron banner in the province of B.C. through our company and dealer operating models. However, we also have the Fast Gas, RaceTrac and Esso brands as part of our portfolio. There are many competitors who fly other banners. Some have unique branded marketer relationships with major oil companies such as Esso.

This chart is a sample of the various marketers that exist in B.C. connected to various brands and operating models. There are 23 unique formal marketers competing for retail volume in this province, accompanied by numerous independent dealers who are also actively competing for the same volume. It is worth pointing out that a number of our retailers and dealers have lived and served in their

1 communities for many years. They are incredible
2 ambassadors for our brands and we are proud of the
3 reputation they have built throughout the province.
4 Finally before handing it over to my
5 colleague, I wanted to peak to the definition of
6 "margin" as it relates to the retail channel. Mr.
7 Commissioner, you spoke about that earlier around your
8 definition, but I do want to point out, bottom line
9 from Parkland's perspective what people are referring
10 to is the difference in — to your point — the price we
11 pay versus the price we sell before any operating
12 costs have been deducted. But this is not profit and
13 it's important that folks understand that.
14 And with that I will pass it over to Mr.
15 Krogmeier.
16 MR. KROGMEIER: A: Okay, thank you, Ian. And, again,
17 Mr. Chairman, Commissioners, good morning. Sticking
18 with the slide that we have in front of us, another
19 important area of apparent confusion in public
20 discourse relates to the basic economics of refining.
21 People appear to be equating refinery margin or indeed
22 retail margin, as Ian spoke to, with profits, when in
23 fact those margins don't fully account for our cost.
24 The refinery margin, for instance, is just the
25 wholesale price of products produced minus the cost of
26 crude oil.

1 There are, of course, a whole lot of costs
2 that go into shipping the crude oil to the refinery,
3 refining it, and transporting it to a wholesaler. The
4 refinery margin as defined does not reflect our
5 profit. As I'm sure you know, refining is a very
6 capital intensive business. Not only are there
7 initial construction costs, but there is consistent
8 ongoing capital spending to meet regulatory and
9 compliance requirements, to properly maintain our
10 equipment, and to replace that equipment when it
11 reaches the end of its useful life. Our primary goal
12 is to operate safely and reliably at our refinery in
13 Burnaby as a responsible partner to the community.
14 **Proceeding Time 11:11 p.m. T39**
15 This slide provides a simple diagram of the
16 steps in the supply chain required to manufacture and
17 sell gasoline and diesel. The cost of steps 2 through
18 5 on this slide must all be backed out of the refining
19 margin to get a sense of the profitability of
20 producing a litre of gasoline or diesel. Over time we
21 must also earn a return on the capital invested in the
22 refinery and our terminals. In addition to the
23 invested capital, we must also deploy working capital
24 to purchase feedstocks and maintain inventory
25 throughout the entire supply chain.
26 The Commission has asked follow-up

1 questions regarding cost items. We will be filing
2 that information confidentially with the Commission,
3 along with the information regarding our margins.
4 Turning to the next slide. The Commission
5 also asked follow-up questions about the Trans
6 Mountain Pipeline. Questions 1A and 2F specifically.
7 This is worth discussing because we have heard from
8 some quarters that there is plenty of capacity on the
9 Trans Mountain Pipeline to serve the market with low
10 cost fuel. That is simply incorrect.
11 As evidenced by the blue line on the chart
12 the Trans Mountain Pipeline has been at capacity for
13 some time and the capacity is rationed or apportioned
14 amongst many shippers. The average successful bid to
15 buy pipeline capacity from other shippers has ranged
16 from 7 to 34 times the base tariff rate on the Trans
17 Mountain Pipeline. Successful bids to win the
18 pipeline space allocated to the Westridge dock
19 destination can vary widely, depending largely on the
20 value of Canadian crude oil in relation to the global
21 crude oil market.
22 We often have to ship in crude oil by rail
23 to the refinery due to lack of space on the pipeline.
24 At times we will import that crude oil by rail at a
25 loss on the last barrel in in order to operate at a
26 higher refining capacity. Our largest competitors,

refineries and marketers in Alberta, also rely on Trans Mountain Pipeline to ship their gasoline and diesel to British Columbia. They are also under pressure. The red line at the bottom of the chart shows how the amount of refined product shipped on Trans Mountain has been squeezed significantly over the past few years.

Turning to the next slide. We have also emphasized in this inquiry the role that British Columbia's unique regulatory requirements have in driving up the cost of gasoline and diesel consumed in this province. The Commission asked a follow-up question on this Question 2L. For instance, B.C. has requirements for renewable fuel content which are slightly more stringent than elsewhere in Canada. British Columbia is also the only province in Canada to have a low carbon fuel standard, which imposes unique compliance costs on refiners or importers of products into British Columbia in an effort to lower the carbon content of transportation fuels.

To illustrate, one pathway to compliance is to purchase and blend HDRD. That is an acronym and it stands for hydrogenation derived renewable diesel. HDRD as we call it can often cost four to five times that of conventional diesel fuel. And we often have to transport this HDRD from Singapore or the U.S. Gulf

1 Coast, a long supply chain indeed.
2 **Proceeding Time 11:16 a.m. T40**
3 The renewable fuel and LCF requirements are
4 very well intentioned as a means of reducing carbon
5 emissions, but they bring higher costs for the blended
6 product. In addition, considerable resources are
7 engaged and costs incurred to comply with regulatory
8 filing and reporting requirements.
9 In summary, the renewable and low carbon
10 fuel requirements mean that refineries in British
11 Columbia, Alberta and parts of the U.S. incur higher
12 costs to produce and supply fuel for this market.
13 The Commission asked us to follow up with
14 question 2B and 2H about wholesale pricing and
15 refinery margin. Some of our responses will come
16 confidentially on how we price. But here's the key
17 point. Our Burnaby refinery can only serve about one-
18 quarter of the volume consumed in British Columbia,
19 the rest is served by refineries in Alberta, Husky in
20 Prince George and the United States. Those refineries
21 are our competitors.
22 We have borrowed a slide form the Deetken
23 Report here. It shows that most of the imports are
24 from Alberta. A material portion of the fuel comes in
25 to B.C. from across the U.S., the west coast, the
26 Midwest and the gulf coast. PADD 2 is the green bar

1 that you see there. The black bar represents product
2 from the U.S. gulf coast. PADD 5, or the west coast,
3 is the yellow bar.
4 We pay attention to these markets when we
5 price our goods because we are competing with parties
6 that can bring in these products by truck, by rail car
7 or by marine vessel. You can see how the volume
8 sourced from different locations changes based on a
9 highly competitive global market.
10 That concludes our overview comments,
11 Commissioners and Mr. Chairman. On behalf of my
12 colleague and I, we want to close by thanking the
13 Commission for hearing us out today. We want to make
14 sure that you get what you need from us, because we
15 are very in need of your support to continue in a well
16 -functioning and highly competitive market. Thank
17 you.
18 THE CHAIRPERSON: Thank you.
19 MR. GHIKAS: So Mr. Chairman, I think it might be
20 easiest, because Dr. Kahwaty is also addressing some,
21 to have him give his presentation next if that's okay.
22 I'm in your hands a little bit, but I think it might
23 be most efficient.
24 THE CHAIRPERSON: Yeah, please go ahead.
25 MR. GHIKAS: Thank you.
26 MR. BUSSOLI: Mr. Ghikas, do you want to mark that as

1 an Exhibit?
2 MR. GHIKAS: Yes. We should.
3 MR. BUSSOLI: Okay, we'll mark that PowerPoint
4 presentation as the next Exhibit. I'm told it's
5 Exhibit C5-8.
6 **(PARKLAND POWERPOINT PRESENTATION MARKED EXHIBIT C5-8)**
7 MR. BUSSOLI: And while we're at it we may as well mark
8 Dr. Kahwaty's presentation as Exhibit C5-9. This is
9 the presentation of Dr. Kahwaty, July 17th, 2019.
10 And with that I'll hand it to Dr. Kahwaty.
11 **(POWERPOINT PRESENTATION "THE MARKETS FOR GASOLINE AND**
12 **DIESEL IN BRITISH COLUMBIA", DR. KAHWATY, JULY 17,**
13 **2019, MARKED EXHIBIT C5-9)**
14 MR. KAHWATY: Q: Good morning, Mr. Chairman and members
15 of the panel. I'd like to start by mentioning that
16 I've been retained by Parkland to provide independent
17 expert analysis in the proceeding and to assist the
18 Commission with your analysis and understanding of the
19 markets at issue. I understand that I'm here to help
20 the Commission, that I have a duty of independence and
21 I provide my testimony today in conformity with that
22 due independence.
23 I was asked to submit answers to eight
24 questions. And also to review some of the reports
25 that have been submitted in this matter. My testimony
26 today is going to focus on four of those questions

1 that I was asked to consider. But I don't want to
2 spend my time this morning just rehashing what I've
3 already said. So I'm going to focus on four of the
4 questions, in particular those are the second to the
5 fifth bullets on my outline slide here today. But I'm
6 going to focus the discussion on areas of agreement or
7 disagreement with the Deetken report and some of the
8 other submissions that have been there. And also to
9 answer some of the questions that have been put from
10 the panel.
11 But I'd like to start, actually, with an
12 introduction to competition economics. The material
13 that I have on competition economics in my report is
14 there, I haven't put that much emphasis on it. But to
15 answer the questions properly and to think through
16 some of the other submissions, I think it's actually
17 important to start with some basic competition
18 economics, and so that we all have a common grounding
19 in terms of what we're talking about.
20 **Proceeding Time 11:21 a.m. T41**
21 So, I'd like to start with some economic
22 fundamentals. Almost any discussion about competition
23 economics starts with a discussion of market power.
24 The definition I have on the slide here of market
25 power is the standard definition of market power that
26 is used by the Competition Bureau, and really by all

of the enforcement agencies across the globe. Competition economists, this is just the generally accepted definition.

Market power is the ability to profitably maintain prices above a competitive level for a significant period of time. Standard definition. I want to focus on two aspects of that definition this morning. The first is profitability. Anyone who determines the price at which they sell their product can set a price that is higher, and earn a higher margin on anything that you sell, but if you price your product too high, you would lose sales, and volume falls off. The question is, what is the trade-off between a higher margin and reduced volumes of sales? In many environments you can't actually profitably raise your prices. So when we talk about market power today, we need to keep in mind that it's not just an ability to increase the price, it is to do so profitably.

And the second aspect at the very end of the definition is a significant period of time. Market power is intended to be a durable increase in prices above a competitive level. It's not a transitory price increase. So the question is, do we see not just temporary blips in prices, but do we see something which is durable in terms of an ability to

1 maintain prices above a competitive level.
2 All right, with that as background, markets
3 are viewed as, well functioning, if competitors in
4 that market lack substantial market power. The
5 phraseology in my report is -- really centers on this
6 idea of a well-functioning market. But in mind when I
7 say that, I have this idea of a substantial -- or lack
8 of substantial market power for the players in that
9 market space.
10 Now, there is a number of ways that
11 competition economists analyze whether there is market
12 power. And one way is to look at the structure of the
13 market. A couple ways to do that. One is to just ask
14 the question about how many competitors are there, how
15 many significant competitors are there in the market.
16 And the second component of that is are there barriers
17 to entry. Markets with a large number of competitors,
18 typically are not ones in which we'd expect to see
19 market power. And barriers to entry are important.
20 Even if the market only has a couple of competitors.
21 If there is no entry barriers, then either ease of
22 entry in response to a price increase will draw entry,
23 which would counteract the price increase, or would
24 just deter the price increase in the first instance,
25 okay?
26 So, numbers of competitors and barriers to

1 entry are typically the structural characteristics of
2 the market that competition economists look at.
3 Now, I did want to comment on the Deetken
4 Report. The Deetken report does spend some time
5 talking about market concentration. Market
6 concentration, whether the four firm concentration
7 ratio or the Herfindahl-Hirschman Index, measures of
8 market concentration ask whether there is a kind of
9 disproportionate supply centered in a few larger
10 competitors.
11 I didn’t get to looking at measures of
12 concentration of that report. When we look at the
13 retail market you'll see why the market is not
14 concentrated, there is really no need to get into
15 that. But certainly the conclusions in the Deetken
16 report on concentration support my analysis -- my
17 conclusions as well. So I wanted to just point that
18 out.
19 And I also like to point out that when we
20 talk about market power, we mean have entities taken
21 actions that have the effect of elevating prices above
22 a competitive level? If you read the Allan and
23 Eliesen report, for example, they talk about
24 "inappropriate pricing." I'm not really sure what
25 that means. To an economist, the question is, has
26 anyone taken actions that restricts supply, and

because they restricted supply pushed up prices in the market place.

Proceeding Time 11:25 a.m. T42

There could be any number of reasons why prices are high or low in a market. If you are supplying at capacity, for example, then you haven't taken any action to withhold output from the market, and if you're not withholding output from the market you can't be exercising market power. If you're producing what you can produce, then there's no exercise of market power in the market.

So, you want to focus the analysis on entities in the market taken actions, and have the affect of restricting supply in the market and therefore increasing prices. Markets have demand curves. The basic structure of the market, prices increase, consumers demand less of the product; prices decrease consumers, demand more. So from an economic point of view the prices and quantities is the flip side of the same coin. But we want to think about this in terms of restricting supply and therefore driving up prices.

And lastly I just want to kind of briefly, that prices need to cover their capital costs so that they're not sustainable long term. We think about in the short run pricing being driven by marginal costs.

1 But if in the end you're not actually covering your
2 fixed costs, you capital costs, you will see either
3 exit from the market place or lack of investment in
4 the market. And over time prices will increase. That
5 certainly is something that comes across in the
6 Deetken report, for example, in talking about the
7 impact that increasing real estate prices have on load
8 pricing for gasoline in Vancouver. So if your not
9 covering your capital costs those are just not
10 sustainable prices long term.
11 Okay, with that background or brief
12 background on competition economics I would like to
13 move into talking about the retail market. The retail
14 market analysis that I presented in my report I think
15 has areas of significant agreement with the Deetken
16 analysis. Let me just summarize a couple of points
17 quickly here. In the end of 2018 there was over 1300
18 gas stations in British Columbia offering at least 29
19 brands of product offered by 24 marketing companies.
20 Very significant that second bullet there,
21 "No marketer has control at the retail price for
22 over 12.6 percent of the retail gas stations in
23 British Columbia."
24 That is not a high market share, 12.6
25 percent is not the type of market share that is going
26 to lead to any entity having market power at the

retail level of the market place. And that's the maximum share. Other markets, other retailers have smaller shares. With shares like that you don't really need to get to looking at market concentration. The analysis in the Deetken report about concentration is useful and it certainly supports what I've said here.

I would like to stress that there's a number of independent gas stations in the market as well. I'll refer to them as dealer stations, stations managed by and prices set by independent dealers and for other operators like commercial fleet operators they have additional options as well, card lock facilities for example, which adds addition price setters into the market place.

So, structure in terms of the number of competitor in market shares, margin of competitor is a relatively low market shares. Barrier entry, on the retail side as a competition economist we typically think of barriers to entry in terms of time. How long would it take to enter a market place? The time it takes to build a retail gas station is not that significant that we would think of this as being market with substantial barriers to entry.

I talked in my report about prices responding to supplier demand factors in a way that

1 you would expect a well functioning market. I don't
2 need to spend time on that here now. I do want to
3 spend a little bit of time on the last set of bullets
4 here though, which is no evidence of there being
5 cartel conduct or coordinated conduct in the market
6 place here. And I want to distinguish those concepts
7 for a minute.
8 Collusive conduct or cartel conduct in
9 competition economics, we think of that as being price
10 fixing, agreements amongst competitors on price,
11 agreements amongst competitors on operating hours,
12 agreements amongst competitors as to I'm not going to
13 open a gas station near you if you don't open a gas
14 station near me. Things along those lines. Collusive
15 conduct.
16 A separate concept of coordinated conduct,
17 you'll see that in the materials that have been
18 submitted here in terms of terms like tacit
19 coordination and things along those lines. What this
20 means is that market with just a few competitors,
21 entities, my competitor might realize their mutual
22 inner dependence. And although it might not be
23 profitable for me to raise my price, because I will
24 lose market share to you, if I raise my price with the
25 expectation that you might follow and increase your
26 price and we all earn more, that might be, if we can

1 sustain that for a long period of time, again the
2 exercise in market power, this durable ability to
3 maintain prices on a competitive level.
4 **Proceeding Time 11:31 a.m. T43**
5 If we can through this kind of coordinated
6 conduct, see an elevation of prices that could be an
7 exercise of market power. It's difficult to
8 coordinate conduct in the retail gasoline space.
9 You heard a few minutes ago about prices
10 being adjusted at the retail level and sometimes
11 multiple times a day. There's this concept in
12 gasoline retailing called price cycles, where you see
13 prices being higher and then over time they get
14 competed down as people cut their prices down
15 essentially to the wholesale price that the retail
16 station paid for the gasoline. At that point no one's
17 making a margin and the price resets back up, someone
18 realizes that they need to -- "I'm not making any
19 money at this, let me raise my price back up," others
20 follow, and then you have this process once again of
21 prices being -- this cycling of prices.
22 That is not evidence of coordinated
23 conduct, it's not evidence of cartel conduct. We view
24 that as being highly a competitive outcome.
25 COMMISSIONER COTE: Excuse me.
26 MR. KAHWATY: A: Sure.

1 COMMISSIONER COTE: I just wonder if I could ask you a
2 question on that.
3 MR. KAHWATY: A: Certainly.
4 COMMISSIONER COTE: Because I've often wondered when
5 you've hit that sort of bottom level and then it moves
6 back up, is the typical approach to it to move up at a
7 large amount or to move up in small increments?
8 MR. KAHWATY: A: I would imagine that might differ by
9 area, but in the areas that I've look at you tend to
10 see a larger price increase, kind of the market
11 resetting to a higher level and then competing and
12 it's going down again.
13 COMMISSIONER COTE: Back down again.
14 MR. KAHWATY: A: So it's not a step -- you see steps
15 down and then you don't typically see steps up, but
16 you typically see a jump up, and then multiple steps
17 down again. At least in the markets that I've looked
18 at that's what you see.
19 COMMISSIONER COTE: So basically what you're saying --
20 I know just looking at the prices on stations over the
21 last few weeks that the price charged down from about
22 I think 1.70 down into the 1.35 range, somewhere in
23 that area there, and then it shot up into the 1.50s.
24 So I think what you just described would certainly
25 follow in that regard and that's more the norm than
26 the exception then?

1 MR. KAHWATY: A: Yes.
2 So I wanted to make one other comment that
3 common price movements themselves are not evidence of
4 cartel conduct. Retailers all face common wholesale
5 conditions and as wholesale prices move you might see
6 changes in retail prices together. So the mere fact
7 you see common movements in retail prices is not
8 itself evidence of collusive conduct, and so you need
9 more to kind of reach a conclusion that there's cartel
10 behaviour going on.
11 Put all this together, the structural
12 information, numbers of competitors, the numbers of
13 brands, the different many marketers and independents,
14 lack of barriers to entry, the conclusion that I draw
15 from this is that there is a functioning retail market
16 for gasoline and diesel in British Columbia. I
17 haven't seen any evidence that suggests otherwise.
18 Certainly not familiar with any information that
19 suggests any retailers are withholding output from the
20 market in an attempt to elevate prices, right? No
21 supply restrictions at the retail level in an attempt
22 to increase retail margins.
23 COMMISSIONER DOEHLER: Excuse me. Just to -- you've
24 said it's a good sign of good market behaviour, not
25 cartel behaviour. What would cartel behaviour look
26 like?

1 MR. KAHWATY: A: Cartel behaviour would typically
2 involve -- if I had to -- kind of a hypothetical what
3 might I expect to see here for cartel behaviour.
4 COMMISSIONER DOEHLER: Just to contrast, yes.
5 MR. KAHWATY: A: You might see agreement at a price
6 level, and then you would see adherence to that price
7 level over time. Now, you might see some kind of
8 cheating on that agreement, but typically you would
9 expect to see a price elevation and then you would
10 expect to see that price stick, because as soon as
11 someone tries to undercut that price this would all
12 unravel. So I would except to see more price
13 elevation and then maintenance of those price levels
14 as opposed to this kind of cycling of prices.
15 COMMISSIONER DOEHLER: Thank you.
16 COMMISSIONER COTE: Would it be fair to say that in
17 certain instances a more complex series of price
18 changes could also be part of and indicate a cartel
19 behaviour? In other words, "We'll do it for here for
20 a week, and then we'll drop it to there, and then
21 we'll do this," that kind of an approach?
22 MR. KAHWATY: A: As a hypothetical, yes, we could agree
23 to complicated cartel conduct, certainly. If we're
24 actually -- when you're in the cartel arena of an
25 actual agreement, then, yes. I mean anything that the
26 parties could agree to, you know, could kind of fit

1 that.

2 **Proceeding Time 11:36 a.m. T44**

3 I can't say that in my experience I've run
4 across any sorts of cartel agreements that had that
5 relatively complicated nature to them.

6 And I should compare this with coordinated
7 conduct briefly. The question is, is the retail
8 market here something that we would expect to be
9 subject to coordinated conduct over time? Economists
10 think of a number of factors that make coordinated
11 conduct more likely or less likely.

12 And the one that I'd like to focus on here
13 is the differences that you see in the retail space.
14 That you tend to see coordinated conduct where you
15 have several competitors that are similar to each
16 other. They're similar in terms of their cost-
17 structure, they might be similar in terms of their
18 market share. You don't typically see coordinated
19 conduct where you have any entrant coming in competing
20 against a number of incumbents.

21 The entrant has very different incentives
22 than the incumbents, why would they collude with each
23 other? Where you have very different business
24 strategies. So think about in the retail space here
25 where you've got some vertically integrated companies
26 from oil refining, oil production refining,

1 distribution and retail. You've got Parkland with the
2 Burnaby refinery not in oil production but downstream,
3 you've got independents.
4 And you've got entities like Costco. Like
5 what does a Costco do? Costco has low prices, very
6 low prices for gasoline to drive people into the store
7 so that way once you're at their location you'll fill
8 up your shopping cart with everything one gets at
9 Costco, large volumes of everything, right?
10 So you've got very different business
11 models for the entities in the market. You've got
12 high-volume stations, you've got lower volume stations
13 that are not on the main street or whatever. But
14 you've get very different business models, very
15 different retail establishments. In that environment
16 it's not typically what we would expect, I would
17 expect, to see as coordinated -- as an industry ripe
18 for coordinated conduct.
19 So I think that the retail market here just
20 doesn't have some of the features that we might expect
21 to see with all the price cycling and everything that
22 we've seen. I just think this is a competitive
23 marketplace.
24 Okay, so table 10 here is from my report.
25 I'm going to spend a lot of time on this table here, I
26 just wanted to point you to it. This is the table

1 where I've got the different shares and the very far
2 right column, the share of stations controlled by
3 individual marketers, 12.6 percent at the top of that
4 table. Column one over to the left is the shares of
5 supply. The shares of supply and share of control
6 differ because there are independent dealers where a
7 marketer might supply the dealer but not actually
8 control the retail price of the dealer.
9 So with this diversity of marketers and
10 this diversity of price control, this is just not a
11 market where you'd expect to see anything but
12 competition. Again, I want to just point out the
13 columns here. Numbers of stations of marketer
14 control, numbers of stations with dealer control,
15 Shell, Husky, Suncor here, Parkland, all with dealer
16 stations in addition to other stations where they
17 control pricing.
18 And I want to focus just a minute or two on
19 independent dealers here. Or almost half of the gas
20 stations in British Columbia are dealer stations,
21 where the dealer controls the price. Think about the
22 implications of that for coordinated conduct. How
23 many different entities are there that would need to
24 agree, either tacitly or through cartel behaviour, as
25 to what the price should be, right? It's not just the
26 marketer, you've got all these dealers, all these

1 independent decision makers who would be determining
2 what the price on the pylon is in front of the store.
3 **Proceeding Time 11:40 a.m. T45**
4 With that many independent entities who are
5 making pricing decisions for their individual
6 stations, thinking about cartel behavior, thinking
7 about coordinating conduct just becomes very
8 difficult.
9 And I wanted to add one point here, in some
10 sense this is foreshadowing the wholesale market
11 discussion, but I wanted to add that in addition to
12 being the Shells and Huskys and Parklands that I just
13 mentioned supplying independent dealer stations, there
14 are also independent marketers like McDougall and
15 Global who purchase fuel at wholesale at racks, at
16 terminals, and transport and distribute that fuel to
17 independent dealers. So, independent dealer station
18 is going to open up, it can contract with one of the
19 refiners, it can contract with one of the independent
20 marketers like McDougall for supply.
21 That's important in terms of additional
22 avenues for product for these stations, but it is also
23 important when you start thinking about the arbitrage
24 potential that was so much a discussion this morning,
25 and of the Deetken report. So, foreshadow a little
26 bit there, just highlighting the role of marketers

1 play here.
2 And I wanted to make just a couple of
3 additional comments. With the Deetken report focusing
4 on comparing prices in Vancouver, I thought I should
5 make the comments in my report maybe a little bit more
6 specific. In Vancouver there is numerous different
7 retailers active in Vancouver. Shell, Husky, Suncor,
8 Parkland, 7-Eleven, Costco, there is certainly no
9 small number of retail entities here. No evidence of
10 market power for any of them.
11 Low levels of concentration, that's
12 discussed in the Deetken report, and significantly no
13 changes in concentration, no significant changes in
14 concentration over time. So it's not as if there is
15 any changes in price that have occurred since 2015
16 because of structural changes in the retail
17 marketplace. There is no increase in market power, no
18 increase in some of the structural characteristics
19 that you think might generate market power over time.
20 So, I did want to highlight that area where
21 the Deetken reports support the conclusions, provide
22 additional support for my conclusions.
23 So, a number of other things. Certainly, I
24 would agree with in the Deetken report about retail
25 margins needing to cover operating expenses and
26 capital expenses including opportunity costs, I agree

with all that discussion. I just want to point out again that none of the unexplained differentials that are discussed in the Deetken report are due to the creation of market power over time.

And in conclusion of all that is that it's difficult to see any basis for the regulation of retail prices or margins or price transparency from the retail markets structural characteristics.

