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 18th, 2019

ORAL WORKSHOP

BEFORE:

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

VOLUME 2

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VANCOUVER, B.C.

July 18th, 2019

(PROCEEDINGS RESUMED AT 8:01 A.M.)

THE CHAIRPERSON: Thank you, please be seated.

Good morning. Welcome back and a welcome for those of you for which this is the first time. I made some fairly extensive opening remarks yesterday which I won't go through again today. But I will just review what our agenda is today.

First on the agenda is to finish up yesterday's agenda. So we're going to invite Suncor to make a presentation and invite their witness panel and the panel has some questions of Suncor.

Following that, we'll get into today's agenda and we'll bring Deetken back and we have one of the interveners would have the opportunity to ask questions to Deetken. And then the panel has some questions for Deetken also.

And then Allan and Eliesen will come forward and they will introduce themselves and they'll perhaps have some opening remarks and then they will be asked some questions by the panel. And then Advanced Biofuels will do the same thing.

And that's what we have scheduled for the morning. If we get the morning completed early then we'll right into the afternoon session and do the same

things for 7-Eleven and Super Save Group.

We will be pausing with all of those interveners because -- or most of those interveners, at least, have filed confidential information. And if the panel has questions on their confidential information we'll be pausing and then we'll be going to a breakout room for an *in camera* session. In which case the rest of your will have an opportunity for a break at that point. Otherwise we'll take breaks as we can throughout the morning and the afternoon.

So given that, let's begin. And Ms. Oleniuk are you ready? Thank you.

MS. OLENIUK: We are, thank you, sir. Maybe I'll just get our witnesses seated.

Good morning, Chair, Panel members. Mr. Hustwick and I are very pleased to be here to present the Suncor Energy panel this morning. I don't have much by way of introductions other than to note the individuals from Suncor who are here to speak with you. And you have Mr. James McLean seated closest to the Commissioners and Mr. Brent Wallin who's seated beside him.

In terms of the process this morning, they've prepared an opening statement that they would like to deliver. In addition they've prepared responses to the pre-workshop questions that the

Commission sent out in advance of this. And in particular the ones that were specifically directed at Suncor.

And then finally Mr. Chair, yesterday you asked the panels that followed the ones earlier in the day if they had any remarks, any observations, and so the panel here is prepared to deliver some of those as well. And of course at any point in time, you know, they're will to take any questions that you may have about any of those topics.

Proceeding Time 8:05 a.m. T2

THE CHAIRPERSON: Than you, Ms. Oleniuk.

MS. OLENIUK: So if the witnesses can be sworn, I think they are ready to proceed, thank you.

SUNCOR ENERGY PANEL:

JAMES McLEAN, Affirmed:

BRENT WALLIN, Affirmed:

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

MR. McLEAN: James McLean.

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

MR. WALLIN: Brent Wallin.

THE CHAIRPERSON: Good morning.

PRESENTATION:

MR. McLEAN: On behalf of Suncor we would like to thank

1 you for the opportunity to speak with you today. My
2 name is James McLean and I'm the director of national
3 pricing for Petro-Canada, which is owned by Suncor.
4 With me today is Frank Wallin, Suncor's director of
5 product supply west.
6 We are here today to provide information to
7 support this inquiry. As you know, Suncor is an
8 integrated energy company based in Calgary, Alberta.
9 We have three Canadian refineries. One in Montreal,
10 one is Sarnia and one in one which is located in
11 Edmonton, Alberta. Suncor does not have any refining
12 or crude processing assets in British Columbia, so
13 this means that our refined products must be imported
14 through pipeline, marine, rail and truck to reach one
15 of Suncor's four company owned terminals located in
16 this province: Burrard, which is located in Port
17 Moody; Kamloops; Terrace; and Nanaimo.
18 Refined products marketed by Suncor in
19 British Columbia are primarily sourced from our
20 Edmonton refinery. We also rely on purchased products
21 delivered to Suncor's terminals. Suncor sets its
22 wholesale and retail prices independently. When
23 setting prices Suncor looks at North American
24 benchmarks from various independent reporting
25 agencies. These agencies would include Argus Media
26 and oil priced information service known as OPIS.

The price for gasoline and diesel in the Pacific Northwest and Chicago as reported by OPIS are the main benchmarks that Suncor references to help determine wholesale rack prices in British Columbia. As these U.S. benchmarks are priced in U.S. currency prices in British Columbia market are also influenced by the value of Canadian currency.

Now, in the last few year a number of factors have impacted the price of fuel in British Columbia, including increasing provincial and federal requirements for renewable fuel blending and in British Columbia this means the British Columbia low-carbon fuel standard and the impending Canadian clean fuel standard. Increasing operating and capital costs due to the changed in regulatory compliance.

Proceeding Time 8:08 a.m. T3

Transportation logistics. For example, over the last few years it has been more challenging for Suncor to ship as much gasoline and diesel to British Columbia by pipeline as we have historically. And this has made Suncor more reliant on shipping these products by rail and truck. And increase utility and labour costs. For example, there was a 21 percent increase in minimum wage between 2015 and 2018.

In summary, the factors impacting British

1 Columbia fuel prices are complex. We appreciate the
2 opportunity to appear before you today and to support
3 you with this inquiry.
4 And before I move into the question and
5 answer period I need to advise of a correction to our
6 evidence. On July 15th Suncor submitted a correction
7 to the questionnaire response we provided for question
8 11, which is Exhibit C2-2-1. In preparing for today's
9 workshop we noted that the same incorrect response is
10 found in our response to question 15. In the response
11 to question 15 Suncor states that there has been an
12 increase in gas and diesel transportation since 2015
13 of approximately 30 to 36 million litres per month due
14 to a decrease in Trans Mountain Pipeline line space.
15 And this should read instead, "60 million litres per
16 month".
17 With that, as mentioned by counsel, I'd
18 like to then move to observations, key areas of
19 discussions. And if you'll allow us, we have prepared
20 oral workshop question answers for Exhibit A-8 that we
21 can share publicly.
22 THE CHAIRPERSON: Please, thank you.
23 MR. McLEAN: The first area of observation is regarding
24 the discussion yesterday by the National Energy Board
25 on the Trans Mountain Pipeline and subsequent
26 discussion about the Trans Mountain Pipeline. I'm

1 going to turn over the discussion to Brent Wallin.
2 MR. WALLIN: Thank you, James. Good morning Mr.
3 Chairman and Commissioners.
4 At this point I'd like to add further
5 commentary to address the NEB's earlier submission and
6 supplement some of the points Parkland claimed in
7 their submission and spoke to in their presentation
8 yesterday.
9 Trans Mountain Pipeline is oversubscribed
10 and is never underutilized due to shipper interest.
11 Additionally, refined product shippers have in fact
12 received less line space over time, which I will speak
13 to later. This statement is predicated on the
14 following information.
15 There are three buckets of line space on
16 Trans Mountain, as illustrated. The first bucket is
17 called Firm 50 space. Which is actually 54,000
18 barrels a day of space on long term contracted
19 commitments that started in 2011 and will go on for
20 ten years.
21 The second is --
22 THE CHAIRPERSON: Sorry, excuse me. Will go on from
23 ten years from 2011 or ten years from today?
24 MR. WALLIN: Ten years from 2011.
25 THE CHAIRPERSON: Thank you.
26 MR. WALLIN: The second is dock space at Westridge

Marine Terminal. This is allocated out of spot and is on a monthly bidding process. For illustration purposes, we will be using 21,000 barrels a day of that dock space in any given month. But that is based on the speed of the line which is dictated by the proportion of light and heavy crude on the line in any particular month.

The third is historical land line space allocation for both crude and finished product shippers. For the point of this illustration, that will be 225,000 barrels a day. But again, will also be dictated by the speed of the line.

Included in the land line space allocation are the five crude shippers that ship on Trans Mountain. Which include Parkland and four of the five Washington State refineries. In addition there are two finished product shippers, ourselves and IOL. This is all made publicly available on the Canadian NEB website.

Proceeding Time 8:13 a.m. T04

The after market premium that Parkland alluded to in their submission to question 1A in the Oral Workshop questions is largely derived from two factors. The land/water curb differential and the light/heavy differential in Alberta, which when compared to some of the pricing data in Deetken

1 submission shows that it is not a pricing environment
2 where finished product shippers can typically
3 economically compete. The resulting behaviour is that
4 this Firm 50 and dock allocations are being purchased
5 by curb shippers that will lead to (1) them increasing
6 their percentage of the landline space; and (2)
7 decreasing the allocation of all the unsuccessful
8 bidders.
9 In turn, Suncor needs to increase the
10 transportation of finished products in suboptimal ways
11 via rail and truck. To complete the document that you
12 see in front of you is the allocation formula in any
13 given month. Below is based on the 225,000 barrels a
14 day, you would apply your percentage of the formula to
15 its right. Your largest 18 months of shipments of the
16 last 24 divided by that total of all other land
17 shippers' best 18 months of shipments of the last 24.
18 In way of an example, this would suggest
19 that still based on this 225,000 barrel a day
20 assumption, is that a company like ourselves would
21 have a formula that presents itself as follows:
22 225,000 barrels a day times a percentage, which is
23 just an example, of 10.9 percent, which is based off a
24 best 18 of the last 24 months of the current shipper.
25 In this case 30,000 barrels a day, divided by the
26 total of the best 18 of 24 shippers, that total of

1 shippers of the seven land shippers that I mentioned,
2 which in this case of illustration is 275. That
3 formula would present whomever the company 24.5
4 thousand barrels per day.
5 I would like to go further on how we do see
6 finished product shippers, but I just want to pause
7 for any questions the Panel has.
8 COMMISSIONER DOEHLER: I'm just curious as to how you
9 end up with 30, but you end up by the formula with
10 24.5. So it must be some days you overbid or
11 something -- some months you overbid trying to --
12 MR. WALLIN: No, it's all predicated on the fact that
13 the formula that they use cherry picks the top 18
14 months of the last 24. So it's not a true average.
15 So when taking the top 18 of 24, both the numerator
16 and the denominator end up to be bigger than what the
17 absolute total would have been otherwise.
18 COMMISSIONER DOEHLER: Just that, by that formula you
19 must have been lucky in before to get that 30 or to
20 get you to the 24.5?
21 COMMISSIONER COTE: Basically the thinking behind is so
22 that the people who are actually using this space will
23 continue to use it and those that are not using the
24 space will have less in the future.
25 MR. WALLIN: Correct.
26 COMMISSIONER COTE: So it's a -- I think it corrects

itself over time.

MR. WALLIN: Correct. So appreciating that it's 8:00 in the morning, I do have a --

COMMISSIONER DOEHLER: It's noon for me. I'm fine.

MR. WALLIN: Appreciating the early hour, I did want to walk through in a mathematical type exercise to explain why refined shippers are seeing less line space on Trans Mountain over time. Because one of our observations as a group last night is that question largely went unanswered and was a pretty relevant component of the context that we spoke to.

So I've stated two examples and I'll walk through them as slowly as I can.

Proceeding Time 8:18 a.m. T5

So the first scenario is as I alluded to in the opening. When the after market line space is purchased by other land shippers, namely crude, resulting in a dilution of Suncor and to that point IOL's line space. The example which ties into the previous slide is that we're mocking up that our line spaces in any particular month for this formula is 30,000 barrels a day and the total line space for this formula is 275,000 barrels a day.

THE CHAIRPERSON: So, I just wanted to make sure that I understand this. So if you've purchased capacity in the after-market, I don't know if that's the right

1 term or not.
2 MR. WALLIN: Yeah, that's the term used in question 1.
3 THE CHAIRPERSON: Then you get to count that, add that
4 to the formula for the next round of allocations?
5 MR. WALLIN: Correct. So when just doing the math,
6 that equates to the 24.5 over the 225 total land line
7 space allocated out in any given month, which equals
8 10.9 percent.
9 When other shippers buy the after market
10 line space and revert the land space to land -- the
11 line space to land, Suncor's line space in this
12 scenario would not change. We remain at 30,000
13 barrels a day. The denominator does change because
14 the land shipper has converted it to land space.
15 Which makes the denominator in this case 290,000
16 barrels a day.
17 COMMISSIONER DOEHLER: See, I don't understand this
18 concept. Line space to land? I don't know this term.
19 MR. WALLIN: Yeah, sorry, I should go back. So the
20 premise of land versus water is basically the buckets
21 as you see here. In that, the first two buckets of
22 line space for this illustration, the firm 50 and the
23 dock space, are both pre-set for water. So this is
24 all product that would go across the Westridge Marine
25 dock terminal. Whereas the 225 is for the seven land
26 shippers.

COMMISSIONER DOEHLER: So if someone takes that 75 firm and said, okay -- that's what you mean. They're not going to take it off the water, they're going to just let it be?

MR. WALLIN: No, so they would take it off the water and they'd revert it into their own refineries.

COMMISSIONER DOEHLER: And that becomes land space?

MR. WALLIN: And for the point of that formula, that becomes land space.

COMMISSIONER COTE: Now, just a question on the 300,000 barrels a day. That can vary based on what's going to the pipeline. So it's conceivable it could be -- if there was less heavy crude going through it would be maybe 325 or 350.

MR. WALLIN: Yeah. So the range based on the light/heavy allocation on the line can range between about 270,000 barrels a day, if it's very heavily weighted to heavy, up to almost 350,000 barrels a day if it's light. So it makes a significant difference based on the density of the crude.

COMMISSIONER COTE: Now, you're giving a number and if there's additional space that's made available, let's say on a given 5 day period, every day that there's less heavy crude going through and you've got a number that exceeds the 300,000 number. How does that get filled in?

MR. WALLIN: Yeah, it just changes the denominator for my equation. So basically the total would be -- just to run out a scenario that I think you're alluding to.

COMMISSIONER COTE: So you have to be on your toes to be able to react to a change that's relatively quick?

MR. WALLIN: Right. So the starting point for the illustration is based on 300,000 barrels a day. Quite frankly, we don't know what the crude shippers are going to ship in any given month. So that number is variable. We have a good expectation based off the crude environment that we have as intel to the company. But until Trans Mountain not only tells us the split of the line, but also if there's any maintenance on the line in any given month, or any other sort of delays, over carriages, or maybe they start the month a little bit early. We don't know what that exact number will be, but the premise of the formula would hold. It just may mean that we get more line space in any given month or less as our base.

THE CHAIRPERSON: Does Suncor ship any crude over the Trans Mountain?

MR. WALLIN: We do not.

THE CHAIRPERSON: Okay.

MR. WALLIN: So just finishing the illustration on the first example, is that, again the scenario is that other shippers have bought after market line space and

1 reverted it to line space for their land refineries.
2 **Proceeding Time 8:23 a.m. T6**
3 Again the Suncor line space does not change
4 but the total does. It increases, in the way of this
5 example, to 290,000 barrels a day. So without Suncor
6 doing anything except not buying line space our
7 percentage goes down to 10.3 for this illustration.
8 COMMISSIONER DOEHLER: And that's a continuous
9 decrease?
10 MR. WALLIN: It's every month, yeah. It builds up.
11 COMMISSIONER DOEHLER: It's a grinding.
12 MR. WALLIN: Yes. I call it a death spiral, but.
13 So my second illustration would be for
14 Edmonton based refinery turn around. So we have a
15 commitment to all customers to fill up all of our
16 stores and all of our wholesale commitments. This is
17 -- the way this turn around example is predicated on
18 the following grade, three things. Is that all the
19 refined products are produced in Edmonton; all the
20 pipeline move refined products away from Edmonton,
21 that includes Trans Mountain, Enbridge Pipeline and
22 the Apple Pipeline which is the line that takes
23 product from Edmonton to Calgary.
24 And when looking at our product supply
25 network, the easiest volume to replace in Western
26 Canada based on those logistical constraints is in

Vancouver due to the importing capabilities that our facility has. So as a result when there are simply not enough product in Edmonton we will often not use our line space, nominate a smaller volume and throw it into the pool that other land shippers, namely crude shippers, gladly soak up.

So, for this illustration I've used another mathematical formula. It is again basing myself on the first assumption, which is the Suncor line space is pinned at 30,000 barrels per day based off of land line space total of 275. It gets us to the same 10.9 percent. When Suncor does not use this historical line space and the line space goes back into the apportionment process to other land shippers the Suncor line space obviously goes down. In the way of this illustration it goes to 27,000 barrels per day. And land line space goes up as well, has a potential to go up. The resulting percentage would be now 9.3, which is a very dramatic percentage drop, but I did that for the point of illustration.

Are there any further questions with regards to this heavy math in the morning?

THE CHAIRPERSON: So I guess, it's not so much a question as perhaps a comment then. I guess it takes you a while to recover and build back up then your capacity allocation after a plant shutdown?

MR. WALLIN: Right. So the only way to build back up is to purchase additional after market line space. And as a lot of the finances that have already been illustrated in previous presentations, the pricing environment when competing with light/heavy differentials in the crude world doesn't enable finished products to compete economically.

COMMISSIONER COTE: Couldn't you sell rather than just give it up?

MR. WALLIN: A very good question. By the letter of the law, no you can't. So, if the NEB were here they would probably -- we would probably have a candid discussion. But the line space is all directed to your delivery point. So in the case of both Imperial and Suncor all of our line space is geared a hundred percent to the Burrard facility. So the concept of us not having the ability to land crude there does not allow us the opportunity to sell the line space to other shippers. So we have to throw it back into the pool.

COMMISSIONER COTE: So basically crude shippers have the upper hand in this regard?

MR. WALLIN: That would be my assessment.

THE CHAIRPERSON: What happens in 2021 with regard to the Firm 50?

MR. WALLIN: I don't know.

1 THE CHAIRPERSON: Obviously you don't know.
2 **Proceeding Time 8:27 a.m. T07**
3 MR. WALLIN: But I think it's largely predicated on the
4 -- where we are with the Trans Mountain expansion
5 project. And they haven't announced what they're
6 going to do, either renew those contracts or put them
7 back to market, or at least I'm not aware of it.
8 THE CHAIRPERSON: If they weren't renewed, which I
9 imagine would be unlikely, but if they weren't renewed
10 then that would be -- that space could get reallocated
11 to this formula driven --
12 MR. WALLIN: Yeah. Most of the companies that own that
13 space are in the trading world. They weren't as it
14 turns out in 2011 when these bids were taken, for
15 whatever reason — I wasn't part of it at that time —
16 none of the main shippers were the ones that bought
17 the space. They were all trading companies that
18 usually liquidate the space on a monthly basis.
19 COMMISSIONER COTE: In your, and I realize there are a
20 lot of factors involved, but in your mind if we had
21 the pipeline twinned at this point, would this problem
22 still exist?
23 MR. WALLIN: No, I don't think so. I think prior --
24 well, prior to 2015, which is when the historical line
25 space allocation model changed on Trans Mountain, we
26 were able to nominate the amount of barrels that we

want to go to Vancouver. That often presented us with upwards of 200 million litres in a particular month. When the allocation method changed, which is the reference point of James' opening statement or opening correction, which was June 2015, Suncor's line space, historical line space allocation was 165 megs, million litres. May 2019 our historical line space allocation was 105 million litres. We expect that if the Trans Mountain expansion was to go through, we would go back to a world in which predated that allocation change, which would enable us to not only use our contracted committed volume, which we have done in the Trans Mountain expansion process, but also be eligible to nominate further barrels that are spot.

COMMISSIONER DOEHLER: So if I then understand the costing then of trying to bid on this, the bidding that happens, that people bid -- I forget what it's called now -- for space, there's actually two components to the pricing. There is the pricing, we want to get this product through. The other one is to then, for the future, look at trying to increase your percentage?

MR. WALLIN: Absolutely.

COMMISSIONER DOEHLER: Those two components.

MR. WALLIN: That's right.

MR. McLEAN: Thanks very much. For this next section

we do have comments and observations, but we've woven them into the questions that you asked us in the oral workshop Exhibit A-8. We won't be going in the exact order so I'll read the question and allow you to ask us further questions.

The area I'd like to start is question 2B. It talks about wholesale rack price and it asks us to comment on Imperial Oil's submission, written submission. Given Imperial Oil's testimony yesterday, I'd like to talk to that as well, please.

So yesterday Imperial Oil spoke about why a specific refinery's crude oil supply costs are not factored into wholesale gasoline and diesel prices. Consistent with my opening statement and the statement yesterday from Parkland and Dr. Kahwaty, Imperial noted that wholesale prices in B.C. are highly influenced by Chicago and Pacific Northwest stock prices. Imperial articulated very clearly the factors that they use to try to determine the market price for wholesale fuel with reference to the marginal unit of supply, equilibrium price that's in chart 4.3.1 on page 35 or the Deetken Report, Exhibit A2-1-1.

Imperial noted that even though they consistently monitor all of those factors that they mentioned, similar to Deetken, they were not able to always arrive at the correct market price and relied

on their customers to advise them when they were off and had to adjust. And this was because something in that marginal unit of equilibrium supply had changed, and they had to account for it, similar to Deetken not being able to fully reconcile differences.

Proceeding Time 8:32 a.m. T8

I think the analogy given was an accordion, things were shifting and they had to shift. So I would like to say that Suncor does agree, generally, with the materials provided by Imperial and the statements made yesterday. We would like to elaborate on one other possible factor and the difference between the spot postings and pricing in Vancouver. But before I do so I want to check to see if there are any questions about our general agreement with Imperial Oil's testimony.

COMMISSIONER DOEHLER: I guess the only questions I have is that Imperial talked about OPIS, using that as a spot market trend. And the question was do they supply information to OPIS and they don't. Do you supply information to OPIS?

MR. McLEAN: We have our rack pricing on our Petro-Canada.ca website for anyone to see. And our assumption is that OPIS could see that there.

Now we have prepared -- Brent can take you through OPIS and how it works, because we know that

1 was a question that they had yesterday. We can do
2 that now or I can do it after I talk about another
3 factor, whatever your pleasure is.
4 THE CHAIRPERSON: Why don't you do your --
5 MR. WALLIN: Thanks, James.
6 So, OPIS, as Imperial stated yesterday is a
7 pricing service that is largely based on the West
8 Coast of the United States. It is basically a pricing
9 service that canvasses the trading environment in any
10 particular network and will -- which is predicated on
11 liquidity, and in the case of the Pacific North, is
12 predicated on pipeline broker community that will
13 share information with regards to pricing. This
14 creates an OPIS bid offer spread, which they basically
15 average out to make a closing price on any given day.
16 This supplies both the daily marker for the
17 area, in particular the Pacific Northwest, but will
18 also have relevance for other pricing metrics that
19 they have -- areas that they cover.
20 COMMISSIONER DOEHLER: I want to make sure I
21 understand, it is Pacific Northwest, it does not
22 include California?
23 MR. WALLIN: The OPIS area does include California, so
24 they do look at the relevance of the San Francisco and
25 the LA markets as well to make sure that they're not
26 entirely out of line. But the Pacific Northwest would

1 have it's own unique supply and demand peak components
2 to it.
3 THE CHAIRPERSON: Is British Columbia part of the
4 Pacific Northwest?
5 MR. WALLIN: No, British Columbia is not part of the
6 Pacific Northwest. It's all predicated on
7 transactions that are based on the Olympic Pipeline,
8 which is the major pipeline connecting basically the
9 Pacific Northwest from Seattle to Portland.
10 THE CHAIRPERSON: So, when you answered Commissioner
11 Doehler's question a few moments ago about whether you
12 provide information to OPIS or not, and you pointed
13 out that your information is all public, it would be
14 unlikely that OPIS would reference your information if
15 British Columbia is not part of the market, is that
16 correct?
17 MR. WALLIN: Yes.
18 THE CHAIRPERSON: So as far as you know there's not
19 pricing signals from British Columbia included in the
20 OPIS price. Do they look at British Columbia in the
21 same way they look at California to, you know, as kind
22 of a peripheral market?
23 MR. WALLIN: I can't speak for the, But it's unlikely
24 because of the lack of liquidity in the British
25 Columbia market.
26 THE CHAIRPERSON: Thank you.

1 COMMISSIONER DOEHLER: Just to follow on, the reason I
2 was asking about California is I'm led to believe that
3 California prices are the highest in the Untied
4 States, something like 40 percent because of various
5 things. Is that the experience you see in an OPIS,
6 that somehow they reflect that?
7 MR. WALLIN: Sorry, I'm not a pricing expert. You know,
8 I think there is correlation across the entire west
9 coast. But to the degree in which, you know, and I
10 know you spoke to volatility yesterday, to the degree
11 in that which the Pacific Northwest has versus San
12 Francisco and LA, I would not have that information.
13 **Proceeding Time 8:32 a.m. T9**
14 COMMISSIONER DOEHLER: Thank you.
15 COMMISSIONER COTE: Are there any other sources other
16 than OPIS for this type of information?
17 MR. WALLIN: Not publicly recognized. So there are
18 other pricing services that are in the competitive
19 environment with OPIS. But each area tends to have a
20 leader of that community that everybody gravitates to.
21 COMMISSIONER COTE: So there's no index that you can
22 rely to or tie yourself to?
23 MR. WALLIN: No.
24 THE CHAIRPERSON: But you've mentioned the Chicago
25 prices, though. And -- well, at least Imperial Oil
26 did yesterday, and said they relied on that to some

1 extent. And I understand that you agreed with that?
2 MR. McLEAN: That's correct. British Columbia
3 wholesale, or rack pricing, relies on both the Pacific
4 Northwest spot price and the Chicago spot price.
5 THE CHAIRPERSON: And is the Chicago spot price, is
6 that a similar service to OPIS? Or is that a trade on
7 the commodity exchange, or how does that work?
8 MR. McLEAN: It's OPIS
9 THE CHAIRPERSON: It's from OPIS?
10 MR. WALLIN: Yeah, I believe so.
11 COMMISSIONER DOEHLER: So I guess the only one you have
12 not mentioned, and I presume it's because you don't
13 rely on it, is New York Harbour. It's too far away?
14 MR. McLEAN: Suncor relies on New York Harbour as well,
15 but not for this market.
16 THE CHAIRPERSON: Thank you, please proceed.
17 MR. McLEAN: So with that, we would like to elaborate
18 on another possible factor in the difference between
19 the Pacific Northwest and Chicago's spot markets and
20 British Columbia's wholesale fuel pricing. And that
21 factor is fuels quality and fuels specifications.
22 So in Canada we have a Canadian
23 specification for gasoline. It's from the Canadian
24 General Standards Board and subject to check, it's
25 standard 3.5 and 3.5(1)(1). Which cover both federal
26 regulations and provincial regulations.

In the United States gasoline specifications are based on the ASTM, subject to check, D4814 specification, With an overlay of federal and state rules and sometimes even pipeline rules.

Now, I know that motorists like myself or yourself, when we take our car across the border and we fuel up with gasoline in the U.S. we have no concerns and we can drive back and fuel in Canada and the product works just fine. But the fact of the matter is that gasoline sold in Canada must be within that CGSB spec. So an importer who buys fuel in the U.S. for sale in British Columbia has to ensure that that fuel meets the Canadian spec.

Now, the specs are very close, which is why you don't have any concerns driving your car across the border and filling up. But there are some differences. Minor differences around, say, corrosion inhibition or how octane is measured or specified. A key difference is that the U.S.A. may permit additives in the gasoline that are not yet registered for use in Canada. In other words they're not on the Canadian designated substances list.

So, if we go to source, or if anyone else goes to source a product in the United States, we have to find supply that doesn't have those restricted components in it. And Suncor has a full department

1 that, any time we import products from a new supplier,
2 checks that very carefully.
3 As well there are seasonal differences.
4 Yesterday I think you heard testimony that referenced
5 the vapour pressure, and that's for gasoline. It also
6 referenced cloud point for distillate or diesel. Not
7 referenced, but also a factor is distillation and
8 drivability. So these are all specifications that
9 relate to seasonal changes and typically to
10 temperature.
11 The temperatures in British Columbia, and
12 especially the interior of British Columbia, can be
13 quite different from sources of supply. It can be the
14 Pacific Northwest or Chicago, or even as we saw
15 yesterday from the U.S. Gulf Coast. So in order to
16 secure supply from the U.S.A. you have to not only
17 meet the Canadian standard but also the standards
18 around seasonality.
19 So in the Deetken report number one, A2-1,
20 we see that in diagram 3.2.3 that British Columbia is
21 an import market, meaning it imports fuel from the
22 United States.
23 **Proceeding Time 8:41 A.m. T10**
24 And that gasoline imports to B.C. continue
25 to have imports from both PADD 5 and PADD 2, but we've
26 seen increases in the last year from PADD 3. That

means that companies are going out to source product from the United States.