I will take a breath there, take a pause, and move on to the wholesale market for a different topic. The Deetken analysis, and certainly I agree on the various sources of supply in British Columbia. In my report I discuss this in terms of diversity of supply. Certainly the local refiners, Parkland, Husky; Alberta refiners, Suncor, Shell Imperial; the refiners in Washington State, BP, Marathon, Shell, Phillips. There is a range of different entities that are supplying refined products into British Columbia. It's not a small number. There is also non-refining wholesalers, I mentioned the Globals and McDougalls of the world. Global I'll just point out, given the comment about barrier to entry before, Global had up until recently been active in this business in Ontario, Quebec and New Brunswick where it supplies 123 gas stations, has recently entered British Columbia. So there is entrance in this space.

1 And I want to point out the vertically
2 integrated marketers that supply their own stations,
3 7-Eleven, Costco, and others. And I highlight these
4 here because in addition to the refiners, in addition
5 to Parkland, and in addition to the Washington
6 refiners, thinking about where to sell their product,
7 thinking about where to supply their product, thinking
8 about where to sell. In addition to the wholesalers,
9 you also have the vertically integrated marketers, all
10 of whom are entities looking at these markets and
11 thinking about where they can arbitrage them. If I am
12 an entity like Global, and I see that there is a long
13 term price differential where I can purchase supply --
14 or I can contract for supply outside of British
15 Columbia and transport in to supply independent dealer
16 stations, there's an arbitrage opportunity there.
17 There's a range of different business models here,
18 there's a range of entities that can, that can
19 arbitrage these markets.
20 **Proceeding Time 11:45 a.m. T46**
21 THE CHAIRPERSON: Excuse me, please.
22 MR. KAHWATY: A: Sure.
23 THE CHAIRPERSON: So a couple of comment and questions.
24 The non-refining wholesalers, by definition they're
25 not refiners, correct?
26 MR. KAHWATY: A: Correct.

THE CHAIRPERSON: So where do they -- where do they obtain their refined product from? Do they get their refined product from the refineries you've listed above?

MR. KAHWATY: A: They're getting their product from any other refiners in the area, Portland Husky, the Alberta refineries, Washington refiners or others, all the other imports. We saw there are imports from PADD 5 or wherever, PADD 3, PADD 2.

THE CHAIRPERSON: Right. Okay, which leads me to my second question then. When we're looking at the retail market, both you and Deetken, you know, actually took some time and trouble and articulated the number of retailers there were and made the comment that that's far greater than the number you would need -- that you would need to be suspicious of collusion or some cartel behaviour or something like that.

MR. KAHWATY: A: Correct.

THE CHAIRPERSON: Now, I believe in the Allan and Eliesen report and I'm working from memory here, I don't have a reference for you, sorry. But I believe they said something along the lines of there's only five suppliers of gasoline in British Columbia and they supply 100 percent of the market in Southern B.C. And, you know, they then drew conclusions based on

1 that. So here your saying that's simply not true. I
2 don't want to put words in your mouth, but --
3 MR. KAHWATY: A: No, that certainly doesn't -- that
4 certainly doesn't seem true to me. When you look at
5 the Deetken report, for example, that talks about
6 produce coming if from PADD 3 or from PADD 2 or from
7 PADD 5. I mean my understanding of and my
8 recollection of what's in the Allan and Eliesen report
9 is this idea that you've got Husky and you've got the
10 Portland refinery, you've got the two British Columbia
11 refineries and you've got product coming in from three
12 Alberta refiners. And let's ignore all the rest of
13 the supply options. We're not considering supply
14 options from Washington State, we're not considering
15 supply options from other parts of the U.S. Setting
16 all of those aside we're just going to consider these
17 five entities. And I just don't think the data
18 supports that.
19 THE CHAIRPERSON: So, I think that they make the claim
20 that those five supply a hundred percent of Southern
21 B.C. market, that's what I recall reading in that
22 report. Would you agree that it was -- that that's
23 what they -- is that your recollection?
24 MR. KAHWATY: A: That certainly sounds familiar, yes.
25 THE CHAIRPERSON: So, from what you're saying then
26 that's not true, but do you have an estimate of what

1 percentage of the Southern British Columbia market
2 those five entities do provide of refined gasoline and
3 diesel? If it's not a hundred percent, then what
4 would it be?
5 MR. KAHWATY: A: It's not -- I haven't tried to
6 calculate that but we could, we could back out the
7 PADD 2, PADD 3, PADD 5, you know kind of product and
8 come up with a share. And that would be everything
9 from Alberta and from British Columbia. So that would
10 be doable. I haven't done it but it would be doable.
11 THE CHAIRPERSON: I guess you wouldn't want to guess or
12 speculate or --
13 MR. KAHWATY: A: Without the numbers. I mean we could
14 do that and let you know what it is.
15 THE CHAIRPERSON: If it's possible. Okay, thank you.
16 MR. KAHWATY: A: So, going back and thinking about
17 market power for a minute, to exercise market power
18 here you would need evidence that entities have
19 intentionally restricted the volume of products
20 supplied in the market in an attempt to elevate
21 prices. I haven't seen any evidence of that. Got
22 some discussions in my report about the capacity rates
23 for the British Columbia refiners. No evidence there
24 that there's a substantial restriction I volume
25 produced in an attempt to elevate prices.
26 **Proceeding Time 11:50 a.m. T47**

1 And I'd like to comment about this ability
2 to coordinate conduct as well. You've got different
3 business models, you've got entities like the two
4 refineries in British Columbia, which are in the
5 market, others in Washington State which supply some
6 product at times and not at other times. You've got
7 this kind of range of business models, range of costs.
8 The British Columbia refineries being smaller, you've
9 got larger economies of scale for the other
10 refineries, the larger refineries in Alberta. Again,
11 you've got a range of characteristics here that
12 suggest that coordinating conduct -- and I don't want
13 to say couldn’t happen, but suggests that it is
14 somewhat unlikely here.
15 So that's kind of the summary of analysis
16 and kind of how some of what I've said relates to a
17 few of the other comments in the reports. I'd like to
18 spend just a minute discussing Figure 22 from our
19 report. So I've got that on the screen here.
20 What you see is the Burnaby refinery with
21 about a share 25 percent, the Prince George refinery
22 at 5 percent. I think of those as inframarginal
23 sources. Now, what you heard from Parkland is that at
24 times that last unit of crude that's imported rail
25 might not be economic, but by and large the volume is
26 inframarginal. There might be some marginal units

there, but by and large the volume is inframarginal.

The 50 percent pie wedge there in red is the Alberta supply. Much of that is coming in over Trans Mountain, low cost to transport. Refineries have large economies of scale associated with them. Probably also inframarginal supply. There's a pie wedge there at ten percent in green, that's U.S. refineries, most of that is Washington State.

And I've got this pie wedge there that's colour coded green and red, kind of a combo. This is volume that can flip over time to being supplied by Alberta, maybe being supplied by other U.S. refineries, the PADD 2, PADD 3, PADD 5 volume. I highlight this because there's been discussion about the marginal unit supply and I want to focus on that a little bit and relate some of the different things that you've heard and read together.

COMMISSIONER DOEHLER: Just before you go there --

MR. KAHWATY: A: Sure.

COMMISSIONER DOEHLER: -- I'm having trouble with this concept "infomarginal". I've never heard this before.

MR. KAHWATY: A: *In-fra*.

COMMISSIONER DOEHLER: Infra.

MR. KAHWATY: A: So Inframarginal. So anything but the marginal unit, right?

COMMISSIONER DOEHLER: So it's the stuff, the cheaper

1 stuff, if you like?
2 MR. KAHWATY: A: The cheaper stuff, yes.
3 COMMISSIONER DOEHLER: Okay. Thank you.
4 MR. KAHWATY: A: And there it is, inframarginal.
5 Marginal and inframarginal supply. And I want to be
6 sure there's no confusion about this because
7 economists, you'll hear economists say things and you
8 would have seen some submissions that talk about the
9 marginal unit or the cost of the marginal unit
10 determining the price in a well-functioning market.
11 And that kind of leads to the impression that it is --
12 that that's all that matters is the marginal unit and
13 the cost associated with it. And I just -- I want to
14 be particularly careful with that.
15 Yes, we think of the costs associated with
16 the marginal unit as telling us where prices are in
17 the marketplace, but that's not to say that the
18 inframarginal units don't matter for price setting.
19 And the reason that that's important is what's going
20 on with Trans Mountain. Now, the chart that I have
21 here is related to a chart that was in my report. In
22 my report I just had the data from 2015 to 2019, but
23 the Deetken report went back to 2006, Allan Eliesen
24 went back to 2006, I thought I should present the data
25 for the full period 2006.
26 When you do that you see that the 2018

1 throughput over five products is low by historic
2 standards. Not just back a few years but back all the
3 way to 2006. If you think of output from Alberta
4 refiners, because of their economies of scale and
5 because of their location near crude sources, if you
6 think about their supply being inframarginal because
7 they have access to cheap transport, inexpensive
8 transport on Trans Mountain into the area, when you
9 see a reduction in the volume of product, refined
10 products, shipped over Trans Mountain over time,
11 that's essentially a reduction in inframarginal units.
12 **Proceeding Time 11:54 a.m. T48**
13 We're moving low-cost units from the marketplace. And
14 when we lose -- when we remove low-cost units from the
15 marketplace, the market then must be supplied, demand
16 must be met by ever more expensive marginal units.
17 What is the marginal unit changes over time. What's
18 the marginal unit in 2005 with Trans Mountain at about
19 60,000 barrels a day is very different than probably
20 what the marginal unit was 2018 when the volume of
21 Alberta supply coming in over TMP was half that.
22 So what is the marginal unit? What is the
23 price set, what is the cost of the price setting unit
24 in a well function market? It's presumably changing
25 in this marketplace over time. And as Trans Mountain
26 -- as the volumes of refined product on Trans Mountain

1 decline over time, the market in British Columbia for
2 a refined product is going to be serviced by ever more
3 expensive sources of supply. And maybe that's why you
4 see the PADD 2 product coming in. Maybe that's why
5 you see the PADD 3 product coming in.
6 So I just want to be sure that that's
7 really clear what's going on here. That when we talk
8 about what's the marginal source of supply? I think
9 the marginal source of supply is probably changing
10 over time. And that's driving some of the price
11 dynamics that we see. The Deetken report basically
12 says the marginal supply source is trucked in product
13 from Edmonton. You know, that's certainly reasonable,
14 given the comparison of truck costs as compared to
15 rail costs as compared to pipeline transportation
16 costs.
17 But the marginal unit, you know, certainly
18 could be higher priced than that. It could be how is
19 that unit from PADD 2 getting to British Columbia? Is
20 that truck, is that rail? What are the costs of that?
21 There might not be very much of that product but that
22 might be the marginal product. And that might be the
23 cost that we should think of as being dictating what
24 is the constraint on pricing in marketplace. Okay, so
25 I -- that is, I think really very important.
26 And last comment. The cost of the

1 inframarginal unit, the cost of the British Columbia
2 refinery or the cost of the Alberta refinery and the
3 product that is shipped at low cost on Trans Mountain,
4 the inframarginal units, the profitability of those
5 units doesn't tell us anything about the competition
6 or market power. The price setting abilities, the
7 price setting information that's important is what's
8 going on at that marginal unit. Inframarginal units
9 are going to earn higher margins, that's just how
10 markets work.
11 THE CHAIRPERSON: I wonder if I could just explore that
12 with you a little bit.
13 MR. KAHWATY: A: Sure.
14 The CHAIRPERSON: Not being an economist myself I
15 don't refute what you say. But I don't think -- I'm
16 not sure that I fully understand why that's the case.
17 And is the case, the reason that the marginal unit
18 sets the price, is the reason for that that the
19 participants in this market could sell into the market
20 from which that marginal unit comes? So in other
21 words, if it costs $10 for something in Washington
22 State and it's only $5 for something here, but the $5
23 can't supply the whole market so you have to go and
24 buy the marginal units at $10 in Washington State,
25 then that becomes the price here.
26 Now, is part of the logic for that that the

1 people that are supplying, or entities that are
2 supplying the $5 unit here, they could actually go and
3 sell their units for $10 in Washington State? Is that
4 the theory behind it?
5 MR. KAHWATY: It's part of it. If I -- you know, I
6 have -- the opportunity cost for the entity in British
7 Columbia is one of the options for that volume. It
8 might be transporting it to and selling it in
9 Washington State at a higher price. But it's also the
10 opposite way. The reason that the cost of the
11 marginal unit should be determinative is, let's say
12 the cost of the marginal unit -- let's say the price
13 in British Columbia is 15. And let's say the marginal
14 unit is volume from PADD 2 that's trucked in. And
15 let's say the cost of that is just $10. So I've got a
16 15 -- and that's a full cost. That's production cost,
17 it's transport cost, it's everything.
18 **Proceeding Time 11:59 a.m. T49**
19 And that's a big market. There's a lot of
20 volume available at $10. Then that price at $15 in
21 British Columbia is not going to be sustainable long
22 term, when I've got $10 product transported in that I
23 can bring in from PADD 2. Right? So it's the options
24 both ways that are important. The British Columbia
25 refiner needs to understand what its opportunity costs
26 are, what else could it be doing with its product.

1 But in the example of imports, it is probably that the
2 production cost, plus the transportation cost is going
3 to be lower outside coming in, driving down prices in
4 British Columbia. So if I can transport product in
5 for $10, I'm not going to be able to sustain a price
6 at $15 in British Columbia, in which case prices are
7 going to come down over time, because more product is
8 going to come in from PADD 2.
9 THE CHAIRPERSON: Right.
10 MR. KAHWATY: A: So that is why we think of that cost
11 $10 as being something which control or dictate --
12 control is not really the right word, dictate, but
13 tell us about, inform what we think the market price
14 is going to be in British Columbia after we've taken
15 care of that arbitrage.
16 Now, if the prices work out the other way,
17 that British Columbia's supply is low cost, and there
18 are higher price opportunities elsewhere, maybe some
19 of that product will go to other markets, but then it
20 is in essence the -- British Columbia being the
21 marginal source of supply into Washington State.
22 THE CHAIRPERSON: Yes.
23 MR. KAHWATY: A: Telling us what the price in
24 Washington State should be.
25 COMMISSIONER COTE: Isn't that in effect what's
26 occurring with the increased crude oil coming through

the pipeline more recently? That they are basically arbitraging it elsewhere?

MR. KAHWATY: A: Yes. Yeah, so we see -- you see product moving between these markets in imports and exports. You've got open markets. You see people trying to take advantage of price opportunities. You've got Washington State refineries, we'll talk about this in a few minutes, who we see opportunities to sell product in British Columbia, and they do. Now, is that the marginal source of supply? Or is it something else?

THE CHAIRPERSON: Sorry, just to follow up a little bit more. In the Deetken report, there is quite a bit of discussion earlier this morning about the -- sorry, I don’t have the slide to put it on, but it was the price demand graph with --

MR. KAHWATY: A: The little boxes, yeah.

THE CHAIRPERSON: That one. So, in most cases what we're talking about here is where the marginal cost of supply is higher for a product coming into the province than it is if it could be supplied from entirely within the province. It's because we can only supply roughly 30 percent from our own refineries, that we have to purchase more expensive product from outside the province. Do I understand that correctly?

1 MR. KAHWATY: A: Right, yes, to satisfy demand, you
2 need to go to these other supply sources, yes.
3 THE CHAIRPERSON: Right, and so then as part of the
4 logic that all of the product in this market should be
5 priced at that marginal amount, is part of that logic
6 that the refiners that are within the province, they
7 could sell their product out of the province to that
8 same jurisdiction that is supplying it for a higher
9 price, and they could get a higher price for it, so
10 therefore that justifies them charging a higher price
11 within the province?
12 MR. KAHWATY: A: It's certainly an opportunity cost for
13 the local entity to be able to say "what are my
14 options? I have a higher priced option elsewhere,
15 could I sell there," yes. So there is an opportunity
16 cost associated with the local sale if the local sale
17 is at a lower price.
18 THE CHAIRPERSON: Right. So that would assume that you
19 actually could sell most or all of your supply in that
20 other location for that price.
21 MR. KAHWATY: A: At least have the opportunity to.
22 THE CHAIRPERSON: Yes.
23 MR. KAHWATY: A: You might not actually make "the
24 sale," but the option is there, and if the option is
25 there, then to continue making the sale, in the
26 domestic market, you'd need to earn a return that

1 would be commensurate with what you could earn on the
2 outside.
3 COMMISSIONER COTE: Right, just to apply this to the
4 current circumstances. Let's say that that's the way
5 it went, and you wanted to move your product, let's
6 say to Washington, because the advantages you would
7 get out of it, the opportunity cost. Is there
8 sufficient transportation to actually do that
9 effectively? To move large, large amounts over what
10 is being done now? Clearly certain amounts are moving
11 now, but they are relatively small compared to the
12 total?
13 MR. KAHWATY: A: So I don’t think you'd need to have
14 the ability to move all the volume. You'd need to
15 have the ability to move marginal volume. It becomes
16 an option for you, and then you opt not to do it. And
17 so you don’t actually make the trade, but I would need
18 to think that I need to take all of the output, say,
19 of Husky or Burnaby, and ship it to Washington State.
20 But the option to move marginal barrels there would be
21 the option that would control your price setting
22 behaviour.
23 **Proceeding Time 12:05 p.m. T50**
24 COMMISSIONER COTE: I assume that you'd do a bit of
25 that now on occasion when you've got a surplus?
26 MR. KAHWATY: A: I would think so. There's other

1 people in the room who could answer that better, but--
2 COMMISSIONER COTE: Sorry, I should have directed --
3 MR. KAHWATY: A: They can answer that. I don't do that
4 myself.
5 MR. KROGMEIER: A: So I'll answer on behalf of
6 Parkland, of course, and Parkland exclusively. We do
7 occasionally export product but it's very rare. And
8 it's usually because we have exceeded the amount that
9 we move through our retail commercial channels. And
10 with that excess we are always -- we're looking to put
11 it into the highest, what we call, net-back market and
12 sometimes that is an export channel.
13 THE CHAIRPERSON: Thank you.
14 MR. GHIKAS: Mr. Chairman, just while we're in a gap
15 here. I note the time and I'm in your hands as to
16 when you want to break.
17 THE CHAIRPERSON: I'm assuming because you're standing
18 up it's a natural opportunity for a break, is it?
19 MR. GHIKAS: It may actually be -- I was looking at the
20 slides and it may actually be that there's one more
21 slide where there's the natural break, I think. But
22 maybe I'll defer to Dr. Kahwaty.
23 MR. KAHWATY: A: Yeah, just one more -- after one more
24 slide I get into answering some of the questions that
25 have been posed by the panel. So maybe I'll --
26 THE CHAIRPERSON: Well, I do have more question on this

1 slide. I don't know if that would affect your
2 decision or not but.
3 COMMISSIONER DOEHLER: It depends how long the answer
4 is.
5 THE CHAIRPERSON: It's on the last bullet, comparing
6 wholesale prices in B.C. to B.C. refinery margins.
7 This goes back to my earlier point about confusion
8 over terminology. So can you clarify for us, in the
9 context of the wording in the OIC for this inquiry,
10 what those mean, what that means?
11 MR. KAHWATY: A: Sure, given how the hearing started
12 today about trying to be clear on what we mean by
13 margins, let me give a more full discussion of the
14 last bullet point.
15 What I was trying to say in this last
16 bullet point is that if you think of the local British
17 Columbia refineries as being inframarginal. If you
18 think of their volume as not being the marginal supply
19 in the market. Whether that is coming from Washington
20 or from PADD 2 or whatever it is. If they're not the
21 marginal source of supply, then the cost of that
22 supply shouldn't be dictating price in the
23 marketplace. And so they may have a higher margin
24 than what you'd expect the marginal supply source to
25 have. And so looking at that margin is not going to
26 tell you that they have market power or not because it

is not the marginal supply source in the marketplace. And that really is what I was trying to get at there.

All right, one more slide that I'll do quickly so I don't hold people up from lunch. So I wanted to talk a little bit about arbitrage. I commented earlier on that with -- as you just heard, with Parkland occasionally they've got extra product looking to decide where to put that product at the highest value location.

With other entities in this market, both refiners, whether they're in Washing State or in Alberta, where you've got independent wholesalers, where you've got marketers integrated into retail, you've got this range of entities out there who are looking at these markets and looking at where they can get supply and looking at how they're going to feed the stations that they own and that they supply.

With all these different entities out there looking to arbitrage, I think we need to be sensitive to whether we actually have unexplained variances. And when we have an unexplained variance that may mean that we just haven't figured out what the variance is yet. But it probably doesn't mean that there's a significant long-term -- there might be some variations on a day-to-day basis. We can't arbitrage on a daily basis. But is there a long term

1 sustainable differential that can be taken advantage
2 of by parties in the market. That the parties in the
3 market have opted not to arbitrage.
4 **Proceeding Time 12:10 p.m. T51**
5 That given the diversity of business
6 models, the number of entities in these marketplaces,
7 given the number -- the sizes of these marketplaces it
8 just seems to me that more likely than not it's not
9 that there is -- there's an unexploited arbitrage
10 opportunity, it's just that we haven't costed that out
11 yet. So I just wanted to comment on that. There's
12 lots of entities that could be arbitraging these
13 markets.
14 And I'll just leave it at that and come
15 back after lunch and answer some of your questions.
16 THE CHAIRPERSON: Sounds good. Thank you very much.
17 So why don't we take a break then till 1:30 and come
18 back then. Thank you.
19 (PROCEEDINGS ADJOURNED AT 12:11 A.M.)
20 **(PROCEEDINGS RESUMED AT 1:35 P.M.) T52/53**
21 THE CHAIRPERSON: Please be seated, thank you.
22 Welcome back, gentlemen. Good afternoon.
23 So I guess we are in your hands, we are ready to
24 continue.
25 MR. KAHWATY: A: All right, happy to pick up where we
26 left off.

1 THE CHAIRPERSON: Thank you.
2 MR. KAHWATY: A: I'm going to turn to addressing
3 several questions that were put by the Commission, one
4 specifically to me, and then some other questions that
5 were addressed to others, that at least I perhaps have
6 some input on, although there is probably other people
7 in the room who can address them as well.
8 So I am going to start with question 2D(i),
9 which is the subject matter of which is the
10 relationship between rack prices and the market for
11 supply to retailers. So the question from the
12 Commission is,
13 "To what extent does the competitiveness of the
14 wholesale market provide assurances that the
15 rack prices are competitive?
16 And so to answer that question I would like
17 to start with a discussion about rack prices. And the
18 way to think about rack prices is as a list price,
19 like a rack rate for a hotel or something along those
20 lines. It is a list price. There are some
21 transactions invariably that will occur at rack, but
22 there are other transactions that are going to occur
23 at rack-minus, or rack-plus. Husky's evidence in
24 their submission, they commented that they discount
25 off of rack prices. Suncor referred to rack as a
26 reference price, but that individual contracts were

1 adjusted based on various conditions, location of the
2 dealer, volume, things along those lines.
3 So, based on individual transaction or
4 dealer characteristics, you will see discounts or a
5 relationship between rack and the price that the
6 dealer pays. So rack-plus, rack-minus depending on
7 the specific situation. So, think about rack as a
8 list price.
9 With transactions prices being priced in
10 relationship to this list price, to this rack price,
11 what would happen if a wholesaler tried to set its
12 rack price above the market that would be competitive
13 given the wholesale environment? So, a range of
14 different types of transactions, there are certainly
15 spot transactions. Spot transaction, you'd see a loss
16 of sales. More interestingly perhaps is thinking
17 about dealer contracts, right? So I am pricing a
18 transaction with a individual dealer station. That
19 dealer station has got a contract with me, the
20 contract say is at rack-minus two cents, or rack-plus
21 two cents or whatever it is. If I as the wholesaler
22 were to try to take advantage of that contracted
23 pricing relationship to the list price, what would
24 happen? Well, there is a range of different effects
25 to think about.
26 In the short term, if I am priced

1 significantly higher than what the wholesale market
2 will bear, the dealer that I'm supplying when it goes
3 to sell to customers is going to be at a cost
4 disadvantage relative to the street across the
5 intersection that has a lower price. Probably won't
6 have a price that is as competitive. So you expect a
7 short run decline in volume as that station's volume
8 declines relative to other stations in the area.
9 But also think about what would happen
10 long-term. A couple of different effects. Long-term,
11 if I'm, as a wholesaler, develop a reputation as
12 trying to take advantage of my contracting
13 relationships and increase the price to my dealers,
14 what's going to happen? When the contracts come up,
15 the dealers are going to sign up with a different
16 supplier. If Shell were to try to charge the prices
17 that were too high, you could see people switching
18 over to Suncor or to Parkland, or to Global. You
19 would also see the wholesale supplier disadvantaged in
20 signing up new dealer contracts for new stations that
21 might open.
22 So, long term you're going to see these
23 entities that have substantial wholesale supply
24 businesses, and we saw the list of marketers before,
25 the number of dealer stations they had, right? I
26 mean, between Parkland and Shell and Suncor, they had

1 over 200 dealer stations. So even if they have a
2 number of contracts that expire over time, right? So
3 it is not as if all my contracts are going to expire
4 next week or next month or next year.
5 **Proceeding Time 1:40 p.m. T54**
6 But there's a steady stream of contracts that are
7 coming up for renewal. Over time you're going to see
8 wholesalers that try to take advantage of this
9 contracted pricing relationship loosing supply,
10 loosing contracts to other wholesalers and ultimately
11 seeing their wholesale businesses erode. And in the
12 long term can I maintain a price above a competitive
13 level in terms of what the market will support where
14 there are other wholesalers out there bidding for
15 these contracts. I think the answer to that is no,
16 you're not going to be able to maintain a price in
17 that environment above a competitive level for an
18 extended period of time.
19 So thinking about the reputation for taking
20 advantage of the dealers that you may have signed up
21 under contracts, thinking about the stock of -- the
22 flow of new dealer contracts that come up, either for
23 new stations or stations -- or contracts that are
24 expiring with other entities, even if there's 600 some
25 dealers in the province, there's a steady stream of
26 contracts up for renewal all the time. In that

1 environment I think it's going to be very difficult to
2 maintain a price above a competitive level for a
3 substantial period of time.
4 Let me stop there, see if there's questions
5 on that specific question.
6 THE CHAIRPERSON: So rack prices are set. Are they set
7 daily typically?
8 MR. KAHWATY: A: Yes.
9 THE CHAIRPERSON: Daily. And so you used the term
10 "spot price" or "spot transactions at the rack price",
11 so the rack price is the spot price? Or spot
12 transactions are also at a discount or premium to
13 rack?
14 MR. KAHWATY: A: They can be at rack, I think they can
15 also be at other terms.
16 THE CHAIRPERSON: Okay.
17 MR. KAHWATY: A: You know, "Volume discount if you've
18 purchased from me before."
19 THE CHAIRPERSON: Okay. And our -- and the spot price
20 is different for -- each refinery has a difference?
21 Is it a refinery that has a spot price or the marketer
22 that has a spot price? It's the refinery, right?
23 It's a refinery spot, right?
24 MR. KAHWATY: A: Each -- there would be a rack price at
25 each separate terminal.
26 THE CHAIRPERSON: Sorry, a rack price, yeah.

1 MR. KAHWATY: A: So each refinery would have different
2 --
3 THE CHAIRPERSON: Each refinery has a different rack
4 price.
5 MR. KAHWATY: A: Rack price. For its rack, for sales
6 at its rack.
7 THE CHAIRPERSON: Right. But they're generally fairly
8 close?
9 MR. KAHWATY: A: Yes.
10 THE CHAIRPERSON: Yes. Okay. So what I'd like to look
11 at is some of those situations we were looking at
12 before lunch when you had the -- you have the marginal
13 price is based -- or the price becomes based on a
14 marginal price of product that's coming in let's say
15 being imported into British Columbia. So you have --
16 you would have the refineries here that would have
17 their own published rack prices. So how does this new
18 and presumably higher price, if you remember those
19 block diagrams, this new and presumably higher price,
20 how does that then become -- I assume it becomes the
21 rack price, does it, somehow?
22 MR. KAHWATY: A: Yes, that would -- the suppliers,
23 understanding changes that are going on in the market
24 if prices are increasing, would ultimately be setting
25 rack prices that are higher. So the rack price would
26 be reflective of what they're seeing in the

1 marketplace in terms of pricing.
2 So if the marketplace is supporting a
3 higher price because higher price, marginal product,
4 going back to the discussion Trans Mountain Pipeline
5 volume falls, additional higher cost supply becomes
6 the marginal source of supply, that entities in the
7 marketplace are going to understand that and you'll
8 ultimately see them raising the rack prices.
9 THE CHAIRPERSON: But if the entities --
10 MR. KAHWATY: A: It's the transmission mechanism that--
11 THE CHAIRPERSON: Understood. But if the entities in
12 the marketplace are selling their own gasoline that
13 they're producing, how do they ever see that marginal
14 price for gasoline that's being shipped into this
15 region? Do they buy that gasoline themselves and
16 that's how they see that price? Do you -- I'm sorry
17 if I'm not being clear with my question.
18 MR. KAHWATY: A: Well, I mean certainly if you are a
19 refiner or a marketer and you're monitoring the market
20 and you're looking at your supply options, you know,
21 you're in touch with the different markets, whether
22 it's looking at data on different prices in different
23 areas or engaged in discussions about supply that you
24 could -- contracts that you could enter into and
25 supply, you'll have a sense of the prices of the
26 market.

1 THE CHAIRPERSON: Right. So that marginal supply, the
2 cost of that marginal supply then is a published price
3 somewhere and the fact that that source of supply
4 becomes the marginal -- becomes the element on which
5 the marginal cost here is based, that information must
6 then be transparent somehow and be public, otherwise
7 it would be collusion, wouldn't it?
8 MR. KAHWATY: A: But -- no, yes. I would think it
9 would, maybe not instantaneously. I mean there's some
10 sort of dynamic process as prices change and a new
11 market equilibrium is reached, but as prices change,
12 you know, over time there's a new equilibrium reached,
13 yes, you'd see those prices reflected in rack prices
14 and that's all public.
15 THE CHAIRPERSON: Does Parkland purchase gasoline?
16 MR. KROGMEIER: A: Yes, we do at times.
17 THE CHAIRPERSON: So it's possible that you would --
18 I'm not asking for specifics, but generally it would
19 be possible that you would purchase gasoline from PADD
20 5 or another PADD region or somewhere outside of the
21 province?
22 MR. KROGMEIER: A: That's right. Either finished
23 gasoline or what we call gasoline components like
24 ethanol.
25 THE CHAIRPERSON: Right. So that's one way the price
26 signal could get to you, then, is because you would

1 have to pay more for it, is that a fair statement?
2 MR. KROGMEIER: A: I think that's a fair statement.
3 THE CHAIRPERSON: Okay.
4 COMMISSIONER DOEHLER: Just I want to -- I mean you
5 make the comment here, plus two or minus one cents a
6 litre off rack price as to what actually people pay.
7 Is there an analysis anywhere of what that spread is?
8 A statistical analysis of your stations and how you
9 supply them? Is there some sort of -- even if it has
10 to be filed confidentially? We're trying to get a
11 handle on what is the true wholesale price. All rack
12 price is your list price. That's not what everyone
13 pays. And I don't know what that spread is, or can
14 you answer what the spread is?
15 **Proceeding Time 1:46 p.m. T55**
16 MR. KROGMEIER: A: We don't really know, is the answer.
17 Because we don't have that information on what the
18 contracted price is for buyers or wholesalers or
19 marketers from wholesalers. As you've seen, you know,
20 it's very common that an actual contract will price at
21 a discount to the rack price. And of course we're not
22 privy to that information.
23 The market signal we get is when we know we
24 are not competitive is our buyer will choose to go to
25 a different supplier. And so that is really the price
26 signal that guides us in terms of the competitiveness

of that contract price. Which, you can think of the contract price as the discount or premium to the rack price.

COMMISSIONER DOEHLER: So, but you said you're not privy to what that discount or premium is, but you're the ones that make the contracts?

MR. KROGMEIER: A: Well, only ours.

COMMISSIONER DOEHLER: Yeah, I understand that.

MR. KROGMEIER: A: Yes, and obviously not the other participants in the marketplace.

COMMISSIONER DOEHLER: I understand that. So, yeah, I'm trying to look for something and I don't have a handle because. Is it, like, 55 percent discount? Or is it .0005 percent discount? What's the size of the elephant we're looking at? And I don't know if you can answer that in some way that you feel comfortable doing.

MR. KROGMEIER: A: I believe we can answer that confidentially.

COMMISSIONER DOEHLER: I appreciate that. And so we're looking for a spread of what is that premium discount and distribution. Is it one person has a 5 percent discount, then other 272 have a 3 percent discount. I don't know, I don't know what it is. Presumably you have that information.

MR. KROGMEIER: A: Yeah, and it will be -- it will

range. Of course it will depend on for how long you contracted the volume. It will depend on when in the cycle you contracted, so many variables. But we can give you a range.

INFORMATION REQUEST

COMMISSIONER DOEHLER: I understand, it's the range is important. We don't need specific contracts.

MR. GHIKAS: If I can just get up, Mr. Chairman. I'm not sure how much, if it's a manual process or whether it's an electronic process. Maybe we could get some information as to, you know, how much labour is involved in this. I know it's a significant issue. So I just wanted to make sure that we --

THE CHAIRPERSON: How much labour is in --

MR. GHIKAS: Involved in -- whether it's a manual process going and looking at every contract that you're looking for. Or whether you're looking for just a ballpark.

THE CHAIRPERSON: A ballpark, yeah.

MR. KROGMEIER: A: And I took it as such, so okay. We'll provide a ballpark sort of range for you.

COMMISSIONER COTE: Based on your comments throughout this hearing and the information provided, clearly marginal cost is a strong determinant on putting your price together. What other factors do you take into account for getting a wholesale price? Or is it just

1 strictly, this is just strictly the marginal rate?
2 MR. KROGMEIER: A: Well, again, on a daily basis. You
3 know, the price is formed by looking at several
4 different markers and --
5 COMMISSIONER COTE: Yeah, and that's what I'm trying to
6 figure out. What are they and how does it all work?
7 MR. KROGMEIER: A: Yeah, and it is Pacific Northwest,
8 it is Chicago, it is Gulf Coast at times. And again,
9 as you saw from the data it's because those are the
10 sources of that incremental barrel. And so they
11 factor in quite heavily into that process.
12 COMMISSIONER COTE: So you're telling me this is
13 basically a judgement based on your experience and
14 what you've observed in the marketplace, looking at
15 the whole North American scene. Is that a fair way to
16 put it?
17 MR. KROGMEIER: A: Yeah, and we provided more detail on
18 that process --
19 COMMISSIONER COTE: Sorry, I haven't got to it yet.
20 MR. KROGMEIER: A: -- in the confidential submission.
21 So there should be more in there.
22 MR. GHIKAS: So just to clarify what Mr. Krogmeier is
23 referring to. The red sheeted hand delivered paper
24 today, question 4C is, "How is the rack price
25 determined?" There is a discussion in there that will
26 probably provide you with greater detail than Mr.

1 Krogmeier is able to provide in this setting. And if
2 you have any follow-up questions in a confidential
3 format they'd be able to elaborate further.
4 COMMISSIONER COTE: Thanks, Mr. Ghikas.
5 THE CHAIRPERSON: Nevertheless, I'm still not quite
6 there at the answer to the question that I was posing
7 earlier. So as you've pointed out, pricing
8 information is kept confidential and it's not
9 generally shared in the industry. You know, you just
10 said you have information about your own contracts but
11 not about others. And so, you know, obviously there
12 are some price signals that are public. There's the
13 rack price and there's the price at the pump which is,
14 as you pointed out, is broadly advertised.
15 **Proceeding Time 1:52 p.m. T56**
16 But let's say, again referring back to the
17 Deetken graph that we've been talking about, let's say
18 you're just getting close to that point where we're
19 running out of supply, local supply at a lower price,
20 and then the next source of supply is a significant
21 jump.
22 Having to source that supply, it's not
23 everyone in the local market that will have to source
24 that supply. It's presumably only one or two players
25 that would initially have to source that supply. So,
26 how does everybody else know that all of a sudden

there is one party that is paying significantly more for a contract that they've entered in to, because that information is confidential? And yet they somehow know it, and then they are somehow able to adjust their rack prices to go up, so that their rack prices are now up at the marginal cost?

MR. KROGMEIER: A: Yes, I'll take that one again.

THE CHAIRPERSON: Thank you, and if the answer --

MR. KROGMEIER: A: -- you'll get more information, and I would just preface the follow on conversation by saying that's -- the process we go through is a little different, is actually quite different than what you described.

THE CHAIRPERSON: Fair enough, because those are our questions, what is the process.

MR. KROGMEIER: A: So yeah, we look forward to talking more with you about that process in detail under confidence.

THE CHAIRPERSON: Thank you.

COMMISSIONER COTE: Carry on.

THE CHAIRPERSON: Carry on.

MR. KAHWATY: A: I'll move on to the next question, question 2I(i), which relates to refining capacity in other provinces. Question, British Columbia has a low refining capacity, but there are other provinces with no refining capacity. Why are retail prices lower in

1 those provinces that have no refining capacity?
2 I'm sure that there are plenty of people in
3 this room who can speak to this question, but I want
4 to give you at least my reaction to it now, which may
5 spark questions from you, and it may spark questions
6 to other people who will be testifying later.
7 So the three provinces that have no
8 refining capacity of their own are Manitoba, Nova
9 Scotia and Prince Edward Island. And I've summarized
10 it at a very high level. My understanding of supply
11 sources for these other provinces, we can talk through
12 them quickly, but Manitoba is probably the most
13 interesting one. The difference between Manitoba and
14 British Columbia, they are both receiving supply from
15 Alberta. Refined products from Alberta are coming in
16 via the Enbridge Pipeline, also product from
17 Saskatchewan via rail or truck. But, so you've got
18 the same supply source, the refineries in Alberta is
19 supplying Manitoba as you have in British Columbia as
20 we saw that 50 percent wedge of that pie chart from
21 before. But I'm not aware of the same types of
22 capacity limitations on product coming in that you see
23 in British Columbia.
24 So, while you've got product coming in from
25 the same refineries, you've got the same transport
26 mechanism, yes, there is going to be some differences,

1 of course, but the supply that is going to Manitoba,
2 lower prices for consumers, but without all of the
3 same kind of complications of higher cost marginal
4 supply sources. That is to say that because of the
5 pipeline connection they've got and the capacity
6 there, Manitoba is much kind of -- better integrated,
7 less of a refining products consumption island if you
8 will, than what you have in British Columbia.
9 So, there is information there on the other
10 provinces. The Irving Oil Refinery which is the
11 largest refinery in Canada. Presumably economies of
12 scale, supplying via marine transport, Nova Scotia the
13 information is there. But broadly speaking from my
14 point of view as I look at this, you think about what
15 are the marginal sources of supply, how closely
16 integrated are these different provinces with the
17 sources of supply, whether that is Alberta or others.
18 I think that the situation in British Columbia is
19 different than those others. And as a result, because
20 of capacity constraints and needing to access higher
21 cost supply sources, you will see higher prices here
22 in the province.
23 So I'm sure there is more detail, as I
24 said, that other people in the room can provide, but
25 that was kind of my kind of general reaction to that
26 question.

1 **Proceeding Time 1:57 p.m. T57**
2 We talked earlier today about some of the
3 tax issues. I just wanted to point out here that
4 Vancouver versus Manitoba, there is about an 18 cent
5 tax difference as well. So, when you think about the
6 differences, we need to be sure we are taking that
7 into account.
8 Potential for new refining capacity, I will
9 say sitting in a room with representatives of a number
10 of refiners, perhaps intimidated to talk about this
11 topic, but I will give you my reaction to it anyway.
12 If a refinery margins are high, why does there seem to
13 be no interest in building new refineries in British
14 Columbia or expanding existing refineries in the
15 province?
16 So my reaction to this question is the
17 following. Refining, of course, is a very highly
18 capital intensive industry. A new refinery would take
19 many years to design, permit, build, bring into
20 operation, work out the kinks, and get the refinery up
21 and running through a reasonable throughput rate.
22 Quite a long time to actually start earning a return
23 on investment in a refinery, okay?
24 Now, if you were to build a refinery in
25 British Columbia, you have some risks that you need to
26 solve. One risk, of course, is access to crude.

1 We've heard about the pipeline situation and whether
2 you are going to be able to actually import crude to
3 run the refinery. So that is certainly a risk that
4 you take.
5 There are scale issues. There have been
6 historically other refineries in British Columbia, but
7 they were relatively small. To build a modern,
8 reasonably sized scale refinery would be a relatively
9 large facility. I have got some information here on a
10 couple of proposed or nearly constructed refineries.
11 We are talking about 10, or 15, or 20 billion dollars.
12 A large capital investment playing out over a long
13 period of time. And think about that in terms of the
14 risk that one faces today if one were to invest 10 or
15 15 billion dollars in building a new refinery here in
16 the province.
17 Provincial policy here is designed to
18 discourage fossil fuel use. Whether it's the low
19 carbon fuels, greenhouse gas emissions issues, the
20 carbon tax. Provincial policy is long term to
21 discourage the use of fossil fuels. That has got to
22 be a risk that one has if one were to actually think
23 about constructing a new large facility.
24 I have a picture here that I took from a
25 National Energy Board report. This is the Canada
26 Energy future 2018 report. I don’t need to read the

1 quote from the NEB report, but it's talking about
2 issues related to fuel economy standards, greenhouse
3 gas emission standards, improvements in fuel economy
4 requirements leading to changes in the demand for
5 refined products over time.
6 In this picture, the passenger energy
7 demand is the blue region at the bottom of the chart,
8 okay? So this is the consumer retail and diesel and
9 other products. And what this chart basically says is
10 that the National Energy Board is forecasting peak
11 energy demand for the types of uses, gasoline, diesel
12 that we've been talking about here, has probably
13 actually already occurred, if not will occur shortly.
14 So you're in an environment where perhaps you have
15 long term declining demand. This forecast goes out to
16 2040. A lot can happen between now and 2040,
17 certainly demand could expand. But this might be
18 overly conservative in terms of what the picture is,
19 but it could also be conservative. The decline could
20 be larger, who knows.
21 My point here is not to say that I know the
22 demand for gasoline is going to be increasing or
23 decreasing. It's rather just to say that long term,
24 the extent to which, when a facility comes online in
25 say 10 years, once it is designed and built and
26 brought into production, what is the demand for the

1 product going to look like, and do we think you are
2 actually going to still have the higher refining
3 margins that you see? So, I would -- yes?
4 COMMISSIONER COTE: Just before you get too far away
5 from the last slide, you are talking about adding new
6 refineries, but is there potential for building on to
7 the existing, in a more cost effective way which would
8 take in this type of information into account to make
9 it cost effective?
10 MR. KAHWATY: A: Sure, I might actually defer that to
11 the local refinery owner.
12 MR. KROGMEIER: A: Yes, sure. Maybe the best examples,
13 we'll talk about the Burnaby refinery in relation to
14 your question, if that's okay.
15 COMMISSIONER COTE: That's a great example.
16 MR. KROGMEIER: A: So, if you haven't visited, please
17 come over, it's a great little facility, and it is --
18 COMMISSIONER DOEHLER: Do we get a free litre of gas?
19 MR. KROGMEIER: A: Can't promise that, but we'll give
20 you a great tour of the facility, and it's in a
21 beautiful little spot in the neighbourhood. And of
22 course the challenge we have to an expansion are a
23 couple of things. One is the footprint of the
24 refinery, the land that it sits on is limited. So,
25 that makes it difficult, contributes to the challenge.
26 Second thing is where we're uniquely

1 situated, we have ingress and egress issues around
2 traffic that have to be managed as good stewards and
3 members of the community, which make it another
4 challenge.
5 **Proceeding Time 1:57 p.m. T58**
6 And then, of course, as the doctor here
7 talked about, there is the economic equation. Again,
8 which even on an expansion basis as opposed to a green
9 field or new facility, you know, poses a lot of risk.
10 And so that would be, I call those kind of the three
11 big factors in an expansion at the Burnaby refinery.
12 And of course every refinery is different
13 from a footprint perspective. I think, you know,
14 operators and owners all have a different view on what
15 their capital hurdles and returns need to look like.
16 But for Burnaby again, I would just kind of point
17 those three factors out as probably the three of the
18 biggest if not the largest.
19 COMMISSIONER COTE: Thank you.
20 MR. KROGMEIER: A: You're welcome.
21 MR. KAHWATY: A: So I had one other comment that I
22 wanted to make, which was prefaced with a question
23 that really seemed to me was, is there a business case
24 to building a new refinery in British Columbia? Or as
25 your question suggests, expanding the existing
26 refineries. And I just wanted to note that I've got a

1 discussion about two proposed B.C. refineries here.
2 As far as I can tell these exist only as fancy
3 websites. But the business case that they make for
4 these two facilities on their websites is not serving
5 the local demand. It's not that we see -- we see a
6 business case to meet kind of the needs over the next
7 few years in British Columbia because of the refining
8 margin. Rather it's we can process oil sands,
9 bitumen, refine products that we can supply to Asian
10 markets. Now, if we were to build one of these types
11 of refineries, no doubt some of that product would end
12 up serving the local market, and it might enhance the
13 business case for it. But what's being put out as a
14 business case for a new facility, what I can see in
15 public materials is not serving the local market, it's
16 serving Asian markets with the ability to develop
17 product, refine product from the oil sands, bitumen.
18 All right, now I'm going to take the next
19 two questions in a different order than you posed
20 them. Question 2K(ii) and then I'll go back to 2K(i).
21 2K(ii) relates to the effects of U.S. refinery outages
22 on prices in British Columbia. So let me just explain
23 the lines on this chart for a minute.
24 These are daily wholesale gasoline prices,
25 these are rack prices that we got from OPIS. And let
26 me give you a sense of the colour coding here. So the

1 Vancouver gasoline line here is the gold line or the
2 yellow line. The green line is Washington State
3 gasoline. You'll see that they follow each other
4 pretty closely. The other two lines, the blue line is
5 Canadian Light Sweet (Crude), and the red line is West
6 Texas Intermediate. So we've got some oil prices
7 here, crude oil prices, standard benchmark series and
8 then the local prices, wholesale prices for gasoline.
9 So, the event that I'm talking about here
10 is probably something that you'll be quite familiar
11 with, the pipeline fire in Prince George that took
12 some natural gas pipeline capacity out of commission.
13 Why does this matter? It's not because natural gas is
14 the feedstock for the refining, but rather it's a fuel
15 to operate the refineries. And taking this pipeline
16 out had the effect of diminishing production and
17 taking refineries in Washington State offline.
18 Certainly that would be an unanticipated change in
19 production in Washington State, that would be a
20 removal of supply from the market. It's not
21 surprising that you see an upward blip in the green
22 line. If you've got a removal of supply from the
23 market, the price in that market goes up.
24 The corresponding price in British Columbia
25 looks as if it mirrors the price in Washington State
26 almost exactly, right? So the idea here is that with

1 the refinery outage in Washington State, your
2 transmission of that price affect into British
3 Columbia. Why is that?
4 **Proceeding Time 2:07 p.m. T59/60**
5 It's against everything that we were
6 talking about this morning. You have refineries in
7 Washington State that are also supplying product into
8 British Columbia. Scarcity of supply in Washington
9 State might pull some of that volume that would
10 otherwise come into British Columbia back. As you see
11 kind of a balancing of supply between markets, it's
12 not at all surprising that you see effect in the
13 Vancouver gasoline price as well.
14 So, you know, to me it's interesting when I
15 look at this at how closely these lines, you know,
16 move together. The blip in the green and the blip in
17 the gold line look almost identical. So certainly
18 there is an impact on British Columbia pricing that
19 resulted from that one specific outage in Washington
20 State.
21 THE CHAIRPERSON: Are there the rack -- are these rack
22 prices? When you say wholesale price, what is that?
23 MR. KAHWATY: A: These are rack.
24 THE CHAIRPERSON: These are rack prices. I do agree
25 that the correlation, it's very close. However, what
26 strikes me is the differential and it looks like a

1 pretty constant, what 15, 18, 17 cent differential.
2 And that's the wholesale price. So that presumably
3 can't be explained by taxes and transit fees and so on
4 at the retail level.
5 So I just wondered if you would have a
6 suggestion of that would explain the, let's say 15
7 cent, the constant 15 cent differential? Because I
8 thought the discussion we've been having is the prices
9 would achieve an equilibrium between two regions, but
10 that doesn't seem to be happening.
11 MR. KAHWATY: A: Well, they would achieve an
12 equilibrium between the price in British Columbia and
13 the delivered price from the other areas.
14 THE CHAIRPERSON: So it's s deliver cost roughly?
15 MR. KAHWATY: A: So you'd have to add on to this the
16 delivery costs.
17 THE CHAIRPERSON: And would you suggest that that's
18 what the difference is, is the delivery costs?
19 MR. KAHWATY: A: Delivery costs, other fees to move
20 product, yes.
21 THE CHAIRPERSON: Okay, thanks.
22 MR. KAHWATY: A: So I wanted to go a little farther a
23 field from Washington down into California. And
24 earlier events in March of 2019 -- oh, let me go back
25 here for one second. There was a reason that I put
26 the oil series on these lines, which is around the

1 time of the fire, the vertical line here on these
2 charts. You'll see that the oil series are actually
3 declining, right? So it's not as if the spike that
4 you see in the green and gold lines are caused because
5 you see a crude price increase at the same time.
6 Crude prices here are actually going down and yet you
7 see the price of the wholesale product going up, okay?
8 So I wanted to point that out.
9 Here you have something which is quite
10 similar. You've got West Texas Intermediate and the
11 Canadian Sweet Light (Crude). Oil series at the
12 bottom in red and blue. You've got the Vancouver
13 gasoline line in the same colour as before, in the
14 gold, but we've got the California gasoline in what
15 looks like gray on the series here as well.
16 Similar affects. There's a small maybe
17 increase in the oil series around the time of the
18 first event, the fire at the Carson Refinery. Not a
19 big change though in the underlying oil price series,
20 but you see both the California and the Vancouver
21 gasoline prices increasing dramatically at the time.
22 Then you have the second outage at the
23 Benicia malfunction taking a second refinery off line,
24 I think that refinery was off line for 40 days or so
25 if I remember right. So you had a second California
26 refinery out. We see continued increases in the

1 wholesale prices.
2 First facility comes back online, prices
3 stabilize, maybe come down a little bit. Second
4 facility comes back on line and they fall again.
5 Here you certainly do have some differences
6 in the pattern that these two lines are not anywhere
7 near as closely related to each other as they were
8 before, but they're moving in the same general
9 direction as what we -- so kind of the general
10 direction of the affects is similar to what we saw in
11 the previous slide.
12 **Proceeding Time 2:12 p.m. T61**
13 But they're not as, kind of, tightly bound
14 together, the California and the Vancouver gasoline
15 series.
16 But here as well, you know, you have the
17 transmission of an effect on California markets into
18 British Columbia. Why? The same types of things
19 we've been talking about really all day, you may have,
20 for example, Washington State refineries that can sell
21 product in California, it can sell product into
22 British Columbia. Reductions in supply, these are
23 unanticipated supply disruptions leading to removal of
24 supply from the market. As you shift, as products
25 shifts around in response to that, whether that's the
26 Washington refiners or others moving product into

1 California, you see effects of that transmitting
2 across from the California marketplace into British
3 Columbia. And these markets are all linked because
4 the barrels can go from one market to another and so
5 you see in the transmission of effects across them.
6 COMMISSIONER DOEHLER: Just before you move on.
7 MR. KAHWATY: A: Sure.
8 COMMISSIONER DOEHLER: Just on the California pricing,
9 gasoline, I'm led to believe that California gas is
10 the most expensive gas in the United States compared
11 to all the other States because of the requirements
12 they have. And so there's still a huge differential
13 between that and Vancouver prices. I know a part of
14 it's transportation probably, but I would expect the
15 California to be closer to Vancouver. Do you have any
16 explanation for that or -- it's just an observation.
17 MR. KAHWATY: A: Yeah, I haven't looked at the
18 differences in cost of production to meet the
19 California spec versus -- in detail to know the extent
20 to which -- if there's anything more than that than
21 just the transportation costs.
22 COMMISSIONER DOEHLER: So the same thing -- sorry.
23 MR. KROGMEIER: A: I'm sorry, I just wanted to add to
24 that, that I think if you look at price history you
25 will see that the Pacific Northwest prices are at
26 times higher then California. So California is not

always the highest gasoline price, wholesale price in the U.S. The Pacific Northwest will often trump it.