So, if we go back to chart 4.2.1 in that Deetken phase 2 report, A2, we can see that Canadian and British Columbia fuel requirements might shift that equilibrium point as British Columbia relies on fuel supply from the U.S. in a bigger way, from different markets that may not have the same specifications or seasonality requirements as British Columbia. Especially in times when temperatures are different, or specifications are different around low temperature or high temperature performance.

Any questions with respect to that?

THE CHAIRPERSON: Yeah, I don't know where you're going next, but I'll ask this question. So physically then, how do you modify or fix the gasoline that you purchase in the U.S. to ensure that it can be sold in Canada? Like how does it -- you barge it in or truck it in, and then how do you deal with it then?

MR. WALLIN: Our options to manipulate the gasoline upon arrival are very limited due to the logistics constraints that we have.

THE CHAIRPERSON: Right.

MR. WALLIN: So the unfortunate truth is that we usually have to pay the third party to do it on our behalf.

THE CHAIRPERSON: And they do it at source then?

MR. WALLIN: They do it at source, they do it at cost, and they often do it at segregation different than their base products.

THE CHAIRPERSON: Right, so yesterday we were looking at a graph that Parkland's expert had provided, which was comparing the Washington -- price of gasoline in Washington State to the price of gasoline in, I think it was Vancouver. And there is high correlation, but there was a gap of somewhere around 17 or more cents a gallon.

So I'm assuming then that some of that 17 cents would be spent on having the gasoline converted or modified, is that correct?

MR. WALLIN: Right, so I don’t have it in front of me, and we didn’t produce the slide, but there would be a consistent component of that gap that you're trying to determine, that would be attributed to that. In particular as it relates to kind of the birth of this committee and the timeline of it, is that the spring, which is the vapor pressure ramp down, is where the largest gaps would be, because of the vapor pressure ramp down schedule for markets like the PNW or in the case of the chart that suggested PADD 3 volumes are far different than the vapor pressure ramp down schedule for British Columbia.

1 THE CHAIRPERSON: Okay.
2 MR. WALLIN: So the different time frame would be the
3 case for diesel.
4 THE CHAIRPERSON: Right.
5 MR. WALLIN: So the diesel cloud point which James
6 referenced would be a fall ramp up, as we get to lower
7 and lower temperatures and cloud points on the diesel.
8 THE CHAIRPERSON: Right, but then in addition there are
9 persistent -- changes that are persistent throughout
10 the year, like the difference in corrosion
11 specifications for example, which wouldn't be
12 seasonally dependent, is that correct?
13 MR. WALLIN: Correct.
14 THE CHAIRPERSON: And are you including in this little
15 bucket -- well not little, but this bucket of issues,
16 are you including costs around the low-carbon fuel
17 standard, differences in the low-carbon fuel standard
18 and ethanol and so on? Or is that something else that
19 you're going to talk about?
20 MR. McLEAN: That was a separate discussion.
21 THE CHAIRPERSON: Okay, fair enough.
22 MR. McLEAN: So we were trying to outline another
23 bucket in addition to what Imperial said, or factors
24 had yesterday to try and explain that differential,
25 and the differential that was alluded to in the
26 Deetken report.

1 THE CHAIRPERSON: In that case, do you have any, even a
2 ballpark estimate of how much of that, say, 17 cent
3 differential would be for this bucket?
4 MR. WALLIN: Are you speaking to the compliance bucket
5 or the quality bucket?
6 THE CHAIRPERSON: I'm not sure what we're calling this
7 bucket, this bucket of corrosion and --
8 MR. WALLIN: Oh, the quality bucket.
9 THE CHAIRPERSON: Quality.
10 MR. McLEAN: I didn’t quite answer your question
11 before, because it's a bit of a grey area around
12 quality and regulations, because our regulations are
13 related to quality.
14 THE CHAIRPERSON: Well, the regulations that you spoke
15 of, the clean fuel standard, or the Canadian Fuel
16 Standard 3.5 and the difference between that and ASTM
17 D4814, right?
18 MR. McLEAN: So what we'd like to do is we'll take you
19 through the numbers around the low-carbon fuel
20 standard, et cetera, *in camera*. We have some specific
21 numbers, because the numbers are different for each
22 supply.
23 THE CHAIRPERSON: Right, understood.
24 MR. McLEAN: But Brent can try and answer your question
25 with respect to the fuels quality --
26 **Proceeding Time 8:46 a.m. T11**

THE CHAIRPERSON: That would be great, thank you.

MR. WALLIN: In short, no, I don't have that answer, but we can take that as an undertaking if we can try and figure that out. I would say it's less a standard formula and more an availability of product and where we have to source the product from, which would be the major cost driver. That would be that gap.

THE CHAIRPERSON: Okay.

MR. WALLIN: There are base formulas that -- there is a vapour pressure ramp down that's embedded on the NIMEX Exchange, which is very easy to see. I don't know it's around 10 unit cents per gallon or something like that. That's seasonal, both in the spring when it comes on and then it's fall when it goes off. But I can supply you with that information, but I'd have to take it away.

INFORMATION REQUEST

THE CHAIRPERSON: That would be appreciated, thank you.

MR. McLEAN: We don't want to overplay this factor. It's another factor. And I think it's fair to say that if, and correct me if I'm wrong, Brent, but if you are establishing regular supply with a U.S. supplier that knows these requirements, you can set up a logistics system that's let's say fairly consistent. You will still maybe have those seasonal costs, but they're understood by everyone.

It's when you either for let's say unplanned reasons or a around a turnaround or suddenly there's a change in supply to British Columbia, and you have to go out and source product and you're going to further and further away and contacting suppliers that may not understand the situation, is when that equilibrium can really shut. Is that fair?

MR. WALLIN: Yeah, absolutely.

COMMISSIONER COTE: Does the refined product that you may get vary depending upon where it comes from, i.e. from the Pacific Northwest versus say the Gulf Coast or --

MR. WALLIN: No, it can't. So --

COMMISSIONER COTE: No, but does it -- what they're actually going to send to you, does it vary in those locations what they're forwarding to you and then you have to clean them up?

MR. WALLIN: Yeah, absolutely. I think it's safe to say that wherever we're sourcing the product, if it be the West Coast or PADD 3, is that we're asking for a product that is not part of their fuel supply now.

COMMISSIONER COTE: Regardless of what you do, you got to clean up, you gotta do it before it gets shipped?

MR. WALLIN: Yeah, it's an obligation for us to bring it in. Either we need to -- sorry.

MR. McLEAN: That's what takes your larger pool of U.S.

gasoline suppliers and suddenly makes it a smaller pool that you can actually source product from.

COMMISSIONER DOEHLER: And the follow on was that it is a much smaller pool, so it's -- you can't just take a tanker truck down to Washington, fill it up and come back because it has those additives in it that are not recognized here.

MR. WALLIN: Yeah, and in reference back to that chart that we have all drawn to in the last two days with the boxes, what it does is suggest that there is a potential that we skip -- sorry, I'm doing it from memory, but there is a chance that box 4 can't supply it. You have to go to box 5. Just as an example.

MR. McLEAN: So with respect to question 2D, that was what we had prepared. Have we sufficiently answered that question?

COMMISSIONER COTE: There's more to follow, I understand *in camera*.

MR. McLEAN: Yes. I'm going to take you through a number of questions that we can answer in public and have this kind of public exchange and then we'll move *in camera*, does that work? Okay.

The next question I'm going to move to 'cause it's somewhat related is question 2K. I'll just put it up here. And I'm going to paraphrase. Another intervener had mentioned questioning why

1 markets that are outside of British Columbia might
2 impact the fuel pricing in British Columbia. And it's
3 a good question because it's a question that gets
4 asked a lot. I'll just get my notes here.
5 So in my opening statement I mentioned that
6 when setting prices in British Columbia Suncor looks
7 at spot prices for gasoline and diesel and in the
8 Pacific Northwest and Chicago as reported by OPIS.
9 And our observation in yesterday's testimony from
10 Parkland, Parkland's expert in Imperial Oil, made
11 reference to these markers, as well as key factors in
12 determining the price of fuel in British Columbia.
13 Exhibit A2-1, the phase one report from
14 Deetken referenced yesterday again showed that
15 marginal unit of supply equilibrium that we just
16 referred to a few seconds ago. It's to illustrate
17 demand and supply cost matching, and specifically we
18 we're talking as Brent just mentioned, source 4 and
19 source 5.
20 **Proceeding Time 8:51 a.m. T12**
21 Once again, in the Deetken report the chart
22 3.2.3 on gasoline imports into British Columbia. We
23 see a growing importation of product from PADD 3 that
24 we hadn't seen in previous years. And there's a
25 similar chart, 3.2.4, that showcases the diesel
26 imports and shows less imports from PADD 3 and --

1 excuse me, less imports from PADD 2 and no imports
2 from -- excuse me, let me try that again. I believe
3 it's less imports from PADD 5 and increasing imports
4 from PADD 3, subject to check.
5 So I guess what I'm saying is that based on
6 testimony yesterday and our testimony just a few
7 minutes ago, I think we can see that -- first of all,
8 these markers are not far off. They're in North
9 America and they directly reference the spot price for
10 fuel that's being supplied into the British Columbia
11 market. And that's our answer to this question.
12 I'm now going to move to question 2H, it's
13 related to refining margin. So the question asks
14 about the relationship between a rack price and
15 pricing supply agreements with marketers and
16 customers. It asks if most agreements are related to
17 rack price. And it asks us to confirm diversion
18 results from the competitive market dynamics that's
19 not related directly to the cost of production or
20 operation.
21 So we heard quite a bit of testimony about
22 this yesterday from Parkland, specifically Dr.
23 Kahwaty. And Imperial Oil also addressed this
24 question when they talked about the difference between
25 rack price and wholesale customer price and how that
26 works. At this point Suncor agrees with the testimony

provided. We think it provides good clarity to the panel, but we want to check and make sure that was the case.

THE CHAIRPERSON: Yes, that's fine. Thank you.

MR. McLEAN: Very good, thank you.

I'm now going to move to question 2I about refining capacity. So this question is,

> "Why are retail prices lower in provinces with no refining capacity?"

And,

> "If refinery margins are high [in British Columbia], why does there seem to be no interest in building new refineries in British Columbia or expanding existing refineries…?"

Once again, this was discussed in quite a lot of detail yesterday. We agree with the testimony provided. We weren't sure if you wanted any extra detail from us.

THE CHAIRPERSON: No, that's fine. Thank you.

MR. McLEAN: There was a question 2A about refinery unavailability. This question was not covered in testimony yesterday. Perhaps you asked that question of Parkland? You asked other refiners,

> "What do buyers do to mitigate the risk of planned and unplanned refinery outages?"

Would you like us to comment on that?

1 COMMISSIONER DOEHLER: Yes, please.
2 THE CHAIRPERSON: If you have a comment.
3 MR. McLEAN: So I'll let Brent take that first part.
4 MR. WALLIN: So finished product shippers will do one
5 of three things to mitigate or potentially offset
6 planned or unplanned turnarounds. One would be
7 storing product. That could be done at site, at other
8 sites, or acquiring addition tankage. Number two
9 would be executing exchange or purchasing contracts
10 with third parties. And the third being, we would
11 enable new and potentially sub-optimal logistic
12 alternatives to feed our base market.
13 Obviously the magnitude and duration of the
14 outage and the lead time of the information proceeding
15 the outage are the key indicators on how successful we
16 would do as a product supply team to mitigate or
17 offset the requirements for the turnaround.
18 THE CHAIRPERSON: Okay, thank you.
19 COMMISSIONER DOEHLER: I'm just trying to get my mind
20 around it.
21 So therefore if it is, let's say unplanned
22 and you couldn't foresee it very well and sub-optimal
23 logistics being used, then you're selling at a loss in
24 a way, I presume, to make sure you have supply for
25 your retailers or your marketers or whatever they are?
26 MR. WALLIN: That is the way that we view the market.

It's our customers and our base and that's our market share going forward. And we will, at times, do things to the level of sub-optimal, potentially non-profitable to make sure we meet customer needs.

COMMISSIONER DOEHLER: You don't try and rack -- push up the rack price at the same time to try and cover those extra costs necessarily?

MR. WALLIN: We do not.

COMMISSIONER DOEHLER: Okay, thank you.

MR. WALLIN: I was just going to say, it kind of goes back to our original premise, which is to say, we can try but at the end of the day the price is going to be the price and what our unique logistics, sub-optimal logistics patterns are is not something that we can just unilaterally put in to our rack price and expect our customers to purchase.

Proceeding Time 8:57 a.m. T13

COMMISSIONER DOEHLER: Unless everyone else has the same issues as a coincidence.

MR. WALLIN: Correct.

MR. McLEAN: The second part of the question asked about differences in seasonality and price. The answer relates to my earlier comments about the vapor pressure, drivability and diesel cloud point. Are we satisfied with that answer?

THE CHAIRPERSON: Thank you, yes.

MR. McLEAN: The next question I'm going to draw you to is question 2D, it's titled functioning market. It asks

> "To what extent does the competitiveness of the wholesale market provide assurance that rack prices are competitive?"

And I'll stop there. I believe here was very good discussion with Parkland, Dr. Kahwaty and Imperial Oil about the relationship between wholesale price and rack price. We thought it was testimony that we agreed with. Just wanted to make sure you got everything you need.

THE CHAIRPERSON: I do have one additional question on that. So, we've heard from yourselves and Imperial Oil and possibly others that the rack prices are generally -- each company's rack prices are generally public and posted. They're on your website I think you said.

MR. WALLIN: In the case of our rack prices they're posted on the PetroCananada.ca website.

THE CHAIRPERSON: Right. And they're changed daily, is that correct?

MR. McLEAN: They're changed daily, yes.

THE CHAIRPERSON: I have looked at some of these rack prices on a couple of occasions and I've noticed they're generally close to each other. Is that -- are

they generally close to each other and -- would you publish them or would you change them more than once a day if your posted price ended up being significantly let's say above competitors. Would you adjust your price that day or how does that happen --

MR. McLEAN: Potentially yes. In the industry there is a standard of rack prices changing daily. Some suppliers have the ability to do what's called an inter-day rack change. So if they find themselves in that situation where they feel they must make a change during the day they can do that. Some rack posters will take a strategy where they might post a price early in the day, see where other competitors are and then line up. It's very similar to retail pricing where you have to match the price sign, except this is at the wholesale rack.

THE CHAIRPERSON: Yes, exactly.

MR. McLEAN: Customers are generally forgiving, generally, if you're close because they know on average you'll be the same. So you might be -- and we're talking tenths of a cent, tenths of a cent higher one day and you'll be tenths of a cent lower. If you are out you will hear very quickly because our entire wholesale pricing is predicated on the rack.

THE CHAIRPERSON: Understood. And I wonder if you could answer on an unconfidential basis generally how

1 those contracts work. They're tied to rack, so let's
2 say I have a contract that's got, I'll just make it
3 up, you know, three percent discount from rack, I'm
4 charged every day, so my price then changes every day.
5 And if there's a intra-day change of price it
6 presumably would change intra-day also, is that --
7 MR. MCLEAN: Yes. So first of all your pricing changes
8 every day, so -- and that's why our customers are so
9 interested in knowing our rack pricing, which is why
10 we put it on our website. In fact some of our
11 customers have actually built in bots to take the
12 pricing off our website, which we found out when our
13 marketing people made our website fancy and it messed
14 up the bot.
15 THE CHAIRPERSON: Thank you.
16 MR. WALLIN: Any other questions? I think we can speak
17 further in confidence, but that was your original
18 request, correct?
19 THE CHAIRPERSON: Yeah, that's fine.
20 MR. WALLIN: Yeah, so we can further the conversation.
21 THE CHAIRPERSON: But that answers the question.
22 MR. McLEAN: I believe the last questions we have for
23 public is around, it's question 4C, it's refiner sale
24 agreements with wholesalers. The question asks,
25 "How is the rack price established?"
26 And I think we've covered that one.

To what extent to you branded marketers and retailers have the flexibility to switch between suppliers? And there was quite a bit of discussion yesterday in the Parkland, Dr. Kahwaty, I thought they did a very nice job of explaining that.

Are you satisfied with that answer?

Proceeding Time 9:32 a.m. T14

THE CHAIRPERSON: Yes, we're fine.

MR. McLEAN: And then the question is, what is the difference between controlled retailers and non-controlled retailers with regards to setting price. I was going to be super smart and reference one of the exhibits. It's the exhibit from the Canadian Fuels Association, and the Canadian Independent Marketing Association? The Kent report?

THE CHAIRPERSON: E42.

MR. McLEAN: Yes, thank you. And if you look on a page further down around pricing it actually does define controlled versus non-controlled. But the simple answer is, controlled sites are where the supplier or refiner, Suncor, has the ability to change the price. Uncontrolled means that it’s the actual retailer has the ability to change the price and we cannot influence that at all.

THE CHAIRPERSON: Thank you.

COMMISSIONER COTE: When you have control and you set a

1 price, do you do it daily? Do you do it various times
2 for the day, or is there a certain amount of
3 flexibility your retailer has to react to price
4 changes say across the street or down the next block
5 or something?
6 MR. McLEAN: So in the retail environment we have to be
7 matched to our competition as quickly as we can. The
8 motorist might give us a little bit of leeway on a
9 street price if our -- we think our stations are
10 better located and that our service offering is better
11 than our competition, but I'm not sure that every
12 motorist agrees, and that price does play a factor.
13 So, if our prices are out significantly, and
14 significantly means in the mind of the motorist, they
15 will make a decision that's based on price.
16 So, we are constantly monitoring the prices
17 of our controlled sites on a daily, hourly, moment by
18 moment basis and making pricing decisions that
19 quickly. So, we could -- in fact in Vancouver this
20 month, we are making multiple price changes a day
21 because we see the price moving so frequently.
22 COMMISSIONER COTE: So, obviously this doesn't go to an
23 executive's desk, you must have a department, because
24 you've got all these stations, they must be
25 communicating that information to you in some shape or
26 form?

MR. McLEAN: That's correct. That's the department that reports to me. We have a whole team based in our office. We have sophisticated software, we have communications with our retail sites, we have minimum standards on how frequently they report pricing, and we take action on that. I can go into more detail *in camera* if you like.

COMMISSIONER COTE: Okay, thank you, I'd like to hear about that.

MR. McLEAN: That concludes the questions that we were prepared to answer publicly, unless you have any other general questions of us.

THE CHAIRPERSON: You made a comment in your opening remarks about some of the -- I think I just made some rough notes, I can barely read them actually, about some of the influences on price and price differentials in British Columbia. And I think you mentioned minimum wage having increased.

MR. McLEAN: Yes.

THE CHAIRPERSON: I'm just wondering how much of an impact minimum wage rates has on your organization? I would have thought you would have generally had more skilled workers, and you wouldn’t be sensitive to minimum wage?

MR. McLEAN: This is specifically at our retail locations.

1 THE CHAIRPERSON: Okay.
2 MR. McLEAN: And I can provide details *in camera* about
3 the impact.
4 THE CHAIRPERSON: Fair enough, thank you.
5 MR. McLEAN: It's a factor.
6 THE CHAIRPERSON: Okay, fair enough.
7 MR. McLEAN: I'm sorry, there was one other public
8 answer that I can provide. It's question 5B, it
9 relates to full service options.
10 THE CHAIRPERSON: Yeah.
11 MR. McLEAN: So it asks what percentage of Petro-Canada
12 gas station operators offer full serve options in
13 British Columbia, and what impact does this have on
14 operating costs?
15 So the British Columbia market, at least
16 for Petro-Canada is unique. Twenty-five percent of
17 our stations offer full serve. Usually it's a full
18 serve split for serve option.
19 THE CHAIRPERSON: Sorry, 25?
20 MR. McLEAN: 25. And that compares to one percent in
21 Ontario, and zero percent in Alberta. So British
22 Columbia is a unique full serve market for us.
23 **Proceeding Time 9:06 a.m. T15**
24 THE CHAIRPERSON: Do you have any suggestions about the
25 reason for that? Or is that confidential? Or you
26 don't?

MR. McLEAN: The market likes full-serve.
THE CHAIRPERSON: All right, fair enough.
COMMISSIONER COTE: I think it's required in a couple of municipalities. I believe Richmond was, and West Vancouver --
MR. McLEAN: This is a little but out of my expertise so I don't want to speculate.
THE CHAIRPERSON: Yeah, fair enough.
MR. McLEAN: If you're interested, there's people that do this for a living within Suncor and I can get more information for you. Is that something you'd like?
THE CHAIRPERSON: I don't think so. No, I think that's fine. Thank you.
MR. McLEAN: I think key to full serves is that there's a hired labour component on site. So it does add costs to our sites. Thirty percent, there's a labour factor there as well.
THE CHAIRPERSON: I remember when I was younger though, there was a cost recovery factor because you could sell some windshield wiper blades or a quart of oil at that time. But perhaps not so much anymore.
MR. McLEAN: Unfortunately our consumers go elsewhere for those. We offer then on a convenience basis, so if they need those products, absolutely. But it's less of a seller than it was in the past.
THE CHAIRPERSON: I don't think I have any further

1 questions.
2 COMMISSIONER COTE: Just one small one. And I think I
3 can probably guess the answer. But you spoke to the
4 lack of pipeline space that you're able to secure and
5 whatnot. Just to sort of tie the knot, do you agree
6 with Deetken's assessment that the decline in the
7 throughput is a result of arbitrage opportunities for
8 crude oil in the U.S., in terms of selling it through?
9 Is that the reason, because they're putting more crude
10 through and because it's an opportunity to sell it in
11 other markets?
12 MR. WALLIN: First, I would probably state a point of
13 clarification, is that there's no decrease in
14 capacity. The decrease of --
15 COMMISSIONER COTE: I'm sorry, for refined products.
16 That's what I meant, sorry.
17 MR. WALLIN: Yeah. So, the arbitrage opportunity that
18 the five refiners -- I can only speculate. But their
19 opportunity to buy crude off the water versus some of
20 the differentials that would be prominent in western
21 Canada, which leads into the curtailment in Alberta,
22 would suggests that they would be significantly
23 advantaged to supply themselves crude out of Alberta
24 rather than buy elsewhere.
25 COMMISSIONER DOEHLER: Just following up on an answer
26 you already gave me. And so, it's to do with the

trade of gasoline between B.C. and Washington. So retailer -- as what I've heard you tell me of the different standards, a retailer just can't get a tanker truck of gas from Washington and bring it in themselves? Because it doesn't meet the standards?

MR. WALLIN: Right. It has to go through a terminal and the terminal is bound by CGSB specs.

One other side note, just for educating the panel, would be that -- and this talks to the cost scenario of trucking. Is that the load rates of trucks in the United States is significantly less than then load rates of trucks in Canada.

So because of the road conditions load rates in the United States are typically a train or a big truck will be about 34,000 litres on a truck. Whereas in Canada we have the ability to go just over 50,000 litres. Which when you're trucking, is a significant difference. Basically a 3:2 ratio of trucking.

So (a), you'd have to get a specification of a gasoline that you could bring via truck. But then also you would need to increase the amount of trucking logistics because of that factor.

THE CHAIRPERSON: And those Canadian trucks can't cross the border? At least not fully loaded.

MR. WALLIN: Correct. So you'd have to short load a

Canadian truck for it to go across the border. And then of course an American truck can come into Canada.

COMMISSIONER DOEHLER: So the same issue of retailers also would apply to wholesalers? In that they have to deal with the Canadian standards. They can't load up, the two things you just told.

MR. WALLIN: Correct.

COMMISSIONER DOEHLER: So, okay. And it depends how you want to answer this. And that is to do with, you run a bunch of stations yourselves, both in B.C. — retail stations — and the rest of Canada. Has analysis been done on the costs at the retail level comparative -- I presume there's someone does this analysis of station to station. And is the differential between B.C. and the rest of Canada, is it significant?

Proceeding Time 9:11 a.m. T16

MR. McLEAN: So there was a question in the oral workshop in this area and we are prepared to answer that question *in camera*.

COMMISSIONER DOEHLER: That’s fine

MR. McLEAN: And if further details are needed we have that information and we can get it to you.

COMMISSIONER DOEHLER: Good then, thank you.

COMMISSIONER COTE: I have a few detailed questions. I was going to inquire as to your credit card fees.

1 There seems to be a fair amount of disparity between
2 the Deetken and you in their modeling and what
3 Parkland told us was their normal rate. Can you,
4 without -- is that necessary to do this *in camera* or
5 can you say it publicly?
6 MR. McLEAN: I anticipated this question, so I
7 contacted a colleague last night and I have an answer
8 I can provide in public for you. The short answer is
9 that the assumption in Suncor's opinion, the
10 assumptions made by Deetken in their document A2-1-1
11 are good assumptions. If you'd like me to elaborate
12 in detail I can. It's not confidential.
13 COMMISSIONER COTE: I would like to hear that.
14 MR. MCLEAN: Sorry, you would like it?
15 COMMISSIONER COTE: Yes, I would.
16 MR. MCLEAN: So we call them transaction fees. Some
17 people call them credit card fees. My understanding
18 is that oil and gas companies are all charged a
19 standard rate -- well, for the two main cards. So
20 it's a rate that's published. I believe it's publicly
21 available and we're always charged the same rate.
22 Between those two cards the rates are slightly
23 different and that is (inaudible). A third major card
24 will negotiate with each company that they deal with.
25 On occasion, if a let's say a fuel marketer
26 does a co-branded card, so if it was ABC Gas Company

1 and they co-branded with a VISA or MasterCard, they
2 might get a rebate in that circumstance. So now
3 you're dealing with different credit cards with
4 different fees. And so the actual transaction fee
5 will depend on the consumer's use of whichever card,
6 et cetera.
7 As a rule of thumb, we will use one and
8 half to two percent as our budget estimate for
9 transaction fees. The fees are a percentage plus a
10 per transaction charge. Again, that's public
11 information you could get from just about anywhere.
12 Thank you.
13 COMMISSIONER COTE: One last question. Do you agree --
14 to what extent are your property values taken into
15 account when you're doing your retail pricing?
16 MR. McLEAN: So we do look at our rents. We look at
17 all of our costs with respect to our retail sites.
18 And if our costs increase we will try to pass those
19 costs on to our customers. If our costs decrease, we
20 will pass on those decreases to our customer. The
21 fact of the matter is that the market will dictate
22 whether that's possible or not.
23 THE CHAIRPERSON: Just to follow on from that, though,
24 the fact that if you own a piece of property, the fact
25 that it appreciates in value is not reflected in costs
26 other than arguably perhaps property taxes, but the

increased value of the land is not a cost to you. Yet the Deetken report I think suggests that there is an attempt to monetize that, that land value increase and an attempt to monetize that in the price of fuel. So I think we're --

COMMISSIONER COTE: Opportunity costs --

THE CHAIRPERSON: Yeah, wondering whether you do do that or do you only look at the out of pocket costs of --

MR. McLEAN: I can take you through the cost structure, but I'd rather do so --

THE CHAIRPERSON: Confidentially, that's fine. Thank you.

So on that note then, thank you very much for your answers.

MR. BUSSOLI: Sorry to interrupt, Mr. Chair, but the staff actually have a few questions.

THE CHAIRPERSON: Fair enough.

MR. BUSSOLI: We won't try and take up too much time. If you'd permit, thank you.

EXAMINATION BY MR. BUSSOLI:

MR. BUSSOLI: Q: Earlier you touched on the OPIS pricing and it being based on Olympic Pipeline market. Is that relevant to the B.C. market, the Olympic Pipeline market?

MR. WALLIN: A: Well, it's relevant to the extent that

all of the companies have suggested the Pacific Northwest is the base price for the Vancouver rack. The relevance of particular trades or what makes up the marker I think would be more kind of opinion. What it does, the Olympic Pipeline does too is create (a) liquidity and (b), a transparency that's required to have any sort of marker price that you use.

Proceeding Time 9:16 a.m. T17

MR. BUSSOLI: Q: And the second, you made reference earlier to that change in allotment in 2015 to the Trans Mountain Pipeline, which had led to a reduction in Suncor's ability to ship refined product. Can you comment on why that change was made or provide possible reasons for that change?

MR. WALLIN: A: I would love to defer to my colleagues that were here from the NEB. I wasn't on the committee of change, so I really can't comment. I think the idea of adding more transparency and more of kind of due process to the system was what they were gunning for. And I think they were successful in doing that.

MR. BUSSOLI: Q: Okay. And then finally you'd mentioned that there's a number of steps required by Suncor to import gasoline from the U.S. because there is a different quality. What about the other way, exporting to the U.S., would you have to do a number

of different refining steps to do that and what is involved?