COMMISSIONER DOEHLER: All right. So then I guess the same -- I know you did these graphs to show the effect of certain things, the fires and things like that, but then I also see that from July -- 05/07, that's July, 2019 -- no. May 7th, 2019, on to about June 4th or so the differential is higher between California and Vancouver, then finally it starts dropping off. So there is a -- if you look at the graphs there's traditional difference. But then it increases and stays high for a period of time.

MR. KAHWATY: A: Yes, it's just high for a month or so there, yes. I mean there is certainly a differential there and it eventually erodes down to something much smaller. But yes, these margins don't arbitrage instantaneously. You know, there is time for the dynamics to play their way out. But yes, that is historically a large differential there.

COMMISSIONER DOEHLER: But again the graphs were mainly to show these major events and how they do wash through the system.

MR. KAHWATY: A: Yes.

COMMISSIONER DOEHLER: Okay. thank you.

MR. KAHWATY: A: Question 2K(i) related to differential impacts on gasoline and diesel, and so I wanted to

1 comment on that. Taking me a step back on comparing
2 gasoline and diesel markets, first off let's think
3 about the demand side of the market. Really the
4 demand for, at least in the short term the demand for
5 gasoline and diesel are really two separate things.
6 If you put gasoline in a diesel engine or the other
7 way around you're going to find yourself with
8 problems. So, you should think of the demand sides of
9 these markets as being different. There are different
10 types of usages for gasoline and diesel, completely
11 separate, but different groups of customers.
12 **Proceeding Time 2:17 p.m. T62**
13 So the lack of substitutability for
14 individual customers between gasoline and diesel, at
15 least for specific vehicles, says to me as a
16 competition economist that we should think of these
17 are two separate market places. You don't have demand
18 side substitution between the two, and you may have
19 supply side substitution between them in terms of how
20 you run the refinery, but on the demand side we should
21 think of these as two separate things.
22 So there's different demand factors in
23 these markets and also different supply side
24 characters, the stocks, inventories of gasoline and
25 diesel may be different at different points in time.
26 And so, the set of facilities that can meet the

gasoline specs might be different then the facilities that can meet the diesel specs.

So what I have done in question -- in this chart here is I've taken the chart from the last example, we have the two outages in California, and I've added two lines to it. I've added the California diesel line which is the purple line, and I've added the Vancouver diesel line which is the blue line. So now it's getting a little bit -- the light blue line as opposed to the dark blue line.

So now this graph is getting a little more complicated, there's lots of things going on. But if you look at the blue and the purple lines you'll see that they behave differently than -- around the time of the first vertical line here, the first event, the Carson fire, the blue line is flat initially, has a little blip in it. The purple line actually looks rather similar to that, as compared to the gasoline lines, the Vancouver and the California gasoline lines, which show increase.

My point here is just that you can see different dynamics after an event like this for gasoline and for diesel. It's not a surprise. Different demand side factors, different supply side factors. Over time, between the two events, both of these series kind of generally trend upward, so there

is some similarities between them. Later on in the period they all have that kind of U-shape, but looking close in at the time of the first event here you do see some different behaviour between them. So it is certainly possible.

But broadly speaking, it's probably hard to tell from this, you know, the blue and the purple lines actually do look somewhat similar to each other -- as I said, it's actually difficult to see that. They're farther apart initially than they are kind of toward the end of the period that we've got diagramed out here. But I just wanted to say that yes, there could be differential impacts on gasoline and diesel, that was the question that was asked. That doesn't surprise me as a competition economist because different supply side factors or demand side factors.

And I wanted to provide an example. The first two charts were just comparable dynamics on the gasoline side. I wanted to provide an example on the diesel side. So this a refinery shutdown for an extended period at the Anacortes facility in Washington State. Right after the shutdown you do see a decline in the West Texas Intermediate, so the oil prices is actually kind of moving down right at the first vertical line. While you see the yellow and the blue lines, the Washington and Vancouver diesel lines,

1 increasing. Now, they were increasing before the
2 event, they're increasing after the event. My point
3 here is just to show that the dynamics here between
4 the Washington and the Vancouver diesel situations are
5 similar, and for the same reasons that we've talked
6 about on the gasoline side. So I just -- I didn't
7 want to ignore the gasoline side of this, I wanted to
8 have at least a chart here for discussion purposes as
9 well.
10 THE CHAIRPERSON: Thank you, Doctor, I appreciate, I
11 take your point about the correlation with the
12 refinery shutdowns. But I would like to raise the
13 same issue here, or the same comment here about the
14 differential in prices. So if you recall when I
15 raised this comment on the gasoline, I estimated that
16 it was roughly 15, maybe 17 cents differential. But
17 I'm looking at the differential here and it's --
18 MR. KAHWATY: A: Much closer.
19 THE CHAIRPERSON: -- 5 cents, let's say. So is it
20 cheaper to transport diesel than it is to transport
21 gasoline? Because you did suggest that a reason for
22 the difference in prices was the transportation costs.
23 So, it would seem the transportation cost is
24 significantly less for diesel than it is for gasoline.
25 MR. KROGMEIER: A: I'll take a stab at that, if you
26 don't mind. So to your question, is it less expensive

to transport diesel versus gasoline? I believe Mr. Chairman.

THE CHAIRPERSON: Yes.

MR. KROGMEIER: A: Maybe we just start by understanding how they're different products.

THE CHAIRPERSON: Okay.

Proceeding Time 2:22 p.m. T63

MR. KROGMEIER: A: And this will lead to an answer, so bear with me for just a second.

But gasoline is what we call more volatile. So it gives off vapors, and whereas diesel fuel does not. So if you are loading a vessel, say a marine vessel, with gasoline versus diesel, you typically have to, under most jurisdictions, you have to recover the vapors that come off the gasoline during that load and discharging process. And so that restricts your flexibility and the availability of some locations, receipt or delivery locations. Because you have to have that capability to recover those vapors on gasoline. Diesel you typically don't have the volatility issue, so you have I would say fewer logistical issues to work through with diesel, and that's a generalization. But it does drive the difference in cost that you can get between handling gasoline and diesel fuel.

THE CHAIRPERSON: Okay, thank you.

MR. KAHWATY: A: All right, I want to move on to a different subject now. I wanted to point out, and this was covered in this morning's testimony from the Deetken group. But I want to point out some differences in what I was doing in my report and what the Deetken group was doing in their report. In my report I addressed changes in prices in British Columbia since 2015 and a range of things that may have led to price changes.

The Deetken group is really talking about comparisons between British Columbia and Alberta and Washington State. So, there are going to be things that we talked about that are important to kind of -- and what I was talking about in my report that aren't relevant there.

So obviously I talked about changes in crude prices, figure 34 here is from my report showing volatility in crude prices. Reduced availability on Trans Mountain Pipeline leading to higher cost product coming into the market, taxes. These are all things that I talked about in my report. I didn't talk specifically about credit card fees, I did talk about cost in general. Deetken group talks about credit card fees, changes in costs. Land values discussed in both of our reports, increasingly stringent low carbon fuel standards. Supply shocks. I did talk about the

1 potential for demand growth.
2 So, I just want to take a minute to point
3 out that even if a cost factor is the same in British
4 Columbia and Alberta, so there is no differential,
5 that doesn't mean that growth in that factor would not
6 lead to increase prices in British Columbia over time.
7 And I've got an example here. This is some data that
8 I have pulled from the Bank of Canada, the labour
9 force survey. The Bank of Canada offers a number of
10 different estimates of wage growth. The labour force
11 survey is a quarterly estimate of annual wage growth.
12 Quarterly estimate of something which is annual, so
13 the estimate changes every quarter, but it is meant to
14 be an annual number.
15 In some of the quarters, the labour force
16 survey gives you the highest rate of wage inflation
17 and others it does not. There is other things that
18 are higher, so these numbers kind of bounce around as
19 you measure them in different ways.
20 But I point out that wage growth is
21 somewhere between 2 and 4 percent; 1.9, 3.7 percent
22 over time, measured through this one source,
23 compounded over a couple years is going to lead to
24 wage changes, even if wages are changing the same in
25 British Columbia as they are in Alberta. So that you
26 don't have a differential which is what they would be

capturing in the Deetken report, that could still lead to wage growth and its cost increases, and ultimately increases in prices for gasoline at the pump.

Proceeding Time 2:27 p.m. T64

In fact, I do think there is some evidence that there is differential wage growth between British Columbia and Alberta. I just came across earlier in this week a statement, this is a press release from the British Columbia government announcing that wages grew in the past year by 4.1 percent which was the highest rate among all the provinces. So the press release is talking about the fact that the labour market is strong, unemployment is low, B.C.'s unemployment rate maintained the lowest in Canada for the 17th month in a row at 4.7 percent, a range of things. But when you've got lower unemployment rates, you tend to have higher rates of wage growth. We will provide the press release to you later today.

So, my point being that wage growth could be a common cost increase across jurisdictions, but it could also be something which is differential across jurisdictions and you'd need to take into account in a detailed way to make across-province comparisons.

COMMISSIONER DOEHLER: If I understand it, though, the data you're talking about is future. We're talking about 2015 to 2019. Isn’t it wage growth in future?

MR. KAHWATY: A: Yes, this is a February 2019 release, so it's talking about 2018, wage growth over the past year.

COMMISSIONER DOEHLER: I am still stuck. You seem to be proving a positive of negative in that we are looking for the differences between Alberta and B.C., for instance, and here you're saying that even though they might be the same, it could lead to a difference? I don’t catch your argument.

MR. KAHWATY: A: No, no, I'm glad you asked that, because I want to be sure my point is clear. I am actually making two different points. From the Deetken report's point of view, they do say that there could be wage growth, but that it is not differential between British Columbia and Alberta. And if the point of your analysis is talking about differentials between the provinces, then you would set that off to the side.

In my report I was talking about reasons why there could be price increases over the 2015 to 2019 period. It's not a differential analysis, it's a comparison of 2015 to 2019 there have been increases. One of the reasons that you could see an increase is wage growth, okay?

And so I am saying that I would see an increase there for a reason that the Deetken Group

1 would set aside, because it's not relevant to their
2 analysis. I'm saying there are other reasons, not
3 necessarily quantified in the Deetken Group's report,
4 that would lead to price increases.
5 And then as a sub-point to that, I am
6 saying, "But there actually could be differentials in
7 that wage growth," and I am just pointing out here,
8 that there may be some differentials, and it's worth
9 giving that further thought. I don't have the
10 information to do that, but it's worth giving that
11 some additional thought.
12 Most of the wage growth issue might not be
13 a differential, in which case it's just leading to
14 price increases between 2015 and current, but there
15 could be some differential impact there as well.
16 THE CHAIRPERSON: Sorry, if we're leaving that slide,
17 then I do have a question. I just wanted to ask you a
18 couple questions about your bullet that's roughly in
19 the middle there, "Changes in costs, including
20 increasing land values in Vancouver." So we did hear
21 a bit about that from Deetken this morning, and I'm
22 just wondering if you -- would you have any general
23 knowledge of prices in Vancouver? And I'm not just
24 talking about gasoline now, just prices in general, in
25 Vancouver as compared to other Canadian cities?
26 Because if land values are a significant driver of

retail prices, then I would expect that though we would generally pay higher retail prices for all goods in Vancouver.

My personal anecdotal information is that that's not the case when I travel to other Canadian cities. I don’t notice prices being substantially larger, but I don’t conduct a scientific survey.

So, I am just wondering if you have any economic data about this?

Proceeding Time 2:32 p.m. T65

MR. KAHWATY: A: I don't offhand, but I'm certainly happy to give some thought to that and get back to you on it.

INFORMATION REQUEST

THE CHAIRPERSON: Thank you.

MR. KROGMEIER: A: No data here. I don't have -- yeah.

MR. KAHWATY: A: All right, just one other topic that I wanted to raise today, which is the impact of regulation on markets. This is really in response to some of the Navius and Allan/Eliesen points. I'm not going to spend much time at all talking about the first set of bullets, impact of regulation on retail prices. I think that's set out in my report, and I don't need to cover that again.

And I've commented extensively in my report on the price transparency regulation. About there not

1 being any economic basis for that in what I've seen
2 here.
3 But I did want to talk about the wholesale
4 -- the regulation of wholesale prices for a minute, to
5 be sure that how the pieces of the analysis fit
6 together are clear, because I think this is an area
7 that can lead to some confusion. If you -- because
8 the intuition would be, suppose you were to regulate
9 -- suppose the price in the market were 10 and you
10 were to regulate the price, the wholesale price down
11 to 8. I think that -- it wouldn't be surprising if
12 the expectation was by cutting the wholesale price by
13 2, you would see a decline in the retail price that
14 matches that.
15 You think about a competitive retail
16 market, it's putting some margin, a retail margin on
17 top of the wholesale price. If we're to cut the
18 wholesale price, you'd expect the retail price to fall
19 with it, okay? And I wanted to just talk about this
20 for a minute, because -- and I did talk about it in my
21 report, but it's an area that I think can be
22 confusing.
23 Which is that in a competitive marketplace
24 that's actually not what would happen. If you were to
25 regulate that wholesale price from 10 to 8, what are
26 you going to see happen? You're going to see some

1 diversion of supply from the local market to other
2 markets. You may see less production in the market.
3 Whatever it is, it's reduction in the volume of
4 product supplied in the local marketplace. And with a
5 reduction of supply of the products in the local
6 marketplace you must see a corresponding increase in
7 the retail price. That is the basic long demand, that
8 if the volume of output in the market falls, the price
9 in the market will increase. That's the downward
10 sloping demand curve. The way that -- if you've got
11 less volume in the market, the way that you get the
12 market to clear is by having a higher price.
13 And so you have the counterintuitive, I
14 think, point that a restriction -- a regulation that
15 reduce, say, the wholesale price from 10 down to 8,
16 would actually lead to an increase in the retail price
17 because the volume of goods supplied in the market
18 would fall. That has to lead to an increase in the
19 retail price.
20 So the wholesale regulation would have the
21 impact of actually increasing the retail margin
22 because we're not allowing the markets to fully clear.
23 So I wanted to point that out, because I
24 think it's a counterintuitive, at least at kind of
25 first blush. Kind of a counterintuitive point to make
26 and I wanted to be sure that that was clear. It's

1 something that's discussed in my report, but I wanted
2 to be sure that it was on the table in case there were
3 any questions about it.
4 COMMISSIONER COTE: I just have one. You're saying
5 that if it is set at below prevailing levels, it would
6 lead to excess demand.
7 MR. KAHWATY: A: Yes.
8 COMMISSIONER COTE: And then --
9 MR. KAHWATY: A: And that would --
10 COMMISSIONER COTE: On what do you base -- basically
11 you're saying it's an elastic product, regardless of
12 whether you're talking commercial or otherwise.
13 MR. KAHWATY: A: Well --
14 COMMISSIONER COTE: In other words, demand is elastic
15 to -- like price -- I buy less and it --
16 MR. KAHWATY: A: Yes. I mean, the empirical research
17 on gasoline does suggest that there is an elasticity
18 to it. It's not totally inelastic. The elasticity of
19 our gasoline is more elastic over time, as people can
20 adjust their driving patterns and whether it's having
21 a more efficient vehicle or adjusting commuting or
22 whatever it is.
23 **Proceeding Time 2:36 p.m. T66**
24 But there is some elasticity in the demand
25 for gasoline and diesel.
26 COMMISSIONER COTE: In the case where it's been

1 regulated, in say eastern Canada, is that the initial
2 effect that occurred? In other words, that basically
3 as the price went down the demand went up?
4 MR. KAHWATY: A: So, my understanding of the regulatory
5 environment in some of the eastern provinces is not
6 that it was a desire to hold prices down, but it was
7 to do a range of different things. One was to reduce
8 volatility in the market. So we're not necessarily
9 holding prices lower, we're just trying to smooth out
10 variations over time. That's part of it.
11 There's also regulation of minimum prices,
12 which is designed to prevent predatory pricing. But
13 it's not my understanding that the regulatory regimes
14 were designed to bring prices down substantially.
15 COMMISSIONER COTE: And if say regulation was to be
16 contemplated in this province, would that not be one
17 of the goals that would be set out, would be to cut
18 down on the variation or the fluctuations on prices?
19 Not necessarily reduce them, it's -- it's always from
20 a certain point. Like in other words, you reduce the
21 price from say May versus the price in July, they were
22 totally -- completely different prices.
23 So you have entirely different effect,
24 depending upon which month you were actually looking
25 at.
26 MR. KAHWATY: A: Yeah, so the, the price cycling that

we were talking about before, where prices, retail prices are higher and they're bid down over time and then kind of go back up, reset and trend down. It varies by geography, but sometimes these effects, this kind of downward process and then the reset can occur over the course of a week, it can occur over the course of a couple of days. Some areas it's a lower process, it might take two weeks.

But it's a relative short cycle, and the way I think of the volatility regulation is taking the maximum price and the minimum price and trying to find something in the middle and smoothing out the -- smoothing out the peaks and the valleys in that. Which I think is different than saying instead of the median, if you will, price that we're trying to regulate at, we're actually trying to push that price below.

So we've got fluctuations in price over time, we're just trying to dampen that as opposed to saying -- which is different. I mean, what I'm talking about here is not regulation to remove volatility from the market. Here I'm talking about regulation to -- you know, to reduce the overall price level of the market.

THE CHAIRPERSON: Can we go back to -- if you recall this --

1 MR. KAHWATY: A: Yes. Yes, certainly.
2 THE CHAIRPERSON: So, looking at your comment in the
3 second bullet, that regulating wholesale prices would
4 reduce production and diversion of supply to
5 alternative geographies.
6 MR. KAHWATY: A: Mm-hmm.
7 THE CHAIRPERSON: So we have talked about the fact that
8 even though -- in a situation like this, where there's
9 a higher price in a different geography, you may not
10 necessarily be able to sell all of your supply there,
11 or any of your supply there at that price.
12 MR. KAHWATY: A: Sure.
13 THE CHAIRPERSON: So in that circumstance, if one were
14 to set the -- if one were to set the wholesale level
15 at a price that's lower than what's called on this
16 graph the observable exchange point, which is the
17 price of that incremental supply, set it below that
18 but set it above the cost of production of the local
19 supply, then -- presumably you're not going to reduce
20 production because you're still making enough money to
21 cover your expenses and a profit. You're just not
22 making as much of a profit as you would were you able
23 to set your price at that even higher level, which
24 matches the price in the alternate geography.
25 MR. KAHWATY: A: Sure. So to be sure that my answer is
26 clear for the record --

1 THE CHAIRPERSON: Okay.
2 MR. KAHWATY: A: What's the actual figure number for
3 that?
4 THE CHAIRPERSON: I'm sorry, yes.
5 MR. KAHWATY: A: So I'll use the same terminology as
6 what's on --
7 THE CHAIRPERSON: It's chart 4.2.1, and it's in Exhibit
8 number A2-2-1, I believe. Perhaps I could have some
9 help with that. Thank you.
10 So I'm looking let's say, for example, at
11 the block that says "source 2", just to pick a place,
12 and put a dot halfway between the top of source 2 and
13 the blue line. And let's say that the regulated price
14 was set there.
15 Then that's presumably not -- would not
16 disincent the source 2 producer from producing.
17 **Proceeding Time 1:18 p.m. T67**
18 MR. KAHWATY: A: Correct. That would not disincent the
19 source 2. It might disincent the source 3, depending
20 on --
21 THE CHAIRPERSON: It may, fair enough. Correct, yeah.
22 MR. KAHWATY: A: But I think the way to think about
23 this is, this is a stylized picture with a step
24 function.
25 THE CHAIRPERSON: Right.
26 MR. KAHWATY: A: Right? It's flat, jump up, flat, jump

1 up --
2 THE CHAIRPERSON: But the real world is messier than
3 that, isn't it?
4 MR. KAHWATY: A: The real world doesn't have more
5 smoothness to it, if you will.
6 THE CHAIRPERSON: Yeah.
7 MR. KAHWATY: A: That if you pull that price down
8 there's going to be some marginal volume that is lost,
9 and that might not be reduction in production from the
10 local sources, it might be the production from
11 Washington State that decides not to come in but go
12 elsewhere instead.
13 So, yes, in this specific chart, with the
14 step function, there would be no change in source 2,
15 yes.
16 THE CHAIRPERSON: Right. So would it be fair to say
17 that you're saying that there is no circumstance at
18 which one -- to use this chart, at which one could set
19 the price below the equilibrium price and not reduce
20 production?
21 MR. KAHWATY: A: Yes, it wouldn't be my expectation.
22 Where you've got supply sources coming from PADD 2 and
23 PADD 3 and PADD 5, we've got this diversity of sources
24 that were you to reduce the wholesale price, something
25 is going to have to change there.
26 THE CHAIRPERSON: Okay. Thank you.

1 I'd also like to go back to the discussion
2 that you were just having about elasticity of demand
3 for gasoline, and I understood you said that gasoline
4 does exhibit elasticity.
5 MR. KAHWATY: A: Yes.
6 THE CHAIRPERSON: I just want to turn your attention to
7 page 56 in your report. There's a footnote, and
8 you've got a discussion of elasticity there and it's
9 footnoted and it says, "Empirical studies have found
10 that the demand for gasoline is inelastic." It goes
11 on to say that it's elastic in the longer term, but in
12 the short term it's inelastic.
13 So I wonder if you could please reconcile
14 those two views.
15 MR. KAHWATY: A: Sure.
16 THE CHAIRPERSON: Thank you.
17 MR. KAHWATY: A: And let's get -- be careful with
18 terminology.
19 THE CHAIRPERSON: Right.
20 MR. KAHWATY: A: I think what I said was that there was
21 some elasticity to demand, which means that there is
22 some slope to demand.
23 THE CHAIRPERSON: Right.
24 MR. KAHWATY: A: Whether it's elastic or inelastic is a
25 technical question about the extent to which -- to
26 what the slope is or what the elasticity of that is.

1 But it is not perfectly inelastic. There is some
2 downward slope to the demand curve. It is inelastic,
3 typically viewed as being an inelastic demand curve in
4 the short term, but there is an elasticity to it,
5 okay?
6 So it is -- perfectly inelastic demand
7 curve would be something which is literally vertical.
8 The demand curve for gasoline is not vertical. It has
9 some slope to it, but it is inelastic in that the
10 measured elasticity is not a large number.
11 THE CHAIRPERSON: So this footnote would perhaps better
12 have been worded that the demand for gasoline is
13 largely inelastic, or is less elastic than some
14 products? It's not --
15 MR. KAHWATY: A: Let me fully read the footnote to be
16 sure I'm answering the right question.
17 Yes, so the footnote says it's empirical
18 studies have found that demand for gasoline is
19 inelastic. I haven't said that empirical studies have
20 said demand for gasoline is perfectly inelastic. It's
21 inelastic in that it has elasticity, it's not a lot of
22 elasticity. And so that's -- that's what I'm saying
23 here.
24 The next sentence, "The more inelastic the
25 demand for the product is, the less consumers are
26 willing or able to switch to another product to pay

for the increase in prices."

So there can be degrees of inelasticity. Elastic or inelastic is a technical question as to when you measure the elasticity, is it greater or less than one.

THE CHAIRPERSON: All right.

MR. KAHWATY: A: So, there is elasticity, it's just -- it's just not, I'm going to say a large --

THE CHAIRPERSON: It's not as elastic as some other products.

MR. KAHWATY: A: Yes.

THE CHAIRPERSON: Okay, fair enough. Thank you.

COMMISSIONER COTE: Just looking at volatility issue -- sorry, I think a little bit far away.

Looking at the volatility issue and I don't think I was clear on the point I was making about depending upon what price you're going down from, and let me take an example. For instance, I don't know, about a month, a month and a bit ago the price was going along the mid-150s, mid to one high fifties, and a lot of the stations I kind of saw as I passed by. And then suddenly overnight it dropped down into the 130s.

And I'm assuming that is because of competitive action. There's no -- there's nothing that happened in the market suddenly about a month and

1 a half ago that's changed the cost structure on that.
2 It's strictly a volatility measure related to market
3 conditions, either demand or competition.
4 Is that a fair statement to make? And
5 anybody on the panel --
6 MR. WHITE: A: I think that's a fair statement.
7 COMMISSIONER COTE: Okay.
8 MR. KAHWATY: A: I agree with that.
9 COMMISSIONER DOEHLER: I want to go back to that lovely
10 block diagram, and the Chairman's question about if
11 it's set at wholesale price, halfway on that line
12 after supplier 2, that supplier 2 is not
13 disadvantaged.
14 But I presume -- and you agreed with that,
15 but the thing is I presume it means there could be a
16 shortage because now supplier 3, at a higher cost of
17 that, might not get a supply and there could be a
18 short -- because demand is higher.
19 MR. KAHWATY: A: The quantity demanded would increase
20 because the price would be lower, yes, and we haven't
21 changed supply.
22 But let be sure I have the right picture in
23 front of me. So, this is chart 4.3.1.
24 THE CHAIRPERSON: 4.2.1. 4.2.1.
25 COMMISSIONER COTE: 4.2.1.
26 MR. KAHWATY: A: 4.2.1. I've been looking at 4.3.1.

1 THE CHAIRPERSON: That explains everything.
2 COMMISSIONER COTE: The slides are any different.
3 MR. KAHWATY: A: I'm sorry, so can you repeat your
4 question now that I'm looking at the right chart?
5 COMMISSIONER DOEHLER: If you use the right chart, I
6 think the question was, if that wholesale price is set
7 at not the equilibrium price but somewhere down the
8 line, toward source 3, but still higher than source 3,
9 what they're willing to supply for, it doesn't
10 disadvantage source 3 other than they don't get as
11 much profit. But I'm presuming the demand is higher
12 than that, hence you can't get source 4.
13 **Proceeding Time 2:49 p.m. T68**
14 MR. KAHWATY: A: I'm sorry, 4.2.1 doesn't have a
15 source 3 level on it.
16 MR. GHIKAS: Just if I can clarify. So the questions
17 that I was putting to Ms. Lepine this morning was
18 actually chart 3 point -- sorry, chart 4.3.1 on page
19 35, which I think is the one that Dr. Kahwaty is
20 looking at.
21 MR. KAHWATY: A: That I was looking at.
22 MR. GHIKAS: They actually are -- they look very very
23 similar to the one that you're referring to.
24 COMMISSIONER DOEHLER: Oh, they're set out -- okay.
25 MR. GHIKAS: But --
26 THE CHAIRPERSON: I'm looking at the one on page 35.