MR. WALLIN: A: To a lesser degree, and why I say that is because our standards are higher. So often its quite easy to dump a higher standard into a lower standard. What we do find that when we are in the scenario of exporting is that we can't get those -- we can't get the value of what that higher standard is via the export pricing.

MR. BUSSOLI: Q: Okay. Thank you very much. Those are all the questions from staff.

MS. OLENIUK: Sorry, just before we move to the *in camera* portion perhaps we could mark the presentation as an exhibit.

THE CHAIRPERSON: Yes, please.

MS. OLENUIK: And I think it's exhibit C2-5.

THE CHAIRPERSON: Thank you.

(POWERPOINT PRESENTATION OF SUNCOR ENERGY MARKED EXHIBIT C2-5)

THE CHAIRPERSON: Thank you very much panel for your answers, and we will move to an *in camera* session. If you check with Mr. Bemister, he will let you know where and we'll reconvene in a few minutes.

And I don't know how long we'll take, I would guess probably not longer than half a hour, but aim for probably around half an hour, we'll reconvene

1 then. Thank you.
2 **(PROCEEDINGS ADJOURNED AT 9:19 A. M.)**
3 **[HEARING MOVED TO IN CAMERA/CONFIDENTIAL SESSION]**
4 **(PUBLIC PROCEEDINGS RESUMED AT 10:54 A.M.) T18/19**
5 THE CHAIRPERSON: Please be seated. Thank you.
6 Good morning, welcome back. That was
7 probably the longest half hour you've experienced in
8 some time, I imagine.
9 Welcome back. So we have Deetken back
10 again to answer some further questions, and I
11 understand that you have a short presentation for us
12 too?
13 MS. LEPINE: We do have some additional material, yes.
14 THE CHAIRPERSON: Yes, so there is some additional
15 material that's been prepared and it's based, I
16 believe, in response to -- or not necessarily in
17 response to, but as a result of questions that arose
18 yesterday. I think some clarification material.
19 And then after the questioning the panel
20 had some questions also they would like to ask. Now
21 this may give rise to the need for parties that have
22 already questioned Deetken, may give rise for the need
23 to have some further -- may give rise to further
24 questions that they may need. And we're happy to
25 provide that opportunity and to the extent that that
26 can be timetabled into today or tomorrow, we're happy

to do that, and if not we will try to arrange another time or another fashion so that that can be done. I just want to make that offer to everyone.

And so on that note please, continue.

THE DEETKEN GROUP PANEL

ELISE LEPINE, Resumed:

SAMIR SHAW, Resumed:

MS. LEPINE: Should we present that material right now?

THE CHAIRPERSON: Yes, please.

MR. BUSSOLI: Sorry, is the material available by PowerPoint? It is.

Proceeding Time 11:00 a.m. T20

PRESENTATION:

MS. LEPINE: Thank you. So as was mentioned, there were a few questions that came up yesterday, or comments that related to some data that we had available. So in an effort to, kind of, best inform the Commissioners we would put together a few slides that would be available to everyone to kind of provide an update on those figures to ensure that the best information available is available.

And so those relate to five items. So one is the range of potential retail margin differential that could be attributable to credit card processing fees. And to provide that for the 1.25 percent rate that was quoted by Parkland. The second are the

1 percentage sources of B.C. road-use gasoline as shares
2 of total by year. The third is B.C. imports and
3 exports of road-use gasoline by source or destination
4 location. Fourth is a comparative view of wage rates
5 applicable in Canada. So this is in addition to the
6 minimum wage view that was provided in the phase two
7 report. And the fifth point is in regards to the 2019
8 partial year for the retail margin differential.
9 Which was -- there was some questions about that by
10 Parkland yesterday, and so we've provided a view on
11 the seasonal affects adjustment to adjust for a
12 partial year in 2019.
13 So in regards to the credit card processing
14 fees, we provided a table here for folks to view.
15 This is the retail margin differential that's
16 potentially attributable to the credit card processing
17 fees, based on the 1.25 credit card processing fee
18 charge. So, for example, in 2019 the figure of 0.5
19 cents per litre would be the differential between
20 Vancouver and the western region in the retail margins
21 that would be attributable credit card processing
22 fees. And that's approximately 3 cents lower than
23 what was reported based on the 2 percent rate. Or
24 sorry, 0.3.
25 So the second point here is around the
26 percentage share of B.C. supply. So this is -- all

these percentages are on the base of total annual supply. That is, total imports plus total domestic production. This is not net imports, just to be clear. So it's total imports.

THE CHAIRPERSON: I wonder if you could just clarify. What are you showing us? Are you just showing the numbers or have you changed the bar chart?

MS. LEPINE: No, so the chart that was in the phase one report that showed the imports was just -- it was total imports and it was for all products in the gasoline category as was defined in the Ministry of Finance data. So that included categories outside of clear road-use gasoline. And there's a definition --

THE CHAIRPERSON: That's the one in the report?

MS. LEPINE: Yes, for the imports.

THE CHAIRPERSON: And what's this one there?

MS. LEPINE: This is just clear road-use gasoline.

THE CHAIRPERSON: All right, thank you.

MS. LEPINE: And this chart additionally includes the domestic production.

THE CHAIRPERSON: Now I wonder if we could go back to the first one? Thank you. So this is -- you've adjusted the table that's in your report to reflect the 1.25 percent processing charge that Parkland had in their evidence?

MS. LEPINE: Yes.

1 THE CHAIRPERSON: Okay, thank you.
2 MS. LEPINE: So this was in response -- this slide four
3 here was meant to address the question of the sources
4 of supply for B.C. This information isn't available
5 for just the Lower Mainland, which I believe was the
6 specific question yesterday. But it is -- this is a
7 sum of all sources across B.C.
8 And then in direct relation to your
9 previous question around the chart that was in the
10 phase one for imports, this is now the same chart but
11 adjusted for clear road-use gasoline rather than the
12 sum of all gasoline types as was defined in the
13 Ministry of Finance data set.
14 And then I also added the view for exports
15 of clear road-use gasoline by destination location.
16 Because this did seem to come up in conversation
17 several times yesterday around where B.C. may or may
18 not have been exporting gasoline to over the past
19 several years. Again, this is from the Ministry of
20 Finance data set.
21 **Proceeding Time 11:05 a.m. T21**
22 And if we move to the wage rates, we
23 provided two views of wage rates of B.C. to available
24 other provinces that are in that western region. So
25 that would include potentially Alberta, Saskatchewan
26 and Manitoba. These are wage rates that we see here

in slide 7 for staff at petroleum refineries as it is defined in the StatsCan data source that is provided in the reference there, and data was not available for Manitoba. And each of the hourly wage rates and each of the observations are in dollars of the day. And the same is true for the annual average wage rates for staff of gasoline stations. There seems to be some discussion about the minimum wage and how that relates to staff at gasoline stations. So, we've also provided this breakout from the StatsCan data of specifically staff at the gasoline stations across provinces.

And then the last piece is around the seasonal effects adjustment to the 2019 retail margin differential. So, this was brought up yesterday by Parkland that perhaps the 2019 partial year would not be an appropriate comparison between Vancouver and the Western Region. And so this same seasonal effects analysis that was done for the wholesale margins we also did for the retail margins between Vancouver and the Western Region to assess whether or not an adjustment would be appropriate. And so here is the results of that analysis, and then I have two more slides that show the impact of the assessment.

So, if we look at this chart, we see the green line is the seasonal effects for the Western

1 Region, which again is the average across Alberta,
2 Manitoba -- sorry, Calgary, Edmonton, Regina and
3 Winnipeg. And then the Vancouver region which is
4 Greater Vancouver.
5 So, if we look at the first portion of
6 those lines, the January to June, if you recall
7 yesterday in the Parkland session we said that
8 seasonal effects would make a difference if the
9 Western Region had some seasonal effects that caused
10 lower prices in the beginning, or lower retail margins
11 in the first six months of the year, and that was not
12 the case in Vancouver. And it just so happens that
13 that is kind of what is happening here to a small
14 extent. So, the retail to adjust for this, what we
15 can take the -- basically difference between the green
16 and the blue line there, which is a range of between
17 .47 to .57 cents per litre in 2019. So if we apply
18 the mean of that range, which is .52 cents per litre,
19 we can apply that to the retail margin differential in
20 2019 which we see in the following slide, which
21 essentially brought this 2019 differential, that black
22 bar, down from 8.4 to 7.9.
23 So that means that the unexplained
24 contribution, if we take into account these seasonal
25 effects of the beginning six months of 2019 between
26 Vancouver and the Western Region, then the unexplained

1 differential would be between 90 cents -- sorry, .9
2 cents per litre, which is the difference between that
3 black bar and the top of the dotted green bar in that
4 stack bar chart, and 2.9 cents per litre which is the
5 difference between up to the solid green bar and the
6 black line.
7 And those are all of our slides.
8 THE CHAIRPERSON: Thank you, Ms. Lepine. Can we mark
9 this as an exhibit please, Mr. Bussoli?
10 MR. BUSSOLI: Yes, Mr. Chair, this would be the next
11 exhibit, A2-1-3.
12 THE CHAIRPERSON: Thank you.
13 (POWERPOINT PRESENTATION "THE DEETKEN GROUP - UPDATE
14 FOR ORAL HEARINGS, JULY 2019, MARKED EXHIBIT A2-1-3
15 MARKED)
16 THE CHAIRPERSON: Okay, so we will move now to
17 intervenor questions. Mr. Eliesen, are you ready?
18 MR. ELIESEN: Thank you, Mr. Chairman.
19 **EXAMINATION BY MR. ELIESEN/MS. ALLAN:**
20 MR. ELIESEN: Q: My name is Marc Eliesen, and this is
21 Robyn Allan. Both of us are intervenors in this
22 inquiry. Both of us have economic backgrounds, so
23 it's very nice to converse and ask questions of people
24 who are also economists, other things being equal.
25 So we have a few questions for you to
26 consider. First of all I'd like to commend you for

the work that you've undertaken. I'm sure the pressure hats that you had under this brief period of time to undertake this work has been quite strenuous and so we congratulate you for your efforts in the product that you have brought forward.

MS. LEPINE: A: Thank you.

MR. ELIESEN: Q: So I want to deal just with a couple of questions, and then Ms. Allan will have some additional ones. So first of all I just want to review two of the main observations you make from your first, as well as repeating it in your second report.

Proceeding Time 11:11 a.m. T22

One, that wholesale gasoline prices in B.C. have risen above historical price differentials with respect to comparator jurisdictions. Prices in the Vancouver area have experienced a more significant increase when compared to an average prices found in other Western Canadian cities. And number two, gasoline retail margins in B.C. and to a greater extent in the Vancouver area have risen above the average found elsewhere in Western Canada.

So I would like to ask you first, have you researched any other studies in this area and the conclusions that you've reached?

MS. LEPINE: A: So I have read the intervener submissions insofar as they relate to this

differential and the price behaviour in Vancouver, as well as some other sources available talking about this issue.

MR. ELIESEN: Q: So a follow up on that, are their conclusions different, the other studies that have been undertaken that you've seen, are their conclusions different than the ones you've come forward which I've identified?

MS. LEPINE: A: So I guess maybe I would qualify my last statement with I think in the other sources that I have read have not been data driven analysis of the differentials. And so I don't think that they -- so they're conclusions were different and largely opinion based studies.

MR. ELIESEN: Q: Okay, thank you very much. Would you agree that the most significant cost factor in the price of gasoline or diesel at the pump net of tax is the cost of crude oil and feedstock?

MS. LEPINE: A: I would generally, yes.

MR. ELIESEN: Q: Okay, so have you specifically researched this relationship and do you have any observations to make?

MS. LEPINE: A: Yes, I do have one observation to make on that. So we did look at crude prices, we looked at relevant crude prices for the Pacific Northwest region in our phase one report, was included a chart of some

of these different crude indices and how they moved together. We also looked at the correlation of Vancouver gasoline, wholesale gasoline prices with crude. And I believe -- I do have a document here. I do believe that the correlation coefficient was around .77, indicating a pretty high degree of correlation between those variables.

MR. ELIESEN: Q: So for the period of time that this Commission is undertaking work, that is from 2015 to the current period, have you noticed any changes in that relationship? That is the cost of crude and the price at the pump?

MS. LEPINE: A: So, I want to be clear about what you mean here. Because I think there are two things that have been a little bit conflated over time. One is the correlation between crude and wholesale price, meaning how they move together. And another is the differential that exists between those two things.

So saying that, you know, there's been a wider space between wholesale and crude prices in the 2015 to 2019 period is not the same as saying they've become disconnected and the correlation has changed.

So in that case are you talking about the correlation specifically?

MR. ELIESEN: Q: I'm talking about the correlation and whether or not the gap has escalated significantly

since the 2015 time period.

So let me refer specifically to maybe something that you're aware of. Have you looked at any of the work that has been undertaken by the Bank of Canada around that time period, that is to 2015 or so, exploring the relationship between crude oil prices and the price at the pump net of tax?

MS. LEPINE: A: No, I have not looked at that.

Proceeding Time 11:15 a.m. T23

MR. ELIESEN: Q: Okay. Are you aware of any of the work that had been undertaken by the U.S. Energy Information Agency in the United States regarding that relationship and what took place again during that period?

MS. LEPINE: A: No, I don't believe so.

Mr. ELIESEN: Q: Okay. Are you aware that when crude feedstock price goes up prices at the pump respond very quickly? But when crude prices fall the response is not so quick and retail prices can't stay down as long as the crude oil price suggests they should?

MS. LEPINE: A: I haven't done any specific analysis on that point.

MR. ELIESEN: Q: Okay, thank you. So let me ask you a different question now. Have you looked into, over the last number of years, let's say since 2015, the various statements that have been made, or

presentations made at the various companies, the main suppliers really to B.C., the statements made and the presentations made by their executives at their quarterly or annual meetings to investors or to industry analysts during that period? Have you looked at any of that particular material?

MS. LEPINE: A: No.

MR. ELIESEN: Q: Okay. Thank you very much.

MS. ALLAN: Q: Hello, it's Ms. Lepine, right?

MS. LEPINE: A: Yes.

MS. ALLAN: Q: Yes, I'm Robyn Allan. And again I'd like to just echo the congratulations on the extensive work under very very pressured situation. I just have a few questions.

One is related to the data that you relied on at the Ministry of Finance, the field collection data. And you relied on this for B.C. supply, Alberta imports and foreign imports. And now I see that there is some information on exports.

MS. LEPINE: A: Correct.

MS. ALLAN: Q: Is this the first -- this is the first time actually that we've seen this data used for purposes such as this. Have you used this data before?

MS. LEPINE: A: I have not.

MS. ALLAN: Q: And in your report you provided,

1 helpfully provided, some comments about the data and
2 some of its limitations. But I wondered if you were
3 aware if the data that is provided records where the
4 order is placed for the gasoline and diesel, and I
5 think in your situation you also included jet fuel and
6 other products. Whether it's on the basis of where
7 the order is place, say by the accounting office,
8 versus where the petroleum product is actually
9 produced or shipped from. Are you aware of that?
10 MS. LEPINE: A: I am -- I would need to check with the
11 Ministry of Finance on that. I know that their
12 specific -- so the Ministry of Finance data
13 specifically is what is used to provide the inputs to
14 StatsCan for their accounting of imports and exports
15 of petroleum products to and from B.C. But as was
16 stated in the report, it's not specifically collected
17 for that purpose, provided for that purpose. And I do
18 know that their level of confidence is not 100 percent
19 in the destination, source locations.
20 MS. ALLAN: Q: That would be great, if you could look
21 into that. Obviously the question is, can we be
22 assured that the PADD 3 delivers are actually coming
23 from PADD 3 or perhaps it's just where the officers
24 are that the accounting's taking place.
25 MS. LEPINE:: A: Yes, I can get that.
26 **INFORMATION REQUEST**

MS. ALLAN: Q: Thank you, that'd be great. So I'd like to walk through the data in your phase one report just to see how the supply and demand balance works out. And I appreciate that you've added some expert statistics, so it might change my questions just slightly. But on page 5 of Exhibit A2-1, you have a demand for gasoline of eight -- and I don't think we need to take everyone to the data as long as you're okay with the numbers I'm using. Because what I'd like to just look at is the demand versus the supply. So on page 5 we have about 85,000 barrels a day for 2018 and, say, 88,000 barrels a day of gasoline for 2017. That's the demand. You're comfortable with that?

MS. LEPINE: A: Yes.

MS. ALLAN: Q: Great. And so then on page 11, and I didn't have the benefit of the table you've provided now which actually gives the actually points, the numbers. But I look at that and I say on page 11 there's about 32,000 barrels a day of gasoline in 2018 from British Columbia.

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

Proceeding Time 11:20 a.m. T24

MS. ALLAN: Q: Okay, and then 36,000 in 2017. But I have to take you to page 12 as well because that's where we have the imports of supply from Alberta and

from the United States and marginal other. So then I get on page 12, 65,000 barrels a day in 2018 for example, and so if we can just run the math I get 32,000 plus 65, which gives me 97,000 barrels a day gasoline. And the demand is 85,000 barrels a day which gives me a surplus, excess supply of about 12,000 barrels a day.

MS. LEPINE: A: So, is the question to confirm that?

MS. ALLAN: Q: I just want to confirm that we have an excess supply provided by the demand versus the supply that's available.

MS. LEPINE: A: So we have, again stated on that chart 3.2.3, that number, that 65 number is for not just clear road-use gasoline. That is for the group of gasoline products.

MS. ALLAN: Q: So the 85,000 barrels a day is just road-use? So we can't -- I'm trying to see it from the data that you supplied if we can do a demand and supply. We can't do that?

MS. LEPINE: A: Not with those charts. I think with the addition of the new material we'll facilitate that.

MS. ALLAN: Q: Okay. Thank you. With the addition of the new material then, and you have provided from the Ministry of Finance some export figures, did you actually consider exports when you did your analysis

for phase 1 or phase 2 or is that just a recent addition today?

MS. LEPINE: A: We did look at exports.

MS. ALLAN: Q: And was there any reason why you didn't include the exports originally so that we could get an idea of the net trade?

MS. LEPINE: A: So in the phase 1 submission, due to the tight time constraints, we were facing some limited availability and I think ideally would have liked to create a full view of how do refined products move. How do they come in, how do they get out of the province. But one of the limitations in creating that view is that for the refined products we can't see what comes through the Trans Mountain Pipeline. So we can see -- we can see the total imports from Alberta, but that was one of the problems we faced in creating that view of the ins and out. And without that we didn't necessarily see the value in putting in the exact exports from B.C.

So just to say that that's kind of how we would have used that information and there wasn't an area where we saw a big value in putting in that export information initially in the phase 2 report.

MS. ALLAN: Q: So did you look at Port Metro Vancouver statistics on imports to identify the relative roll of marine transport of gasoline and diesel?

MS. LEPINE: A: Yes.
MS. ALLAN: Q: You did?
MS. LEPINE: A: Yes.
MS. ALLAN: Q: And what did you find -- the import figures, and I just looked at them briefly, your showing there are -- from the data that we have are much lower.
MS. LEPINE: A: Yes, so I agree the marine data does not seem to align with the Ministry of Finance data. That is something that we saw. And the Ministry of Finance data was the one that was relied upon based on the level of accounting and the dialogue that we could have with the Ministry of Finance folks.
MS. ALLAN: Q: So, if there are imports and exports going through the Port Metro Vancouver that are not collected in that data and the exports are higher, do you think that would not be useful -- do you think that would be useful to have the net flow of gasoline and diesel from B.C. as a reflection of supply?
MS. LEPINE: A: I think it would be useful information, absolutely.

Proceeding Time 11:24 a.m. T25

MS. ALLAN: Q: And do you have any understanding of the Lower Mainland's ability to receive or to import or export gasoline and diesel from the port area? Are you familiar with all of the receipt points in the

lower mainland? So whether the gasoline comes by vessel or it comes by rail or it comes by truck. Do you know where the facilities are that receives those products and how many there are?

MS. LEPINE: A: So we do, in the phase one we provided a list of the primary terminals and what their receipt capacity was. Whether they have marine, rail, et cetera. But the capacity of each of those receipt points, we were not able to find that information.

MS. ALLAN: Q: And were you at all familiar with the evidence that the province of British Columbia put on the court application regarding the Bill 12 from Alberta? Are you aware of the affidavit that was filed at the court hearings for Bill 12, by any chance?

COMMISSIONER DOEHLER: Excuse me, what's Bill 12?

MS. ALLAN: I'm sorry, it's the *Prosperity Act* in the province of Alberta that was introduced to restrict the flow of products into British Columbia, crude oil and refined products.

MS. LEPINE: A: I would have to check the --

MS. ALLAN: Q: You know what, I have to apologize. Because I'm sorry, I believe it was the affidavit that was filed -- and I've confused my court cases here. I think it has to do with the pressure that we're under. I apologize.

1 My question is simply that have you looked
2 at any other information that talks about the lack of
3 ease of entry into an out of the province of British
4 Columbia with respect foreign imports and exports?
5 MS. LEPINE: A: So I'm wondering if the document you're
6 talking about might have been the affidavit from
7 Michael Rensing?
8 MS. ALLAN: Q: That's the one, thank you. Yes.
9 MS. LEPINE: A: Yeah, okay. Yes, so we did look at
10 that. So the report that we created, we were only
11 relying on data available. So I did include some
12 quotes from Michael Rensing indicating the limited
13 capacity to import fuels from places other than
14 Alberta in B.C. To validate that we would need more
15 detailed information on what the receipt capacity is
16 in B.C. and what those distribution networks look
17 like. Unfortunately we didn't have that for this
18 report.
19 MS. ALLAN: Q: So is it fair to say that the major
20 receipt points are owned by Suncor, Imperial, Shell
21 and Parkland? With respect to the Lower Mainland.
22 MS. LEPINE: A: Because we don't have the volumes, I
23 wouldn't be able to say for sure in terms of the
24 capacity of receipt. But I wouldn't be surprised if
25 that were true.
26 MS. ALLAN: Q: Thank you. I just want to turn for a

1 second to Trans Mountain. Now, are you aware that
2 Trans Mountain is a 400,000 barrel a day pipeline,
3 that 95 percent of its design capacity is 400,000
4 barrels a day.
5 MS. LEPINE: A: Yes, I have read that, based on -- I
6 think there were particular assumptions that they have
7 in table from Trans Mountain and National Energy Board
8 that define that capacity.
9 MS. ALLAN: Q: And in your report you do say that
10 you're aware that it varies based on the amount of
11 heavy oil shipped down the pipeline?
12 MS. LEPINE: A: Correct.
13 MS. ALLAN: Q: In your chart, 4.3.2, which I believe is
14 in your second report, the Exhibit A2-1-1, on chart
15 4.3.2, so you just accepted the capacity that was
16 given through the NEB pipeline profiles which is given
17 to the NEB from Trans Mountain?
18 MS. LEPINE: A: Correct.
19 MS. ALLAN: Q: You didn't do any analysis at all with
20 respect to the capacity that's available if a lesser
21 volumes of heavy are shipped?
22 MS. LEPINE: A: So I did look at as the -- I believe
23 you also have had submitted a chart in your intervener
24 submission that looked at how frequently is there 20
25 percent heavy crude that goes through the pipeline and
26 what does that mean in terms of a 300 versus 400

1 thousand barrel a day capacity limit? I also looked
2 at that.
3 **Proceeding Time 11:29 a.m. T26**
4 But we relied on the NEB data basically
5 because there are expected particularities about
6 pipeline transportation that we did not have the
7 capacity or time to get into the detail of precisely
8 how capacity is determined. And so we accepted the
9 NEB reported figures as official.
10 MS. ALLAN: Q: Thank you. And so at 2 percent heavy
11 oil, which was shipped during the first quarter of
12 2019, the tables that Trans Mountain have supplied to
13 the National Energy Board do indicate that about
14 386,000 barrels a day could have been shipped,
15 roughly. I mean we appreciate that there is factors
16 that affect this. But that would suggest something
17 about 75,000 barrels a day of capacity that was
18 available based on that heavy oil ship that was not
19 used in the first quarter, roughly.
20 Now, companies like Suncor and Imperial,
21 and we certainly heard testimony this morning say that
22 they can't get the space they want. And I noticed in
23 your report you also pointed out that the verification
24 and nomination system was changed in 2015. Is it
25 possible that when this kind of capacity is available
26 and it's not being used, is it possible that the

1 nomination and verification system that was changed in
2 2015 could be having a material impact on the actual
3 utilization of the pipeline?
4 MS. LEPINE: A: So the question is, if there were
5 capacity that is unused on the Trans Mountain, could
6 one explanation be a change in the allocation rules?
7 MS. ALLAN: Q: Yes, that's the question.
8 THE CHAIRPERSON: Sorry, could one what be changed? I
9 couldn't hear.
10 MS. LEPINE: A: Could the change in the allocation
11 rules be essentially the reason for a reduced
12 utilization of the pipeline. I can't say whether or
13 not. It seems reasonable, but we didn't look at that
14 specifically in this report.
15 MS. ALLAN: Q: That's great. What is your
16 understanding of the priority destination to the dock?
17 I mean, how many barrels --
18 COMMISSIONER DOEHLER: Excuse me, I'm trying to puzzle
19 through this. You said the capacity was 385 by some
20 report, I can't remember what one you said, and
21 according to this report here, according to National
22 Energy Board, only 317 was the capacity. So I don't
23 understand how it gets from 385 to 317.
24 MS. ALLAN: Thank you. So 317,000 barrels a day is the
25 capacity that Trans Mountain informs the National
26 Energy Board is available. So Trans Mountain does

1 that calculation.
2 COMMISSIONER DOEHLER: Based on, I presume, the
3 nominations of heavy and light and whatever else
4 they're putting in the pipe.
5 MS. ALLAN: I would expect so, but then the evidence
6 that they have also filed with the NEB suggests that's
7 not the case, because in 2010 Trans Mountain provided
8 the capacity based on the percentage of heavy oil
9 shipped by percent. So we go 400,000 barrels a day is
10 95 percent of the design capacity of the pipeline. So
11 it's designed to ship a certain amount of product. If
12 no heavy oil is shipped, at 95 percent of that design
13 capacity, it can ship 401,000 barrels a day, is what
14 the number is.
15 THE CHAIRPERSON: Is that on the record somewhere?
16 MS. ALLAN: That's the first point, is that the
17 capacity is actually 400,000 barrels a day if no heavy
18 oil is shipped.
19 COMMISSIONER DOEHLER: I'm not sure we have that -- I
20 guess --
21 MS. ALLAN: Actually, the table is provided in our
22 report. So I can make the whole submission by Trans
23 Mountain to the National Energy Board, I can certainly
24 file that as evidence as well. I just took the chart
25 that gives us this --
26 COMMISSIONER DOEHLER: But you just made a statement

1 that 385 was the capacity, but only 317 is used.
2 MS. ALLAN: And because in the first quarter of 2019,
3 only 2 percent of the pipeline was used for heavy oil.
4 And so when you take a look at the 2 percent heavy oil
5 based on Trans Mountain's chart, the capacity is
6 closer to 385,000 barrels a day that's available,
7 because only 2 percent is heavy oil.
8 **Proceeding Time 11:34 a.m. T27**
9 COMMISSIONER DOEHLER: But is the based on some -- like
10 I don't understand then why they reported they're
11 essentially at full capacity at 317.
12 MS. ALLAN: I don't understand either and I actually
13 contacted Trans Mountain before this Commission was
14 struck and asked them, and I was given a response but
15 not an answer. So, I still don't know why when --
16 COMMISSIONER DOEHLER: Well it's just you made this
17 ascertain and you're asking the question and we don't
18 have an answer for it, and you're asking an economic
19 question. So you've made an ascertain there's extra
20 capacity because of this information that you don't
21 have that you can't verify why the difference.
22 MS. ALLAN: The capacity is available and it's not being
23 used. And when I have inquired about why there is no
24 maintenance or any other situation that would suggest
25 why that capacity wasn't used. Does that answer your
26 question.

COMMISSIONER DOEHLER: Well, it's just we don't know.
MS. ALLAN: We don't know.
COMMISSIONER COTE: Do you have a report that says 2 percent is all that was used at this time?
MS. ALLAN: Yes, the pipeline profiles show us that they heavy oil that was shipped in January, February and March, they do it by month, and they tell us exactly how much heavy oil is shipped. That's the pipeline profiles from that National Energy Board.
Q: And as well I believe in your phase 2 report you actually have that data as well on page 38 -- is it 38? Yes, page 38 of A2-1-1.
THE CHAIRPERSON: So that black line, the black portion of the graph in 2019, that's the 2 percent you're referring to?
MS. ALLAN: The black line in the -- I'm sorry I don't have the graph with me, sorry.
MS. LEPINE: A: It's the black -- so the black in the stack bar chart and the light blue represent the heavy crude going to Westridge in the black and the heavy crude at Sumas in light blue.
MS. ALLAN: Q: And so it was 6,000 barrels a day in each month, which is only two percent of the 300,000 barrel a day pipeline. And since we know, and we had testimony this morning as well to this effect, that the less heavy shipped the greater the capacity.

The question becomes why is that capacity not being used? And so I just was curious in one respect if you're aware of the capacity that is guaranteed at the dock? I believe your report talked about 54,000 barrels for firm shippers.

MS. LEPINE: A: Yes, I'm aware of the Westridge in the dock capacity.

MS. ALLAN: Q: And are you aware of any other guaranteed dock access besides the 54,000 barrels a day that's granted to the firm shippers?

MS. LEPINE: A: So there's the 54,000 barrels a day and then there's approximately 20, 24, 25,000 barrels a day which I think is based on a percentage of the total remaining capacity of the pipeline that is allocated to the Westridge dock that is then bid on as we heard earlier today and yesterday.

MS. ALLAN: Q: Okay, so the 25,000 barrels a day, the guaranteed spot market capacity, great.

And I think the only other question that I would have for you is with respect to the graph that was talked about yesterday in the hearing, the perfect competition graph of where you would expect price to exist in a competitive market. If the market is concentrated, in other words if the market is not workably competitive, would you still rely on that same graph as the price determination model?

MS. LEPINE: A: So, insofar as each of those sources that were listed in terms of the cost of supply are meant to represent the cost of supply, which is inclusive of a market standard return, then no.

MS. ALLAN: Q: You would not use that perfectly competitive model to determine prices as your graph?

MS. LEPINE: A: No.

MS. ALLAN: Q: Thank you very much, I appreciate it.

THE CHAIRPERSON: Anything else.

MR. ELIESEN: Those are all our questions, thank you.

THE CHAIRPERSON: Great. Thank you very much. So what we're going to do next then is we'll move on -- and please don't go. This is your opportunity to make some opening remarks and then the panel will have some questions of you.

MR. BUSSOLI: Sorry to interrupt, Mr. Chair, did you want to offer to other interveners the opportunity to question the --

THE CHAIRPERSON: Yes, and we forgot that we were going to question them too.

MR. BUSSOLI: Or yourselves or staff as well.

THE CHAIRPERSON: It gets close to lunch and you forget.

MS. LEPINE: I thought I just got off the hook.

MR. BUSSOLI: Not so quickly.

THE CHAIRPERSON: Not so quickly. So I'll invite then,

are there any other parties that would like an opportunity to ask Deetken any further questions based on any new information that you may have heard?

MR. GHIKAS: Thank you, Mr. Chairman, my -- it's very difficult even without the documents in my hand to do this right now. And so -- and it's difficult to get any input on that as well. So my preference would be to deal with this at some future point --

Proceeding Time 11:39 a.m. T28

THE CHAIRPERSON: That's fine.

MR. GHIKAS: -- if it's possible, and I won't be here tomorrow, so it would have to be at some future point. I'm not sure whether we have any questions or not.

THE CHAIRPERSON: Well if you do, notify us as soon as possible.

MR. GHIKAS: Thank you very much.

THE CHAIRPERSON: Thank you. Okay, not hearing anyone else then.

MR. BUSSOLI: Are there any other intervenors that have any questions? No?

I do have one clarifying question, and it shouldn't take too long.

THE CHAIRPERSON: Sure.

EXAMINATION BY MR. BUSSOLI:

MR. BUSSOLI: Q: Just if we could go back to the PowerPoint exhibit, if that is easy for the Hearing

Officer to get back up onto the screen? And to the last graph that you were talking about. I'm sorry I don't have a page number.

MS. LEPINE: A: This one?

MR. BUSSOLI: Q: I think it is the blue line, the reference to the credit card pricing. Is that in relation to the $2 credit card pricing? Or what was that?

MS. LEPINE: A: Two percent.

MR. BUSSOLI: Q: Sorry, it is the two percent?

MS. LEPINE: A: Yes.

MR. BUSSOLI: Okay, thank you. Those are all our questions.

THE CHAIRPERSON: Thank you, so the panel does have a few questions please, so.

QUESTIONS BY PANEL:

THE CHAIRPERSON: I will go ahead. Your report introduced a graph or a set of graphs that have become quite famous, and these are the graphs around how the equilibrium price is established. And we've heard from a number of people, including Parkland's expert yesterday, that this is fairly established economic theory of a price setting, and I would like you to confirm that if that's true and is there anyone that would disagree with that, is there any body of economists that would disagree with that that you're

1 aware of?
2 MS. LEPINE: A: Not that I'm aware of. I think in
3 terms of a competitive, free market, without any
4 market failures, then we would expect that essentially
5 that is how an upper-sloping supply chain is
6 constructed by many of these higher cost suppliers.
7 THE CHAIRPERSON: Right, okay. And so you say that in
8 the absence of any market failures, so perhaps we
9 could explore that a little bit then. What would
10 change about that theory then? How would the
11 equilibrium price setting process change, let's say
12 under an oligopoly or a monopoly market?
13 MS. LEPINE: A: So, as I was just saying in my comments
14 to Ms. Allan, the cost of supply that is indicated
15 there is meant to be representative of the economic
16 cost of supply, which would be the actual cost of
17 production and the inclusion of a market return. And
18 so those -- market returns are expected to be
19 equalized across different industries based on risk
20 profiles. So, if I'm choosing a business to go into,
21 adjust it for the risk, we would expect that based on
22 free choices to go into different industries, the risk
23 adjusted returns would approximately equalize.
24 Now, if that were not true, if there were,
25 for instance, barriers to entry, then each of those --
26 there would be a greater return that would be included

in each of those supply sources.

Now, our report hasn't gone into an in-depth analysis of what a market like the gasoline and diesel industry in B.C. would look like in the case of a market failure. We were focused on are there things that we can observe in the data that help us to understand the differential that has been created between B.C.'s prices and those of comparable jurisdictions.

Proceeding Time 11:44 a.m. T29

So, in terms of -- I think to provide a succinct review of what we would expect a similar chart to look like in the case of different scenarios of market failures, whether or not that would be an oligopoly or a monopoly, I might like to take that away if possible.

INFORMATION REQUEST

THE CHAIRPERSON: Okay. We had some discussion this morning on OPIS's methodology for -- well, not establishing, but reporting prices. Do you have any further comments on that or any disagreement with anything you've heard?

MS. LEPINE:: A: So we did get some data from OPIS for this report. And that included a series of wholesale prices from the PADD 5 region. And also they publish a daily report on prices in Canada. And so in phase

1 two of our report we've include in the competition
2 analysis for the wholesale side, you know, who are the
3 producers that are posting rack prices, and that is
4 from the OPIS data. So I just wanted to clarify that
5 in terms of data published on Canadian markets, OPIS
6 does publish that but they're not as provided by the
7 refiners here, I can't comment on that.
8 THE CHAIRPERSON: In your reports you looked at market
9 concentration for the retail market and you looked at
10 measures of market concentration and concluded that
11 there was no market concentration in the retail
12 market, correct?
13 MS. LEPINE:: A: Low market concentration, yes.
14 THE CHAIRPERSON: But you didn't explicitly look at
15 that in the wholesale market, is that correct?
16 MS. LEPINE: A: Correct.
17 THE CHAIRPERSON: However, the A&E report did do that,
18 they did and they drew a conclusion that there was
19 market concentration. Do you have any comments on
20 that? And I'm curious why you didn't do that in your
21 report?
22 MS. LEPINE: A: Yeah, so the market concentration --
23 ideally what we would like to use for a calculation of
24 market concentration is the percentage of the market
25 captured by each of the firms that we're looking at.
26 So, in the retail analysis that we did -- and I think

1 we noted that in the report, that this has to be -- it
2 has to be taken into consideration. That we can't
3 adjust for the number of retailers in a downtown
4 Vancouver location that are selling a higher amount of
5 gas than somewhere in Bella Coola that might be
6 selling a lower volume of gas for example, just due to
7 population.
8 And I think the same is true for the
9 refineries. We can see the number of refineries that
10 are in B.C. and in Alberta and in the Washington State
11 area. What we can't see is the particular sales that
12 are made by each of those refineries to individual
13 locations of retails stations or to other independent
14 marketers or wholesalers in the business.
15 And in that way we decided to include just
16 a view of what has changed in the refining market in
17 the Pacific Northwest over the past several years.
18 And because we were focusing on this point where a
19 differential had been created post 2015, we were
20 looking for changes that have occurred over that
21 timeframe. And so we decided that that view of the
22 relative position of competitiveness in B.C. compared
23 to close by jurisdictions that we were comparing the
24 prices to in our analysis, provided a succinct view of
25 the competitive landscape.
26 THE CHAIRPERSON: So do you have any comments on the

1 view of market concentration that was expressed in the
2 A&E report then?
3 MS. LEPINE: A: So I think my only comment is that I
4 think the concentration in the Lower Mainland and
5 B.C., I think is best considered in the context of the
6 concentration in comparable markets, because it is an
7 industry that requires large capital investments.
8 **Proceeding Time 11:49 a.m. T30**
9 We've seen across several areas that it
10 doesn't attract many small producers, it attracts a
11 few large producers. And that appears to the be case
12 in most jurisdictions that we looked at in the Pacific
13 Northwest and in Alberta.
14 And so when we're thinking about a
15 differential that's been created in Vancouver and
16 looking to competition, I think that should be
17 considered. Whether -- if the question is competition
18 in general in the market then maybe the total
19 concentration is appropriate.
20 THE CHAIRPERSON: Okay. I just want to clarify, again
21 back to your comments on the -- how the marginal
22 supply established a price, that's true for diesel as
23 well as gasoline?
24 MS. LEPINE: A: I would expect so, yes.
25 THE CHAIRPERSON: Yeah, we don't see as big a
26 differential in diesel. Do you have any comments on

that? Is that -- presumably then that's because the difference in the marginal -- the difference in the cost of diesel in the jurisdiction that's setting the supply is different, is that presumably why? The diesel is cheaper than the -- yeah.

MS. LEPINE: A: Yeah, we address this, I think it's in section 5 of the phase 2 report, in trying to reconcile the explanations that we've identified for gasoline price differentials with what we've seen in the diesel market. As I understand it the methods of transportation for diesel versus gasoline are quite similar, particularly when we're looking at the truck transportation because they're smaller volumes.

And so it's not immediately clear, as we stated on the report, how to reconcile those differentials. We've provided a few ideas of areas to look at, and I know there were some comments yesterday made about how transporting diesel versus gasoline would be different. We haven't seen that data that would help us draw that conclusion.

THE CHAIRPERSON: Okay, thank you. And one final question. Your report discusses at some length the impact of property values on retail prices for retail gasoline and diesel. I'm wondering if as an economist if you have any data or experience or comment on that issue more generally in Vancouver. Because presumably

1 it would apply to retailers generally, and just
2 anecdotally, when I travel to other Canadian cities,
3 you know, a can of coke seems to cost the same, and a
4 chocolate bar cost the same, you know, dinner in a
5 restaurant cost the same. So are you seeing the
6 impact of property prices on retail values in other
7 retail areas or is it only in gasoline and diesel?
8 MS. LEPINE: A: So, I would also expect, all things
9 being equal I would expect it to also apply to other
10 retail products. But I think different industries
11 have different levels of ability to substitute across
12 different modes of sale. So for example, if you are a
13 retailer that -- there's marketing decisions that
14 happen. So if you're a retailer that wants to keep a
15 downtown Vancouver location to have your brand seen
16 and recognized by -- in a high density area, the cost
17 of that may be subsidized by ecommerce for example.
18 **Proceeding Time 11:49 a.m. T31**
19 And so we haven't looked at it directly,
20 but I think it would be a complicated undertaking to
21 account for all of those factors that may be
22 influencing the marketing decisions of different
23 firms.
24 THE CHAIRPERSON: Okay, thank you.
25 COMMISSIONER COTE: If I could bring you to your phase
26 two report, page 2. And it may be that I

1 misinterpreted the data. You've got that chart, 00,
2 on that page.
3 MS. LEPINE: A: Yes.
4 COMMISSIONER COTE: You're talking about the retail
5 margin differential, and as I understand it the green
6 area is the minimum land contribution that goes into
7 -- and you've broken it down into cents per litre and
8 whatnot. And then the little line around it, which is
9 also a green, is sort of the maximum number. I know
10 that each year from 2015 on this number seems to
11 increase. And especially in 2018 and 2019.
12 And my understanding is the real estate
13 market has sort of softened starting in 2018, I don't
14 have the numbers in front of me. And if not, if those
15 numbers didn't play out in Vancouver in 2018, they
16 certainly are in 2019. Yet you've increased it over
17 the previous year in each of these years.
18 Could you explain that?
19 MS. LEPINE: A: Yes. So in section -- so if I could
20 turn you to first, page 24 of phase two report, chart
21 3.3.1. So here we have plotted the residential values
22 which are from the Canadian Real Estate Association.
23 And their benchmark composite residential land values.
24 And then on the blue line we have the commercial land
25 values on a dollars per square foot basis.
26 And so as you noted, the residential land

1 values in the 2019 period appear to decline in
2 relation to previous years. But the commercial land
3 values don't exhibit the same decline. And so when we
4 were comparing, the first thing we did in this report
5 was to compare the contribution of residential land
6 values because that was the data that we had available
7 for Vancouver, as well as cities in other Western
8 Regions. So we compared the contribution of that to
9 the retail margin in Vancouver versus in the Western
10 Regions.
11 But this change -- the theory is that it's
12 really the commercial land value that is the value of
13 the property that you're sitting on as a retail
14 gasoline station owner. And although we've provided
15 some examples of the alternative use being for
16 residential properties, those are examples and that's
17 one example of a next best use of the land.
18 And so, what we also did was to use the
19 business or the commercial land values as the
20 predictive factor for the retail margins in Vancouver.
21 And if you turn to page 29, at chart 3.3.8, you can
22 see those incremental contributions charted. And it's
23 kind of exactly, I think, as you would expect based on
24 your question. These green lines with the arrow bars
25 around them, that would be incremental contribution of
26 the retail margin differential explained by the

1 residential real estate values. And we see it
2 increasing up to 2018 and then falling back down in
3 2019. But then if we look at the incremental
4 contribution based on the commercial values
5 **Proceeding Time 11:58 a.m. T32**
6 But then if we look at the incremental
7 contribution based on the commercial values, which we
8 would expect would be a better indicator if we had
9 perfect data for everywhere, that's what we would have
10 preferred to use, and we see that that doesn't
11 actually exhibit the same decline that the residential
12 values have exhibited.
13 So then we chose to show in Chart 3.4.1,
14 which is the same as we were just viewing in the
15 summary, we created this minimum and maximum land
16 value contribution based on the minimums and maximums
17 of using both the residential and commercial
18 regression analyses that we did. So that chart that
19 we were just looking at, to reflect, it could be as
20 low as we were seeing in some years commercial or
21 residential values, or as high as either of those
22 ones.
23 And again, I would like to stress that this
24 is minimum and maximum meant to reflect the
25 uncertainty in these estimations. Does that answer?
26 COMMISSIONER COTE: I think I understand you, okay.

MS. LEPINE: A: Okay.

COMMISSIONER COTE: Are you familiar with the regulation that has occurred in other jurisdictions? I speak primarily, Hawaii had a go at it a while back, and the Maritimes has been regulated for a while?

MS. LEPINE: A: I've read the Navius report that discussed some of those, but I haven't looked at them myself.

COMMISSIONER COTE: Okay. Where regulations occurred, these jurisdictions seem to have tied themselves to an index. In the case of the Maritimes they tied themselves to the New York index. In the case of Hawaii I believe it was the Gulf Coast.

Would you agree that in doing that this is in effect becomes a proxy marginal price? You would add obviously transportation and other factors onto that, but as a base cost or a proxy price marginal cost?

MS. LEPINE: A: So I think crude is a very important part of the wholesale prices for both gasoline and diesel. I think that could serve as a proxy, but again as a proxy it would be excluding several other factors that contribute to the price.

COMMISSIONER COTE: Okay. If regulation were to be contemplated in British Columbia, what would you see the pros and cons of putting a reliance on a Pacific

1 Northwest Index, some form of thing that indexes, that
2 measures prices in the Pacific Northwest, what do you
3 see the pros and cons of tying it to that?
4 MS. LEPINE: A: So again, we didn't look specifically
5 at regulation in our report, so to provide a sort of
6 data driven response to that, we'd have to do some
7 analysis on what we've seen in other markets. But
8 speaking purely from an economist perspective, I think
9 regulation, just a general comment, is that there are
10 a lot of factors that go into determining prices that
11 we've heard, and there are incentives that exist in a
12 free market to allocate those goods.
13 COMMISSIONER COTE: I understand. I'm not advocating
14 that, I'm just trying to understand.
15 MS. LEPINE: A: Yeah, okay. So, I guess I would say
16 that I don't have comments on the specific pros and
17 cons for B.C.'s case, because we didn't look at it in
18 our report.
19 COMMISSIONER COTE: Okay, thank you.
20 COMMISSIONER DOEHLER: And just in a normal hearing, of
21 course, you as a consultant to the Commission would
22 have been asked clarifying IRs and things like that,
23 so some of my questions may seem to be a bit mundane,
24 but I am also going to take advantage of having
25 another economist here to get some perspective.
26 One is that I want to follow on the

1 Chairman's commission [*sic*] about OPIS, and you said
2 how you used the data and things like that. Do you
3 have any comment of the quality of the data that OPIS
4 does provide? Is it a true market reporting figure?
5 Do you have anything to comment about that?
6 MS. LEPINE: A: So, it appears that OPIS is relied upon
7 quite widely in the gasoline and diesel industries
8 both, and I'm not aware of other sources to verify
9 their figures against.
10 COMMISSIONER DOEHLER: Okay. I want to make sure I
11 read the chart. In your first phase 1 report, on page
12 24, there is a graph there, the wholesale gasoline
13 prices across Canada comparison? And I was trying to
14 read -- you make a comment below that the
15 differentials as between 8 cents or 15 cents -- yeah,
16 about the range of 15 cents a litre and the paragraph
17 below.
18 **Proceeding Time 12:03 a.m. T33**
19 And I was just trying got look at the graph, it's kind
20 of hard to read, but it seems to me like near the end
21 it's like almost 20 or over 20 cents. Am I reading
22 the graph correctly?
23 MS. LEPINE: A: Yes, so the 2019 is an average of the
24 differential over the year of 2019. So in one
25 individual month. It's the months that are reported
26 here.

COMMISSIONER DOEHLER: Oh, so that's why.

MS. LEPINE: A: Yeah.

COMMISSIONER DOEHLER: I'm going to take you to two other things we've now seen. One is A2-3, which is a copy of the slides that we were given when the board was advised by the Kent Group on what gasoline prices are and things like that.

You probably don't have it there, but there's one slide in there -- and now I can't find it.

THE CHAIRPERSON: There's no page numbers either.

COMMISSIONER DOEHLER: On page 124. There's no page numbers in this.

What it was showing on page 124, 125 is what happens to retail prices as they respond to an increase in wholesale price, and the graph showed that the wholesale price went up I'd say quite steeply, or went up at some level, but the retail price was reluctant to go up. So it slower to rise, and then as soon as -- then the other graph showed that other case where the wholesale price drops, the retail prices dropped very quickly.

Are you familiar with those graphs or that concept? It's in the gas situation.

MS. LEPINE: A: So this was in the document that was presented yesterday by --

COMMISSIONER DOEHLER: No, this was in a study -- a

teaching seminar, if you like, on just how things work in the gas market here generally, from the Kent report, and it's provided as our background information, A2-3, and I said I can't find -- the page numbers are not on this. They are electronically.

MS. LEPINE: A: I haven't reviewed that report.

COMMISSIONER DOEHLER: I know you haven't.

MS. LEPINE: A: Okay.

COMMISSIONER DOEHLER: It's some graphs and some slides. But it tried to show the economic theory of what happens with retail prices of gas and then responding to wholesale prices.

MS. LEPINE: A: Okay.

COMMISSIONER DOEHLER: So the idea was as the wholesale price rose the retail price went up slower, but then when the wholesale price dropped the retail price very quickly followed that line. And the reason I'm asking that is we're given a graph yesterday and this is on C5-9 as a presentation and I got to find out where -- which one it is. But the good doctor gave us and he was talking about slide number 20. He's talking about the effects of U.S. refinery outages on B.C. prices and as you might recall he showed that there's an outage, also the prices went up and then when they're all fixed they started to go down.

My problem is when I'm looking at the

1 spread between what's happening between the California
2 gasoline and what's happening to the Vancouver
3 gasoline, when I look at the spread between those, I
4 find that just before the Carson fire event the spread
5 increases more before the event, which is what I would
6 not expect to see. If the Pacific Northwest,
7 California prices are sort of dictating what our
8 prices are, I expect that to go up slower.
9 MS. LEPINE: A: So let me just -- I'm just trying to
10 load this document here.
11 COMMISSIONER DOEHLER: Okay, sorry. Take your time.
12 It's page 20 of -- or slide 20 of his report, his
13 presentation. This is C5-9. Did you get it up,
14 finally?
15 MS. LEPINE: A: I've clicked on it but it doesn't seem
16 to be loading. Just a second.
17 COMMISSIONER DOEHLER: It's answering question 2K(ii).
18 MS. LEPINE: A: Okay, so. So you're talking about just
19 after the first block --
20 **Proceeding Time 12:08 a.m. T34**
21 COMMISSIONER DOEHLER: I'm just concentrating on the
22 top two lines, which is the California gasoline line
23 and the Vancouver gasoline line. The rest, we'll
24 ignore those for now, or ignore them. And so the
25 first event, which is the Carson fire, we see that,
26 yes, it follows in general trends. The gasoline price

in Vancouver follows generally the line for the California gasoline.

Except just before, about a couple of months or weeks before the rise happens in California, we see the gap increasing. Which is not what we expect to see if hear how retail responds. We normally expect to see that rise be slower. Now, according to the theory of what happens with retail prices.

So first of all I see the increasing and then after, when Bernicia resumes, which was further on, again we see the gap, that the California price drops but the Vancouver price stays the same and increases. So this is going contrary to the theory, the economic theory of what happens to retail prices. I'm just wondering if you have any observations about that. I know these are total prices, it's California versus Vancouver.

MS. LEPINE: A: Yeah, so I think if the only thing that changed were a refinery coming back online, going offline and coming back online in that period, then -- you're talking about the increase in the Vancouver prices before the Carson fire, right?

COMMISSIONER DOEHLER: I'm saying that the gap is increasing before the fire, you wouldn't expect that necessarily to happen. I know it's going up a bit,

1 but the gasoline price in Vancouver goes up higher.
2 And then after, when all the events are all cleared,
3 the gap is still there and in fact goes even higher,
4 which is not what I expect to see when the prices
5 dropped.
6 I realize you're just seeing the
7 information, it's not your information. I'm looking
8 for a theory or some way to understand what's
9 happening here.
10 MS. LEPINE: A: So, okay. A couple thoughts on this.
11 So one is it's a little bit unclear -- it's noted as
12 gasoline wholesale and crude prices here. Is that
13 correct? These prices seem --
14 COMMISSIONER DOEHLER: Gasoline wholesale and select
15 gas. It's the wholesale price, yeah. Does this
16 indicate the wholesale prices operate differently from
17 what retail prices do?
18 MS. LEPINE: A: Right. So just in terms of, if the
19 only thing that were changing were the refinery
20 shutdown and then restart, then I would agree that if
21 California -- if the marginal unit for California and
22 Vancouver is the same, then we would -- I don't have
23 an explanation for why California would rise ahead --
24 or sorry. Why Vancouver's prices would rise ahead of
25 a U.S. refinery fire.
26 And in terms of the precise movements I

1 don't have a --
2 COMMISSIONER DOEHLER: It's a general trend that I'm
3 trying to see. I realize you can't vindicate those
4 differences, of course. It's just the concept, also
5 it increases. It seems contrary to what we're told,
6 what happens to retail prices.
7 MS. LEPINE: A: Yeah, and I think another comment, just
8 in general, on the equalization of prices across
9 different regions. So when we're thinking about, you
10 know, talking about the marginal barrel and how the
11 marginal unit of supply and how a restriction in
12 supply access in one area might impact another area.
13 I wouldn't be surprised if there were some delay in
14 that as well based on actual frictions in the market.
15 That would be my only other comment.
16 **Proceeding Time 12:13 a.m. T35**
17 COMMISSIONER DOEHLER: Okay. Going to your report,
18 phase two. I'm looking at page 12 and page 13. And I
19 know you're looking at the average throughput per
20 station here. Was any analysis or did you have any
21 time to do any analysis of what that spread might be
22 from the average? From the low volume to a high
23 volume and is it much a variance from year to year?
24 MS. LEPINE: A: So the data used for this was from Kent
25 Group and we were unable to get from them individual
26 retail location data. So all we had was the total

1 quarterly throughput and the total quarterly number of
2 retail stations in the area. So we don't have an
3 assessment of that.
4 COMMISSIONER DOEHLER: And then, just I want to
5 understand the calculations you've done on the
6 property. I know there's been some questions already
7 on it. And it sounds like if you had business
8 assessment values for all the various years, the six
9 years you looked at, it would have been preferable.
10 So you had to use as a marker the residential CPRAs.
11 And the other one, is that is the assessment value
12 current? In other words, doesn't the assessment
13 usually say, this is the value as of a year ago? Or
14 two, or whatever it is?
15 MS. LEPINE: A: So, yeah. I think there is a delay in
16 the assessed value. But I would need to go back to
17 check on the precise month currency that was in the
18 B.C. Assessment's data for that selection of the
19 commercial values.
20 COMMISSIONER DOEHLER: The reason for that is I'm
21 saying that if it was a year or two delayed then it
22 might also have a curve down, we just don't know.
23 MS. LEPINE: A: Correct. And I think there may also be
24 a delayed impact in the relationship between the
25 residential and the commercial values, potentially, as
26 well. And actual, not just the data, but an actual

1 delayed relationship.
2 COMMISSIONER DOEHLER: And you couldn't get from the
3 data to zeroed in to what it was for gas stations in
4 particular as a group?
5 MS. LEPINE: A: So we could see for gas stations, in
6 particular for group. And we chose to use the
7 business data in general to ensure that if there were
8 some type of zoning requirement for gas stations in
9 particular that -- if it were that gas stations had
10 much higher profits than another commercial location,
11 then that would be reflected in the value of lot and
12 the ability to have a gas station on that lot, if that
13 makes sense. And we wanted to abstract away from that
14 and use commercial values more generally, rather than
15 capture the specific value of a gas station, in case
16 there were other particular values associated with gas
17 stations.
18 COMMISSIONER DOEHLER: Like zoning restrictions or
19 something like that?
20 MS. LEPINE: A: Right.
21 COMMISSIONER DOEHLER: So therefore we -- yeah, it may
22 not be a true reflection to a certain extent of what
23 the land value of that gas stations could be.
24 MS. LEPINE: A: So I think it reflects the commercial
25 value of a similarly sized lot for a use alternative
26 to a gas station.

COMMISSIONER DOEHLER: And you used that data to then -- only for Vancouver, but I presume it's the value of the land across B.C. is different?

MS. LEPINE: A: Correct.

COMMISSIONER DOEHLER: So you only looked at the variation of the Vancouver prices, but it is almost universal to what those prices are across B.C., is it not?

MS. LEPINE: A: So -- sorry, the --

COMMISSIONER DOEHLER: What I'm trying to get at is the retail margin component which you tried to extract and then watch the comparison to land values, you've explained it may be partially for Vancouver but not necessarily what the spread might be, retail margin, in other parts of B.C.?

MS. LEPINE: A: So what we found in the phase one report was that the differential on the retail margins was present for the greater Vancouver area. Unfortunately we only had good data on wholesale for a long time period for the Greater Vancouver area and for Kamloops.