1 MR. KAHWATY: A: Yes.
2 THE CHAIRPERSON: Of 2.1.1 -- or A2-1-1.
3 COMMISSIONER DOEHLER: 4.2.1 on page 22. That's why
4 I've got a different --
5 THE CHAIRPERSON: It's the same as the one on page 35.
6 MR. KAHWATY: A: 4.2.1 in the --
7 THE CHAIRPERSON: No, that's the wrong --
8 COMMISSIONER DOEHLER: This is a 5 source model.
9 THE CHAIRPERSON: It's 4.3.1, my apologies. It's
10 labeled incorrectly here. 4.3.1 on page 35.
11 MR. KAHWATY: A: 4.3.1 in the July 20th Deetken report.
12 It's 4.2.1 in the first Deetken report.
13 THE CHAIRPERSON: That might be it. Yes, that's where
14 it is.
15 MR. GHIKAS: I believe that charts 4.2.1 and 4.3.1 are
16 actually the same chart, appearing in different
17 reports. So I think we're okay in terms of what we're
18 talking about here.
19 COMMISSIONER DOEHLER: So try and go back to where we
20 were. So the question was --
21 MR. KAHWATY: A: I do hope I answer the question
22 eventually.
23 COMMISSIONER DOEHLER: I understand the question
24 before, and the answer was that if the wholesale price
25 is set below the equilibrium point, so it's halfway
26 down the line towards source 3 -- you know, the gap,

1 the difference. It's just slightly down. Source 3 is
2 still going to make a profit, but not as much profit.
3 MR. KAHWATY: A: Correct.
4 COMMISSIONER DOEHLER: But if the demand then goes into
5 source 4 all of a sudden and that price is set lower,
6 we'll end up with a shortage.
7 MR. KAHWATY: A: Yes.
8 COMMISSIONER DOEHLER: From source 4 --
9 MR. KAHWATY: A: Correct. Source 4 will not supply,
10 source 3 will.
11 COMMISSIONER DOEHLER: Yes, source 1, 2, 3 --
12 MR. KAHWATY: A: There's no reduction in volume going
13 between the equilibrium -- no reduction in production
14 going between the equilibrium and the new hypothetical
15 price, but there is an excess demand because at the
16 lower price demand --
17 COMMISSIONER DOEHLER: It moves.
18 MR. KAHWATY: A: Yeah.
19 COMMISSIONER DOEHLER: Then the other question, I was
20 looking and I just want to make sure I understand your
21 answer on regulating the retail price and volatility
22 issue. If the price is regulated -- the retail price
23 is regulated such that there is, it reduces the
24 volatility but both sides are made whole, it might be
25 a week or two sitting around, is that going to have an
26 impact? Does that mean regulation is not good? Might

be a cost to do that?

So both sides are -- the wholesaler is made whole and the consumer is made whole, because you adjust the price accordingly.

MR. KAHWATY: A: So for example, if the price would vary between $1.30 and $1.50 and we smooth out the volatility and price it at $1.40 or something along those lines.

COMMISSIONER DOEHLER: Or more like the lines that we'll set the price at $1.40 and then it becomes $1.50. Then the following week, we say, okay, it's going to be $1.60, to make up for the loss of the 10 cents. So you're making the supplier whole. Then it goes the other way, you make the consumer whole.

MR. KAHWATY: A: Now, I'm sorry, now I don't understand the question.

COMMISSIONER DOEHLER: It's trying to reduce the volatility.

MR. KAHWATY: A: Right.

COMMISSIONER DOEHLER: And you can't set the price by looking at the future, you have to look at the past. So you set the price based on the past information.

MR. KAHWATY: A: Mm-hmm.

COMMISSIONER DOEHLER: You then look at what happens the next week and you do it a weekly basis. And you say okay, do we set the price too low compared to what

1 actually happened? Or too high? And we adjust the
2 price the following week accordingly to make up?
3 **Proceeding Time 2:53 p.m. T69**
4 MR. KAHWATY: A: What I'm trying to understand is what
5 does it mean when you say did we -- was the price too
6 high or too low, or did we get it right? I mean, you
7 set a price --
8 COMMISSIONER DOEHLER: We have market price.
9 MR. KAHWATY: A: -- the price that people charged, and
10 so that is the price that the transactions were at.
11 So --
12 COMMISSIONER DOEHLER: But we have the market price, we
13 know what's going on. I'm trying to talk about what
14 happens in the east coast.
15 MR. KAHWATY: A: Right, but if you have -- if you
16 regulate the price -- if you've regulated the price,
17 then you don’t have the market transaction prices
18 higher or lower.
19 COMMISSIONER DOEHLER: You know what the market it, it
20 happens. You always look at the market. So you
21 compare the market to what you set the price to, and
22 adjust accordingly?
23 I'm trying to find a mechanism to smooth --
24 let's say the biggest complaint, or one of the things
25 we've seen in the letters is that people are
26 complaining about the huge volatility, three or four

1 times a day, big change from one day to the next, and
2 these type of things, which we've heard about in the
3 evidence so far. Let's say that is the biggest
4 concern, and the idea is how do we reduce the
5 volatility? How can we do it in a way that still will
6 make sure there's always adequate supply, will not be
7 a shortage? Or would you like to think about it?
8 MR. KAHWATY: A: I'll try to give you an answer to
9 that, but I'd also like the chance to give it a little
10 more thought, maybe submit something to you in writing
11 on that.
12 **INFORMATION REQUEST**
13 COMMISSIONER DOEHLER: That's what I'm thinking, it's
14 rather critical, because one of our inquiries is,
15 should we do regulation to understand? And so far all
16 the evidence you've presented is "regulation is not
17 good." I'm trying to present a scenario which might
18 be worthwhile considering.
19 MR. KAHWATY: A: I mean, yes, what I've talked about is
20 either retail or wholesale price regulation designed
21 to reduce prices without really thinking through the
22 regulatory scenario of we're not trying to actually
23 pull down the average price over time, we're trying to
24 maintain the average price over time, but smooth out
25 the variations in it.
26 COMMISSIONER DOEHLER: Exactly.

MR. KAHWATY: A: If you let me think about that a little bit and submit something to you.

THE CHAIRPERSON: What Commissioner Doehler is suggesting is something that is very similar to a mechanism that we use in the regulatory world, rate smoothing mechanisms. Because one of the principal objectives of utility ratemaking is to minimize rate shocks and impacts of rate fluctuations.

So having regulatory accounts that help to manage that fluctuation, so that it leaves a utility completely whole. The utility at the end of the day still collects exactly the same amount of money it would have collected had the rates gone up and down and all over the place, but the net result has been a smoother experience for the customer. And I think that is essentially what the suggestion is. If you would like to give that some thought?

MR. KAHWATY: A: Yes, I am happy to give that some thought and get back to you on that.

INFORMATION REQUEST

THE CHAIRPERSON: Thank you.

Oh, you are finished the slideshow?

MR. KAHWATY: A: Yes, that was my last slide.

THE CHAIRPERSON: Thank you. So Mr. Ghikas then, is it our questions then?

MR. GHIKAS: Absolutely, Mr. Chairman, yeah, any --

1 over to you.
2 THE CHAIRPERSON: Well, I think you've answered a fair
3 number of our questions.
4 COMMISSIONER DOEHLER: Mr. Chair -- sorry.
5 THE CHAIRPERSON: Go ahead.
6 COMMISSIONER DOEHLER: Just one little question to make
7 sure I understand the market, and then we'll get into
8 more detail. And that's in Exhibit E42, which came in
9 late, and I understand that Parkland has, I think in
10 part of its evidence said "yes, we adopt the findings
11 of this report." It is the CIMPA, Canadian Fuels
12 Association report.
13 **Proceeding Time 2:58 p.m. T70**
14 It was essentially done by Kent, and I am just trying
15 to balance some basic numbers. I'm looking at page 3.
16 So this might be more a Parkland answer than whatever,
17 and it's a simple math question I'm trying to do.
18 So page 3 talks about the source -- talks
19 about the demand for refined product, and talks about
20 the source. And in there in the paragraph above it
21 talks about 29 percent of the product is met by the
22 two refineries. And then in the note, it says Trans
23 Mountain Pipeline supplies 12 percent. And then in
24 note 5 it says that the reports of PADD 5 exports to
25 Canada supply 24 percent. If I add those three
26 numbers together I get 65 percent. Where does the

other 35 percent come from?

MR. KAHWATY: A: Let me review this.

COMMISSIONER DOEHLER: Not necessarily a trick question, I just -- I have lots of sources as well, and I can't put the numbers together for me.

MR. KAHWATY: A: All right, so footnote 4, so the figures we have, 29 and 24 and 12 don’t add up to 100 percent, that's correct.

COMMISSIONER DOEHLER: That's my problem, yes.

MR. KAHWATY: A: So what we have is the refineries, the B.C. refineries meeting 29 percent, the Trans Mountain Pipeline volume at 12, which seems low, possibly, and then PADD 5 at 24. But Alberta volume coming in would be in addition to what's on Trans Mountain, so this is presumably missing volume coming in from other sources, whether that is trucked or rail or what have you.

COMMISSIONER DOEHLER: So it could be Alberta, it could be PADD 3, PADD 2, whatever it is.

MR. KAHWATY: A: It could be, yes, other sources as well, yes.

COMMISSIONER DOEHLER: Those type of things. I just want to confirm that, that my understanding was correct. Okay, thank you.

THE CHAIRPERSON: Okay, so question. In Deetken's phase 2 report they analyze -- and the reference to

1 this is A2-1-1, page 31, and also appendix 4, pages 84
2 to 86. They analyze wholesale prices instead of
3 refining margins. Deetken states that since we are
4 comparing the western region to B.C. for wholesale
5 prices, regions which have identical crude indices,
6 than the refining margin differentials for B.C. versus
7 western regions look identical to wholesale
8 differentials.
9 Just asking if you agree with that
10 statement and that methodology?
11 MR. KAHWATY: A: So let me just read that one more
12 time.
13 MR. GHIKAS: Could you provide the reference one more
14 time, Mr. Chairman?
15 THE CHAIRPERSON: Page -- A2-1-1, page 31, and also
16 appendix 4. Pages 84 through 86. Yeah, it's actually
17 on page 85 in the appendix, the quote that I made was
18 on page 85 in the appendix.
19 MR. KAHWATY: A: I'm sorry, can you give me the quote
20 again?
21 THE CHAIRPERSON: "Since we are comparing the western
22 region to B.C. for wholesale prices, regions which
23 have" --
24 MR. KAHWATY: A: I am on the wrong Deetken report.
25 COMMISSIONER COTE: It's the first paragraph.
26 MR. KAHWATY: A: That is why I couldn’t find it. Sorry

1 about that.
2 THE CHAIRPERSON: It's right under the graph, the
3 chart.
4 MR. KAHWATY: A: Yes.
5 THE CHAIRPERSON: Thank you, sir.
6 MR. KAHWATY: A: That's the math done on the page here.
7 THE CHAIRPERSON: Pardon me?
8 MR. KAHWATY: A: The math that's done on the page here.
9 THE CHAIRPERSON: And you concur?
10 MR. KAHWATY: A: Yes.
11 THE CHAIRPERSON: Thank you.
12 **Proceeding Time 3:04 p.m. T71**
13 COMMISSIONER DOEHLER: I'm referencing the
14 Allan/Eliesen report, and they made a claim that B.C.
15 does not have to rely on external U.S. sources for
16 refined product. Instead they claim the capacity
17 exists to deliver sufficient quantities of refined
18 product from Alberta. And now, that's why I asked the
19 question, where the sources are coming from, because
20 it seems like the number was 24 percent from the U.S.
21 So that is critical to make sure we have enough
22 supply? We can't get it all from Alberta?
23 MR. KROGMEIER: A: It would be difficult under the
24 current constraints we have today. You've seen the
25 Trans Mountain Pipeline constraint, and you know,
26 there are just not enough trailer trucks out there to

1 actually haul all the remaining product that you would
2 need to make up the shortfall from Alberta into
3 British Columbia. So, it would certainly be difficult
4 I think, logistically to be able to source it all out
5 of Alberta under today's constraints. And thus the
6 need to look to other supply points for the market.
7 COMMISSIONER DOEHLER: So I presume a lot of it comes
8 up from Washington by barge then? Or in truck?
9 MR. KROGMEIER: A: It does, it does indeed. Yes, a lot
10 by marine barge, some by truck.
11 COMMISSIONER DOEHLER: A question was asked before too,
12 we are looking for the barriers to trade, and see what
13 is going on between States and here. And looking to
14 see, is there any changes, as between Alberta and B.C.
15 or B.C. and Washington State I guess; is there any
16 other trade barriers that are being increased, or stop
17 -- increase the costs or the ability to move product
18 since 2015?
19 MR. KROGMEIER: A: Well, I think we've talked about the
20 LCFS standard in British Columbia.
21 COMMISSIONER DOEHLER: Yes, I understand that one.
22 MR. KROGMEIER: A: Which, you know, certainly is a
23 differentiating point between provinces. In terms of
24 what I would call regulatory barriers, and I don’t
25 think there are really any other large ones that I'm
26 aware of, anyways. The logistic barriers, though, I

1 just go back, and not to go over the -- you know, hoe
2 the same ground again, but the logistic barriers are
3 much -- are different. And again, I would just point
4 to the amount of refined product on the Trans Mountain
5 Pipeline from 2015 to today, and that's -- I don't
6 have the exact percentage change, but it looks pretty
7 big on the graph, and so I do think that the logistic
8 barriers are the big story here.
9 COMMISSIONER DOEHLER: We have in the report, I'll call
10 it the A & E report, that they claim that "the oil
11 companies have allowed media and other sources to
12 promote false narratives concerning the chronic
13 shortage of supply." Do you have any comment to this
14 assertion? Or anything to add? Or try and dispel
15 that this is what people are apparently saying, I
16 guess?
17 MR. KROGMEIER: A: I don't really have a reaction to
18 that, other than -- could you read it again to me?
19 I'm sorry, the quote?
20 COMMISSIONER DOEHLER: I don't know if it is exactly
21 the same great quote here, but they claim that oil
22 companies have allowed media and other sources -- I
23 won't comment on media, and other sources to promote
24 false narratives concerning the chronic shortage of
25 supply. And this is actually in their report --
26 THE CHAIRPERSON: C1-2.

1 COMMISSIONER DOEHLER: C1-2, pages 22-26, somewhere
2 there. It's more on page 26, I think.
3 The main comment is, "regrettable that
4 erroneous commentary" -- it's on page 26, "It is
5 regrettable that erroneous commentary about lack of
6 supply is not more thoroughly checked. It is
7 regrettable that companies like Parkland do not set
8 the record straight when their situation is
9 misrepresented by commentary."
10 I don't know if you have anything to add to
11 that.
12 **Proceeding Time 3:09 p.m. T72**
13 MR. KROGMEIER: A: Yeah, I'm not sure where they're
14 coming from. I will --
15 COMMISSIONER DOEHLER: That's a good start.
16 MR. KROGMEIER: A: You know, because I -- from the
17 refinery's perspective here in Burnaby, you know, we
18 make every effort to fully utilize the kit that we
19 have on the ground. And you know, so I don't know
20 what their reference is or the context of the comment.
21 I guess I'd be speculating if I were to give you an
22 opinion, but again, from what I know, this looks to me
23 to be, you know, not relevant to Parkland actions.
24 COMMISSIONER DOEHLER: Because I'm looking on page 25,
25 where again it's a little more inflammatory, on the
26 second last paragraph. "An important question that

1 must be addressed is the extent to which suppliers in
2 the B.C. market, including Parkland, are able to take
3 advantage of false narratives regarding price spikes."
4 And obviously this is someone saying this. You have
5 no --
6 MR. KROGMEIER: A: Yeah, I don't know what the
7 narrative is they're referring to actually, so I again
8 would just be speculating on their comments.
9 COMMISSIONER DOEHLER: We talked a bit briefly about
10 the traders and U.S. wholesalers, marketers, traders.
11 They purchase gasoline -- do they purchase gasoline
12 from B.C. when there's a price advantage. Is there a
13 -- and then you talk about your own situation where
14 you occasionally you might have a bit of an over
15 supply, you trade into the market.
16 So do you see these marketers or traders
17 out there quite active?
18 MR. KROGMEIER: A: Oh, they're very active, yes.
19 There's many of them, they're very active. They are,
20 I think someone said before, looking for the arbitrage
21 opportunities and they will take advantage of those.
22 And Commissioner, I think you mentioned or
23 questioned if we export -- or the traders export out
24 of B.C.
25 COMMISSIONER DOEHLER: Yes.
26 MR. KROGMEIER: A: Just to go back to that. And the

1 answer is yes, we have seen traders export out of B.C.
2 COMMISSIONER DOEHLER: So it goes back and forth
3 depending on where the advantage is --
4 MR. KROGMEIER: A: It does. I'll give you an example
5 maybe to help. So, Alaska has demand for gasoline.
6 It does have a refinery. Sometimes that refinery, you
7 know, is in turn around, unable to supply all the
8 requirements. And the traders will look at the
9 arbitrage opportunity of supplying that market from
10 different locations. And sometimes, you know, B.C. is
11 the location that they will supply from, because the
12 economics, you know, point them in that direction.
13 COMMISSIONER DOEHLER: In the Deetken report on page
14 46, is phase 2 obviously. They talk about various
15 estimated tanker truck costs that -- cents per litre,
16 Edmonton to Vancouver, Edmonton to Kamloops. It's on,
17 I say, page 46.
18 MR. KROGMEIER: A: Mm-hmm.
19 COMMISSIONER DOEHLER: Top of page 46. The various
20 costs per litre to move it by truck, transport. I'm
21 not asking for verification, but are these numbers in
22 the realm of what you and Parkland see at the time you
23 do it by truck?
24 MR. KAHWATY: A: These specific routes, Commissioner,
25 from -- let's take the first one, Edmonton to
26 Vancouver. So it begs the question, is this an all-in

1 cost. Does it -- because -- I don't have the exact
2 figures in front of me and obviously our costs, for
3 example, how we would represent this movement would be
4 confidential.
5 COMMISSIONER DOEHLER: I understand that.
6 MR. KROGMEIER: A: But to be honest, at first blush, 8
7 cents per litre from Edmonton to Vancouver if you're
8 doing it in the winter months, I'll be perfectly
9 honest, that looks incredibly low to me.
10 COMMISSIONER DOEHLER: So on the confidential phases
11 could you supply those type of numbers, similar to
12 that?
13 MR. KROGMEIER: A: We can take a crack at it.
14 COMMISSIONER DOEHLER: Yeah.
15 **INFORMATION REQUEST**
16 MR. KROGMEIER: A: Yeah, for sure. Yeah.
17 COMMISSIONER DOEHLER: And just quickly, is it a big
18 effort to do that?
19 MR. KROGMEIER: A: It is a bit of an effort, yeah, but
20 we'll make best efforts. And perhaps what we can do
21 is just to define the ask a little bit better. If we
22 can limit it to say one route and we could give you a
23 range of what we believe our costs are, that --
24 COMMISSIONER DOEHLER: That would --
25 MR. KROGMEIER: A: Is that okay?
26 COMMISSIONER DOEHLER: That would be perfect.

MR. KROGMEIER: A: Okay, thanks for that.

COMMISSIONER DOEHLER: Thank you.

THE CHAIRPERSON: We could -- maybe Mr. Bussoli could arrange with Mr. Ghikas to get the parameters sorted out about what information we'll get.

MR. BUSSOLI: Sure, we can take care of that.

THE CHAIRPERSON: Yes.

Proceeding Time 3:15 p.m. T73

COMMISSIONER DOEHLER: In your C5-2, page 14 -- oh, in the appendix. Sorry, Appendix A -- I know it's a big report. In Appendix A on page 14. Do I have the right appendix here. There is a graph on the top that says "relative index refining margin."

MR. KROGMEIER: A: I don’t think we have the material, just a moment.

COMMISSIONER DOEHLER: Yeah, that's okay. So you have appendix, page 14.

MR. KROGMEIER: A: Yes, okay, I think we're there.

COMMISSIONER DOEHLER: I just don’t know what relative index refining margin is.

MR. KROGMEIER: A: This one is an eye exam.

COMMISSIONER DOEHLER: I just want to know what the term means.

MR. KROGMEIER: A: Relative index refining margin. Yeah, I'm not sure, Commissioner, is your question what is the index?

1 COMMISSIONER DOEHLER: Yeah, what does it mean?
2 Relative index refining margin, what does it --
3 THE CHAIRPERSON: Definition of the term.
4 COMMISSIONER DOEHLER: Definition of the term.
5 MR. KROGMEIER: A: Yeah, sorry.
6 COMMISSIONER DOEHLER: Forget about the numbers --
7 MR. KROGMEIER: A: I'm just trying to figure out the
8 data. I don't know how they index -- you know, where
9 they set the index point. I think I'm just meant to
10 give a relative perspective on the movement of the
11 refining margin.
12 COMMISSIONER DOEHLER: Oh, so the refining margin as
13 defined in the OIC?
14 MR. KROGMEIER: A: I believe it is equal to that
15 definition. I think it is the same definition.
16 COMMISSIONER DOEHLER: Okay, so it is just showing the
17 change of that margin over a period of time?
18 MR. KROGMEIER: A: I believe that's the case.
19 COMMISSIONER DOEHLER: Perfect.
20 COMMISSIONER COTE: I apologize, I've gone through and
21 tried to cut out what has already been covered, and so
22 it will be a bit fragmented. Maybe starting with Dr.
23 Kahwaty. On page 21 of your evidence -- I don't think
24 you have to go to it. You note that refinery margins
25 are quite thin and the range you gave is 1 to 10
26 percent. It begs the question with me, what would be

1 a reasonable average, or an average, or median for a
2 refinery in terms of profit?
3 MR. KAHWATY: A: What page was that?
4 COMMISSIONER COTE: 21.
5 MR. KAHWATY: A: Yeah, so I'm having difficulty coming
6 up with a number to give for you. The way that I
7 would think about that would be to think about kind of
8 a comparably capital intensive industries and looking
9 at returns there. But I am happy to actually get back
10 to you on that one as a follow-up submission.
11 **INFORMATION REQUEST**
12 COMMISSIONER COTE: Would you like to take it as an
13 undertaking?
14 MR. KAHWATY: Yeah.
15 COMMISSIONER COTE: Okay, that's reasonable. Thank
16 you.
17 In the Deetken report, there was
18 discussions, one of the major factors affecting price
19 was that of credit card fees. There was obviously a
20 difference between the number you gave as the amount
21 you pay for credit card fees and the amount that they
22 base theirs on.
23 **Proceeding Time 3:20 p.m. T74**
24 But what we're asking is, is the
25 methodology they use to arrive at their -- you know,
26 the impact of credit card fees in your mind correct?

I think they base theirs on a 2 percent rate and I believe from your evidence it was around 1.25, so obviously it would have a difference on the impact on price.

This would be for one of Parkland's --

MR. WHITE: A: I would say methodology-wise, would be directionally correct.

COMMISSIONER COTE: Fine, so -- now, in your mind is 1.25 a number we can live with, if we choose to do anything with that? Is that a number that's reasonable for the industry?

MR. WHITE: A: Yeah, it's hard for me to speak to the industry.

COMMISSIONER COTE: I understand. In general -- put it this way. From my experience it doesn't seem that far out.

MR. WHITE: A: Right. I would say somewhere between sort of what we've provided and the Deetken report is probably the right answer.

COMMISSIONER COTE: Okay, good. Thank you.

COMMISSIONER DOEHLER: But is that 1.25 the fee that's paid to credit card or does it take into consideration cash sales? Is cash sales a significant number?

MR. WHITE: A: Cash sales is a very small percentage of our business.

COMMISSIONER COTE: Nobody uses money.

1 Now, just by subject, on a commercial
2 cardlock system, that is possible sell both gasoline
3 and diesel through your cardlock system? Or location?
4 MR. WHITE: A: It's largely diesel.
5 COMMISSIONER COTE: Largely diesel, okay. What average
6 volume, as percentage of total volume, goes through
7 the cardlock system?
8 MR. WHITE: A: I'd like to come back to you with a
9 appropriate number.
10 **INFORMATION REQUEST**
11 COMMISSIONER COTE: Okay. And how is the price of
12 gasoline and diesel sold through the -- how is the
13 price of gasoline and diesel sold cardlock system
14 determined?
15 MR. WHITE: A: So we have contracts for the most part
16 in our cardlock business.
17 COMMISSIONER COTE: Yeah.
18 MR. WHITE: A: With, I guess technically wholesale
19 customers, and those prices differ depending upon the
20 customer.
21 COMMISSIONER COTE: So it would be sort of -- on
22 refined products, sort of rack -- sort of plus or
23 minus the --
24 MR. WHITE: A: Correct.
25 COMMISSIONER COTE: Okay. Seasonal factors, has
26 Parkland experienced any lengthy or unexpected delays

in each of the refined product transportation methods in the last five years? And what I'm talking about is pipeline, rail.

MR. KROGMEIER: A: Yes, I'll give you a recent example, Commissioner. There was -- if you remember, oh, two months ago or so, in the Midwest, PADD 3 region, there were some pretty severe floods, flooding going on. And so the rail lines, they were unable to move cars down the track. And so that delayed significantly the resupply of some key components of gasoline and biodiesel to the British Columbia market.

So the answer is yes, we do get those disruptions, certainly, in the supply chain. And --

COMMISSIONER COTE: Is it tied into one time of year more than others or is it -- can it happen just when it happens?

MR. KROGMEIER: A: Unfortunately it seems that it just happens when it wants to happen, more and more. So I don't think there's a distinctive pattern to it. Other than I would say in the spring when you tend to get more flooding, you know, in the Midwest, there seems to be a bigger -- kind of more, more events like that.