Proceeding Time 12:18 p.m. T36

And so what we found in the phase 1 was that there didn’t appear to be any large divergences since the 2015 period in the retail margin in Kamloops. And I would agree that land values are

1 different in different places. It also appears like
2 retail margins are different in different places.
3 COMMISSIONER DOEHLER: But we don't have any -- so you
4 said outside of Vancouver, Kamloops, you don't have
5 enough data to really do that analysis to see what it
6 would be like in the rest of B.C. Thank you.
7 THE CHAIRPERSON: Okay, thank you, Ms. Lepine. I think
8 that brings us to Mr. Bussoli?
9 MR. BUSSOLI: Sorry Mr. Chair, staff just has one
10 additional question for Ms. Lepine.
11 THE CHAIRPERSON: Please.
12 **EXAMINATION BY MR. BUSSOLI:**
13 MR. BUSSOLI: Q: So, I'm no economist and I just sit
14 next to them here, so correct me if I am wrong in
15 this, but what did Deetken rely on to make a causal
16 relationship that land cost and credit card fees have
17 caused the retail price difference between Vancouver
18 and Western Canada? And if I didn't capture that
19 completely correctly, then correct me. What did you
20 rely on I guess is the question?
21 MS. LEPINE: A: So for the land values I would say
22 we've identified a strong correlation that can be used
23 -- could potentially explain part of the differential.
24 We can't identify a causal relationship with a
25 regression analysis, which was used to understand the
26 relationship between land values and retail margins.

For the credit card processing fees, I mean the logic is, it's not based on economic theory, it's based on the math behind it. So if you are applying something as a percentage calculation on a higher base, then the total value of that is going to be larger when the base is larger. And so what we essentially did was look at how much -- so if you applied the percentage credit card processing fee to the western locations for the full price, including taxes and all costs of retail gasoline at the station, how much of that total retail margin is required to repay the costs of the credit card processing fees? And then we did the same calculation for the Greater Vancouver area, and then the differential is what we reported as the contribution to the retail margin differential.

MR. BUSSOLI: All right, those are all our questions. Thanks, Mr. Chair.

MR. WRIGHT: Mr. Chairman, in light of certain questions that were put to this witness in respect to commercial real estate values, I have a few brief further questions. Part of the difficulty I have is I would like to put to the witness, or draw to her attention certain articles from 2019 about trends in commercial real estate prices, vacancy rates and lease rates in Metro Vancouver. I am having those printed

and brought to me from my office, I don't have them at the moment, and I am wondering if we could reconvene with this witness after lunch or at a suitable break?

THE CHAIRPERSON: It's okay with me. Would you be available after lunch?

MS. LEPINE: Yes, I can make myself available.

THE CHAIRPERSON: Could you make yourself available after lunch?

MS. LEPINE: Yes.

THE CHAIRPERSON: Okay, looks like it is okay.

MR. WRIGHT: Thank you for that indulgence.

THE CHAIRPERSON: You're welcome. So on that note, we'll come back at 1:30, after lunch. Thank you.

(PROCEEDINGS ADJOURNED AT 12:21 P.M.)

(PROCEEDINGS RESUMED AT 1:30 P.M.) T37/38

THE CHAIRPERSON: Please be seated, thank you.

Just before we begin -- please come on up. But just before we begin. I just want to announce a schedule change, a slight schedule change. We'll continue with the afternoon as planned with the exception of the Super Save Group. We do not have any public questions of the Super Save Group but we do have some confidential questions. So we're going to move that until tomorrow morning and we'll be meeting with the Super Save Group at 8:00 in the morning. The good news is everyone else has a chance to sleep in.

So we'll convene in the morning at 9:00, the public hearing will continue at 9:00 in the morning. Otherwise, we're in your hands, sir.

MR. WRIGHT: Thank you, Mr. Chair

EXAMINATION BY MR. WRIGHT:

MR. WRIGHT: Q: Thanks for indulgence, Ms. Lepine. In one of the questions from the Commissioners, Ms. Lepine, this morning, you were asked about the trend in commercial industrial real estate values in the Vancouver area as compared to residential, do you recall that?

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: And it was posed to you that hasn't there been a softening in real estate values, and if I may paraphrase, I believe your view was that, well, there may have been a softening on the residential side in Vancouver that has not been the case in the commercial industrial sphere, is that right?

MS. LEPINE: A: So I would say that doesn't appear to be the case in the data that we have that's particularly for the zone of -- it's 06 business and other from B.C. Assessments.

MR. WRIGHT: Q: Right. And that zone would be a zone that would cover commercial and industrial, is that right?

MS. LEPINE: A: It is -- I do not believe that it

1 includes industrial.
2 MR. WRIGHT: Q: I see. Of the uses, what would it
3 encompass?
4 MS. LEPINE: A: So let me just -- I think there was a
5 footnote. So footnote 21 on page 24 of the phase two
6 report notes that business other includes property
7 used for offices, retail, warehousing, hotel and
8 motel. And all of those categories fall within this
9 class. It also categorizes those business properties
10 that do not fall into the other classes as they're
11 defined by B.C. Assessment.
12 MR. WRIGHT: Q: Okay. And they asked this question,
13 did you conduct investigations, apart from the data
14 that you were looking at, into what's been happening
15 in 2019 in commercial properties that would be
16 suitable for developing or using gasoline stations?
17 MS. LEPINE: A: Apart from the data, no.
18 MR. WRIGHT: Q: No, okay. And I direct you to look at
19 page 71 of our phase two report. And in this, towards
20 the bottom of the page, you have a numbered paragraph.
21 You see that?
22 MS. LEPINE: A: Yes.
23 MR. WRIGHT: Q: Okay. And if I understand this, and
24 I'll paraphrase, you tell me if I have it right or
25 wrong. You're recommending to the Commission that
26 they conduct further investigations into land values

and year over year lease costs for the type of properties where people may operate gas stations?

MS. LEPINE: A: For the properties that are hosting retail gas stations today, yes.

MR. WRIGHT: Q: Right. And in your report you refer to assessing the actual assessed values of the land occupied retail gas stations. Would you also recommend, if possible, that they look at the actual costs as opposed to only assessed costs?

MS. LEPINE: A: Yes, so the recommendation was based to be around the actual land values and lease costs. So the land value portion of the costs based by the retail gas stations.

Proceeding Time 1:37 p.m. T39

MR. WRIGHT: Q: Okay. Now, with respect to, I'm going to say non-residential land use in the Metro Vancouver area, are you aware that there have been media reports based on consultation with experts, or people in the industry that have suggested that in Metro Vancouver we have seen soaring real estate prices for commercial, industrial real estate, record rentals, and record low vacancies?

MS. LEPINE: A: Not news reports, no.

MR. WRIGHT: Q: No. I've put before you a couple of articles that were drawn from the Vancouver Sun website. Do you have those?

MS. LEPINE: A: Yes I think so.
MR. WRIGHT: Q: So one of them is indicated to be updated as of May 9th, 2019. The heading reads, "Industrial land squeeze pushes Metro Vancouver to North America's lowest vacancy rate." Do you have that one?
MS. LEPINE: A: Yes.
MR. WRIGHT: Q: And in the article it reports that,

> "Metro has surpassed Toronto, with industrial vacancy rate of 1.2 percent versus 1.5 percent, according to a new report from Avison Young, which pushes up land values and lease rates in addition to making it incredibly difficult for businesses that want to land here or expand."

Do you see that?
MS. LEPINE: A: Yes.
MR. WRIGHT: Q: Okay. So you would agree that if vacancies were low for the type of properties on which you might situate a gas station, you would expect that that would have a tendency to push up a rental rate if that property was being rented?
MS. LEPINE: A: Yes.
MR. WRIGHT: Q: Okay. And if you turned later on in the article you'll see a paragraph that starts, "The continuing squeeze"? It's a couple pages in.
MS. LEPINE: A: Yeah.

MR. WRIGHT: Q: Okay, and I'll just read this out, "The continuing squeeze is forcing industrial developers to become more innovative by pushing buildings higher, since they can't sprawl, and increasing density any way they can."

I'm just going to stop you here. If you are operating a gas station, do you have the option of building to cram more value into your property? Building high that is.

MS. LEPINE: A: I don't believe so.

MR. WRIGHT: Q: Okay. So if you're looking at a property that could be the subject of a building for commercial or industrial purposes, or could be used as a gas station, one of the challenges you'll have if you're using it for a gas station or wanting to use it for a gas station is that you would have to consider an alternative land value, which might be essentially greater if they were able to build it higher.

MS. LEPINE: A: Correct.

MR. WRIGHT: Q: Thank you. And I also -- there was some question about the relevant -- relative position of residential and industrial real estate, and I'd asked you to look at the other, second article before you, which is updated as of March 13th, 2019 entitled, "Commercial Real Estate: Local CBRE director breaks down 2019 property forecast." Do you see that one?

MS. LEPINE: A: Yes.
MR. WRIGHT: Q: Okay. Are you aware that CBRE is a real estate company?
MS. LEPINE: A: Yes.
MR. WRIGHT: Q: You're familiar with CBRE?
MS. LEPINE: A: I have heard of them, I don’t know much about them.
MR. WRIGHT: Q: Okay. I direct you to, this is an interview that took place between a reporter and Norm Taylor of CBRE, the managing director in Vancouver, and I just direct you to the first question from this interview, where the question is posed,

> "While residential values have decreased in the region past year, we've seen commercial values increase by nearly 19 percent and light industrial values by nearly double that. Why do we continue to see so much upper pressure on commercial property values?"

Do you see that?
MS. LEPINE: A: Yes.
MR. WRIGHT: Q: And you don’t have any information contrary to the suggestion that although residential values may have decreased, that we've seen significant increases in commercial values in the Vancouver area, is that right?
MS. LEPINE: A: Right.

MR. WRIGHT: Q: Okay. I also have asked to be provided to you an article report by the CBRE, which is entitled "Metro Vancouver Industrial Q1, 2019."

Proceeding Time 1:42 p.m. T40

THE CHAIRPERSON: Mr. Wright, excuse me, sir. Could you tell us where these -- are these from an online publication, a magazine?

MR. WRIGHT: Yes. So Mr. Chair, the first two articles I presented, and I appreciate this came up just simply after hearing some questions late in the morning. We took them from a website published by the *Vancouver Sun*, the first two articles.

THE CHAIRPERSON: They're the *Vancouver Sun* website?

MR. WRIGHT: Yeah, and we're happy -- we provided the links to Commission counsel and we would be happy to have that if you want to review them yourselves.

THE CHAIRPERSON: That's fine. And this third one then?

MR. WRIGHT: This other one we took from a website published by the CBRE. I went to their website today.

THE CHAIRPERSON: Thank you.

MR. WRIGHT: Q: And Ms. Lepine, you now have in front of you reports from the Vancouver -- from the CBRE with respect to the "Vancouver Industrial Market Overview Q1, 2019."

MS. LEPINE: A: Yes.

MR. WRIGHT: Q: Okay, and you'll just look at the market highlights that's recorded in one of the documents that says, if you can read it out:

"Continued to occupier demand led to further declines in Metro Vancouver availability rate, which set a new record low of 1.9 percent in Q1, 2019. This marks the first time the availability rate has ever fallen below 2 percent."

And I just ask this question, do you have any information contrary to the suggestion that Metro Vancouver has, for commercial or industrial properties, has a now record low vacancy?

MS. LEPINE: A: No, we didn't look at vacancy rates.

MR. WRIGHT: Q: Okay, but you don't have anything contrary to what's reported by this report?

MS. LEPINE: A: No.

MR. WRIGHT: Can I ask that these three documents be marked, Mr. Chair, for exhibits?

MR. GHIKAS: Mr. Chair, I suggest that the first article, which was the reference to the industrial market by *Vancouver Sun* be marked C9-3; the second article from the *Vancouver Sun* for the commercial real estate market be marked at C9-4; and the last CBRE article marked as C9-5.

1 THE CHAIRPERSON: Thank you.
2 (*VANCOUVER SUN* ARTICLE RE: INDUSTRIAL MARKET MARKED
3 EXHIBIT C9-3)
4 (*VANCOUVER SUN* ARTICLE RE: COMMERCIAL REAL ESTATE
5 MARKET MARKED EXHIBIT C9-4)
6 (CBRE ARTICLE MARKED EXHIBIT C9-5)
7 THE CHAIRPERSON: Thank you.
8 MR. WRIGHT: Thank you, Mr. Chair. Those are my
9 supplementary questions.
10 THE CHAIRPERSON: Thank you very much.
11 MR. WRIGHT: Thank you, Ms. Lepine.
12 MR. GHIKAS: Mr. Chairman, if I might, I actually do
13 have some questions for Ms. Lepine now.
14 THE CHAIRPERSON: Please.
15 MR. GHIKAS: Thank you.
16 **EXAMINATION BY MR. MR. GHIKAS:**
17 MR. GHIKAS: Q: Good afternoon again. I won't be long.
18 I just have some follow up questions based on the
19 slide that you had. Have you got that in front of
20 you?
21 MS. LEPINE: A: Yeah.
22 MR. GHIKAS: Q: Okay. First of all I just wanted to
23 follow up on a question that Commissioner Cote asked
24 you. I believe the way he framed it was, could the
25 Pacific Northwest rack be used by a regulator as a
26 proxy for the marginal supply price. Do you recall

that generally?

MS. LEPINE: A: Yeah, I think he was asking if it could be used as the -- no okay, yes, that sounds appropriate.

MR. GHIKAS: Q: For a regulator say -- yes.

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Yes. And let me ask you to start whether, it would be your expectation as an economist that the market would be better at identifying the marginal supply source than would a regulator, correct?

MS. LEPINE: A: Correct.

MR. GHIKAS: Q: And in response to Commissioner Cote you started to say that competition has certain incentives built into it. Is that correct?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And you heard yesterday, I believe you were here for most of this, but you heard various parties that were speaking, the companies that were speaking, participants in the market were speaking there, when they get it wrong they hear from customers immediately. Do you recall that?

Proceeding Time 1:47 p.m. T41

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Okay, and that would be one of what we would think of as immediate feedback or incentive

1 associated with competition, correct?
2 MS. LEPINE: A: It could be one of the signals, yeah.
3 MR. GHIKAS: Q: And another signal would be that they
4 would take their business elsewhere?
5 MS. LEPINE: A: Correct.
6 MR. GHIKAS: Q: Okay. And that feedback you would
7 expect would be immediate, quick, short term to the
8 extent that parties are able, for example, to be on
9 the spot market, correct?
10 MS. LEPINE: A: Correct.
11 MR. GHIKAS: Q: Let's talk about for the moment, if --
12 let's assume that there is a regulator using the
13 Pacific Northwest price as a proxy for the marginal
14 resource and let's assume for the moment that they get
15 it wrong, okay? That the -- it wouldn't be this
16 Commission, but if there was, you know, a Commission
17 and they got it wrong, the --
18 COMMISSIONER DOEHLER: We don't get things wrong.
19 MR. GHIKAS: Sorry, while I take my foot out of my
20 mouth here, yeah, okay.
21 Q: Let's assume hypothetically that the Commission
22 -- the determinator of this -- the person who
23 determines the price gets it wrong. And if they set
24 it, for example, at the Pacific Northwest, there's no
25 incentive at all for any participant with PADD 2
26 supply or PADD 3 supply to bring it to the market in

British Columbia, is there?

MS. LEPINE: A: So I believe what was asked of the Commission was using the price in the Pacific Northwest plus a transportation correction. And we haven't looked at this directly in terms of the impact of the regulation in our report, but part of the premise of why we're looking at just transport, the marginal cost of transportation between B.C. markets and those in nearby markets is because of how we would expect a global market to work in terms of the allocation of far away supply to either, for example, Seattle or Vancouver. So when you're saying, "If they get it wrong, the price," do you mean the marginal transportation fee?

MR. GHIKAS: Q: I mean -- I take your point actually. So what you're saying is that if the regulator was setting it, I take your point that they would layer in some estimate of what the transportation costs would be get it from Pacific Northwest in the example. That's your point?

MS. LEPINE: A: Yes, but it would be -- how I understood it would be that it would be a market price in the Pacific Northwest plus the transportation, the cost of transportation.

MR. GHIKAS: Q: Okay. And so let's assume that once taking those into account and they set the price based

on the determination of what those things are, let's assume that that in fact was not the marginal supply source and that the marginal supply source market was actually something that costs more. Let's assume it was PADD 2 or PADD 3. There would be no incentive for market participants to bring that supply to the B.C. market, would there?

MS. LEPINE: A: So there would be essentially a price ceiling, and so -- generally in economics when you think of price ceilings they have the impact of bringing into a lower price but also much lower quantity than what the market would, in an ideal world, would want to consume at that price point.

So whether or not it's a far away source or a close by source that wouldn't be coming to the market, I'm not sure, but I do think that the total supply would be reduced.

MR. GHIKAS: Q: Right. The market would be short supply effectively.

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: Now the -- there's also a lag associated with regulation, correct?

MS. LEPINE: A: I think that would depend on how the regulation is constructed.

MR. GHIKAS: Q: Okay. Well, you heard, for example, that the various companies set prices -- you're aware

rack prices in , for example, they get updated daily, correct?

Proceeding Time 1:52 p.m. T42

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And you heard some, I believe -- at least one witness indicated that there are some parties in the market that do potentially change their price more than one time a day?

MS. LEPINE: A: Yes, I did hear that.

MR. GHIKAS: Q: Okay. So to the extent that regulation didn't keep up that same pace, it would be introducing a distortion into the market, wouldn't it?

MS. LEPINE: A: All things being equal, yes.

MR. GHIKAS: Q: And it would be introducing an arbitrage opportunity effectively for somebody, correct?

MS. LEPINE: A: It may, yes.

MR. GHIKAS: Q: Now. if we go to your slide 5 from this morning, have you got that?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: So this is the B.C. imports of road-use clear gasoline by source location. One of the things that I took from this graph, and you can correct me if I'm wrong, but the composition of those bars changes from year to year?

MS. LEPINE: A: Yes.

MR. GHIKAS: Q: And the marginal source in any one of

1 those years could be any one of those bars
2 potentially, correct?
3 MS. LEPINE: A: Yes.
4 MR. GHIKAS: Q: And in fact the way that the supply
5 curve actually works, it's not a step change like
6 that. It's more of a curve than it is a step up, step
7 up, step up, the way you have it in your stylized
8 chart that everybody refers to.
9 MS. LEPINE: A: My stylized chart is definitely not a
10 perfect reflection of reality, but I do think there
11 would be some degree of step function in an actual
12 supply curve.
13 MR. GHIKAS: Q: Okay. Now. just changing gears to
14 slide 11 for a moment. So this is the slide of the
15 combined effect of credit card fees and land values
16 and the differential in the retail margin. Do you
17 have that?
18 MS. LEPINE: A: Yes.
19 MR. GHIKAS: Q: Just big picture here. When you're
20 accounting for something like land values in your
21 analysis here, you're not suggesting I take it that on
22 a day-to-day basis a company is going to be looking
23 and saying, "Okay, my credit card fees are X and my
24 land values are X and my opportunity cost is Y for the
25 development of this land and therefore I'm going to
26 set my price on a cost plus basis." You would not

1 expect that to be occurring, on a day-to-day basis?
2 MS. LEPINE: A: I am not sure of the process for how
3 folks go about determining these. I would expect that
4 it would be maybe slightly less explicit than that in
5 terms of consideration of those factors, but I don't
6 know exactly how these stations would determinate
7 that.
8 MR. GHIKAS: Q: So in a competitive market your costs
9 may be higher than your neighbours, but if you charge
10 a lot more than your neighbour just so you can cover
11 your costs, your volumes are going to be effected,
12 correct?
13 MS. LEPINE: A: Correct.
14 MR. GHIKAS: Q: And on a longer term basis the land
15 values are important because if you're not -- the land
16 values and other costs are important because if you're
17 not doing that on a sustained basis, if you're not
18 covering it on a sustained basis, it's not worth your
19 while to stay in the market, correct?
20 MS. LEPINE: A: Yes. So in particular we're talking
21 about these things that are affecting the general
22 market and not a particular retailer. So to your
23 point, if there were a differential impact to one
24 particular retailer based on their land values, and we
25 did call out one illustrative example of that with the
26 Chevron station from -- on Georgia. We would expect

that for some stations, if your cost -- opportunity cost goes up and, as you said, you would likely leave the market because you can't recover those costs at the competitive price.

Proceeding Time 1:56 p.m. T43

MR. GHIKAS: Okay. Thank you, Ms. Lepine.

I think that's it for me, Mr. Chairman.

THE CHAIRPERSON: Thank you, Mr. Ghikas.

MR. THOMSON: Thank you, Mr. Chair and panel. Ian Thomson, Advanced Biofuels Canada.

EXAMINATION BY MR. THOMSON:

MR. THOMSON: Q: One question really for Ms. Lepine. It pertains to the section of the second report where you examined market concentration at retail based on HHI and four firm. The definition of control was a refiner/marketer where the refiner had -- the refiner/market had direct control of price at the pump, i.e. the head office set the pump price.

MS. LEPINE: A: Where the marketer had control of the pump price.

MR. THOMSON: Q: Thank you. If you were to -- and we'll examine some data that might support this later. If you were to look at the real function of the substantial control over pump price being -- coming from the rack, and the number of retail stations in our data, 75 percent of the stations in B.C. are

refiner brand associated and hence are working off a price set at the rack for that station, you would have a much higher number set to work with both for the HHI and the four firm. Is it possible that if you reran the numbers on that basis, the numbers might move from a lower moderate concentration to a higher category?

MS. LEPINE: A: I'm sorry, I didn't catch what the difference was in the measurement that you're talking about.

MR. THOMSON: Q: So for a marketer setting the price, it would be the company that owns -- not owns the brand, but directly controls the pump price or sets, so it would be a head office set pump price. That's one definition of control. Another definition of control would be the company that actually sets the price that that retailer buys at, which we'll examine, which it would be a fixed supply agreement term, which would have a much larger number of retail outlets subject to some price control.

MS. LEPINE: A: So the entity that's setting the wholesale price that the retailer would purchase at?

MR. THOMSON: Q: That's correct.

MS. LEPINE: A: So can I restate the question just to be sure --

MR. THOMSON: Q: I think you are about to, so go for it.

MS. LEPINE: A: So the question is then, if it is the case that the price of the input to the retailer, that is the wholesale price, is being controlled by a small number of entities, and then would that impact our analysis of concentration of retail facilities?

MR. THOMSON: Q: That's a good way of putting it.

MS. LEPINE: A: Okay. So the concentration of retail facilities that we looked at was an analysis of the retail margin. And so if the wholesale price is being controlled by a few entities -- I mean, of course if you did those same calculations but specifically for the controls of the wholesale price, I think that would change, of course the figure would change. What that means in terms of its impact on the retail price, I might need to think through a little bit more because that would be a control on the wholesale and so would flow through to the retail margin in a differential way than the analysis that we were doing. So -- because we were looking at the concentration of those folks who are setting the retail price, then that impacts the retail margin. If there's a high concentration in the wholesale price --

Proceeding Time 2:01 p.m. T44

If there's a high concentration in the wholesale price setters resulting in, as we would assume with a higher concentration potentially the

1 risk is a higher wholesale price than that might
2 result actually in a smaller retail margin.
3 MR. THOMSON: Q: Yeah, and I think I'm maybe still not
4 sure, possibly taking it one step beyond, which would
5 be perhaps appropriate, I'm thinking more simply at
6 the -- if you had a smaller set of organizations that
7 functionally set the price of retail by establishing
8 that a retailer may only purchase from one source and
9 not from an array of sources. So if the competitive
10 set is smaller, it would narrow it down. I think --
11 MS. LEPINE: A: So, I mean in a competitive market for
12 the retails stations, if the wholesale price, the
13 price of the input is rising differentially across
14 retailers, so some are exposed to it and others are
15 not, and the price that they can sell that gasoline at
16 in the market is set by competitive factors, then I
17 would expect that to eventually have the result of
18 squeezing out those retailers.
19 MR. THOMSON: Okay. Thank you very much.
20 THE CHAIRPERSON: Thank you. Is there anyone else that
21 would like an opportunity? Okay, so we'll proceed
22 then. Thank you. I'd like to thank the panel very
23 much. We appreciate your help. Thank you.
24 Mr. Eliseson -- have I lost my place again?
25 MR. CLARKE: I just want to clarify one question on the
26 last statement here. Just one quick question from --

THE CHAIRPERSON: Sure.

MR. CLARKE: Sorry.

COMMISSIONER DOEHLER: We'll eventually get there.

MR. CLARKE:: Q: I just wanted to clarify the last point, Ms. Lepine. If you control the supplies, so if the supplier is putting the price high, would that have the effect of controlling and limiting the retail margin?

MS. LEPINE: A: So insofar as the price of gas from a retail station, it's determined by competitive factors. If the wholesale price raises and nothing happens to the retail price that the retail facility is selling at, then that would be expected to squeeze the -- reduce the retail margin.

MR. CLARKE: Q: So essentially it would control the maximum amount of retail market.

MS. LEPINE: A: For that particular station in the short run.

MR. CLARKE: Thank you.

THE CHAIRPERSON: Mr. Bussoli, do have -- thank you again.

(PANEL ASIDE)

MARC ELIESEN, Affirmed:

ROBIN ALLEN, Affirmed:

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

1 MR. ELIESEN: My name is Marc Eliesen, E-L-I-E-S-E-N.
2 THE HEARING OFFICER: Please state your full name for
3 the record.
4 MS. ALLAN: Robyn Allan.
5 **Proceeding Time 2:06 p.m. T45**
6 THE CHAIRPERSON: Ms. Allan and Mr. Eliesen, you've
7 been very patient. Thank you very much. I'm sorry it
8 was a little bit of a winding road to get here. But
9 we're ready to go now. So welcome and please proceed
10 when you're ready.
11 MS. ALLAN: Thank you Mr. Chair, Commissioners Morton,
12 Cote, Doehler. My name is Robyn Allan.
13 MR. ELIESEN: And my name is Marc Eliesen.
14 **PRESENTATION:**
15 MS. ALLAN: We are independent economists, former
16 executives, and interveners at this inquiry. We do
17 not represent any firm, industry or organization. We
18 are providing our research, analysis and time without
19 remuneration and at our expense as a contribution to
20 the public interest mandate of the Commission. We
21 welcome this opportunity to make a presentation and
22 answer any questions you may have. And we'd like to
23 acknowledge Carl Jensen who has provided us with
24 technical and design support also at his own expense.
25 Since 2015 retail gasoline and diesel
26 prices in B.C. have reflected significant volatility

1 and unprecedented high, high price levels. The
2 Commission has been asked to advise the government of
3 British Columbia on the factors that drive gasoline
4 and diesel prices in B.C. and the mechanism that could
5 be used to moderate fluctuations and increases.
6 MR. ELIESEN: In our report, the case for regulatory
7 oversight to address market failure, we examine a
8 number of issues regarding gasoline and diesel prices
9 in British Columbia in an effort to identify for the
10 Commission prices that are a functions of cost-push
11 pressures as compared with prices that are due to
12 unfair pricing.
13 What we've determined is that the gasoline
14 and diesel market in British Columbia is not workably
15 competitive and the suppliers to this market have
16 exerted their power to establish market prices that
17 are excessively high and unnecessarily unpredictable.
18 The failure of the market to properly
19 function calls for government intervention.
20 Intervention must be carefully designed. It must
21 recognize the reasons why the market has failed and
22 how best to address the failure given the complement
23 of suppliers that operate within it. The unique
24 market failure features in B.C.'s gasoline and diesel
25 sector is why we are calling for a regulatory process
26 administered by the B.C. Utilities Commission.

The process we recommend is two levels of involvement by the regulator. The first level injects the opportunity for suppliers to regulate their pricing behaviour. If they are unwilling to do so, the second level of regulatory oversight enables direct intervention by BCUC to mandate fair and predictable wholesale and retail prices.

The first level of oversight is intended to inject transparency and accountability into the market by requiring regular and ongoing reporting by suppliers and retailers. The mandatory reporting we recommend is along the lines contained in the state of California's petroleum industry *Information Reporting Act*, CIRO. Which is administered by the California Energy Commission. CIRO requires petroleum industry companies to submit weekly, monthly and annual data to the Commission for analysis and reporting to the public.

It is recommended that additional information on cost increases and cost reductions be required in reporting to BCUC, as cost data will be critical for the Commission to determine if wholesale and retail prices are based on the principle of cost plus a reasonable rate of return, or are based on unfair profit taking. Requiring suppliers to be transparent and accountable will make up for part of

1 the breakdown in market signals without necessarily
2 injecting into the process mandated prices.
3 **Proceeding Time 2:10 p.m. T46**
4 The second level of oversight provides the
5 regulator with the ability to introduce price
6 moderation if one or more market participants do not
7 follow a pricing policy that reflects operating costs
8 plus a reasonable return on investment. That is if
9 one or more supplier seeks to obtain excessive profits
10 by charging what the market will bear and opens the
11 opportunity for others to follow, the regulator can
12 impose market discipline reflective of competitive
13 pricing.
14 In reaching the conclusion that
15 intervention is necessary, we considered a number of
16 market issues and undertook research to empirically
17 support our findings. Since filing our first report,
18 we have undertaken additional research and analysis.
19 We provide this initial information as part of this
20 presentation. It will serve the Commission for us to
21 walk through the issues we examined, and the logic we
22 followed in arriving at our recommendations.
23 MS. ALLAN: The first important issue we addressed was
24 market supply. We asked the question, is the gasoline
25 and diesel market adequately supplied and if not, why
26 not. Prior to the Commission of inquiry being

1 established, it was publicly asserted, not by refiners
2 who supplied the market, but by third parties, that
3 the B.C. market place suffered from chronic supply
4 constraints. From prior research we knew the B.C.
5 market was adequately supplied, so we were surprised
6 by the scarcity claims when they began to appear in
7 media reports. Chronic and intermittent scarcity
8 claims over the period 2015 to 2019 are without merit.
9 Our report provides evidence that there is
10 no lack of gasoline or diesel supply. Supply
11 shortages cannot be relied upon to explain the price
12 changes or the price levels that have been
13 experienced. None of the refiners or retailers who
14 are intervenors at this inquiry have presented any
15 evidence that suggests there has been an ongoing or
16 intermittent supply shortage to the B.C. market.
17 Imperial Oil states in its evidence that
18 Imperial has not faced any constraints in sourcing
19 refined gasoline and diesel products in British
20 Columbia.
21 Shell states that, and I quote, "Shell has
22 been able to source refined petroleum products in
23 quantities to meet the needs of its retail and
24 commercial operations."
25 Parkland has told its investors that the
26 company had adequate supply during the 2018 planned

Burnaby refinery maintenance. And a modest crude oil sourcing reduction in late 2018 allowed the company to profitably experiment with biofuels.

Suncor identified supply constraints in its answer to question 19. However, Suncor has exaggerated the impact of these constraints. Suncor states that,

> "Forest fires in Fort McMurray, Alberta in May 2016 affected Suncor's ability to produce diesel at our oil sands facility and our Edmonton refinery, leading to constraints on delivering refined petroleum and diesel products to British Columbia."

However, when Suncor issued a public statement on the impact of the forest fires, the company said this shortage was, "in sights in Alberta, Saskatchewan, and Manitoba, as well as the Interior of B.C." not the province of B.C.

Suncor stated in its evidence that in an Enbridge pipeline explosion near Prince George in October 2018, significantly reduced natural gas supplies to refineries in B.C. and Washington State, causing gasoline and diesel supply shortages. However, court documents filed by the government of British Columbia state that,

> "The supply of natural gas to refineries was not

1 critically disrupted. Nevertheless, the retail
2 price of gasoline spiked in some locations by as
3 much as 10 cents per litre within 48 hours of
4 the explosion."
5 It was not a shortage, but a threat of a shortage that
6 caused prices to spike.
7 In contrast to Suncor's claim that gasoline
8 and diesel shortages occurred in B.C., Port Metro
9 Vancouver data tells us foreign exports of gasoline
10 and diesel took place during November and December
11 2018. For those months there was an average of 3,000
12 barrels a day of gasoline and 12,000 barrels a day of
13 gasoline exported to foreign markets.
14 Suncor also stated in its evidence that,
15 "Unplanned refinery upsets the U.S. west coast
16 in the first quarter of 2019 created significant
17 shortages of gasoline across the Pacific
18 Northwest."
19 **Proceeding Time 2:15 p.m. T47**
20 However, the evidence does not indicate
21 that the refinery outages had any impact on supply in
22 the B.C. market. If supply constraints were an issue
23 in the first quarter of 2019 as Suncor suggests, why
24 then did suppliers export an average of almost 4,000
25 barrels a day of gasoline and almost 14,000 barrels a
26 day of diesel to foreign markets during that period?

1 So in an effort to establish how real
2 public claims of supply constraints might be we
3 examined how often refined product suppliers inform
4 their retail outlet operators of a lack of supply as
5 required under the terms of their supply contracts.
6 But for two limited instances impacting mostly Petro-
7 Canada stations in Alberta, there have been no public
8 statements issued by refiners that there was a lack of
9 supply available to serve the B.C. market during the
10 period under review.
11 As we chronical in our report, Suncor
12 issued a statement in May of 2016 related to forest
13 fires and again in June 2018 when its planned
14 maintenance continued longer than anticipated. The
15 impact of those two isolated events was modest,
16 affecting only a few stations in the interior of B.C.
17 for a few days.
18 We also examined the international flow of
19 gasoline and diesel imports and exports to and from
20 B.C. through the port of Vancouver as a way to
21 determine whether gasoline and diesel imports reflect
22 lack of supply to the B.C. market. The Commission has
23 asked us to respond to question 2G regarding imports
24 and exports of gasoline and diesel. The Commission's
25 questions sates, quote:
26 "As these terms are used by the Port of

Vancouver are all "imports" and "exports" international? Or does the Port just capture ins and outs from the harbour (i.e. domestic and international)?"

Our data is international imports and exports. Port Metro Vancouver captures both international and domestic ins and outs and releases aggregated figures that do not allow for identification of international flows. This is why we made a special request to Port Metro Vancouver to provide monthly data for international and exports by source and destination.

This table provides the data which was included in our report. The data for 2019 has now been updated to include January to April, 2019. It is interesting to note that for the first four months of 2019 only 1,297 barrels a day of gasoline were imported on a net basis, while B.C. has continued to be a net exporter of diesel as has been the case since 2015. In the first four months of the year net exports of diesel were 933,000 barrels a day.

It is our opinion that Deetken's use of Ministry of Finance data for imports and exports has limitations and that the Port of Vancouver is a more reliable source for this information.

In order to provide the Commission with a

1 clearer picture of the relative magnitude of imports
2 and exports, this table provides the figures of
3 foreign imports and exports from 2015 to 2019. For
4 example, in 2017 8,688 barrels a day of gasoline were
5 imported from foreign markets through Port Metro
6 Vancouver. An examination of imports alone would
7 suggest a dependency on foreign gasoline imports of
8 about 11 percent to meet the market demand.
9 However, in 2017 there were 15,037 barrels
10 a day of gasoline exported to foreign markets by
11 marine vessel from the Port of Vancouver. That is,
12 B.C. was a net exporter of gasoline in 2017 and B.C.
13 had a surplus supply of gasoline of 6,349 barrels a
14 day.
15 Recognizing only imports results in an
16 erroneous characterization of the B.C. retail market
17 as an importer of gasoline with a supply dependency on
18 foreign sources.
19 COMMISSIONER COTE: Excuse me, did your analysis take
20 into account the timing of these imports and exports?
21 MS. ALLAN: The analysis -- we asked for monthly data.
22 So I aggregated them into the annual data. So we have
23 the monthly imports and exports by year from Port --
24 COMMISSIONER COTE: It would be interesting to look it
25 on a monthly basis too.
26 MS. ALLAN: Happy to provide that data to you, yes.

INFORMATION REQUEST

THE CHAIRPERSON: If you could please. I also have a questions.

We've heard over the last couple of days that there's various — I don't know what they're called — grades of gasoline, types of gasoline. There's -- and I can't remember the terms, I'm sorry. But there's road gas and then there's other kinds of gasoline that apparently aren't used in your vehicle to drive on the road.

So I'm just wondering, what are we looking at when we're looking at that data? What kind of gasoline are we looking at?

MS. ALLAN: Port Metro Vancouver puts it as gasoline, only. And the diesel has some distillate.

Proceeding Time 2:21 p.m. T48

However, when we looked at the EIA data from PADD 5, most of it was blending agents, not gasoline.

THE CHAIRPERSON: Sorry, the EIA data? Sorry?

MS. ALLAN: To check the reliability of Port Metro Vancouver against the quantities that -- to try to test the data, we looked at the kind of imports that came through the U.S. EIA data for PADD 5.

THE CHAIRPERSON: Imports into the PADD 5 region,

1 sorry?
2 MS. ALLAN: No, imports from PADD 5 to British Columbia.
3 And that data suggested it's mostly blending agents,
4 not gasoline.
5 THE CHAIRPERSON: But it's called gasoline?
6 MS. ALLAN: But it's all put -- EIA does gasoline and
7 blending agents. My understanding is Port Metro
8 Vancouver puts both together.
9 THE CHAIRPERSON: Sorry, what is EIA?
10 MS. ALLAN: A: The Energy Information Agency in the
11 United States. I'm sorry.
12 THE CHAIRPERSON: Okay, yeah.
13 COMMISSIONER COTE: Just one more clarification. What
14 you're talking about is strictly Port of Vancouver.
15 It doesn't include trucking and --
16 MS. ALLAN: Right, it doesn't include trucking and we
17 considered that because we want to make sure you get a
18 full handle on all the flows of trade. Trucking would
19 be a relatively small portion, and we are not aware of
20 the trucking statistics for leaving British Columbia,
21 we don't know what they are. And I think rail too, it
22 appears as if there is not a lot of international
23 transport of these products by rail, it's mostly
24 marine.
25 COMMISSIONER COTE: That's good, thank you.
26 MS. ALLAN: It doesn’t make sense that suppliers claim a

lack of transportation and capacity along Trans Mountain only to ship diesel barrels along the pipeline that then may be exported to foreign markets. If capacity for gasoline is needed, why are diesel barrels for export crowding out space? In March of this year, for example, a shipment of diesel went to Puerto Rica.

We note the Commissions questions 2J(v), "In 2018 and 2019 what amounts of refined gasoline and diesel are imported to B.C. from the U.S. during what periods?"

It is unclear why the Commission has not requested information from all companies on gasoline and diesel exports as well as imports. Net trade is the metric when seeking to discover what, if any, reliance B.C. has on foreign markets for refined product supply. As our report documents, Imperial Oil exports refined products, as does Parkland. For example, in January 2018, just prior to its planned refinery maintenance shutdown, Parkland exported 180,000 barrels of gasoline to Washington State, according to PLATTS. Similarly it is expected the Suncor and Shell engage in international exports. Suppliers engage in exports and imports because of economic efficiencies and business synergies. However, there isn't much more trade activity that can

take place since the ability to do is so is constrained by limited infrastructure at their dock facilities, including storage.

And on this point when we talk about the importance of a competitive market having ease of entry and exit, we understand that the infrastructure limitations at the port would not allow for a large importation of product from the States if it were needed.

When a market is not dependent on U.S. imports for supply any claim that exchange rate pressure lead to inflated refining margins are without merit. While industry commentators in 2017 were advancing an argument that the deterioration in the value of the Canadian dollar was the reason for high prices because of a significant gasoline import dependency, B.C. was a net exporter of gasoline to the U.S. market. The exchange rate impact on the marginal U.S. barrel to justify inflated margins for every litre of gasoline and diesel sold in B.C. is without substance.

Proceeding Time 2:26 p.m. T49

However, it seems when no other rationale is readily available, such as a threat of supply scarcity from a refinery outage in a non-related market, the exchange rate excuse is advanced. Even if

B.C. were dependent on U.S. markets as a significant source of supply, which it is not, a devaluation of the Canadian dollar does not justify price increases.

Our research also reveals that the threat of a reduction in supply, irrespective of the reason, leads to price spikes. Rarely do we witness any time when there isn't one of a number of excuses to draw on. It's a plan turnaround, an unexpected outage, a gas line explosion, seasonal demand, a one cent carbon tax increase to justify 10 cents at the pump, the deterioration of the value of the Canadian dollar, political turmoil in Iran, Venezuela, the Gaza Strip. No, it's a butterfly flapping it's wings in outer Mongolia.

In summary, there is no chronic or intermittent lack of supply over the period under review that justifies the higher absolute and relative prices in B.C. Satisfying ourselves that the solution to volatile and high gasoline and diesel prices does not lie in increasing supply or reducing a dependency on foreign markets. We move to an examination of input cost factors that would be expected to drive prices.

MR. ELIESEN: The most significant cost factor in the price of gasoline or diesel at the pump of course is the cost of the crude oil feedstock. As crude oil

costs rise, this puts proportional upward pressure on refined product prices. As crude feedstock costs fall prices would be expected to fall proportionately. However, this is not what has occurred since 2015. Prior to 2015 it was widely understood there was a direct correlation between crude feedstock costs and retail prices because feedstock cost represent such a significant portion and the overall cost structure of gasoline and diesel production. The evidence submitted with our first report refers to a number of authorities and organizations that confirm this relationship, including the Bank of Canada, the U.S. Energy Information Agency and the Canadian Fuels Association.

Our research has shown that beginning in 2015, as a major decline in crude oil prices took place, the expected or anticipated relationship between cost and retail price became disconnected. No intervener has refuted our evidence of the disconnect between crude cost and retail price. When prices are sticking downwards then it's cost relief is not passed through to the end user, this is the first indication of a dysfunctional market. The first indication that the market is failing.

This graph plots crude price, that is the blue line, refinery and marketing margins, which is

1 the red line, and retail pump price of gasoline in
2 Vancouver net of tax, which is the green line, over
3 the period of 2002 to 2019. As you can see, beginning
4 in 2015 and continuing to the present the disconnect
5 between the crude price and the retail price is
6 obvious.
7 THE CHAIRPERSON: Mr. Eliesen, I'm just wondering, is
8 this a reproduction from your report?
9 MS. ALLAN: This graph is, yes.
10 MR. ELIESEN: Yes.
11 THE CHAIRPERSON: It's in the report and the sources
12 are cited in the report, are they?
13 MS. ALLAN: Yes, we have our presentation with all the
14 graphics and all the sources are cited in that.
15 THE CHAIRPERSON: Thank you.
16 MR. ELIESEN: So refinery margins, and to a lesser
17 extent marketing margins, became the beneficiary of
18 this decoupling of crude price and pump price. Crude
19 price reductions are not fully passed through at the
20 retail level. And any cost/benefit passed through
21 that might occur does not last as long as the crude
22 price suggests they should.
23 **Proceeding Time 2:30 p.m. T50**
24 When crude prices rise we observe that
25 retail prices rise quickly and that these prices often
26 rise by more than the crude costs so that the refinery

1 margins spike. Parkland is the only supplier to the
2 B.C. market that is not a crude oil producer.
3 Parkland's Burnaby refinery sources the light oil it
4 requires from oil producers in Alberta and therefore
5 pays a feedstock price that is also its feedstock
6 input costs. All the remaining suppliers are oil
7 producers and therefore their feedstock costs does not
8 necessarily reflect the market crude price. In fact,
9 their feedstock costs would be expected to be below
10 the crude price. Crude oil producers who are also
11 refiners make increased financial returns when they're
12 crude oil production costs fall while the crude oil
13 market price is stable or rising.
14 In its answers to the Commissions initial
15 round of questions number 4 and number 5, Suncor
16 claims that one of the key costs drivers affecting its
17 refining margin is "Western Canadian crude pricing".
18 Suncor identified crude pricing not crude costs,
19 feedstock costs for a company like Suncor is not
20 relevant as a cost driver. It is feedstock costs that
21 is relevant. Suncor relies on production from its oil
22 sands operation and its feedstock for its Edmonton
23 refinery. In its response to the Commissions first
24 round of questions Suncor states, and I quote,
25 "Suncor's Edmonton refinery has the capability
26 to run a full slate of feedstock sourced from

1 Suncor's oil sands operations. This refinery
2 process is a mixture of heavy crude, sour crude
3 and sweet synthetic crude, which has been
4 relatively consistent over the past four and a
5 half years."
6 What Suncor has not advised the Commission
7 is that its per barrel cash costs of producing crude
8 feedstock for its Edmonton refinery has declined
9 significantly since 2012.
10 MS. ALLAN: And Mr. Chair, just to assist here, this
11 graph comes from Suncor and reports and data.
12 THE CHAIRPERSON: Thank you.
13 MR. ELIESEN: As the blue line shows, in 2014 Suncor's
14 feedstock costs for its refinery was 20.8 cents a
15 litre. In 2018, the cash cost per barrel was 15.9
16 cents a litre, a cost decline of 24 percent. The
17 green line represents the price of Western Canadian
18 Select. The difference between the blue line and the
19 green line represents profit that flows to Suncor.
20 The positive impact of this crude feedstock cost
21 relief is not reflected in margin data that has been
22 presented to this inquiry. The crude feedstock data
23 that is publicly available reflects market prices, not
24 costs.
25 COMMISSIONER DOEHLER: Just before you continue, I want
26 to understand these figures, these concepts. You said

1 Suncor crude costs, cash cost, so therefore does not
2 include any return on plant?
3 MS. ALLAN: Yes, it does not include --
4 COMMISSIONER DOEHLER: Or depreciation or things like
5 that?
6 MS. ALLAN: It doesn't return the return on investment,
7 no. Gross profit.
8 MR. ELIESEN: Gross profit, yes.
9 COMMISSIONER DOEHLER: Pardon?
10 MS. ALLAN: It would be more appropriate to say
11 operating profit rather than --
12 COMMISSIONER DOEHLER: Whatever that term means. We
13 have no idea what that term means. Define it, please.
14 MS. ALLAN: I'm sorry, so when you look at revenues
15 minus expenses becomes operating profit.
16 COMMISSIONER DOEHLER: Expenses meaning what expenses?
17 Are we in an accounting debate here?
18 MS. ALLAN: No, not at all.
19 COMMISSIONER DOEHLER: See there's no defined term --
20 there's only one defined term, sales net income.
21 That's the only one that's defined for accounting
22 terms. So I want to know is that therefore what
23 you're trying to get at is in terms of blue line and
24 the green line, could be return on profit -- on plant
25 i.e. depreciation, interest, those things.
26 MS. ALLAN: Yes.

COMMISSIONER DOEHLER: But we don't know what it is.

MS. ALLAN: Right.

COMMISSIONER DOEHLER: You've made the assumption it's all profit?

MS. ALLAN: Well, I guess -- I'm sorry, we're saying that it's gross profit is more appropriate in terms of revenues and expenses, yes. Thank you.

MR. ELIESEN: We want to know what else you would describe it. That's what Suncor describes it in its reports to its shareholders.

COMMISSIONER DOEHLER: No, no, you're using other terms and I don't know what they mean. But it's okay, I now know there's a difference, it could be explained by other things.

MR. ELIESEN: In a competitive market this cost reduction benefit, which is also known as productivity, would be passed through, in part, through prices in the retail market. This is not occurring. The Commission's most recent set of questions asks in 2D(ii),

> "There are low and sometimes negative margins on crude oil. Do refinery [*sic*] marketers make up for these low margins on refined products?"

Proceeding Time 2:36 p.m. T51

We are not aware of any evidence on the inquiry record that indicates that margins from crude

oil production are or have been negative. So it's unclear how the Commission has arrived at this conclusion suggested by the question.

Suncor achieves a healthy margin for its crude and a review of the company's reports to shareholders does not indicate a concern with negative margins for crude production. A review of the financial performance of other suppliers to B.C. indicates no concern with negative production margins.

In summary, the crude feedstock price is passed on completely if its price is rising but not when its price is falling. Productivity gains, cost relief, appears to be fully retained within the treasuries of producers.

MS. ALLAN: The next most relevant cost issue for the B.C. gasoline and diesel markets is Trans Mountain's capacity and tolls. The National Energy Board and Trans Mountain shippers have not provided sufficient information to the Commission regarding the capacity on Trans Mountain's Pipeline, capacity utilization and the apportionment process.

The NEB informed the Commission that capacity on Trans Mountain varies depending on the proportion of heavy crude. When 20 percent of the pipeline throughput is heavy crude, the capacity is approximately 300,000 barrels a day. What the NEB

1 doesn't tell the Commission is that the pipelines
2 capacity is 400,000 barrels a day if no heavy oil is
3 shipped. As heavy oil is loaded on to the system
4 capacity declines gradually to a point where if 20
5 percent of the throughput is heavy oil capacity is
6 300,000 barrels a day. Rarely does Trans Mountain
7 transport 20 percent heavy oil.
8 THE CHAIRPERSON: Ms. Allan, two questions. And I
9 think I asked you this question this morning. Where
10 are these numbers coming from exactly, please?
11 MS. ALLAN: Yes. Sorry. Oh yeah, in our report we
12 provided from the incentive toll settlement in 2010
13 filing that Trans Mountain did with the NEB to get the
14 tolls approved at that time, they filed a detailed set
15 of tables that showed design capacity and then
16 throughput based on heavy. We provided the table in
17 our report, but the ITS is quoted there and linked
18 there.
19 THE CHAIRPERSON: So when you're quoting the --
20 MR. ELIESEN: And it's also included, if I may add, the
21 table indicating 400,000 is included in the National
22 Energy Board 2015 transportation pipeline energy
23 assessment. So there are a number of sources for the
24 400,000 designated.
25 COMMISSIONER CORE: Is that for refined product?
26 MS. ALLAN: The 400,000 barrels a day is capacity on the

1 pipeline. And this graph comes from the NEB report on
2 pipelines in 2014. And that is for 400,000 if light
3 oil and refined product is shipped. So if it was all
4 refined product it would be 400,000. If it was a mix
5 of light and refined it's still 400,000. If it's all
6 light, it's 400,000. It's only when heavy oil is
7 added to the batches, because heavy oil moves more
8 slowly, so therefore the capacity per day falls.
9 THE CHAIRPERSON: Thank you.
10 MS. ALLAN: So this is from the NEB's report. So
11 historically the NEB has confirmed the 400,000 and
12 that for a number of years was the capacity talked
13 about at the ITS settlement and other places. And
14 then gradually it eroded to 300,000 barrels a day if
15 20 percent was shipped. And then the 20 percent
16 seemed to get dropped.
17 COMMISSIONER COTE: The NEB has sat here under oath and
18 said to us yesterday unequivocally it has been full
19 and likely will continue to be full.
20 MS. ALLAN: Yes. And we listened to yesterday and when
21 I heard that, I also heard that the NEB said they take
22 the capacity that Trans Mountain gives them. So if
23 Trans Mountain says the capacity in March was 290
24 barrels a day, or I think it was 217 for the quarter,
25 that's what the NEB accepts. So the NEB accepts what
26 Trans Mountain tells them the capacity is.

Proceeding Time 2:41 p.m. T52

The NEB doesn't do an analysis of the proportion of capacity that would be available based on the heavy oil shipped.

COMMISSIONER DOEHLER: I thought the NEB did do occasional audits, so they can check it. So you're saying Trans Canada Mountain Pipeline, according to what you're just saying, is lying to National Energy Board?

MS. ALLAN: No, what I'm saying is that -- when I --

COMMISSIONER DOEHLER: I don't know, what's the difference?

MS. ALLAN: I'm not suggesting that they're lying. What I'm saying is that when Trans Mountain provides the data on the capacity it is not reflecting the other information in the NEB hearing record that says that when a reduced volume of heavy is shipped capacity goes up.

Now, it was curious because the pipeline profiles provide the capacity data in a line that mirrors quite closely to whatever is shipped. But in the first quarter of 2019 I looked at the pipeline profile and the capacity line was actually quite a lot higher than what was actually shipped. And I contacted Trans Mountain and within a day or two the line was changed.

1 So I'm not sure how Trans Mountain is
2 estimating their capacity. I did email and ask
3 questions but was not given any kind of response that
4 gave me any assurance that the capacity figures we're
5 being given are actually accurate of what could be
6 shipped but rather what is shipped.
7 COMMISSIONER COTE: Can you give us any motivation that
8 Trans Mountain would have to believe that less than
9 capacity when quite clearly there appears to be
10 demand, that's all we've been hearing about.
11 MS. ALLAN: Yeah, and I think only -- you know, you
12 would have -- Trans Mountain would be best position to
13 answer that. But we have some information and a
14 presentation around the apportionment system and how
15 we have been watching the change in the verification
16 system and how that seems to be leading to a situation
17 where capacity is nominated for at the beginning of
18 the month, it's secured and then it's not fully sold
19 in the after market. And therefore if it's not sold
20 at relatively high prices in the after-market, that
21 capacity may not be being used.
22 And we had a similar situation with
23 Enbridge mainline a year or so ago, where there was
24 situation where shippers would nominate for space on
25 the pipeline with barrels they didn't actually intend
26 to ship. So if they knew capacity was limited, which

it is, then they will over nominate barrels they don't actually have --

MR. ELIESEN: And the term that the shippers use is called "air barrels".

MS. ALLAN: So they have these invented air barrels and then they hope they will get the capacity they need to ship down the line. And then in Enbridge's case they found that because the nominations didn't reflect real barrels they had unused capacity of about 125,000 barrels a month because -- a day, 125,000 barrels a day because they were trying to figure out how to reconfigureate [*sic*] the space after nominations fell away.

THE CHAIRPERSON: We heard -- I think I heard this morning, at least, testimony that allocations are based on historical actual volumes shipped. So, what you're saying seems to be inconsistent with that.

MS. ALLAN: Yes, yes and in fact the person this morning mentioned 350,000 barrels a day if less heavy shipped, and that certainly is for a proportion of, you know, heavy you would get to 350, I think it is about five percent or something like that. So yes, it is consistent. And what we've recognized is that since 2015 when the National Energy Board changed the verification process, it appears as if there's a little bit of -- there's some decisions that are being

1 made and negotiations that are being made that allow
2 shippers to make money without actually shipping the
3 product. But when they do that it creates capacity
4 that isn't being used.
5 And we think that the verification process,
6 and I believe, Mr. Chairman, you asked about why they
7 changed it in 2015. Well, from reading the different
8 applications, back in 2011 they had the firm 50
9 application. That was the application that came
10 forward and said five shippers want firm capacity of
11 the West Ridge dock, and so they signed on for 10 year
12 contracts and they were given by the National Energy
13 Board a priority destination for 10 years to the dock
14 for those barrels, 54,000 a day.
15 **Proceeding Time 2:46 p.m. T53**
16 At the same time the National Energy Board
17 said we're going to have 25,000 barrels a day of
18 uncommitted dock capacity. This morning it was Suncor
19 that had 21,000 barrels, but it's actually 25,000
20 barrels guaranteed destination to the dock for
21 uncommitted and 54,000 barrels a day guaranteed dock
22 access for 10 year take or pay contracts. Two days
23 before the barrels are nominated for the land
24 deliveries. So Trans Mountain comes through to
25 British Columbia, there's the Puget Sound Pipeline
26 that goes off to Washington State to serve four

refineries and then there's land deliveries to Burnaby and then there's dock deliveries.

Well if I happen to have a 10 year contract, and I believe this morning it was said that these ended up maybe being traders as opposed to crude shippers; if I had a 10 year contract for guaranteed space to the dock and I don't want to use it, I can then resell it to a party that didn't get access, such as a refine shipper to B.C. or Parkland, a refinery in B.C., at much higher prices than the $2.45 a barrel on the line. And if they're not willing to pay those high prices maybe I won't release all my capacity, but it will go unused.

And so, back in 2011 when they gave the priority destination through the firm 50, what happened next was Chevron made an application to the NEB to say, we're not getting enough crude oil to our refinery, we would like a priority destination. And I believe the decision is on the record for the Chevron priority destination hearing. It was actually said that one of the problems was the NEB didn't give Chevron priority destination even though they gave the dock shippers. And they said they would solve Chevron's problem with a change in the apportionment system. And that gave rise to a verification hearing and that hearing resulted in this 2015 set of

1 decisions that are now having side effects that are
2 very detrimental in terms of refined products getting
3 access on the pipeline.
4 COMMISSIONER DOEHLER: So given that then, what
5 advantage would someone have of having capacity, of
6 bidding for capacity and having it and not using it?
7 Because I keep hearing, what we've heard so far is
8 that the price by pipeline is cheaper for delivering a
9 refined product. So, I don't understand why someone
10 would not ship refined product.
11 MS. ALLAN: The shippers that ship to the dock do not
12 ship refined product.
13 COMMISSIONER DOEHLER: I understand that.
14 MS. ALLAN: None of that goes to the dock. And they are
15 the shippers that have the rights over the capacity.
16 So if a shipper has 10,000 barrels a day to the dock
17 guaranteed and they choose not to use it, then they
18 can make it available in the after market.
19 COMMISSIONER DOEHLER: Yes, and then we kept hearing
20 it's full.
21 MS. ALLAN: Excuse me?
22 COMMISSIONER DOEHLER: We keep hearing it's full, the
23 pipeline is full. So, I can't --
24 MS. ALLAN: It's not clear whether or not --
25 COMMISSIONER DOEHLER: The economics don't work in my
26 head.

MS. ALLAN: It's not clear whether or not that capacity --

MR. ELIESEN: Well maybe we can assist you. We certainly will try.

MS. ALLAN: There's a lack of transparency, there's no question. However, if a dock shipper doesn't use their capacity to ship to the dock light or heavy oil, and makes it available but the price is too high, then that capacity could go unused.