COMMISSIONER COTE: Okay. Now an issue -- a comment made that in the Lower Mainland some companies are impacted by cross-border shopping, which has caused

1 retailers to lower retail prices to increase the
2 number of litres that they have to sell. For retail
3 stations that are near municipal borders where, you
4 know, taxes may be a little bit different, or
5 international borders, how do these stations compete
6 for cross-border -- with cross-border stations?
7 What's your strategy? Get the sales guy.
8 MR. WHITE: A: Sure. I can tell you, speak to maybe an
9 approach, and as I said on our opening remarks,
10 without a competitive retail price point, that's our
11 ticket to the game. So, what tends to happen in those
12 areas is we'll adjust price to the extent we feel
13 appropriate, but that is really the extent. And then
14 the consumer makes the decision whether the additional
15 travel time and time and effort and energy is worth
16 it.
17 **Proceeding Time 3:25 p.m. T75**
18 COMMISSIONER COTE: This speaks to the decline in
19 stations, which has been -- I think it's part of
20 Deetken, they were saying since 2010 there has been a
21 total decline of six percent in the number of
22 stations? I'm wondering how that compares to other
23 markets across western Canada? Is this normal? Is
24 this a normal amount? Or are we faring better in
25 terms of keeping stations open than other major
26 western markets?

1 MR. WHITE: A: Yeah, I'd have to get you the number on
2 specifics. What I would tell you just at a high
3 level, from an opinion, is that the metropolitan, or
4 the sort of large urban areas, like the Greater
5 Vancouver area, I would say is under more pressure in
6 terms of the land value and use of land relative to
7 other western provinces. So that puts some additional
8 pressure on land use and value and appropriate --
9 whether a gas station is the best use.
10 COMMISSIONER COTE: Okay, and in your mind, what are
11 the primary factors that have led to this decrease? I
12 mean it's not a huge decrease, but it's going all one
13 way, to put it that way.
14 MR. WHITE: A: Yeah, I think you've heard from my
15 colleagues, Dr. Kahwaty as well, from demand,
16 anticipating what is going to happen with demand.
17 Land use and value, return on capital, escalating
18 rents play a pretty significant role in decision-
19 making. So as we assess our network, we are looking
20 for appropriate rate of return on capital, and all of
21 those things are considered as we contemplate our
22 network development strategy, particularly in an urban
23 market like Vancouver.
24 COMMISSIONER COTE: Okay. Now moving a bit to
25 competitive landscape in broad terms, Deetken has made
26 a number of statements with respect to the competitive

1 landscape in B.C. not changing significantly over the
2 last three to five years. Do you agree with that?
3 And if so, why or why not?
4 MR. WHITE: A: In terms of change, there has been some
5 changes, there has been some significant changes in
6 ownership. I will say the brands have remained
7 largely the same, they are being operated by different
8 parties, ourselves included.
9 I would --
10 COMMISSIONER COTE: It has been a real eye opener for
11 me, I must say.
12 MR. WHITE: A: -- yes. So, you know, I showed the
13 Commissioners a report or a chart that showed that we
14 have got 23 different marketers in this business
15 operating a multitude of brands along with operating
16 models. So I would suggest this is an extremely
17 competitive market, and the significant changes have
18 really been around who owns and operates those
19 facilities.
20 COMMISSIONER COTE: Okay. Now onto this issue of land
21 value which was brought up in the Deetken report.
22 Perhaps at the most highest level, to what extent
23 does, in your mind, does property value and taxes
24 affect your retail pricing?
25 MR. WHITE: A: Well, you've seen it in some of the --
26 again, some of the material we've presented. It's a

fairly significant impact. Two-thirds of our retail price point is connected to just the tax regime alone, let alone the other operational expenses, occupancy taxes, et cetera. So it has a fairly significant effect on our ability to price fuel.

COMMISSIONER COTE: Okay, what about property value, is that something you take into account, specifically add that to your formula of trying to determine what you were going to charge at the retail level? Or is that something like a justification for rates as they are?

MR. WHITE: A: I would suggest that it is part of our decision making criteria around, you know, there is -- obviously the retail selling price is one component of our economic model, but we need to make sure that that's is obviously driving an appropriate rate of return on capital as well. So I would say it's an input.

Proceeding Time 3:30 p.m. T76

COMMISSIONER COTE: Okay. See if there's anything else.

Deetken has estimated that there's 4.2 to 6.2 cents a litre that partly explains the differential between Vancouver and the Western -- other Western markets. Do you agree with that? Is that in the right ballpark?

MR. WHITE: A: Yeah, I'd have to go back. I'd like to

1 look at the exhibit. Are you referring to any one
2 specific --
3 COMMISSIONER COTE: This is part of their -- and I do
4 apologize. I might have it here.
5 MR. WHITE: A: Yeah, sorry. It would be great if I
6 could just --
7 COMMISSIONER COTE: Page 26 and 29 on A2-1-1.
8 MR. KROGMEIER: A: This is phase 2 of their report.
9 COMMISSIONER COTE: That's correct.
10 THE CHAIRPERSON: It's on page 29, the last paragraph.
11 MR. WHITE: A: So the answer is yes, it's a -- it's
12 certainly a contributor.
13 COMMISSIONER COTE: That wasn't my question. The
14 question was, they've established a range there. Is
15 that a reasonable range?
16 MR. WHITE: A: I would suggest that's a reasonable
17 range.
18 COMMISSIONER COTE: Okay.
19 COMMISSIONER DOEHLER: Just continuing a bit on from
20 that, is that in B.C., if I understand the statistics,
21 there's 173 stations that you run, that are operated
22 by Parkland, and to roughly set the prices I think is
23 in your earlier --
24 MR. WHITE: A: Yeah, I just want to make sure I'm -- I
25 know the number sounds familiar, but yes, that's --
26 COMMISSIONER DOEHLER: Let's say it's --

MR. WHITE: A: Approximately.

COMMISSIONER DOEHLER: Whatever the number is, it's a huge number. So I presume that -- now, these are stations throughout B.C. And I presume then there's someone who gathers the information of the costs to run each of those stations. And looking at the retail margin accordingly. And the question they come into is that with that analysis I presume you have more accurate figure than the Deetken report of what the property costs are in the cents per litre idea.

And I presume it would also vary between whether you're urban, downtown Vancouver or in rural B.C. So how can we use this number of 4.2 to whatever that cents is -- 4.2 to 6.2? Are you basing that on that information? I presume this analysis is done on a somewhat regular basis by a very qualified accountant.

MR. WHITE: A: Yeah, so the number I think that was provided was from Deetken, not from Parkland.

COMMISSIONER DOEHLER: I understand that, yes. And what I'm trying to say is that Deetken provided this on their analysis, how they did it. You have the actual data.

MR. WHITE: A: We would, correct.

COMMISSIONER DOEHLER: Yeah. And so is that data -- I mean, and I think you just, in answer to questions,

said 4.2 to 6.2 cents a litre is those costs to do with property. Over and above, would it be for a station in Alberta or Manitoba, because you have those stations as well. I presume there's a comparison made. We're looking for the change, the delta, not the base. And then there's a variation in B.C., I would think, as well.

MR. WHITE: A: Right. So I just want to make sure I'm understanding your question.

COMMISSIONER DOEHLER: What we're trying to investigate here is the difference in retail margin as defined in the OIC. And one of the reasons we're told why the retail margin is higher in B.C. is because of land values and things like that. Deetken did an analysis, come to a number. You have the actual numbers.

MR. WHITE: A: Correct, we would. So part of what drives the range, to your point, I think you've said it well, rural versus urban, land values in one place or concentration of sites in those specific areas. So we would have an idea on a site by site basis. I'd have to go back and speak with our team on, you know, getting you some additional information if that's the request.

I'm giving you -- you know, my reaction to the question was, is that a range, and again the ask was it a ballpark range and my answer was yes. If we

1 needed more information we could --
2 COMMISSIONER DOEHLER: If wished to be provided
3 confidentially, that's -- I understand the reason for
4 that. But the interest of not only within B.C., but
5 it's also comparison with your other stations outside
6 of B.C. to see what the difference, the delta is for
7 the property values? You know, so it would be rent,
8 property taxes and those things.
9 **Proceeding Time 3:35 p.m. T77**
10 MR. WHITE: A: Yes, so we do have that information.
11 COMMISSIONER DOEHLER: Again, asking a question before
12 you jump up, is it hard to get?
13 MR. WHITE: A: It is not easy. We have a cycle that we
14 go through around network development, where we are
15 doing these assessments. It is done by a team of
16 people, because it's not just one particular area as
17 you probably would be aware that we would be looking
18 at. So, I would suggest it's a fairly intensive
19 process to ensure it's correct.
20 COMMISSIONER DOEHLER: Yeah, I know it's intensive, and
21 I wish there was an easier way to get it, but the
22 information is critical to us to understand. Because
23 even with that, there is still unexplained difference.
24 And that was explored a bit this morning, and so do
25 you have anything else to add on why the unexplained
26 difference, using -- I know 2019, I can almost see

what the argument might be, but is there anything else that comes to mind that helps us understand why the differential on the retail margin is higher here in B.C. than it is, other than the 4.2 to 6.2 cents? Is there any reason that might come to mind?

MR. WHITE: A: Yeah, I think, and it was I think brought up this morning that 2019 was probably the anomaly and again, we're just halfway through 2019. Without getting into a whole lot of detail, what I would project into the future, and the market will tell us what makes sense, you know, there have been fluctuations, but I would suggest that there are lots of factors. And again, it's difficult for me to comment in really a public forum on sort of the factors that are contemplated, considering we can do that in a confidential format.

COMMISSIONER DOEHLER: Appreciate that, thank you.

THE CHAIRPERSON: We are just going to take two minutes here.

Mr. Bussoli, does staff have any questions?

MR. BUSSOLI: Yes, Mr. Chair, staff does have a few questions.

THE CHAIRPERSON: Would you advise a break before the questions?

MR. BUSSOLI: I wouldn’t mind a break before proceeding, I note the time.

THE CHAIRPERSON: All right, so we will take until quarter-to then, by that clock.

(PROCEEDINGS ADJOURNED AT 3:38 P.M.)

(PROCEEDINGS RESUMED AT 3:50 P.M.) T78/79

THE CHAIRPERSON: Thank you. Please be seated.

Please go ahead, Mr. Bussoli.

MR. BUSSOLI: Thank you, Mr. Chair.

EXAMINATION BY MR. BUSSOLI:

MR. BUSSOLI: Q: Dr. Kahwaty, in your presentation, I think it was slide 6, and you don't have to go there for the question unless you think you need to, but I'm just going to ask the question first. You said that no marketer has control over the retail prices for more than 12.6 percent of the gas stations in B.C. And then earlier Parkland in their presentation said that there was over 1300 gas stations in B.C.

But what about at the refiner level? Have you done any market concentration tests, examples of four firm concentration ratio or the Herfindahl-Hirschman index to test how competitive it is at the refiner level in B.C.?

MR. KROGMEIER: A: No, I have not.

MR. BUSSOLI: Q: Would you be able to do that?

MR. WHITE: A: I just want to be sure we can hear me. I've not calculated CR4s or HHI. I don't know if we have sufficient information to do that.

MR. BUSSOLI: Q: Would you be able to find out if you have that sufficient information to do that? And if so, could you do that? You can take that as an undertaking?

INFORMATION REQUEST

MR. KAHWATY: A: I am happy to take it as an undertaking. I don't believe we have enough information, but like I said, I will confirm that.

MR. BUSSOLI: Q: And Parkland noted that a portion of the high regulatory costs can be attributed to the costs of importing hydro generation [*sic*] derived renewable diesel, HDRD. Are there other alternatives to HDRD as a means to comply with a low-carbon fuel standard?

MR. KROGMEIER: A: There are. Would it be helpful if I kind of walked you through some of them?

MR. BUSSOLI: Q: Sure, please do.

MR. KROGMEIER: A: Okay, so I'll walk everyone through a few of the pathways. So we call them pathways to compliance.

So, one pathway is to blend ethanol into your gasoline pool, but of course there is a maximum amount of ethanol you can put into gasoline by law. So that doesn't get you all the way there, as you know.

Then you can blend biodiesel, which is not

1 HDRD, it's different. So you can blend biodiesel into
2 your diesel pool. But again, there are limits to how
3 much you can put in, or what we call the "blend wall."
4 THE CHAIRPERSON: Sorry, so you can blend ethanol into
5 gasoline --
6 MR. KROGMEIER: That's right.
7 THE CHAIRPERSON: -- and biodiesel into diesel.
8 MR. KROGMEIER: A: That's right.
9 THE CHAIRPERSON: But not vice versa?
10 MR. KROGMEIER: A: No.
11 THE CHAIRPERSON: You can't put ethanol into diesel.
12 MR. KROGMEIER: A: That's right, yeah. No, your engine
13 would just -- or your tractor would probably just give
14 out on you right there.
15 THE CHAIRPERSON: Thank you.
16 MR. KROGMEIER: A: So then there is the third pathway
17 I'd like to talk about, is by purchasing credits on
18 the open market, and Powerex runs a biannual auction
19 for those credits, where you can bid to buy credits
20 that go towards satisfying again your obligation.
21 It's one of the pathways.
22 An additional pathway is to purchase and
23 blend the hydrogenation derived renewable diesel, and
24 that is a very expensive pathway, because again, as I
25 mentioned before, often times the market price of HDRD
26 is four to five times that of an equivalent unit of

1 conventional diesel.
2 There is another pathway, it is called co-
3 processing. So at the refinery level what you can do
4 is you can co-process. So you process tallow, or
5 canola oils, along with conventional intermediate feed
6 stocks. And so what you do is when you inject them
7 into the unit you're processing in, you will mix them
8 effectively together, and inject them. And so by co-
9 processing tallows or canola oils, those are low-
10 carbon intensity feed stocks. And the co-processing
11 contributes towards your obligation to manufacture
12 low-carbon fuels, transportation fuels. So that's
13 another pathway.
14 There is yet another pathway, and that is
15 what we call Part 3 credits. So, in the provincial
16 regulations there are certain investments that you
17 have to qualify through that approval process, that
18 will generate what we call those Part 3 credits, and
19 those can be applied towards your obligation as well.
20 **Proceeding Time 3:55 p.m. T80**
21 So, a tangible example might be helpful,
22 and that is one that Parkland has with Metro
23 Vancouver, whereby we are working on taking waste, so
24 biomass, sewer system waste that's generated every day
25 and I believe it's north of 65,000 tonnes per day, and
26 converting that into bio-crude oil, okay. Now, we're

not there yet. This is obviously a technology development that will take some years to get there. The last -- and if you don't meet your obligation through those six pathways, then you have to settle up and you have to pay -- I believe the price that's mandated is 200 tonnes per -- I'm sorry, $200 per tonne of CO_2.

Yeah, so hopefully that's helpful.

MR. BUSSOLI: Q: Yes, it is, thank you. And I'm not going to take you to this but we can go there if you need to, but the Deetken Report notes that the diesel prices we've seen earlier today, that the diesel prices have not significantly changed since 2015. Could you explain why the diesel does not appear to reflect the variation or changes since 2015, just generally speaking or --

MR. KROGMEIER: A: Is it relative to another marker or is it just the price going up or down?

MR. BUSSOLI: Q: Relative to the -- relative to the, sorry, relative to the HDRD?

MR. KROGMEIER: A: Oh goodness, I don't have HDRD going back, sorry, to 2015. I don't have the numbers with me.

MR. BUSSOLI: Q: Would you be able to do that on an undertaking?

MR. KROGMEIER: A: You know, I don't know actually how

1 -- whether the HDRD market in 2015 -- because this is
2 a very small amount of production, HDRD. And I'm
3 trying to think who was manufacturing HDRD in 2015.
4 It wasn't too many folks. So I don't know whether
5 there will be a price, a publicly available price for
6 that. But we'll certainly check into it. We'll do
7 the best we can.
8 **INFORMATION REQUEST**
9 MR. BUSSOLI: Q: If you could, thank you.
10 MR. KROGMEIER: A: Sure.
11 MR. BUSSOLI: Q: Getting close to the end here. Does
12 Parkland publish its rack prices?
13 MR. KROGMEIER: A: We do.
14 MR. BUSSOLI: Q: Oh, you do. Okay. And is it publicly
15 available somewhere?
16 MR. KROGMEIER: A: I believe it is, yeah.
17 THE CHAIRPERSON: On your website possibly?
18 MR. KROGMEIER: A: I don't think it's on the website.
19 But you know what? I'll check into it.
20 **INFORMATION REQUEST**
21 MR. BUSSOLI: Q: Okay, if you could let us know then.
22 MR. KROGMEIER: A: Yeah, it's up there.
23 MR. BUSSOLI: Q: And just bear with me here. This is a
24 question for Dr. Kahwaty. Could you confirm that the
25 economic theory regarding the ceiling price being
26 lower than the market equilibrium price, which leads

1 to excess demand, is premised on a condition that the
2 gasoline and diesel market have a high level of
3 competition?
4 MR. KAHWATY: A: Certainly when I made that comment I'm
5 thinking about supply and demand and standard
6 regulatory economics, yes.
7 MR. BUSSOLI: Q: And one final question for you, Dr.
8 Kahwaty, thank you very much. Do you see any benefit
9 to monitoring data? Who is the most appropriate
10 organization to receive this data -- hold on a second.
11 Perhaps we can go to your exhibit, your
12 evidence at Exhibit C5-2, page 118.
13 MR. KAHWATY: A: All right, I'm on page 118.
14 **Proceeding Time 4:00 p.m. T81**
15 MR. BUSSOLI: Q: And on that page you state that the
16 Navius Report notes that,
17 "Canadian price regulation does not include
18 price transparency measures, but that that State
19 of Hawaii does collect data from the industry
20 and some of these data are made available
21 publicly, though in an aggregated and redacted
22 form. Even with regard to Hawaii, however, the
23 data still did not provide an understanding of
24 the overall costs of doing business for various
25 actors within each segment of the market. (i.e.
26 to calculate net margins, profits or return on

capital with certainty). The data collection in California and Washington State are also discussed."

So the question I guess to you is, do you see any benefit to monitoring data and who is the most appropriate organization to receive that data? Like what are the pros and cons to this versus like a regulatory regime?

MR. KAHWATY: A: Sure. So first let me address the benefits of collecting the data. I struggle to find -- I struggle to come up with benefits to collecting this type of information. Certainly the information that's being discussed in the Navius Report in terms of information that they would like to see collected, or at least contemplate collecting is exceptionally broad. And there is certainly burdens associated with collecting that. But I'm having difficulty understanding the benefits that would be derived from that, and in part that would relate to what is actually done with the information.

When you think about price transparency, we certainly picked up in reading the materials, you know, a kind of desire of the public to have a better understanding. But to do that, of course, then you have to release information on people's costs publicly. And that is something that from a

1 competition economics point of view we don't typically
2 encourage, in fact we discourage. Competition law and
3 economics discourages the trading of competitively
4 sensitive information precisely because it could
5 potentially lead to coordinated conduct. And so the
6 exchange of more detailed information, more sensitive
7 information is generally viewed as, you know, as a
8 negative.
9 So, if you collect the information, the
10 question is, what is then done with it? If it's made
11 public in any sort of way that's potentially of
12 interest, then it seems to me that you're actually
13 raising competition issues. So I don't -- if you have
14 something specific in mind I'm happy to address that,
15 but as a general construct I don't see a lot of
16 benefits to it and I do see a downside of costs
17 associated with potential coordinated conduct.
18 MR. BUSSOLI: Q: Right, so you wouldn't see any --
19 there wouldn't be more price transparency, you're
20 saying there would be a detriment to that?
21 MR. KAHWATY: A: I think that the transparency --
22 promoting transparency in that way could actually be
23 detrimental, yes.
24 MR. BUSSOLI: Q: I believe those are all my questions
25 but I just want to confirm.
26 Yes, those are all the questions, thank

1 you, panel, and to you Dr. Kahwaty.
2 MR. KAHWATY: A: Your welcome.
3 THE CHAIRPERSON: I'd also like to thank the panel. We
4 appreciate your attending today and helping us to
5 understand the information you've provided, and hope
6 you have safe travels home, thank you.
7 MR. KROGMEIER: A: Thanks for having us.
8 (PANEL ASIDE)
9 MR. BUSSOLI: Mr. Chair, I would suggest just a five
10 minute break or so for the Hearing Officer to make
11 some changes to the audio and our next panel.
12 THE CHAIRPERSON: Right, and then our next party is
13 attending by video conference and that's Shell, is
14 that correct?
15 MR. BUSSOLI: That is correct, they have a witnesses
16 that will be attending over video.
17 THE CHAIRPERSON: Okay, so go ahead why don't you bring
18 us back when you're ready, thank you.
19 **(PROCEEDINGS ADJOURNED AT 4:00 P.M.)**
20 **(PROCEEDINGS RESUMED AT 4:13 P.M.) T82/83**
21 THE CHAIRPERSON: Thank you. Please be seated.
22 Mr. Keen?
23 MR. KEEN: Good afternoon, Mr. Chairman, Commissioners.
24 It is my pleasure here to in a minute introduce to you
25 Shell Canada Limited's witness panel. What I will do
26 at the outset is pass up their biographies. This has

been filed on the record already as C10-4, but it may be helpful to have hardcopies in front of you. And for that reason I don't propose to mark this document as an exhibit.

And so before I begin some more comprehensive remarks, Mr. Chairman, I should mention as counsel also attending with Shell's panel in Calgary is Ms. Lindsay Bec, and then Shell in-house counsel in the person of Mr. Dan Kolenick and Mr. Evan Dickinson. Ms. Bec's last name is spelled B-E-C. Mr. Kolenick's last name is spelled K-O-L-E-N-I-C-K, and Mr. Dickinson is as it sounds, D-I-C-K-I-N-S-O-N.

And as I alluded to, before we get to the testimony of Shell's panel I have some remarks to make by way of an opening statement for Shell. They'll be very brief, and they consist essentially of three points.

OPENING STATEMENT BY MR. KEEN:

First, Shell sincerely appreciates the opportunity to participate in this process, and looks forward to assisting the Commission. In particular, Shell appreciates the procedural structures that the Commission has put in place to facilitate its participation. Notably, as we see, the option for Shell to attend by way of video conference, given the short timelines, removing the travel logistics has

1 allowed Shell to devote more time to prepare to be
2 helpful to the Commission and respond to questions.
3 And then also of course the confidentiality
4 protections, they are important. And they allow Shell
5 to participate in more depth.
6 Shell's witnesses, as we've said on the
7 record, will provide responses in the public session
8 when possible, but expect that a significant
9 proportion of its time with you may have to be spent
10 in the *in camera* session, and where necessary, we will
11 flag that and ask to park the question and take that
12 up *in camera*.
13 The reason for that is because Shell and
14 other refiners and retailers are subject to
15 significant competitive forces. Knowledge of Shell's
16 supply, transportation and pricing decisions would
17 allow competitors to anticipate and respond to Shell's
18 position in the marketplace. And by definition, that
19 would harm Shell's business.
20 And so that brings me to the second aspect
21 of my remarks. Shell would like to emphasize that
22 there are indeed significant competitive forces at
23 play in the gasoline and diesel markets in British
24 Columbia. Again, they drive the need for the
25 confidential treatment of data here. And they explain
26 why Shell has, in front of you right now, pricing

1 managers and an economist.
2 And then third, I would like to set the
3 stage and explain how, at a very high level, Shell
4 participates in B.C. gasoline and diesel markets. Our
5 hope is that by establishing that context your
6 questions can be more focused, and I should add in
7 passing that this material is on the record already in
8 several places of Exhibit C10-2.
9 **Proceeding Time 4:13 p.m. T84**
10 Shell participates in those markets in
11 essentially three ways. It transports gasoline and
12 diesel by rail to Kamloops first, and then second it
13 transports diesel by rail to the Lower Mainland and
14 third, Shell purchases gasoline from third party
15 refineries in the Pacific Northwest and then resells
16 it. Shell's retail network extends across much of
17 British Columbia. It includes 91 corporately owned
18 sites, 52 dealer owned sites which sells Shell
19 supplies, and then nine Flying J sites. And we hope
20 that context is helpful to you.
21 And so without further ado, it's my
22 pleasure to introduce Shell's witness panel. I'll
23 introduce them and then the Hearing Officer can affirm
24 them.
25 It comprises three people who you see in
26 front of you. To the right of the screen is Ms.

1 Sigourney Courtright. She is the retail pricing
2 manager for Canada. In the centre you see Ms.
3 Isabelle Frizzle, who is the pricing manager for
4 Canada Channel Optimization. And then on the left of
5 the screen you see Mr. Nick Boutilier, who is a
6 refinery economist based at the Scotford Refinery in
7 Fort Saskatchewan.
8 Shell has filed your biographies on the
9 record. It's Exhibit C10-4, which you have a copy of
10 in front of you. Broadly speaking, Ms. Courtright
11 will field retail pricing matters; Ms. Frizzle will
12 field wholesale pricing matters; and then Mr.
13 Boutilier will field refinery related questions.
14 Again, if questions go to business
15 sensitive and confidential content, the panel will
16 flag that fact and we would expect to park the
17 question and take it up in the *in camera* session.
18 And with that, subject to being affirmed, the panel is
19 available for your questions.
20 THE CHAIRPERSON: Thank you, Mr. Keen.
21 **SHELL CANADA LIMITED PANEL:**
22 **SIGOURNEY COURTRIGHT, Affirmed:**
23 **ISABELLE FRIZZLE, Affirmed:**
24 **NICOLAS BOUTILIER, Affirmed:**
25 THE CHAIRPERSON: Thank you, Mr. Bemister.
26 Hello panel, and thank you for joining us

this afternoon and thank you for providing answers to questions that you have done, appreciate it.

Can you hear me okay?

MR. BOUTILIER: A: Yes, it's a little quiet, but we can hear you.

THE CHAIRPERSON: Thank you, is that any better?

MS. COURTRIGHT: A: Much better.

MS. FRIZZLE: A: Much better yes, thank you.

THE CHAIRPERSON: Great. We have some questions for you and many of the questions are questions that we've asked of the Parkland Panel. So what I would -- rather than just dive right into those questions what I would like to ask, have you had the opportunity to listen to the proceedings today?

MS. COURTRIGHT: A: Much of them.

THE CHAIRPERSON: Okay, and have you heard much of the discussion that we had -- we've been having with Parkland over the last few hours?

MS. COURTRIGHT: A: Yes.