And the other thing that we are looking at here is if two percent, for example, heavy oil ships down for the first quarter of 2019, that it did, and the capacity of the pipeline should be somewhere around 350, 368, but only 312 are being shipped, there's excess capacity available. And that could be a function of not having the information you need at the beginning of the month to make sure that all the barrels that you end up having available, once you figure out if there are air barrels in the system, that you can't reconfigure over those days and so capacity goes unutilized as Enbridge experienced.

COMMISSIONER DOEHLER: So in other words, someone pays for that capacity regardless whether they use it or not? So the pipeline doesn't care, is what you're trying to tell me.

MS. ALLAN: The pipeline -- yes, exactly. Trans

1 Mountain, those --
2 COMMISSIONER DOEHLER: So someone has paid something,
3 whatever it is, and they're not taking advantage of
4 it, that's the cost of doing business. So that is the
5 rise -- we're talking about 20 - 30 percent. 85,000
6 million barrels a day is what you're talking about.
7 It's a big number. People are paying for it and not
8 using it at all?
9 MS. ALLAN: There's only 54,000 barrels a day to the
10 dock that are under long term contract.
11 **Proceeding Time 2:51 p.m. T54**
12 COMMISSIONER DOEHLER: But you came to the number of 85
13 or something, I can't remember, before.
14 MS. ALLAN: No, and so the dock capacity is not enough
15 to explain the shortfall between the capacity that's
16 available and the capacity that appears to be used.
17 The dock barrels are just part of the issue here, not
18 all of it. Because there's also some unexplained
19 portion of what's happening where there appears to be
20 more capacity available than is being used. Some of
21 that could be explained by the apportionment process,
22 not all of it.
23 The NEB has stated that "the average
24 utilization rate of the pipeline was 98.5 percent in
25 the first quarter of 2019", end of quote. The NEB
26 relies on throughput data provided by Trans Mountain

1 but fails to adjust Trans Mountain's capacity based on
2 the proportion of heavy oil Trans Mountain ships. As
3 we were told yesterday, that is not something that
4 they do. The NEB accepts the capacity at whatever
5 Trans Mountain says. When an appropriate adjustment
6 for heavy oil shipped is made, the utilization rate
7 for the first quarter of 2019 becomes 81 percent, not
8 98.5 percent.
9 Now what we compiled was the throughput
10 that was actually, physically shipped down the
11 pipeline and capacity utilization rates based on the
12 percentage of heavy oil shipped over 2014 to 2019.
13 And these are from the tables that the Trans Mountain
14 supplies to the NEB in their incentive toll settlement
15 and the data is illustrated in this graph.
16 The analysis shows that excess capacity has
17 been available on Trans Mountain but this excess
18 capacity has not been used. Our evaluation of the
19 apportionment process suggests that there are flaws in
20 the nomination system and in the secondary, or the
21 aftermarket, that is leading to the less than
22 efficient allocation of capacity. It is important to
23 note that the 100 percent dotted line on the graph
24 reflects a 95 percent capacity utilization rate of the
25 actual design capacity. Because on an ongoing basis
26 no pipeline is expected to operate at 100 percent of

its design capacity.

THE CHAIRPERSON: Is that your trend line that you've drawn there?

MS. ALLAN: The red trend line comes from -- yes. The red trend line is the -- based on the number of months where capacity wasn't utilized we see that the trend is increasing. That there's --

THE CHAIRPERSON: Right. The red trend line is showing the trend in the blue data, is that correct?

MS. ALLAN: Exactly, exactly.

THE CHAIRPERSON: Is that some sort of least-squares line? Or how did you develop that trend? Or is it just visual?

MS. ALLAN: No, it was mathematically derived and I would need to go to the graphing program to see exactly what the formula is. But it's mathematical. No, it wasn't eye-balled.

So it indicates that the problem seems to be increasing with under-utilization. And that certainly squares with what we heard this morning in terms of the difficulty based on the trailing -- best 18 months of a trailing 24.

So what it appears is that some shippers with guaranteed capacity may be making more money by allocating their dock space to land users and perhaps not actually using all the capacity they have been

1 granted through priority destination. And as I said,
2 only 2 percent of throughput on Trans Mountain was
3 allocated to heavy oil during the first quarter of
4 2019. And the utilization rate was approximately 83
5 percent in January, 85 percent in February, and 75
6 percent in March, for an average of 81 percent over
7 the quarter.
8 **Proceeding Time 2:55 p.m. T55**
9 Suncor and Imperial nominate space to ship
10 refined product along Trans Mountain while Shell and
11 Husky do not nominate for capacity to ship refined
12 product. Parkland ships light oil. Suncor stated in
13 response question 15, of the Commission survey that,
14 "The transportation of gasoline and diesel via
15 truck and rail has increased significantly since
16 2015, approximately 16 million litres per month
17 due to the decrease in Trans Mountain Pipeline
18 space allocated to Suncor's finished products."
19 In per barrel terms this is about 12,000
20 barrels a day. As far as we're aware Imperial has not
21 provided the Commission with a figure for the volume
22 of its displaced barrels. It would be useful to be
23 given this information.
24 There are four companies with long term
25 take or pay contracts for 54,000 barrels. I know I
26 said five in 2011. PetroChina was one of them and so

was Nexum and now they're both part of PetroChina. So there are four companies, PetroChina, Synovus, Astra and US Oil.

"We appreciate that the NEB has informed the Commission that 54,000 barrels a day has been contracted by shippers to the Westridge Marine Terminal while the remaining capacity is available to uncommitted shippers."

The NEB failed to advise the Commission that there are 25,000 barrels a day of capacity dedicated to the dock for uncommitted shippers. This is important because the nomination for dock space takes place two days before land nominations. And the dock uncommitted volumes once secured can be redirected to land delivers. Redirection of uncommitted dock access is typically what occurs. Any shipper may bid for this capacity and if successful can redirect it to any destination. There is a dock bid premium process for the 25,000 barrels a day of uncommitted dock capacity. And the monies paid in excess of tolls to secure this capacity are accumulated into a fund and then refunded to shippers.

COMMISSIONER DOEHLER: So I presume this whole process, that is all subject to NEB review and analysis and they've made a ruling on this?

MS. ALLAN: Yes, the firm 50 application in 2011 was

where all this ruling was made.

COMMISSIONER DOEHLER: So all this type of arrangements and whatever that you're talking about I presume was presented to the NEB, that they then considered?

MS. ALLAN: Yes, because it was a request for priority destination to the dock and the NEB guaranteed 79,000 barrels a day of destination --

COMMISSIONER DOEHLER: All the argument you're talking about here, I presume, were presented to NEB along with other arguments, other discussions.

MS. ALLAN: Yes, this was approved by the NEB. Then there was the Chevron priority destination, then there was a verification process hearing. So there's been a series of hearings that have led to the situation that we now have.

COMMISSIONER DOEHLER: And again I presume these arguments were heard by the NEB at the various times.

MS. ALLAN: Yes, and in fact at the verification process it was raised that this problem would arise with the nomination of barrels two days before and then again for land destination and it would double count and make the apportionment look larger than it is. And NEB said that it recognized that that could occur but the verification process was the best one for them to approve at the time.

No one except the shippers know when they

nominate for dock capacity whether the barrels they identify are valid barrels or invented. The industry has a term, as Mr. Eliesen said, they call them air barrels or over nominations. The verification process the board approved in 2015 disproportionately benefits shippers in Washington State over shippers who supply product to B.C. and light oil to the Burnaby refinery. The board knows that over nominations exist and recognize this in its reasons for a decision approving an new apportionment system.

When dock bids for the 25,000 barrels a day of capacity occur in excess of bids accepted, this figure becomes part of the apportionment calculation. The formula suggests a high level of apportionment at the dock and a high level of tidewater access demand when in fact none of the shippers who were successful in securing dock capacity were interested in tidewater access at all.

Proceeding Time 3:00 p.m. T56

This slide provides the results for the first quarter of 2019 dock bid premiums provided as part of Parkland's evidence. This information only relates to capacity bids for the 25,000 barrels a day of uncommitted, yet guaranteed dock space.

So not to be confused for the aftermarket capacity for the 54,000 barrels a day for firm 50

1 committed long-term capacity.
2 Cubic metres is difficult -- is a difficult
3 measurement to visualize, so we've translated the
4 information to barrels per day. What this table shows
5 is that total bid volume for the first quarter of 2019
6 was 183,619.4 barrels a day at an average bid price of
7 $8.16 per barrel, and then the total bid premium that
8 shippers were willing to pay was 101,143,828.
9 So what Trans Mountain, because this spot
10 dock capacity belongs to Trans Mountain, is it
11 accepted 25,218 barrels a day along its pipeline for
12 these bids and that was at an average rate of $11.82
13 per barrel paid for that 25,000 barrels.
14 Now, the total accepted bid premium, the 26
15 thousand 836-117 is kept and accounted for and then is
16 refunded annually to shippers. So it's not actually
17 out-of-pocket expenses totally. Whereas the 54,000
18 barrels a day aftermarket, that does not go into a
19 fund, it goes to the shippers that have that capacity.
20 COMMISSIONER COTE: On what basis is it refunded?
21 MS. ALLAN: As I understand the refunding formula it's
22 an annual basis and they refund it under NEB approval
23 annually or less often than that.
24 COMMISSIONER COTE: Well, I'm not too worried about the
25 timing but I was more worried about how that would be
26 done. Would it be done on an equal basis based on

what you've committed for or --

MS. ALLAN: I am not clear of how they actually refund it. My understanding is it goes based on the shippers that have paid, but it could be for all shippers. I do not know.

COMMISSIONER COTE: Thank you.

THE CHAIRPERSON: Before we continue, Ms. Allan, a couple of things. First of all it's getting close to a break time, provided we're at a place that would work for you.

But secondly, in my opening remarks I did point out that we'd allocated 40 minutes for opening remarks and I realize that we've taken up some of your time by asking questions and I don't want to cut you short prematurely, but I'm mindful of the amount of time that we're taking here.

Perhaps it would be a good idea if we took a break now or shortly and you can reconsider and see where you are in your talk and we can get back together --

MS. ALLAN: And I should have mentioned at the beginning we did answer our questions in this presentation that we were asked to, as well.

THE CHAIRPERSON: Fair enough.

MS. ALLAN: Thank you.

THE CHAIRPERSON: Fair enough. So if you can let us

1 know, you know, roughly how much more time you need.
2 MS. ALLAN: Sure, okay.
3 THE CHAIRPERSON: But when would be a good time to break?
4 MS. ALLAN: We could break right before Trans Mountain.
5 THE CHAIRPERSON: Okay, yeah.
6 MS. ALLAN: In just a few minutes, yes.
7 Yeah, so thousands of barrels a day bid for
8 dock space, for example 138,000, can be big again for
9 land space and it skews the numbers and renders the
10 apportionment figures effectively meaningless. And
11 the reason we brought up the apportionment figures is
12 because often we're told the pipeline is running at
13 capacity because it's under apportionment. But with
14 the way the two-stage process takes place, and as we
15 mentioned recognized by the NEB, there's double
16 counting that goes on and therefore the apportionment
17 figures are not reliable or accurate.
18 And I think that's a good place to break.
19 THE CHAIRPERSON: Okay, so let's try to come back at 3:15
20 then please, okay? Thanks.
21 **(PROCEEDINGS ADJOURNED 3:04 P.M.)**
22 **(PROCEEDINGS RESUMED AT 3:19 P.M.)** **T57/58**
23 THE CHAIRPERSON: Please be seated, thank you.
24 Ready to continue?
25 MS. ALLAN: Yes, thank you.
26 THE CHAIRPERSON: Great, please go ahead.

MR. ELIESEN: So Mr. Chair, we've got about 10, 15 minutes before we conclude.

THE CHAIRPERSON: That's great, thank you.

MR. ELIESEN: So we noticed yesterday that a number of questions were raised regarding toll rates that would apply on the existing pipeline if the expansion takes place. The NEB simply said the toll rates were related to the capital costs, but we can give you the actual figures.

The toll methodology that the NEB approved for Trans Mountain expansion requires the tolls on the existing pipeline increase to help pay for the capital cost of the project. The toll rates are available in the various documents filed with the NEB. When the NEB held its toll methodology hearing in 2012, the toll on Trans Mountain for refined product was $2.66 per barrel. At a capital cost of 9.3 billion for the new expansion pipeline, the transportation costs on the existing pipeline goes up to $6.97 per barrel, more than two and a half times the toll rate today.

For Parkland, because they are not a committed shipper on the system, once expanded their toll rate will rise to $7.83 a barrel. Indications are that the capital costs for the expansion project will be higher than the 9.3 billion that has been mentioned most frequently. It may help the panel to

1 know that each -- $100 million in the capital cost
2 increase results in 7 cents a barrel increase in the
3 tolls.
4 Now, interveners have indicated that an
5 inability to secure capacity on Trans Mountain has
6 forced them to substitute rail and marine for pipeline
7 capacity, which Commission has been told is much more
8 expensive than deliveries by way of Trans Mountain.
9 The Commission has requested information from
10 companies in its question number 3A, which should
11 provide some clarity as to the impact rail
12 transportation costs have on refinery margins.
13 It will serve the Commission to be aware
14 that the recent experience where refined product
15 shipped by pipeline is substitute with rail is not the
16 first time such a displacement has occurred. Private
17 specifications related to rules around MTBE in the
18 early part of the century necessitated a new mode of
19 transportation for ethanol because of contamination
20 concerns if ethanol was batched with other products.
21 As the blue line on the graph shows, in
22 2003 an average of 93,000 barrels a day of refined
23 product was shipped along Trans Mountain, falling to a
24 low of 43,800 in 2008. During that period, refinery
25 margins increased by 0.4 cents a litre.
26 Transportation by pipeline offloaded to rail was

1 approximately 50,000 barrels a day over a period of
2 five years, and yet during that time period there was
3 no meaningful impact on refinery margins.
4 Now certainly there are other factors at
5 play over this period, but the situation is brought to
6 the Commission's attention in part to show that an
7 even greater substitution away from pipeline to rail
8 took place in prior years and refinery margins were
9 not noticeably impacted. How is it that a reduction
10 in deliveries by pipeline of roughly 25,000 barrels a
11 day between 2015 to 2019 is cited as a significant
12 reason for escalating margins?
13 The recent decline in pipeline transport of
14 refined product may not only be due to a flawed
15 apportionment process, which we've described. Reduced
16 use of Trans Mountain capacity may be in part due to
17 an increased use of biofuels which cannot be shipped
18 by pipeline. It is hoped that answers suppliers
19 provide to the Commission's question number 3A will
20 allow for analysis of the relative impact on refinery
21 margins when rail is substituted for pipeline
22 transport.
23 **Proceeding Time 3:24 p.m. T59**
24 At the NEB toll hearing held to approve the
25 toll methodology for the Trans Mountain expansion
26 project, Trans Mountain filed expert evidence

1 asserting that crude by rail is a competitive
2 alternative to Trans Mountain Pipeline deliveries.
3 Trans Mountain's expert claimed that,
4 "Rail movements of refined products from Western
5 Canada to the Canadian West Coast provide the
6 future potential of making what has been shown
7 to be an already competitive Trans Mountain
8 markets even more competitive. While railroads
9 historically have transported some quantity of
10 refined products and crude oil, significant
11 operational, economic and efficiency
12 improvements of the rail transportation of these
13 products has accrued due in significant part to
14 experience gain from the unit train movements of
15 ethanol which began in the 1990s. Railroads
16 were needed to ship ethanol because water
17 contamination issues prevented the shipping of
18 ethanol using refined petroleum products
19 pipelines."
20 The experts went on to conclude,
21 "In a market for the transportation of refined
22 petroleum products from Western Canada railroad
23 carriers such as the CN Railroad and the CP
24 Railroad are current active competitors to Trans
25 Mountain. Edmonton refineries already rely on
26 rail transportation for refined petroleum

1 products to the Kamloops and Vancouver areas.
2 The current delivery experience demonstrates
3 that rail transportation is a cost effective
4 competitor for these movements."
5 Now Trans Mountain commissioned this
6 evidence as a way to prove that the negotiated toll
7 settlement occurred in an environment where Trans
8 Mountain did not have excess power to negotiate unfair
9 rates. Trans Mountain argued that rail was a
10 competitive alternative to the pipeline for the
11 shipment of crude oil and refined products to market.
12 The National Energy Board accepted Trans Mountain
13 argument.
14 Imperial commissioned expert evidence for
15 the Chevron, now Parkland, priority destination
16 hearing to show how competitive rail is to pipeline
17 transport. Imperial's consultant, and I don't know
18 whether they're still their consultant, concluded that
19 Chevron's estimate of $10.50 a barrel to deliver crude
20 oil from Edmonton to Burnaby refinery by rail was over
21 stated by $5.01 cent. That is crude by rail deliver
22 cost would be $5.49 a barrel all in. Refined product
23 is cheaper to transfer than crude. Rail does not
24 appear to be as uncompetitive mode of transport as
25 general statements on this inquiry's record would
26 leave the Commission to believe.

It should also be noted that per barrel delivery costs tell only part of the story. Rail deliveries from Edmonton to Vancouver are much quicker than deliveries by pipeline. Roughly five days as compared to 24 days by pipeline. As a result cash flow benefits, inventory management and other benefits for rail transport exist that should be considered in evaluating their impact on margins.

THE CHAIRPERSON: Excuse me, sir, are those -- are you quoting from your report?

MR. ELIESEN: I'm quoting from my report and the source -- not the latter parts. The quotes I mentioned were from -- when I said they were in quotation that's from the expert's opinion.

THE CHAIRPERSON: The expert opinion, sorry. I understood you were quoting from an NEB proceeding. Is that correct or an NEB decision?

MR. ELIESEN: I was from the Toll Methodology Hearings on the expansion --

THE CHAIRPERSON: I just want to make sure we've got that on the record, is where I'm going here, and we do?

MS. ALLAN: It's in our presentation that we're filing as evidence and it has the references there.

THE CHAIRPERSON: Thank you.

MS. ALLAN: Suppliers have provided information that

1 focuses solely on cost pressures impacting the
2 increase in refinery and marketing margins. However,
3 there is quite different information offered by these
4 companies when they speak to their shareholders. We
5 have followed major Canadian oil producer and refiner
6 investor analyst calls for a number of years. And are
7 quite familiar with the cost reduction strategies
8 introduced since 2015 at crude oil producing, refining
9 and retailing operations. We've already discussed how
10 successful crude producers have been in lowering crude
11 feedstock production costs. We now focus on refining
12 and retailing operating costs.
13 Well there have been modest cost push
14 pressures for refiners and retailers since 2015, cost
15 reductions, operating efficiencies are more
16 significant.
17 **Proceeding Time 3:28 p.m. T60**
18 Cost reduction information has not been
19 included in the evidence supplied to the Commission by
20 refiners and marketers.
21 The Commission deserves a balanced
22 representation of cost pressures and cost relief, not
23 only information on cost increases.
24 Since the Commission has not been provided
25 with a full picture of the cost-drivers suppliers and
26 marketers face the Commission cannot contribute as

much weight to the claims of cost reductions that have been submitted -- cost increases that have been submitted.

Cost decreases from crude feedstock cost reductions, tax subsidies, lower natural gas prices, employee layoffs, debt financing and business synergies have been ignored. Each of the suppliers to the B.C. market have engaged in and successfully reduced operating and capital costs during the period under which the Commission is conducting its review. This information needs to be on the record and considered by the panel.

To illustrate the importance of understanding cost reductions it is useful to examine the cost-cutting strategy Suncor has engaged in since 2014. Suncor informed the Commission in response to survey question 4 that its refining cost drivers include regulatory compliance costs, process unit operating and capital costs, utility costs - power, natural gas, and labour costs.

> "The main changes over the last three to five years relate to the implementation of the British Columbia low-carbon fuel requirements and preparation for the implementation of British Columbia Clean Fuel Standards. These changes have increased both the regulatory

1 compliance costs and the operating and capital
2 costs associate with the production of gasoline
3 and diesel for sale in British Columbia,
4 particularly in relation to meeting lending
5 requirements."
6 We are encouraged by the Commission's
7 question 2L that asks Suncor and all suppliers to
8 quantify the per litre regulatory compliance costs.
9 Of the four specific cost drivers Suncor
10 has outline for the Commission, Suncor has informed
11 its investors that three of the cost categories —
12 process unit operating, utility and labour costs —
13 have fallen, in some cases significantly, since 2014.
14 Suncor has not mentioned regulatory
15 compliance costs in B.C. as a cost concern in its
16 investor presentations.
17 Suncor provides a per barrel refinery
18 margin and refinery operating expense in its annual
19 report to shareholders that incorporates the figures
20 for the four Suncor refineries including Edmonton.
21 The figures indicate that per barrel costs have
22 declined since 2014 on a corporate basis. This table
23 relies on Suncor's data and evaluates the per barrel
24 margin costs and refinery gross profit on a cents per
25 litre basis. Gross profit has increased from 11.2
26 cents a litre in 2014 to 19.4 cents a litre in quarter

1, 2019. The gross profit for the Edmonton refinery would be higher -- would be expected to be higher than the average because of its size and proximity to crude feedstock that Suncor produces.

This graph from Suncor annual reports shows the increase in operating profits at Suncor's refineries over the period in 2014 to quarter 1, 2019. The increase in operating profit has been significant.

On April 30th, 2015 Suncor president and CEO Steve Williams informed investors that the company's search for "operational excellence for perfection" was resulting in an over achievement in the 800 million in cost reduction initiatives scheduled for that year. At the time the expectation was that 1200 workers would be fired, but Suncor eventually reduced its workforce by 1700 people, which was the primary driver for the company achieving sustainable savings of almost a billion dollars a year.

In July 2015, investors were informed that cost reduction efforts continue with benefits from natural gas price reductions as distinct from natural gas being a cost pressure, and further that:

> "We are still continuing to see overall deflation in cost, particularly around labour and commodities. The second quarter of 2014 to 2015 you see an 18 percent reduction in cost."

It is disingenuous when a company lays off 1700 workers and realizes hundreds of millions of dollars in cost savings through its operations, including its refineries, and then tries to blame a minor increase in the minimum wage for contributing to excessive retail margins.

Proceeding Time 3:33 p.m. T61

In answer to the Commission's survey question 21, quote,

> "Are there gasoline and diesel retail cost drivers which have substantially changed in the last three to five year?"

Suncor says yes, the key cost drivers which have substantially changed in the last three to five years are a 30 percent in overall petroleum costs, a 30 percent increase in maintenance costs, a 20 percent increase in rental expenses, and a 21 percent increase in the B.C. minimum wage.

These cost increases over five years should be compared to the one year reduction in all costs of 18 percent for 2015. Without going into details, it is useful to note that Suncor has continued its cost cutting initiatives.

The increase in the B.C. minimum wage is a fundamentally false narrative. Most of the sales of refined product at retail outlets are conducted

1 without any support from minimum wage employees.
2 We've heard that 75 percent of the outlets do not have
3 full service. These employees do not pump gasoline
4 and consumers can complete the entire sale at the pump
5 without engaging with an employee.
6 MR. ELIESEN: The absence of a balanced representation
7 of the cost driving refinery and retail margins is
8 symptomatic of a more general malaise that have led to
9 a failure of the refine product market in British
10 Columbia. That is, suppliers are not transparent or
11 accountable. And on rare occasion when they provide
12 information they appear to do so in a biased and self-
13 serving manner.
14 Our research shows that the operating cost
15 relief that suppliers have achieved in recent years
16 have not been passed through the supply chain to end
17 users. But have been retained by companies for the
18 benefit of their operations and their shareholders.
19 Cost-reduction evidence shows that refinery
20 and retail margins should not have widened since 2015.
21 If the market was competitive they should have
22 narrowed. Unfair pricing practices are taking place
23 by all suppliers and this is possible because of a
24 lack of competition in the market. High prices have
25 negative implications for B.C. consumers and
26 businesses because they disproportionately increase

1 spending on refined products, reducing spending on
2 other products and services. And they
3 disproportionately harm the B.C. economy.
4 Excessive profits from the refined product
5 pricing, that would not occur in a workably
6 competitive market, flow away from consumers and
7 businesses who live and work in the B.C. economy to
8 the bottom lines of oil companies, refiners and
9 retailers. This is not economically efficient and
10 neither is it fair. A lack of competition that allows
11 suppliers to exert power over price leads to market
12 failure and significant costs to consumers, businesses
13 and the B.C. economy.
14 In our opinion, the solution is government
15 action through the B.C. Utilities Commission. Thank
16 you very much.
17 THE CHAIRPERSON: Thank you, thank you. I do have a
18 couple of questions. Over the last couple of days
19 there's been much discussion over what's become quite
20 a popular chart that Deetken brought forward. I have
21 a reference to a chart 4.2.1 in their first report,
22 and we've been told that is basic economic theory,
23 it's economics 101 of how prices are established. And
24 I'm interested in your opinion, would you agree with
25 that?
26 MS. ALLAN: The graph that I'm familiar with is a

1 perfectly competitive market where there's supposed to
2 be independent sellers, numerous, with complete ease
3 of entry and exit from the market. That does not
4 describe what's happening in British Columbia. That
5 is not the B.C. market.
6 And the other thing is, is that in that
7 market prices determine where marginal cost equals
8 marginal revenue. Well, in a market that's failed --
9 and we actually prepared a graphic of a market that's
10 failed an what happens to the pricing situation.
11 So what we have here with a concentrated
12 market -- when I say "concentrated" I'm referring to
13 the refinery margins and the fact that we effectively
14 have four suppliers in the Lower Mainland, Vancouver
15 Island. Because these suppliers are the ones that
16 receive the product.
17 **Proceeding Time 3:38 p.m. T62**
18 THE CHAIRPERSON: Right. So we're talking about the
19 wholesale price here?
20 MS. ALLAN: That's right, yeah. Because that's where
21 the margins are largest and that's where they're most
22 volatile and seem to be most excessive. And so what
23 you're looking at there is effectively four suppliers,
24 that when we prepared our first report we did do a
25 four-firm test and an HAI index to show how highly
26 concentrated it is. And we say, well that's not

enough for unfair pricing or pricing above perfectly competitive forces.

And so then we looked at, well, is there ease of entry and exit? And there in fact is not. And when I say "entry and exit", it's not -- you can't supply the market through the marine facilities or the rail. But also, the refiners in Alberta need this market. We provide an outlet for their excess supply when they run their refineries at efficient levels. And therefor this is this important market to them for their excess supply.

There is a relatively low ease of exit. And more-so importantly, when you don't have this marginal barrel idea with the perfectly competitive market and the price is so much higher than would be established in a competitive market, the incentive to leave the market is very low. Because you're still going to make very healthy profits by staying in.

So what we show here is what happens when a market is concentrated and not competitive. And we have a situation where the market demand curve becomes the marginal revenue curve, the MR line. And the industry supplies just to meet where that marginal cost line, which is the supply curve, intersects the marginal revenue. So they supply only as much as they need to be able to charge the price at the top of that

1 green box. So the price in the market is at the top
2 -- the dotted line, the price is at the top of the
3 green mark box.
4 The part where they cover their costs and
5 make a normal rate of return on investment, considered
6 normal, whether it's 12 to 15 percent or whatever
7 would be considered normal; the amount over that is
8 the green box, that's the excess prices.
9 So you would expect the price in a properly
10 functioning market, which is the price that's set in
11 that perfectly competitive graph, would be at the
12 point at the bottom of the green, the box. So the
13 price difference is the green -- the price that would
14 be charged is the bottom line, in a perfectly
15 competitive market, under the box. But the price that
16 is charged is at the top of the box.
17 THE CHAIRPERSON: So where does the bottom line come
18 from? It doesn't seem to relate to any intersection
19 point.
20 MS. ALLAN: Because in the other graph marginal cost
21 equals marginal revenue. In this one, marginal cost
22 is higher than marginal revenue. If you had the
23 perfectly competitive market, your market demand curve
24 would be intersecting the marginal cost curve. So in
25 fact a better way to explain that would be to take the
26 dot on the marginal cost and market demand curve and

1 if you pulled that to the price -- and I apologize, we
2 put this together. You would get that price. But the
3 price in the market is well above that, as we're
4 seeing.
5 THE CHAIRPERSON: But if you pull that dot over to the
6 left, you don't get the bottom dotted line of the
7 green box.
8 MS. ALLAN: Right, you get a price that is --
9 THE CHAIRPERSON: Somewhere above there.
10 MS. ALLAN: Somewhere above there. Which, and I think
11 I said cost plus normal profit. The normal profit
12 would be the part of the green box that is being
13 captured by the supplier.
14 So this is the difference. This is the
15 graphic that would reflect B.C.'s market, not the
16 graphic in the Deetken report.
17 COMMISSIONER DOEHLER: So therefore you disagree with
18 other evidence we've heard that there is a competitive
19 market?
20 MS. ALLAN: Absolutely. When it comes to the supply of
21 product to this market, it is a concentrated market
22 with relatively few suppliers and lack of ease of
23 entry and exit. As well as these suppliers having
24 relatively similar cost structures.
25 COMMISSIONER DOEHLER: And you're also assuming a slant
26 --

THE CHAIRPERSON: Slant?