THE CHAIRPERSON: So, I'm wondering, I would like to give you the opportunity then, if there's areas where you would have disagreed with Parkland or had different, a different view or areas where they couldn't provide an answer and that you possible could, would you like to let us know about that? So that we don't go through ever single question

1 repetitively. However, if that's not possible then we
2 can go through the questions with you.
3 MR. BOUTILIER: A: I want to say we came in around two
4 or so, somewhere around there. I don't know if this
5 was a lot more in the pricing space.
6 MS. FRIZZLE: A: At this point I don't have a list of
7 items that I disagree.
8 THE CHAIRPERSON: That's fine, okay. All right, so why
9 don't we go through our questions then.
10 COMMISSIONER COTE: Can you hear me?
11 MS. COURTRIGHT: A: Yes.
12 COMMISSIONER COTE: Thank you. Do you agree with
13 Deetken's assumption that the market clearing price
14 will be based on the most expensive delivered source
15 of supply, i.e. the marginal unit of cost?
16 **Proceeding Time 4:23 p.m. T85**
17 MR. BOUTILIER: A: We don't have the questions in front
18 of us here. That was saying about wholesale price?
19 COMMISSIONER COTE: Do you want me to repeat it?
20 MR. BOUTILIER: A: That was saying about wholesale
21 price?
22 COMMISSIONER COTE: Do you want me to repeat it?
23 MR. BOUTILIER: A: Yes please.
24 COMMISSIONER COTE: No, talking about retail price.
25 And when we're at -- I'll do it fully. Deetken in its
26 report stated that the price of gasoline --

1 MR. KEEN: Is there a page reference that we could
2 provide to the witnesses that may help them focus and
3 respond to your question?
4 COMMISSIONER COTE: Sorry, it is A2-1-1, page 34, 37
5 and 41 for the questions.
6 MR. KEEN: Thank you.
7 MS. FRIZZLE: A: So you're referring to the wholesale
8 price?
9 MR. BOUTILIER: A: I think he said retail price.
10 COMMISSIONER COTE: I am talking wholesale. My
11 apologies, it was wholesale.
12 MR. BOUTILIER: A: Wholesale, okay, yeah, back to where
13 you were.
14 MS. FRIZZLE: A: So what I can say for Shell, like for
15 the wholesale prices, Shell has their own methodology
16 independent than their competitors to set up the
17 wholesale prices. And due to the fact that we don't
18 have a refinery in British Columbia, the correlation
19 with the refinery reference that was stated would not
20 be applicable for B.C.
21 COMMISSIONER COTE: Okay. With regards to
22 transportation, is it your experience that tanker
23 trucks are the most expensive form of transportation?
24 Or would you order them in some other way?
25 MS. FRIZZLE: A: Again it would depend from which
26 location to which location, but from observation, a

1 pipeline is usually the lower cost of supply.
2 COMMISSIONER COTE: I understand that, but is the most
3 expensive is that tanker trucks? Are tanker trucks
4 the most expensive?
5 MS. FRIZZLE: A: So in general I would tend to agree.
6 Again, my expertise is more on the wholesale prices
7 rather than the logistics, but I believe that's a fair
8 statement.
9 COMMISSIONER COTE: Okay. Deetken -- do you agree with
10 Deetken's assessment that the decline of refined
11 products over Trans Mountain over the 2018 and 2019
12 period is the result of arbitrage opportunities for
13 crude oil crowding out refined products? If so, why
14 or why not?
15 MS. FRIZZLE: A: So again, like the fact that Shell
16 does not own a refinery in British Columbia would be
17 hard for me to comment on this statement.
18 COMMISSIONER COTE: Okay.
19 MR. KEEN: Commissioner Cote, it may be helpful to add
20 that Shell doesn’t ship any diesel or gasoline on the
21 Trans Mountain Pipeline.
22 THE CHAIRPERSON: That's helpful, thank you.
23 COMMISSIONER COTE: Oh, okay, I didn’t realize that
24 one. Okay.
25 COMMISSIONER DOEHLER: So you can hear me okay?
26 MR. BOUTILIER: A: Try it.

1 COMMISSIONER DOEHLER: The Deetken report, if you look
2 on Phase 2 report on page 46 on the top, there is an
3 estimated tanker truck transportation costs, and what
4 we've asked is to get an idea of what is the actual
5 cost to transport for those routes. Are these in the
6 range of what you're used to seeing? Or is it
7 something you'd like to consider or think about?
8 **Proceeding Time 4:27 p.m. T86**
9 MS. FRIZZLE: A: So what I can comment is the Shell
10 doesn't do the truck movement at the moment or during
11 my experience, so I cannot confirm those amounts.
12 There is quite a significant safety risk from Edmonton
13 to Vancouver with the distance, and Edmonton to
14 Kamloops, that we usually send the product by rail car
15 and not truck.
16 COMMISSIONER DOEHLER: So therefore -- what we're trying
17 to get an idea of what is the cost per litre to send
18 product from Edmonton to wherever the major terminal
19 you use.
20 MS. FRIZZLE: A: So for a truck I cannot comment.
21 COMMISSIONER DOEHLER: But you said by rail.
22 MR. BOUTILIER: A: We'll dig into it. We don't have
23 that now.
24 **INFORMATION REQUEST**
25 COMMISSIONER DOEHLER: Don't have available, so it'll be
26 an undertaking to provide the cost per litre to send

it by rail, which is how you send it.

MR. KEEN: So just so we're clear, is the question to --

MS. FRIZZLE: A: This is correct. We send by rail.

MR. KEEN: Is the question, Commissioner Doehler, to reproduce the chart at the top of page 46 of the Deacon Report, but for rail?

COMMISSIONER DOEHLER: For however the majority of the product from Shell is transported to the B.C. market.

MR. KEEN: Okay. We'd like to do that. I'll take that away and confirm with Commission Counsel that it's doable.

COMMISSIONER DOEHLER: Thank you.

MR. KEEN: Thank you.

THE CHAIRPERSON: Can I just jump in again?

I'm just curious. Why do you not ship gasoline and diesel along the Trans Mountain Pipeline? Why instead do you use what I understand to be a more expensive mode of transportation to transport gasoline and diesel into British Columbia?

MS. FRIZZLE: A: The business decision that was made by Shell to not use the pipeline, but we do, as I mentioned, send diesel by rail car and the gasoline is purchased from a third party.

THE CHAIRPERSON: Sorry, gasoline is purchased from a third party? Purchased in British Columbia? Is that what you mean?

MS. FRIZZLE: A: So we purchase the gasoline from, I guess from -- yeah, from third parties, refineries in B.C. and are in the Pacific Northwest.

THE CHAIRPERSON: So the only product that you ship from Alberta is diesel, is that correct?

MS. FRIZZLE: A: So to Vancouver that is correct, and to Kamloops is gasoline and diesel.

THE CHAIRPERSON: So you do -- okay, you do ship gasoline to Kamloops. Correct?

MR. BOUTILIER: A: Correct, by rail.

THE CHAIRPERSON: Right. So the question is, why do you ship gasoline by a more expensive form of transportation than the pipeline? Why do you not ship gasoline and diesel on the Trans Mountain Pipeline?

MS. FRIZZLE: A: At the moment Shell doesn't have a contract or space on that pipeline to be able to ship the product.

THE CHAIRPERSON: Do you have space on the pipeline to ship crude oil?

MS. FRIZZLE: A: Not that I'm aware of.

THE CHAIRPERSON: So you don't ship anything on the pipeline.

MR. BOUTILIER: A: That's from a different class of business. That would be the Scottford Upgrader. Scotford Refinery doesn't sell, the upgrader does.

THE CHAIRPERSON: Okay.

1 MR. BOUTILIER: A: And that information would be
2 available. It's a joint a venture, the upgrader.
3 THE CHAIRPERSON: Okay. But a separate business.
4 MR. BOUTILIER: A: You'd have to check with that
5 organization.
6 THE CHAIRPERSON: Okay, thanks.
7 MR. BOUTILIER: A: Yeah, it's a totally separate
8 organization.
9 THE CHAIRPERSON: Thank you.
10 COMMISSIONER DOEHLER: On page 58 of the Deetken Report
11 they talk about the cost of regulatory -- different
12 regulatory requirements in B.C. and they talk about
13 the range being in 2015 and 2018 between 1 cent and 4
14 cents per litre. Is this in the ballpark of what
15 happens with Shell for, you know, as regulatory?
16 MS. FRIZZLE: A: I would like to discuss it in the
17 confidential area.
18 COMMISSIONER DOEHLER: Okay. That's it for my questions
19 right now.
20 COMMISSIONER COTE: These would be questions directed at
21 retail. It's been stated that in the Lower Mainland
22 we have been -- we're impacted by cross-border
23 shopping, which has caused retailers to lower retail
24 prices in order to increase the number of the litres
25 that they sell this close to the border.
26 **Proceeding Time 4:33 p.m. T87**

1 For retail stations of yours, that are
2 located near municipal or international borders, how
3 do those stations compete with across-border stations,
4 if at all? Like, what steps do you take to make them
5 competitive?
6 MS. COURTRIGHT: A: Due to the nature of this question,
7 I think I'd probably quickly get into some
8 commercially sensitive, confidential information. So,
9 I'm happy to address this in the confidential section.
10 COMMISSIONER COTE: Okay. Another question, decline in
11 the number of stations. Since 2010 there's been a
12 small decline in the Vancouver area, a total of six
13 percent decline from 2010 to 2018 in number of
14 stations. How does the decline in retail stations in
15 Vancouver compare to other markets such as throughout
16 Western Canada, especially with reference to your own
17 stations?
18 MS. COURTRIGHT: A: I'd have to refer to the number
19 specifically that you're mentioning. But what I can
20 comment on is that the competitive forces in B.C., as
21 well as the rest of Canada, are quite significant.
22 And so there is a constant street retail price
23 changes. And that does influence the competitive
24 behaviour, as well as the participants.
25 COMMISSIONER COTE: Okay, let me come back with you.
26 Are you saying that the reason for the decline are

1 primarily because of the competitiveness of this
2 particular market? The question I was asking is --
3 MS. COURTRIGHT: A: I'm not particularly comment --
4 COMMISSIONER COTE: I'm sorry, I missed your last
5 comment.
6 MS. COURTRIGHT: A: Sorry, I didn't hear what you were
7 saying.
8 COMMISSIONER COTE: The question I was asking is how it
9 compares to other markets? In other words, have you
10 had -- the number I used was six percent decline.
11 Have you had a larger decline in other areas in your
12 experience? And if so, what have been the factors
13 that have led to that?
14 MR. KEEN: Commissioner Cote, just to make sure that
15 we're clear about the question. You're asking the
16 number of retail gas station that Shell has in British
17 Columbia --
18 COMMISSIONER COTE: I'm looking for a general response,
19 just general.
20 MR. KEEN: And so, I realize it's a general question.
21 But just so the witness hears and understands. You're
22 asking about a general decline in the number of retail
23 gas stations that Shell has and has it observed that?
24 And if so, why?
25 COMMISSIONER COTE: That's right.
26 MS. COURTRIGHT: A: So I can't comment on that

1 specifically at this point. But what I can say is
2 that Kent Marketing does publish details that do get
3 to the level of detail of the station site count and
4 brand changes.
5 COMMISSIONER COTE: Okay. Now to the competitive
6 landscape. Deetken has made the comment that it does
7 not appear that the competitive landscape has changed
8 significantly in the B.C. area between pre- and post-
9 2015 periods. Do you agree with that statement? In
10 other words, things are much the same as they have
11 been pre-2015 to the period up to now? As compared
12 to?
13 MS. COURTRIGHT: A: I think competitive factors in the
14 retail space are constantly fluctuating and changing.
15 And I would agree that they have continued to do so
16 over that period of time.
17 COMMISSIONER DOEHLER: We're looking at, in the Deetken
18 report, they talk about the reason for a cost
19 differential as it drives the retail margin to be
20 higher in B.C. So we're looking for the changes, the
21 delta. You have stations that you own and run
22 yourselves, and do you get financial data on that on a
23 regular basis and analyze it? And the reason for
24 asking that question is therefore I'm trying to get a
25 handle on the property costs that the differential
26 between the B.C. market and the rest of Canada is the

1 property costs. Which would be rent, property taxes,
2 or whatever. Is it significantly different in B.C.
3 than it is in other jurisdictions in Canada? And if
4 so, roughly how much is it per litre?
5 MS. COURTRIGHT: A: I can certainly confirm that it
6 does vary. And I'd be happy to address that further
7 in the confidential section.
8 COMMISSIONER DOEHLER: Okay.
9 THE CHAIRPERSON: Thank you, panel. Mr. Keen, so I
10 think that the panel does have some confidential
11 questions that we would like to pursue. If this is a
12 convenient time to do it, we would be happy to do
13 that. As discussed, we'll move to a breakout room.
14 So is that convenient?
15 MR. KEEN: That is very convenient, absolutely.
16 THE CHAIRPERSON: Okay. So then, I'm looking at the
17 time and looking at Suncor. Ms. Oleniuk, you've been
18 very patient today. Thank you very much. Could we
19 proceed with Suncor after we're finished in the
20 confidential session with Shell? You can speak from
21 there that's fine. If you want to come to the mic
22 that's fine too, yeah.
23 MS. OLENIUK: I was going to say, I have two kids. So
24 patience, I've learned that. Yes, I think that's
25 fine. We'll be here and available, thank you, sir.
26 THE CHAIRPERSON: Thanks. So in terms of timing I'd

1 say probably, let's say, half an hour or roughly we
2 should be ready to proceed.
3 MS. OLENIUK: That sounds good, thank you.
4 THE CHAIRPERSON: Thanks. So for everyone else --
5 MR. GELBMAN: Mr. Chair, just for Imperial Oil, sir. We
6 are next on the agenda before Suncor. I don't want to
7 displace -- I don't understand -- I'm not aware of
8 what constraints Ms. Oleniuk had expressed to the
9 panel on that. But once we're addressing timing we'd
10 like to address that all at once.
11 THE CHAIRPERSON: No, my apologies. I -- okay, go
12 ahead.
13 MR. GELBMAN: No, I've said my piece on it. Are you
14 rearranging the order? Is that --
15 THE CHAIRPERSON: No, no. You will be next.
16 MR. GELBMAN: I see, I understand.
17 THE CHAIRPERSON: We'll be a little longer, thank you.
18 MR. GELBMAN: Thank you.
19 THE CHAIRPERSON: So for everyone else, we'll take a
20 half-hour break then, roughly a half-hour break. And
21 then --
22 MR. KEEN: So just to be clear, for Shell we'll move
23 directly now to the in camera session?
24 THE CHAIRPERSON: Correct, right. And Mr. Bemister
25 will direct you where to go. Thank you.
26 (PROCEEDINGS ADJOURNED AT 4:40 P.M.)

[HEARING MOVED TO IN CAMERA/CONFIDENTIAL SESSION]

(PUBLIC PROCEEDINGS RESUMED AT 5:24 P.M.) T88/89/90

THE CHAIRPERSON: Please be seated.

Mr. Gelbman, my apologies for getting you out of order last time, but you are ready to go I see?

MR. GELBMAN: Oh, not at all, thank you. It seems like it is probably worked out for the best. And I'd like to introduce you then to, on behalf of Imperial Oil, Mr. Scammell. He is a revenue lead manager for Western Canada, and he will be giving sworn evidence today. Mr. Christensen is sitting just assisting with document management.

THE CHAIRPERSON: Thank you. Okay.

IMPERIAL OIL LIMITED PANEL

BRIAN ROBERT SCAMMELL, Affirmed;

HEARING OFFICER: Please state your name for the record and spell your last name.

MR. SCAMMELL: Brian Robert Scammell, S-C-A-M-M-E-L-L.

THE CHAIRPERSON: Thank you. Welcome gentlemen, thank you for joining us, we appreciate it. Do you have any opening remarks you would like to make?

MR. SCAMMELL: I do have a few. I will try to make them quick because I know we are near the end of the day.

THE CHAIRPERSON: Yes.

OPENING STATEMENT BY MR. SCAMMELL:

MR. SCAMMELL: Good afternoon again, my name is Brian

1 Scammell, revenue management lead, Imperial Oil
2 Limited. I speak on behalf of Imperial today.
3 Firstly, Imperial thanks the BCUC for the
4 opportunity to participate in the inquiry and the oral
5 workshop. We are doing so voluntarily. I am
6 providing my sworn evidence to the best of my
7 knowledge and ability. And I have prepared as best I
8 can, given the materials provided by the BCUC over the
9 past few days.
10 Imperial is in the refining business, with
11 the ownership of the Strathcona refinery near Edmonton
12 among other refineries across Canada. We sell
13 finished products such as gasoline and diesel on a
14 wholesale basis. We are not in the retail gasoline
15 and diesel business, nor do we set the price at retail
16 stations.
17 Imperial is proud of its partnerships with
18 its customers, and we care deeply about the issues
19 raised in this public inquiry and about how our
20 industry is viewed by Canadians. We believe we can
21 have a role in educating the BCUC with respect to the
22 business as experienced by a refiner. As one of
23 Canada's oldest companies, relationships with our
24 customers go back years, and in a lot of cases they go
25 back decades.
26 We are here because we hope this inquiry

1 will benefit all stakeholders, inform the panel, and
2 dispel some commonly held misconceptions about how
3 prices work in a free market.
4 I've personally held numerous roles with
5 Imperial. I think one of the most relevant ones would
6 have been wholesale sales manager for Canada. And
7 what I can tell you is that in my experience, from my
8 perspective, the B.C. and Vancouver areas are as
9 competitive or more so than any area that I had
10 competed in as part of that role.
11 Before we move into the question portion of
12 my time, I had a few other points to make just on
13 Imperial's position on various topics I thought might
14 be helpful to get clear on the record.
15 THE CHAIRPERSON: Yes, thank you.
16 MR. SCAMMELL: Firstly, as I mentioned earlier, as I
17 mentioned we are voluntarily participating because we
18 think this forum is an opportunity to inform the
19 panel, but all British Columbians and Canadians as a
20 whole to, again, we don’t own, operate, or set retail
21 prices for gasoline and diesel. We do, however, sell
22 gasoline and diesel at the wholesale level in B.C.
23 Our methodology for setting wholesale
24 prices in B.C. is the same methodology that we use to
25 set our wholesale price in other parts of Canada. The
26 final wholesale price is driven by supply and demand.

1 **Proceeding Time 5:28 p.m. T91**
2 Each region has unique supply and demand
3 characteristics that drive a unique price.
4 Anybody that's visited British Columbia
5 would agree it's one of the most beautiful regions in
6 Canada, but it's also exceptionally difficult to
7 serve, at least from a petroleum perspective.
8 Logistics are strained as we talked to today, land is
9 expensive and there are very high regulatory
10 standards. And probably in my mind, in most markets I
11 would put B.C. and Vancouver at the top end in terms
12 of the regulatory standards we have to meet to do
13 business here.
14 Imperial's view is that free markets work.
15 And that intervention in a free market disrupts the
16 supply and demand dynamic and often has unintended
17 consequences that can never be fully appreciated.
18 And lastly, there's been a significant
19 attention given to the inquiry to crude prices and
20 refining margins, along with other things like
21 logistics and how they might impact wholesale prices
22 for gasoline and diesel. And this is a very good
23 opportunity for us to say this as clearly as we can,
24 our wholesale price methodology is not margin driven.
25 Nor does our own crude cost factor into our wholesale
26 price. The wholesale price, as we heard earlier -- we

1 talked about the marginal layer in supply and demand.
2 And that's our same fundamental position, that the
3 wholesale price is set at a point where supply and
4 demand reach a balance.
5 So I thought what might be helpful to
6 start, unless you would prefer to just ask me
7 questions, I could take you through how we set out
8 wholesale price?
9 THE CHAIRPERSON: That would be very helpful, thank
10 you.
11 MR. SCAMMELL: It's a little bit lengthy but I think it's
12 worthwhile. You can interrupt me as you see fit, ask
13 questions.
14 THE CHAIRPERSON: Perhaps then on that note, just
15 before we start. Can you confirm that when you use
16 the term "wholesale price", that's what people have
17 been calling the "rack price"?
18 MR. SCAMMELL: Correct, yes.
19 THE CHAIRPERSON: And just to confirm, further confirm,
20 that is not necessarily the price at which you sell
21 your product. That's more of a, I'll call it a
22 reference price let's say. And that you actually --
23 you may sell some or much of your product at contract
24 rates that may differ from that rack price or those
25 wholesale rates. Is that correct?
26 MR. SCAMMELL: Yeah, I would say that's a fair statement.

So we'll negotiate with customers and as a result of that the price might be lower than the listed sell price.

THE CHAIRPERSON: Right, okay. Thank you, but yes please go ahead.

MR. SCAMMELL: So in simple terms, we mentioned earlier, we're talking about major areas. We'll use Vancouver as an example here. The wholesale price is dictated by the free market dynamic at the point where supply and demand reach an equilibrium. We talked about this today, so I won't belabor it.

The Deetken report, I think, described it in a way that we agree with, and they did a good job describing it and it's a critically important concept. I think it's been brought up so many times today that you probably get that impression as well. And that is the idea of the marginal layer. And essentially to quote that, they basically state the wholesale price is set by the marginal unit of supply. The marginal unit of supply is the most expensive delivered source of supply that would be required in order to satisfy local demand. So in my own words, it's that last piece of demand that needs to be incentivized into the market to balance it.

You know, I would add to that answer from my own perspective, and I would say that, you know,

1 when it's described -- you describe the incentive to
2 attract additional supply you often think of, okay,
3 well this needs to be -- the price needs to rise to
4 incentivize someone to overcome the costs that go into
5 that market. That's sort of the simple fundamental
6 way to think of it.
7 The piece I think that's missing, in my
8 mind, and at least the way that we think about the
9 market, is you're not just incentivizing them to try
10 to overcome the costs to get into that market. You
11 need to incentivize them away from their current
12 alternative. They're probably doing something with
13 that product today, so you need to first convince them
14 that Vancouver is lucrative enough to stop them from
15 selling where they're selling today. And then they
16 need to worry about the cost of getting into the
17 market. So a customer and a buyer's alternative is
18 very important in this situation.
19 Okay, so I'll reiterate an example I had.
20 Hopefully it's not too repetitive, but basically in a
21 city like Vancouver I think everyone's agreed that the
22 local production is insufficient to meet local demand.
23 So as such, supply needs to be attracted from other
24 sources, usually more expensive sources. So we've
25 talked about this, Pacific Northwest. But we also saw
26 from Deetken report, it looks like product might be

1 coming from the Gulf Coast in some cases, some
2 material amount, along with attracting it from
3 Alberta.
4 **Proceeding Time 5:33 p.m. T92**
5 So basically the simple concept is that the
6 price will continue to rise and continue to attract
7 additional supply as incentive until the point that
8 there is enough supply to balance the market.
9 Now, this isn't necessarily Imperial's
10 position. I'm describing again what happens, or what
11 you need to do to get to the marginal layer to balance
12 it, and a lot of cases we would consider ourselves
13 more efficient than the marginal layer, but I am
14 describing a macro-concept on how the prices are set
15 in the market.
16 So, for example, and again we talked about
17 this as well, if the price were to somehow fall below
18 the price needed to attract that marginal layer,
19 either artificially or for some other reason, what
20 would essentially happen is that if it wasn't an
21 artificial price point, there would be natural price
22 pressure back up to attract the amount of supply to
23 balance. But if you put it artificially low and fixed
24 it, what would probably happen is that marginal layer
25 would look at it and say "Hey, it's not economic, we
26 are no longer going to do it." And what probably

1 happens in that case is you end up with a chronic
2 shortage.
3 Okay, this is the -- we didn't say this in
4 our written answer in this kind of detail, but this
5 was the rationale behind us saying this is the reason
6 why our own crude costs, among other costs, are not a
7 factor in the wholesale price. It was all underpinned
8 by the economic theory that is being set by a marginal
9 layer for the finished product of gasoline and diesel.
10 The crude price, the refining margin, for us, they are
11 not inputs. We are looking at the marginal supply and
12 what it takes to provide a fair price for gasoline and
13 diesel as a finished product, not crude.
14 So, I thought I would also spend a minute
15 or two actually walking you through, outside of that
16 recap on the theory, just some of the specifics of
17 exactly what we do to build our prices. Is that
18 helpful?
19 THE CHAIRPERSON: Very helpful.
20 MR. SCAMMELL: So there are typically five things that
21 we'll consider when we build up our wholesale price.
22 The first one is going to be a U.S. benchmark. What
23 I'll do is I'll go through these and I'll explain them
24 in more detail. The first one is a U.S. finished
25 product benchmark. The second one is going to be
26 foreign exchange. The third one is going to be

1 logistics, and specifically we're trying to model or
2 think about the logistics from the benchmark or from
3 the source of marginal supply. It may not be our own
4 logistics. We are trying to think about what I will
5 call localized factors, and I will describe what those
6 are, and lastly and most importantly is competition.
7 So first I'll talk about the U.S. finished
8 benchmark. It has been mentioned a lot today, but I
9 think it is worthwhile explaining it in simpler terms.
10 So the way I think of a U.S. finished product
11 benchmark is for me it's just simply a large trading
12 or production hub where a significant amount of buying
13 and selling is happening for a commodity, right? So
14 some examples you might have, most people would know
15 New York harbor as this type of trading hub. Chicago
16 would be one, U.S. Gulf would be one, and the Pacific
17 Northwest would also be one.
18 So there are two reasons why we would start
19 with one of these hubs. And for Vancouver, we are
20 looking at Pacific Northwest. Now, I don’t know what
21 others are doing, but that's what we're going to start
22 with, Pacific Northwest.
23 And I mentioned the first reason, the
24 significant amount of buying and selling that's going
25 on, it's considered the best independent evaluation of
26 what the price of diesel or gasoline should be, and

1 that gives both parties an assurance that it's a fair
2 starting point. So no one person, no one entity can
3 really influence that kind of large trading hub, like
4 a New York harbor, or a Pacific Northwest. So both
5 the customer and ourselves as the seller, we look to
6 that independent benchmark, and say "Okay, that's a
7 fair starting point for gasoline."
8 The second reason why we do it is the one
9 that was talked about a lot today, is that we estimate
10 that that is probably where the marginal layer is
11 coming from. So it makes sense to start to build a
12 wholesale price for Vancouver from where you think
13 that marginal layer is coming from. So those are the
14 two reasons why we would use a U.S. benchmark.
15 **Proceeding Time 5:37 p.m. T93**
16 The next one I mentioned was foreign
17 exchange, and foreign exchange is simple, basically.
18 If you assume the marginal layer is bought under the
19 U.S. benchmark, it's going to be in U.S. dollars and
20 we need to convert it obviously to Canadian to serve
21 the Canadian market. And then there is the logistics
22 from the benchmark. So again, I'm not necessarily
23 talking about Imperial logistics, unless we feel like
24 we're the marginal layer, which is often not the case.
25 But what we're trying to do is essentially understand,
26 what do we think the different logistics might be for

1 a marginal layer? Is it a marine from Pacific
2 Northwest? Maybe it's a truck. Some of these things
3 were discussed in the Deetken report. We would look
4 at and try to model and try to think about all of
5 those things, but perhaps in a special circumstances,
6 if there is an issue with the Pacific Northwest it
7 might come from some other trading hub. Like we've
8 seen volume come in from the Gulf Coast. There has
9 got to be a reason why the Gulf coast would be needed
10 at all, all that distance away to supply Vancouver.
11 Something has happened, right? It wasn't available in
12 the Pacific Northwest for some reason.
13 Once we've done that, we would consider
14 localized factor in a very -- well, at a high level I
15 would describe a localized factor as something that
16 either helps a business or hurts a business operate in
17 a certain area. So, one example would be the LCFS,
18 that would create that hurdle for some entity,
19 including the marginal player to play in that market
20 as an example.
21 But at the end of the day, I a way I would
22 always describe this is that we are just trying to
23 make an estimate of what that marginal layer is.
24 We're trying to demonstrate that it's a fair process
25 and it's starting from a liquid benchmark. But we
26 don't really know what that marginal layer is, we've

1 talked about this today. We can't see it, we don't
2 have access to it, so we are trying to make a
3 simplified view and say, "Okay, well if it were a
4 truck, where would it sit? If it were barge, where
5 would it sit?" But really what matters is, well we'll
6 propose this price to a customer and one of two things
7 is going to happen. They are probably going to say
8 "Hey, you guys are really uncompetitive today, you are
9 10 cents out, we are not going to buy from you today."
10 And that's our signal that something else has happened
11 in that market. I don't know if it is another piece
12 of supply, or someone has lost their supply or
13 whatever, and we adjust. And it's that adjustment at
14 the end is how we account for all those unknowns.
15 That there is something going on that we can't see on
16 that marginal layer of the market.
17 And sometimes, you know, we also get
18 information through some price services that tell us
19 what other rack prices might be, and we might see that
20 hey, our rack is uncompetitive, and so we'll adjust
21 accordingly.
22 Do you want to fire away?
23 THE CHAIRPERSON: Yeah, so can I just explore that,
24 what you said, the last few sentences you made there.
25 So you've made an estimate based on some assumptions
26 that becomes your published wholesale price. And one

of those assumptions is where the marginal supply comes from.

But another company that is essentially doing the same thing that you're doing has made a different estimate of where the marginal supplies come from. But they have no more knowledge of the market presumably than you do?

MR. SCAMMELL: A: Unless they are the marginal player.

THE CHAIRPERSON: Unless they are the marginal player.

MR. SCAMMELL: A: Presumably not.

THE CHAIRPERSON: Yeah, but are both of those circumstances possible, that another company that's not the marginal player would come up with an assumption that the marginal cost is lower than the assumption that you've made? I assume that that is possible?

MR. SCAMMELL: A: What I would say is that -- because can't comment on what exactly another company would do --

THE CHAIRPERSON: Of course.

MR. SCAMMELL: A: -- or how they would be doing it. I suppose anything is possible, right? Our methodology I've laid out here is very specific to us, so it's entirely possible that others have done it completely different.

THE CHAIRPERSON: Have a different methodology.

1 MR. SCAMMELL: A: They might even be saying -- someone
2 might even be saying, "I don't think Pacific Northwest
3 is the marginal layer, I think the better information,
4 we think it's Gulf Coast, so price should be higher."
5 THE CHAIRPERSON: Exactly, yeah. But let's take your
6 example where another company has gone through that or
7 a similar process and come up with a marginal price
8 that's lower, and so you are out of the market now
9 because your price is too high, so to speak, and so
10 you'll eventually adjust your price down. But neither
11 of those two prices are necessarily reflecting what
12 the actual marginal cost is. It could be something
13 quite different, it could be something that's lower
14 yet, or could be something that's higher than both of
15 your prices?
16 MR. SCAMMELL: A: That's correct.
17 **Proceeding Time 5:42 p.m. T94**
18 THE CHAIRPERSON: And that will eventually get adjusted
19 because that price will eventually make its way into
20 the market.
21 MR. SCAMMELL: A: So yeah, well in that case --
22 THE CHAIRPERSON: Is that correct?
23 MR. SCAMMELL: A: -- the market would eventually re-
24 adjust. Because let's say, in this case we're putting
25 out prices that are below the marginal layer and other
26 competitors feel like they move their price down to

1 compete with us. But that's all below the marginal
2 layer. The marginal layer gets lost, the market goes
3 short, the customers say, "I really need volume, we'll
4 pay you more." And there's natural price pressure
5 back up to balance.
6 THE CHAIRPERSON: So roughly how long would that
7 process take? And I realize there's a lot of mis-
8 conjecture, it's a very hypothetical question. But
9 are you talking about, you know, minutes to correct,
10 days to correct, weeks? Like, how long would that
11 kind of correction take?
12 MR. SCAMMELL: A: I'll give you my experience. I think
13 there's probably a mixture of, you know, micro things
14 happening on the day and maybe more macro level trends
15 that are developing over time. So you're probably
16 getting both mixing up. But what I can tell you is
17 that we adjust every day and we get calls from -- we
18 never get calls from happy customers on the prices we
19 create.
20 THE CHAIRPERSON: Of course.
21 MR. SCAMMELL: A: But whenever we're at -- almost daily
22 we will get a call from a customer and we will re-
23 adjust our price. There's always an iteration. We
24 sort of do this math, this formula, we put it out and
25 I can guarantee you that before we set the price for
26 the next day we've gotten a piece of feedback from

1 somebody. So either from an OPIS system or a customer
2 calling to say -- and we've made and adjustment. So
3 it's every day.
4 THE CHAIRPERSON: Okay, thank you. That's helpful.
5 COMMISSIONER DOEHLER: So just to continue with that.
6 So it's daily you set the rack price, roughly?
7 MR. SCAMMELL: A: Ish, yeah.
8 COMMISSIONER DOEHLER: Rarely do you set it twice in
9 one day?
10 MR. SCAMMELL: A: I have no recollection at all of us
11 setting it twice in one day. There might be some
12 times where we didn't -- we missed a day because of
13 let's say a stat holiday, as an example, or a weekend.
14 But no, we would generally not do it twice in a day.
15 COMMISSIONER DOEHLER: And Pacific Northwest, you've
16 referenced that as the potential starting point in
17 your methodology. And you say it's a fairly open
18 market. I want to explore that a bit more. Is it
19 open in the fact that these are openly traded and the
20 number are known to everyone? Or is just someone
21 gathers the information and sends out an email at 3:00
22 in the morning saying, "guess what" or whatever. How
23 is that Pacific Northwest price reported?
24 MR. SCAMMELL: A: So we get our information on the
25 Pacific Northwest price from a price information
26 service. And it's going to -- there's going to be

1 trades going on throughout the day, and I'm not sure
2 exactly what time of day they would pick off or if
3 they would pick off an average. But based on all of
4 these transactions they would list it and say, okay
5 the price for gasoline, you know, last trade of the
6 day or average of the day, whatever it is, was X or Y.
7 COMMISSIONER DOEHLER: So if you a trade in that
8 market, either buy or sell, then you report it
9 somewhere that then these people gather that data and
10 report it out? How do they get their price data?
11 MR. SCAMMELL: A: I honestly couldn't speak to how
12 they're linked in and what their physical process or
13 mechanism is to capture the data. I don't know if
14 it's on some kind of electronic board or if there's
15 some kind of other arrangements. Or they get it
16 informally, I'm not sure how they capture it.
17 COMMISSIONER DOEHLER: But for you, if you buy or sell
18 into the market do you report anywhere? Or how does
19 that information get out? Or it's all just
20 confidential to the company.
21 MR. SCAMMELL: A: From where I sit, when we do a deal,
22 let's say we're doing a deal to buy product from
23 Pacific Northwest and import into Vancouver. From
24 where we sit that deal would be done under a
25 confidential term. Typically, you know, sometimes we
26 will do a slot deal but most of the time we're

1 negotiating over many months to get a long term deal
2 so we have, what I describe as, structural supply that
3 we can move into Vancouver. But those are
4 confidential supply agreements. So I'm not -- again,
5 I'm not exactly sure how OPIS would get their
6 information posted.
7 COMMISSIONER DOEHLER: It's a causal problem, they
8 could be reading tarot cards, we don't know.
9 MR. SCAMMELL: A: Yeah. I don't know. I'm sure it's
10 in the public domain somewhere. In fact OPIS, if you
11 would ask, would probably tell you.
12 COMMISSIONER DOEHLER: O-P-I-S?
13 MR. SCAMMELL: A: O-P-I-S, yeah. Oil Price Information
14 Service.
15 COMMISSIONER DOEHLER: Thank you.
16 MR. SCAMMELL: A: You're welcome sir.
17 THE CHAIRPERSON: Please proceed.
18 MR. SCAMMELL: A: I think that was it for the -- I
19 think that was it for the comments on how we set our
20 wholesale price.
21 THE CHAIRPERSON: Well that was very helpful. We
22 appreciate that, thank you. I think we have a few
23 questions that we would like to ask you, but I'd like
24 to make you the same offer that we made to Shell. And
25 that is, are there any -- you've been here all day I
26 believe, you've heard the conversations that have been

1 going on. Do you have any comments on any of them, is
2 there anything in particular you disagreed with that
3 you'd like to bring to our attention? Or any holes,
4 or other holes you would like to fill in?
5 **Proceeding Time 5:47 p.m. T95**
6 MR. SCAMMELL: A: I can offer a few comments if it's
7 helpful.
8 THE CHAIRPERSON: Sure.
9 MR. SCAMMELL: A: So, it's hard to comment on the whole
10 thing, because I don't have a lot of the detail in
11 front of me, but I jotted down some observations that
12 I thought -- they resonated for me, and I would agree
13 with them personally. The first one was there was a
14 lot of conversation in the Parkland conversation
15 around this is a very competitive market. My view
16 from being in the wholesale job was this felt like it
17 was as competitive as any market I had been in. And
18 his commentary was, yeah, just based on the number of
19 competitors that are low market share, this is a low
20 concentration market I think. So I think he concluded
21 that it's a competitive market.
22 There was some pieces in the Deetken report
23 that gave me some concern. I'm not poking at it, I
24 thought it was well written and based on a lot of
25 sound economic theory. But one of the concerns I did
26 have coming into this was that I think it left the

1 reader with the potential impression that they said
2 was that there is something unexplained here. And
3 reading that, my feeling was, well if you aren't
4 familiar with how this works, you might infer that
5 unexplained means it's not working properly. And that
6 was explained well, I can repeat again in my words why
7 I think it was very important to explain that, if it's
8 helpful.
9 But essentially, you know, just like we are
10 doing, they tried to model what the marginal layer
11 was. They are going to try and do it on rail, and
12 we're going to try and do it on truck, but we have
13 this gap that is left over, this unexplained gap. And
14 I think that leaves you with the impression to say,
15 well, that must be a problem because you have a gap.
16 One of two things should happen in that
17 environment. If there really truly is a gap, then you
18 have an ARB, right? And that ARB is now financial
19 incentive for somebody from another market to come
20 into your market, right? So what you should see is
21 that it is really that high and there is no other
22 barriers, there is just a lot of profit to be made
23 there for somebody, it should attract a lot of volume.
24 So the fact that you don't see that happening, a lot
25 of volume coming in to put downward pressure on the
26 price, all that tells me is -- and I see this when I

1 try to model the same things. There is just something
2 I don't see. Right?
3 So the market is working, but I don't know
4 what the hurdle or that barrier is. I know that we
5 tried to model trucking costs, I know we try to model
6 rail costs. But what that tells me is there is
7 something else that is making it difficult for that
8 marginal layer to get in there. That's the only
9 reason you could get a value sustained that high, and
10 not be attracting other suppliers with an arbitrage.
11 Did you follow, or did I lose you guys?
12 THE CHAIRPERSON: No, I follow, I just -- for me at
13 least it raises a question, you know, I think I
14 understand what you're saying, but it raises a
15 question, why this market? Why is this market
16 presumably the only market in North America that has
17 this mysterious component or unexplained component?
18 Or maybe there is other markets around the world that
19 are like this, I don't know.
20 MR. SCAMMELL: A: I can give you my experience, and
21 this is part of my job. I can tell you that what I
22 try to do is understand the external market, I try to
23 understand where is Imperial doing business, how are
24 we doing business. We want to be left-hand side of
25 that deep can chart, so we are the most efficient,
26 have the opportunity to make the most profit, that's

my job.

And what I can tell you is, when we try to model that marginal layer, in almost all cases we're wrong. There's always something that we just don't see. And sometimes we find out later, a customer tells us "oh, product was moving in through this import hub that you guys weren't even aware of. Or a customer or a competitor has set up a new rail loading facility somewhere and they've actually started to move supply into the market."

So I would say it's normal for me to see something that has an unexplained difference, it happens all the time. Vancouver is one of them, but it didn't surprise me at all to see that.

THE CHAIRPERSON: So in your job, your personal job, I'm not talking now about your entire company, do you work in other markets? Or are you focused in the B.C. market?

MR. SCAMMELL: A: No, I work in other markets.

THE CHAIRPERSON: So do you see these same circumstances in other markets?

MR. SCAMMELL: A: Yeah.

THE CHAIRPERSON: You do?

MR. SCAMMELL: A: Yeah. Now, the price -- like the way I would describe it is that, it's exactly the same methodology, exactly the same economic theory in all

1 of them. You are basically looking at a market, let's
2 say Toronto, and say, okay, well, how do we think
3 Toronto is supplied? Where is that marginal layer
4 coming from? Toronto looks different than Vancouver.
5 The marginal layer for Toronto is probably going to be
6 coming from, there's a large production hub in the
7 midwest U.S. around Chicago. It can also be coming
8 from New York harbor.
9 **Proceeding Time 5:52 p.m. T96**
10 So then you say, okay, we've got a totally
11 different benchmark for starters. And then what are
12 the logistics from that benchmark into the Toronto
13 market? And then you look at the local environment
14 and you say, well, the Ontario regulatory regime looks
15 a lot different than the Vancouver regimes, so I've
16 got to model that differently. And then you may have
17 a different set of competitors with different
18 motivations in that market.
19 So the way I describe -- and of course we
20 get to an answer and it's not exactly right. We can
21 give the customer the price and they'll tell us it's
22 not right, re-adjust. But that's fundamentally why,
23 if anyone wants to know, hey, you know, why is
24 Vancouver different that Toronto? Well, my answer is
25 it's because the supply and demand characteristics of
26 each region are unique, just for the reasons I just

1 described. Different regimes, different benchmarks,
2 different marginal supply. And for that reason you
3 end up with a different price. You can't relate the
4 two.
5 COMMISSIONER DOEHLER: So you said regulatory regime is
6 one of the differences. Is that significant between
7 Ontario, Manitoba and B.C. or -- we're more interested
8 in B.C., of course.
9 MR. SCAMMELL: A: I'll just give you my opinion. I
10 wasn't pointing out to say it's so much different it's
11 driving like all the difference between Vancouver
12 let's say, or B.C. let's say, and Toronto. It's just
13 that it is different. As an example that things are
14 different in parts. You had different municipal,
15 local, provincial regulations that, you know, are
16 harder or easier to do business in in each of the
17 different markets. It's one of the things that just
18 creates that dynamic that's unique to that area. But
19 it wasn't intended to pick on.
20 THE CHAIRPERSON: Do you have some more observations,
21 or --
22 MR. SCAMMELL: A: Yeah. There was quite a good one I
23 thought, if I had the time to give you an observation.
24 THE CHAIRPERSON: Okay. Please go ahead, yeah.
25 MR. SCAMMELL: A: So there was one that I hadn't
26 actually thought of, I thought it was a good one. And

1 that is when the layers that are more efficient than
2 the marginal layer get constrained, like we put
3 ourselves in that bucket, what happens is you getting
4 forced of having a larger marginal layer or another --
5 even another marginal layer needed to be brought into
6 the market to balance it. So that was just relevant
7 because a lot of your more efficient players in the
8 marker, I would consider Imperial to be one of them,
9 were constrained, right? We have a lot of trouble
10 getting product into Vancouver. I think this is part
11 of the reason why, if you added up Imperial plus all
12 the other ones you would say, we can't get it, so we
13 get it from wherever we can. And that is maybe part
14 of the reason why some of the supply is popping out
15 for a place that I wouldn't have thought would be
16 supplying Vancouver. And that would be some place as
17 far as the Gulf Coast.
18 THE CHAIRPERSON: So not to put words in your mouth,
19 but are you saying that if it weren't for constraints
20 you could supply more gasoline to the British Columbia
21 market at roughly the prices that you're currently
22 supplying? Is that what I hear?
23 MR. SCAMMELL: A: Well, I think I'll go back to what
24 the doctor had said. He basically said, look, if you
25 think of this as an accordion, right? What's
26 happening when you're constrained is you're squeezing

in the guys that are very efficient and you still have the same amount of demand in Vancouver which means it's getting filled in on the backside by the high-cost stuff, right? So presumably to the extent that you're able to allow the more efficient product into the market, it would set a lower price if one of those layers was now the marginal layer. But no matter what, you still needed that marginal layer you had before, even by expanding the other ones, you're still going to get the same price. It's just if you're able to shift the marginal layer, that's the key.

THE CHAIRPERSON: So what are the constraints then?

MR. SCAMMELL: A: So, I can walk through the constraints that Imperial -- if that's okay?

THE CHAIRPERSON: Please.

MR. SCAMMELL: A: So let me start by how we move product into Vancouver. So we move product by Vancouver from Edmonton along the TMPL pipeline. We move produce by rail from Edmonton into Vancouver. Occasionally we marine, although I wouldn't personally describe it as a day-to-day structural supply. For me, marine is -- we had an issue, we need to fill in the gaps so we'll buy some high-cost Pacific Northwest barrels to fill in the gap.

Proceeding Time 5:56 p.m. T97

And the last one, although I don't think

it's gotten a lot attention, is that we're so constrained we have to buy product in the market, on the open market in Vancouver from others.

THE CHAIRPERSON: So the constraints -- sorry, the constraints you're talking about then, they're transportation constraints or they're supply constraints?

MR. SCAMMELL: A: The primary constraint would be our transportation constraints by far. So we don't have enough space on by far. So we don't have enough space on TMPL to move all the product we want, so -- we didn't have this all that long ago, so we had to develop a new rail supply chain into Vancouver, which we didn't have. So we had to expand our rail capabilities in Edmonton first so that we could handle more rail cars. Then we needed to find a storage location in Vancouver that could take rail cars, and believe it or not that was a difficult exercise. We couldn't even find a location that allowed us to go -- bring in the rail but also have that same location serve as the point that we use to supply the local market. If you can imagine trucks coming in, so you have the rail coming in brining the product in but you had no way of getting it out.

So then we said, okay, well we've got that part of the equation done, we've got the rail in

there, we have the new storage capability in there but we can't serve the local market. So then we developed a marine supply chain.

Now, this wasn't marine in terms of buying it on the open market like Pacific Northwest and importing it, this was our supply chain to get the product to a terminal. So we had this terminal on the water and we had to hire a barge then to go get it where the rail connected, put it on the barge, ship it across the harbour to another facility. That facility also cannot serve the local market by truck, so we we've got to move it from that facility to a third facility. Now that would be the same thing that happens where we connect to pipe and then we can finally sell it that way.

So, that really -- that comment -- is there a questions?

THE CHAIRPERSON: I think it was somebody's telephone.

MR. SCAMMELL: A: I lost my train of thought there for a second.

Oh yes, so that answer gave me the opportunity to really allude, when I made that first comment I said it's a beautiful place but man it's hard to do business in. Developing that supply chain, all of those hoops is what I meant by that.

THE CHAIRPERSON: And I'm guessing from what you're

1 saying is that you -- that will still only ship a
2 certain amount of product and you would either have to
3 build another similar one or expand that now if you
4 wanted -- you know, so you're still constrained,
5 you're constrained at a larger amount, but you're now
6 still constrained.
7 MR. SCAMMELL: A: Yeah, so essentially what happened
8 was that we got some off the pipe, built the new rail
9 supply chain. So we're able to buy some in the
10 market, it's a higher cost obviously, but buy some on
11 the market and where needed we will fill it in with
12 marine imports. But what that does now is we feel
13 like at the present moment we can at least meet our
14 supply commitments to our customers.
15 THE CHAIRPERSON: But even with that very convoluted
16 supply chain and presumably more expensive supply
17 chain, you're still a more sufficient supplier than --
18 a more economically efficient supplier than say
19 brining it in from the Gulf Coast or bringing it in
20 even from the Pacific Northwest.
21 MR. SCAMMELL: A: Yeah, in our view we think we would
22 be.
23 THE CHAIRPERSON: Pardon?
24 MR. SCAMMELL: A: In our view, yes, we think we would
25 be. That would not be the marginal layer.
26 THE CHAIRPERSON: So given that then, is there an

1 economic incentive to continue building those supply
2 chains even though they're complex and expensive?
3 MR. SCAMMELL: A: So the -- I'm going to come back to
4 the marginal error. So as much as you're able to
5 build out a more efficient layer than the marginal
6 layer to the point where you can push out the marginal
7 layer, the price goes down. That's what the economic
8 theory would tell you. Right? But if you do a lot of
9 work and you're like, I'll make it a little bit easier
10 and expand it a little bit, but at the end of the day
11 it's still just not enough to meet the market, I still
12 need that same layer, it's going to set the price.
13 THE CHAIRPERSON: It's going to what, sorry?
14 MR. SCAMMELL: A: It's going to set the price. That
15 last marginal layer, you need to shift marginal --
16 THE CHAIRPERSON: If you have to push it all the way
17 down, yeah. I understand. Please continue.
18 MR. SCAMMELL: A: Those are the only three I took.
19 THE CHAIRPERSON: Thank you very much.
20 MR. SCAMMELL: A: You're welcome.
21 THE CHAIRPERSON: I think you've actually answered our
22 questions.
23 MR. GELBMAN: I just wanted to make a point, it's a
24 bit of a nuance point, but the in the context of the
25 discussion that we just had, the starting point was,
26 you know, was there anything you heard today that you

1 agreed with or disagreed with?
2 THE CHAIRPERSON: Yes.
3 MR. GELBMAN: And Mr. Scammell spoke to a number of
4 items that he could reaffirm or describe from
5 Imperial's perspective. Just because we didn't
6 identify matters that we didn't agree with doesn't
7 mean we agree with everything.
8 THE CHAIRPERSON: Fair enough. We will not make that
9 assumption, sir.
10 MR. GELBMAN: Thank you.
11 THE CHAIRPERSON: We appreciate that.
12 Go ahead, sir.
13 MR. SCAMMELL: A: I was just asking if you had more
14 questions?
15 THE CHAIRPERSON: No, we don't, but that was very
16 helpful. Than you very much. We appreciate --
17 COMMISSIONER COTE: Oh, the staff.
18 THE CHAIRPERSON: Sorry, yes. Does staff have any
19 questions?
20 MR. BUSSOLI: Yes, Mr. Chair, staff has a couple of
21 questions, very short.
22 **QUESTIONS BY COMMISSION STAFF:**
23 MR. BUSSOLI: Q: First did Imperial have any retail
24 sites in British Columbia?
25 MR. SCAMMELL: A: Yes, in the past. If memory serves
26 we sold them in 2016.

MR. BUSSOLI: Q: In 2016, and I guess then why did Imperial sell or get out of the retail market?

Proceeding Time 6:03 p.m. T98

MR. SCAMMELL: A: So that was a business decision. I think the rationale is generally known so I can comment on it. So I think Imperial felt that you -- our expertise and our core competency lied in fuels, fuel technology and fuels marketing. And if you are familiar with retail sites, it's more than just what's under the canopy and the fuel that you fill up with, that's our expertise. But there's the -- you've got to pick the right land, you've got to operate the C store at the back where many other things are sold like groceries. And it was our decision, we felt like we would have a better business model if you have the opportunity to focus and be best at just the fuels marketing components of it and find partners that were really good at the other piece of it.

MR. BUSSOLI: Q: Okay, and so that just strictly with respect to B.C., across Canada or?

MR. SCAMMELL: A: It's was across Canada.

MR. BUSSOLI: Q: Across Canada.

MR. SCAMMELL: A: Correct, yeah.

MR. BUSSOLI: Q: And finally, where does Imperial get their supply from for wholesale sales?

MR. SCAMMELL: A: The majority of our supply would come

from our own equity production, which is another way of saying it's the amount that we produce at our own refineries. There is an amount, I don't have off the top of my head -- like I used the example of Vancouver where we can't get enough of our own product into Vancouver to serve our customer needs we will buy some product on the open market. And there could be some times or some markets where we just can't get our own production to it, and so we might have some more structural imports that we buy on a more regular basis. I don't think Vancouver qualifies for that, but in other parts of the country we --

MR. BUSSOLI: Q: Okay, thank you.

Thank you, Mr. Chair, those are all our questions.

THE CHAIRPERSON: Thank you. We would like to thank the panel we appreciate your help.

(PANEL ASIDE)

THE CHAIRPERSON: Unless there's anything further, I think that brings us to the end of the day.

MR. BUSSOLI: Sorry, I just missed that last point.

THE CHAIRPERSON: That brings us to the end of the day.

MR. BUSSOLI: Yes. There is no other issues that I'm aware of.

THE CHAIRPERSON: Thank you. So we'll convene again in the morning at 8 o'clock. Suncor will be -- we're

postponing Suncor's session until tomorrow.

Tomorrow will proceed in a similar fashion to today. We'll have -- there will be further questioning of Deetken and then questioning of interveners by the panel. And we'll begin at 8 o'clock and proceed through the day the way we have done today. And then on Friday there will be an opportunity for closing remarks.

So we are now adjourned for the day and I will see you at 8 o'clock in the morning. Thank you.

(PROCEEDINGS ADJOURNED AT 6:06 P.M.)