COMMISSIONER DOEHLER: Slant to the revenue through the demand, market demand. Higher costs, it means it's going to be less demand. But we've heard evidence that the gasoline market here in B.C. is pretty inelastic.

Proceeding Time 3:43 p.m. T63

MS. ALLAN: Absolutely, and thank you for raising that, because this graphic shows -- there's no question the demand curve is inelastic and so is the supply curve in this market. Because it means that when there's lack of ease of exit you're supply curve is going to be more inelastic than if you can move in and out.

So, the situation, you're quite right, it is an inelastic demand curve in this market, and in fact Parkland, we do have this I believe in our filing that we're going to make, Parkland was asked by an analyst whether or not the increase in gas prices had been recognized in miles driven, and they said no, that it hadn't shown up. So that is more evidence that it is an inelastic demand curve.

THE CHAIRPERSON: I just want to go back to something I think you just said, which is -- and you've said it in your report also, which is a market concentration issue which in your view is some evidence, at least, of market failure. And I think we've also heard

evidence that there were more than just the four market participants that the Deetken graph that shows sources in PADD 5 and PADD 3, for example, indicate that there are more participants in the market than you're report accounts for. What are your comments on that?

MS. ALLAN: Yeah, and there's no question that supply is coming in through the Port Metro Vancouver, there's even some supply, a little bit, you know from other countries. But it's the receipt of that supply. Where does that supply go? Who is buying it? And it's the four suppliers that are buying it because to deliver it to Shell, Imperial, Suncor or Parkland, those are the four -- almost a hundred percent of the ability to receive by marine. And then the facilities for off loading rail, same people, same companies.

And so when we look at who is in control of the supply, who buys it, who brings it in, that's what you're really talking about in terms of supplying the market and who had control over setting the price here.

THE CHAIRPERSON: And one final question. Our discussion earlier about the issues with the Trans Mountain Pipeline and the capacity and the under-utilization -- in your view the under utilization, and you've -- as I understand it you're saying that that's

1 largely a function of the shortcoming in the structure
2 of the tolls and the tolling process.
3 So, is that the -- is that essentially your
4 position or are you saying that somehow the market
5 participants are -- you know, that that's something
6 that they have some control over or are they victims
7 of this tolling structure also?
8 MS. ALLAN: A: I think the majority of the problem I
9 think rests with the apportionment verification
10 process. However, there is some evidence that shows
11 that the demand for pipeline space may be affected by
12 the amount of biofuels shipped. And in the province
13 there's an indication that there's a greater demand
14 for biofuels to meet the percentage requirement in the
15 Lower Mainland and Vancouver Island and therefore
16 there may be some substitution onto rail that would
17 happen anyway. Until you get the data that you've
18 been asking for it's hard to find out.
19 There's also to keep in mind that the toll
20 rates on Trans Mountain fell from 2014 to currently.
21 They're lower than they were back in I believe 2012.
22 Not by a lot, but those rates have fallen, but then
23 when you look at what it will cost to ship a barrel of
24 refined product or light oil to Burnaby after the
25 expansion, those toll rates are getting pretty
26 competitive with rail. The whole idea that somehow

the -- if there is a problem that it would be solved by that expansion doesn't play out when you look at the toll rates.

So, I think there are other factors at the margins that are working here to shift demand for pipeline space but it appears as if the majority is the verification and nomination process.

THE CHAIRPERSON: Okay. Thank you. Thank you very much, we appreciate that.

MR. BUSSOLI: Mr. Chair, if I could just have a second.

THE CHAIRPERSON: I'm in trouble, aren't I.

MR. BUSSOLI: First of all I think we should mark that presentation as the next exhibit, which is C-1-4.

(PRESENTATION OF R. ALLAN AND M. ELIESEN MARKED EXHIBIT C1-4)

MR. BUSSOLI: And second I've got a couple of staff questions on this graphs that's in front of us.

EXAMINATION BY MR. BUSSOLI:

MR. BUSSOLI: Q: First, could you identify where in the graph total profit is? Is it the MR equals MC arrow to the point there, is that it?

Proceeding Time 3:43 p.m. T64

MS. ALLAN: A: Yes, again I apologize because I rushed to equate it to the other graph that's available in the Deetken Report. So, in a competitive market you would expect marginal revenue to equal marginal costs.

The excess profit is where the -- and I didn't put the average cost curve on the diagram, and that would have -- that average cost curve would be going through that bottom right-hand corner of the excess profit box. So in identifying the excess profit occurring in a concentrated market, it is the amount shown in the green box.

MR. BUSSOLI: Q: So how do you define "excess profit" then?

MS. ALLAN:: A: The excess profit is the profit that's being realized by charging more than the cost plus a reasonable return on profit that allows parties to charge a price which would be expected to incite others to move into the market. But because of the lack of ease of entry and exit, it doesn't.

MR. BUSSOLI: Q: And what is your reasonable return on profit?

MS. ALLAN: A: That -- when I've been looking -- for example, Kinder Morgan said 12 to 15 percent for Trans Mountain is an example of a pipeline profit. For the oil sector, again, I think you'd be looking at something around that level.

MR. BUSSOLI: Okay, thank you. Those are all staff questions.

THE CHAIRPERSON: Thank you very much, you're excused.

(PANEL ASIDE)

THE CHAIRPERSON: Mr. Thomson.

MR. THOMSON: Great, thank you and good afternoon. Thank you Mr. Chair and Commissioners. I believe I'm about to be sworn in or sworn at? I prefer number one not number two, we'll see how you do. At this hour.

ADVANCED BIOFUELS CANADA ASSOCIATION PANEL:

IAN THOMSON, Affirmed:

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

MR. THOMSON: Ian Thomson.

THE CHAIRPERSON: Good afternoon, Mr. Thomson.

PRESENTATION:

MR. THOMSON: Thank you very much for the opportunity to address the panel. My name is Ian Thomson, I'm the president at Advanced Biofuels Canada Association. We are a not-for-profit trade association representating companies that produce a full range of non-fossil fuels made from a range of feedstocks, crops, soys, residues, direct air capture in the case of the plant in Squamish. Our companies are Canadian, they are global. Some are huge and $90 billion companies, some are $10 million. So it's a full range of producers.

They are very active in the American market and I'm going to make references to our experience relative to competitions, how markets function there. I have been the head of the association since 2005.

1 Our office and my colleagues have engaged in every
2 provincial and federal regulation or policy regarding
3 fuels or low-carbon in that time.
4 I have a chartered accountant's training.
5 I am probably at this point of the day can say I'm not
6 an economist. And I ran for six years a Canada-wide
7 import, distribution and terminaling business for
8 biofuels and did business with many of Canada's
9 integrated refiners. So I've some experience directly
10 in the matter. I did not sell any fossil fuels.
11 **Proceeding Time 3:53 p.m. T65**
12 I will say one note, that I won't address
13 in my comments aspects of the Deetken report that
14 referred to the B.C. low-carbon fuel standard impacts.
15 I would be happy to provide data on that. I know that
16 it’s kind of getting pulled into, on the inquiry, but
17 I could spend a lot of time on that and I don’t think
18 we have time for it.
19 THE CHAIRPERSON: Sure.
20 MR. THOMSON: Just sort of a perspective from our role,
21 we believe that there’s a -- to the extent that we are
22 7 percent of the fuels on weighted average in British
23 Columbia, we are here for other reasons. Our fuels
24 are in the market for federal purposes. They are in
25 the market because ethanol is a cheap source of octane
26 for blend stock for Hudson Bay branding, to achieve

1 regular unleaded. We are 82 percent of the GHG
2 reductions, the low-carbon fuels standard to the
3 extent that British Columbia needs affordable
4 productions for its climate action plan. We are one
5 of those key elements. Non-fossil content of liquid
6 fuels is almost unequivocally expected to increase
7 over time. If you look at projections from the
8 Resources Board in California and elsewhere, the clean
9 fuel standard proposed federal law right now is
10 talking about 15 percent on 2030 content of gasoline,
11 et cetera.
12 You'll also see studies that show that non-
13 fossil fuels are projected to actually lower
14 transportation costs over time. Again, we are at 7
15 percent, a very small portion of the fuels and don't
16 have the same economies of scale and infrastructure,
17 et cetera. And just lastly, my group of companies
18 have long-standing and collaborative supply
19 relationships with a number of companies in the
20 refined products sector.
21 Just our perspective on the question of
22 whether the B.C. refined products market is workably
23 competitive, we, as the -- really kind of the new kid
24 on the block, we're a new entrant from a completely
25 different kind of fuel that nonetheless completely
26 relies on the infrastructure that refined product

suppliers have created.

We absolutely need a level playing field in every respect. We face inherent disadvantages by virtue of our scale and externalized costs of things like carbon that we are -- do have in our prices that others do not to the full extent.

I mentioned our experience in the U.S. market. It's very considerable. Our firms are very large producers and suppliers to state and federal policy in the United States, including the California low-carbon fuel standard market. We perceive disfunction in the Canadian fuels market. Not so much in the economists supply and demand curve lines, but in the kind of day-to-day requirements that we need to gain access to the market. We do see significant barriers to entry and we do see market failures. We do perceive also potential for reasonable and workable regulatory intervention to improve access for biofuels --

THE CHAIRPERSON: Mr. Thomson, can you just go a little bit further into your third last bullet, the one where you're talking about a dysfunction in Canadian fuel markets. I mean you're -- you then talked about barriers to entry, but I assume you -- by disfunction you're talking about something else, are you?

MR. THOMSON: Might I ask your forbearance in my --

THE CHAIRPERSON: You'll get there.

MR. THOMSON: -- please do stop me. And I would note, by the way, my hearing is less than perfect. I may answer questions that were not asked or --

THE CHAIRPERSON: Well, that will be exciting then.

COMMISSIONER DOEHLER: It's a loud noise that happens around the accounting office.

MR. THOMSON: So we have noted some of these dysfunctions and we also note that other people have commented. I will not read through these. They are on the record. But Mark Jaccard, professor at Sante Fe's University, well-known in energy and climate policy circles, chaired the last BCUC Inquiry in 1996. Andrew Leach, possibly Canada's best known social media commentator at the University of Alberta in 2011, and then most recently Minister Bennett in the communication that was not public, but was public to the extent that it went to fuel suppliers and indicated that in the context of the B.C. low-carbon fuel standard there have been concerns about the exercise of market power.

Proceeding Time 3:58 p.m. T66

At a very high level, Canada's refiners and Midwest American refiners enjoy some of the highest indicative refine markets, whether you define that as a refining margin, a crack spread or in the case of

1 the IEA, a highly Turner Mason model I believe, driven
2 very well dialed refinery configuration model of
3 indicative refining margins, and I heed the comments
4 that have been made prior to here that a refining
5 margin is not profit. That you will see the red line
6 at the top, that we inherently have a very profitable
7 industry in Canada.
8 This is where we pay more attention because
9 of all of our work in the U.S. The top five refiners,
10 whether you use a four or five firm, I use five firm
11 because that was referred to elsewhere. In Canada 85
12 percent, in the U.S. it's 45. It's the CIA data from,
13 I believe, 2014. Two factors really distinguish the
14 market more at the refining and midstream level in
15 North America.
16 There are -- there's a significant merchant
17 money -- merchant refining sector. The merchant
18 refinery is one that does not own any downstream
19 assets. They produce their refine product, or
20 whatever product and put it into the market. So they
21 would rely more on independent or jobbers, the
22 wholesale people who would then take it and move it,
23 whereas an integrated refiner has its own downstream
24 retail.
25 And so Canada has a relatively much smaller
26 merchant refining sector, and so that really limits

1 the ability for wholesales to go to an independent for
2 the use of refine product. It also means that they
3 are -- in the United States there is a much larger
4 independent retail footprint. It's a huge -- you
5 know, hundreds and hundreds or thousands of outlet
6 retail chains that are driving sales in our industry
7 of things like E85 and B20, which is 20 percent
8 biodiesel, and the E85 is 85 percent biodiesel and now
9 E15 is ethanol.
10 The second significant distinction is that
11 there is a significant midstream. So Kinder Morgan is
12 a midstream. They don't -- they actually don't own
13 the product. They will move other people's product at
14 a fee. They are agnostic as to fuel. If there's a
15 demand and somebody is willing to pay for it, they
16 will put in the infrastructure. So they have been
17 driving a number of the significant investments needed
18 to get different fuels into the market. So our
19 industry relies to a great deal on some of the
20 companies that are listed here.
21 I'm using the word narrative not
22 pejoratively or with malice. I kind of looked up the
23 definition to make sure that I was sort of onside in
24 that regard. But I think there are several repeated
25 stories or ways of explaining certain dynamics that
26 are told by a number of people over time, in different

1 medium venues, that become to be taken as the way that
2 the market works.
3 So, we are concerned, and I think the
4 testimony given in his inquiry I think supports that,
5 that there is a -- there is a widespread narrative
6 that refiners don't control price and that retailers
7 are the ones who really control pump price. And so I
8 simply cite, and I could have chosen from any number,
9 including the testimony given at this table today and
10 yesterday, but the Canadian Fuel Association, 23
11 percent are under the control of 7 bio-marketers, and
12 7 percent of sites under the control of other
13 marketers.
14 Again, most people pull up to an Esso think
15 they're getting -- Esso controls the site, sets the
16 price. That's not the case. The data are that in the
17 case of British Columbia 75 percent of retail sites
18 operate under a supply agreement from one of the
19 brands, and those brands would include -- or actually
20 the full list is Petro-Canada, Esso, Mobil, Shell, Co-
21 op, Husky or Chevron.
22 **Proceeding Time 4:03 p.m. T67**
23 So, only a quarter of the retail sites in
24 British Columbia do not carry one of those brands.
25 Those brands would not be beholden to a particular
26 refiner to acquire their product. If you drive down

1 the street and you see Esso, that product is -- unless
2 someone here can tell me otherwise, and my data -- my
3 intelligence is off, that product came from an Esso
4 rack or a rack that was under a swap agreement with
5 Esso. So there's essentially an assured sale for
6 Imperial Oil and the brands go likewise. So that's
7 one dynamic.
8 Supply agreements, they directly an
9 unilaterally dictate retailer's fuel costs. They are
10 an extensive legal agreement that bind the person who
11 has the privilege of owning that brand. It's very
12 clear there are significant benefits to being able to
13 market your fuel as a retailer under the brand of a
14 refiner.
15 In reality, and biomarketers control a very
16 minor share of the ex-tax pump price components, and
17 the marketer ability to acquire a share on a
18 sustaining basis through pricing strategies has little
19 latitude. And I would say kind of as an aside here, I
20 think -- I don't know whether it's the Parkland
21 consultant yesterday, somebody had said that the
22 retailers will discipline, if you will, the refiner in
23 not lifting their price too high. By the way, these
24 supply agreements do not allow a refiner to
25 unilaterally or arbitrarily increase. It's very much
26 a fixed formula, was described here plus or minus the

1 rack, the listed price. So there's nothing arbitrary
2 or capricious about it, but it is a fixed agreement.
3 But the -- I think the implication was made
4 that a refiner has to treat its branded retailers
5 reasonably because they, at the end of the term of a
6 five-year term or ten-year, it would be a long one,
7 can go off and rebrand themselves, and I would suggest
8 that that is a significant underselling of the
9 switching costs and it is highly unlikely that a
10 retail branded outlet is going to become Bob's Gas
11 Station or James Gas or Patina's Gas Station. It's
12 not going to happen. The switching costs are far too
13 high. I think there was also a statement in one of
14 the presentations yesterday said the barriers to entry
15 are low on retail. That's simply not the case.
16 I have your questions very much in mind. I
17 pulled this up just from yesterday, and this is one of
18 the benefits of going last, you can do this. But,
19 this is I think part of the narrative. 47 percent of
20 gas stations are dealer stations. Dealer controls the
21 price it charges to its customers. In addition to
22 refiners markers like McDougall and Global competes to
23 supply independent dealers. Well, that's actually
24 factually incorrect. McDougall is an Esso branded
25 station, I think at about 63 stations, and if it is a
26 McDougall and it has Esso in it, it is obligated under

1 contract to supply from an Esso or an Esso delineated
2 rack. So, refiners may have sold their assets and
3 divested downstream, but they have done anything but
4 get rid of an assured supply chain, and I -- we would
5 argue that that has fully created a -- in the case of
6 British Columbia, three-quarters of the retail sector
7 with contractual obligations to refiners who
8 unilaterally set the price.
9 By the way, I'm a business person. I don't
10 -- you can contractually banish that. And we'll have
11 some recommendations further on down the way prior to
12 that.
13 Just to -- we're a very kind of analytics
14 and data drive shop. If one pulls over time, and we
15 didn't go all the way back to 23, but I don't think it
16 would change the data substantially, focused on the
17 last eighteen months because it would appear that
18 publicly that is the period that people have been
19 agitated about. 12 percent of the full ex-tax make-up
20 of the crude refined margin and retail margins, 12
21 percent of that is in the marketing margin. If you
22 look at just the full unfettered all data points in
23 the month-to-month basis, 1.6 cents per litre,
24 variabilities and marketing 30 and refining in -- 31
25 in crude. If you go to a 1 cent deviation and chatter
26 out the noise, it actually doesn't really change those

1 numbers very much.
2 What that variability, about 3 percent of
3 the variability is from market, from retail.
4 **Proceeding Time 4:03 a.m. T68**
5 COMMISSIONER COTE: Just to clarify, your use of the term
6 "refining margin" is as per the definition we laid out
7 on day 1, yesterday?
8 MR. THOMSON: A: I'm sorry, say that again please?
9 COMMISSIONER COTE: Your definition of refiner margin is
10 in accordance with what we laid yesterday?
11 MR. THOMSON: A: Very much. Yeah, it's consistent with
12 all the other definitions that have been used for
13 "refining margin."
14 COMMISSIONER COTE: Well, we've only used one. Want me
15 to repeat it to you? Refining margin is described for
16 this hearing's purposes as the difference between the
17 amount a refiner pays for crude oil and other
18 components, the amount the refiner charges its
19 customer for gasoline and diesel.
20 MR. THOMSON: A: Correct.
21 COMMISSIONER COTE: That's what that is?
22 MR. THOMSON: A: Exactly. Yeah I'm using just the
23 standard definitions.
24 COMMISSIONER COTE: Okay.
25 MR. THOMSON: A: So there simply is -- are the data on
26 the -- of course what I think should said about this

is that if you look at the latitude for a retailer to compete on the ceiling and on the floor, their floor, their variable and fixed costs, there's been a fair bit of discussion about intra-day/inter-day significant swings in prices at the four corners. We think that's noise. The ability -- and people don't talk -- it's the trends over time that have people disturbed. You cannot sustain over time as a -- either a branded or a truly independent marketer, anything that cuts into your cost variable are fixed, so you can do your fixed one, you can do your variable and you cannot certainty stick your head above the crowd for very long, it will get taken off. So their ability to compete is really very narrow band and I think that's what the data here suggests, the variability is really very, very narrow.

So this, I think, Mr. Chair, goes to some of your questions about what would be indicators, if you will, of the dysfunction. So, or what in fact -- possibly more. I think they're both indicators and they're drivers.

So I was in a federal planning session hosted by NRCan and had a number of refiners in a meeting maybe four weeks ago in Ottawa, and this first bullet was not made -- just about refined products, it was every liquid bulk product going through the Port

of Vancouver. So we've known this for years and reference had been made in this room to it.

It is a very challenged market in which to establish any kind of bulk commodity new throughput capacity, whether that's offloading and certainly whether it's on what's at tide water storage and then if you want to add rail to it for good economics, it's a very difficult undertaking. So I think that is a geographically related natural barrier to entry here that is nonetheless very significant.

Refiners, as we've been talking, in our view have a supply lock of 75 percent of B.C. retail stations. And by the way, if I were Deetken in this, I'm looking at the differential between other provinces, that is higher than in other places in Canada.

Biofuels are primarily refined product competitor. On a practical basis, however, refiners control biofuel access to end users.

THE CHAIRPERSON: Mr. Thomson, what's the maximum amount of -- first of all ethanol is -- just I'm looking at definitions here. Ethanol is a type of biofuel, is it? Just so I'm using terminology correctly.

MR. THOMSON: A: That's correct.

THE CHAIRPERSON: Yeah, okay. So what's the maximum amount of biofuel that you can put into gasoline?

MR. THOMSON: A: In gasoline you can put up to 85 percent in a vehicle that's called a flexible fuel vehicle, which is about 8 percent of the cars on the right.

THE CHAIRPERSON: Right.

MR. THOMSON: A: Many people drive them that don't know that they're FFVs.

THE CHAIRPERSON: Okay. Sorry, 8 percent you said or 80 percent?

MR. THOMSON: A: Yeah, 8 percent of the cars.

THE CHAIRPERSON: Eight, yeah.

MR. THOMSON: A: Yeah. Canada has exactly zero E85 stations.

THE CHAIRPERSON: Okay.

MR. THOMSON: A: Yeah, the Americans have 4800. E15 is another blend of ethanol in gasoline.

THE CHAIRPERSON: Right.

MR. THOMSON: A: And that is becoming -- that has just kind of broken open in the States. The Americans now allow you 15 all year round in gasoline.

E10, 10 percent ethanol is in virtually all of the fuel in the Lower Mainland.

THE CHAIRPERSON: Right.

MR. THOMSON: A: In much of Canada actually. And then on the diesel side you have two different kinds of diesel fuel, one that Parkland represented to describe

is a fully fungible chemical -- it's chemically a petrochemical.

THE CHAIRPERSON: Yeah.

MR. THOMSON: A: It's chemically a hydrocarbon, but it's made from renewable product and it can go up to 100 percent.

THE CHAIRPERSON: Right. So the 15 percent, the E15, can most cars tolerate a 15 percent -- or operate on an E15?

MR. THOMSON: A: Yes, the EPA made a ruling in 2012 that every car since 2001 can use E15.

THE CHAIRPERSON: So that's a U.S. Agency, the EPA, correct?

MR. THOMSON: A: That's right.

THE CHAIRPERSON: Are there any -- do Canadian or provincial -- Canadian provincial fuel standards, in particular B.C., would allow 15 percent?

MR. THOMSON: A: We have -- we're a voting member of the Canadian General Standards Board Committee for Gasoline approved distillates. We had a standard 350, that would allow the same way that the Americans do.

Proceeding Time 4:13 p.m. T69

The E15 ruling by EPA simply says motorists can use it, and so yes, we believe it is fully available in Canada.

THE CHAIRPERSON: Right, okay. So -- sorry. So I wonder

if you can help me understand something else then. So the standard in British Columbia, as I understand it, is that there's 5 percent ethanol and then on top of that there's the low-carbon fuel standard. So to meet the low-carbon fuel standard can you increase your ethanol to 10 percent? Because you -- I think you just said the standard in B.C. is 10 percent ethanol?

MR. THOMSON: A: Yeah, so the norm is to blend 10 percent into major urban markets because that's where a lot of the gasoline is consumed and so the Capital Regional District and most of the Lower Mainland and up the coast would have 10 percent. Other parts might have less ethanol.

THE CHAIRPERSON: Okay.

MR. THOMSON: A: There's some technical things that we could spend more time then you want to know, but B.C. has a minimum requirement in its -- in regulation on renewable side of 5 percent.

THE CHAIRPERSON: Right.

MR. THOMSON: A: It's 4 percent in diesel.

THE CHAIRPERSON: Okay.

MR. THOMSON: A: And the federal regulation is the same. But the low-carbon fuel standard is not on percent, it's based on reducing the carbon content. That is another incentive to blend ethanol in.

But frankly, ethanol is in most gasoline at

1 this point because it is a low cost, high octane
2 component in blending finished fuels so that cars
3 don't have knock, engine knock.
4 THE CHAIRPERSON: Right. Okay, so are you saying that if
5 you have an E10 blend that would meet the low-carbon
6 fuel standard?
7 MR. THOMSON: A: That would be assisting with low-
8 carbon fuel standard, but that's is very -- that is --
9 pretty much everybody has got E10 in their fuel.
10 THE CHAIRPERSON: Okay.
11 MR. THOMSON: A: So if you wanted to go to a higher
12 blend in E15 there have been -- or an E85, there are
13 standards that exist to allow that to happen on a
14 commercial basis.
15 THE CHAIRPERSON: Right.
16 COMMISSIONER COTE: Are they -- the performance erodes,
17 does it not, as the higher --
18 MR. THOMSON: A: Can I ask to pull the mic a little
19 closer.
20 COMMISSIONER COTE: The performance of the vehicle erodes
21 the more ethanol you put in, that's my understanding.
22 Is that correct? The octane, you know, may be at
23 accepted levels, but the efficiency of the vehicle?
24 MR. THOMSON: A: Yeah, in octane, ethanol has lower
25 energy content of about a third less than gasoline.
26 It's got a higher octane for certain aspects of

1 performance. So all the biofuels have differing
2 energy density than fossil fuel. Biodiesel is the
3 only other fuel I haven't talked about and it's not
4 chemically a diesel fuel. but it can be blended up to
5 20 percent. And I actually have some data further in
6 my slides that show what the --
7 THE CHAIRPERSON: Okay. So, the reason I'm asking you
8 this question is that the statement on your slide is
9 that biofuels are the primary refined product
10 competitor and I think from what I've read in your
11 evidence is that it's also -- it's cheaper than
12 gasoline on some comparative basis at least.
13 MR. THOMSON: A: In some respects. The renewable
14 diesel fuels are more expensive and I'll comment on
15 the comment about fortified trans-litre, but -- so the
16 renewable diesel fuel is more expensive than the
17 gasoline renewable. Ethanol is less expensive, yeah.
18 THE CHAIRPERSON: Okay, thank you.
19 MR. THOMSON: A: Where are we here? Shared racks. So
20 shared racks, there have been some reference here. So
21 it is common practice in Canada, much less so in the
22 United States, that if I am Co-op and I have a Regina
23 refinery but I need to pull product on Vancouver
24 Island, I will have an agreement where I can pull from
25 Shell here and they can pull from me there and these
26 are very common, called share -- called swaps. But

they do, however, and we have seen this and you see it when you are at the regulatory table with the Energy, Mines and Petroleum Resources negotiating the terms of the ability to expand biofuel blending. One refiner might say, "Well, I'd like to but I share a rack with them and they don't want to, so my hands are tied." So that would be an example of a market dysfunction because in the United States that's much, much less common thing and you can't just look sideways and say, "Well, I would if they did."

Infrastructure decisions are not necessarily an expense for doing rack level biofuel blending. And then unique competitive propositions. It's going to be hard for me to pursue a competitive strategy when I share a rack because now I'm sharing it with you.

Proceeding Time 4:17 p.m. T70

Refiners, this is a very low level example, but refiners will not disclose the content to somebody pulling up with a B-train at their rack to say how much biofuel is in it. So if I want to take advantage of an economic opportunity in the B.C. low-carbon fuel market by blending some additional biofuel and earning compliance credits which I can then sell, the refiner won't tell me what content is in that fuel and I can't do that.

The technologies are available to do that in 30 seconds. but they will not do that unless he government requires them and there is some discussion about requiring them to do that. Would be what I would call a practice that is not friendly to blending in other components.

THE CHAIRPERSON: Are you saying that in the United States they don't have shared racks or are you saying that the dynamics around them are different?

MR. THOMSON: A: The practice of sharing racks is much less prevalent.

THE CHAIRPERSON: Okay, thanks.

MR. THOMSON: A: And I think, you know, this is two side of the coin. I think that the refiners, in fairness, would say there's been a lot of consolidation in the industry. In Canada we have a highly efficient one where we don't have two racks side-by-side and in fairness that's one point. Then competition theory would say well two racks side-by-side has some benefits, so you know, I see both sides of it.

And then across the board shared positions, again, submitted in high level biofuel blends blend well. I will refer to this later in my position. This one is far more nuanced and refiners can put up a very plausible sounding technical argument that if you

1 don't have a technical background that you would
2 accept.
3 And I think lack of transparency on market
4 share is significant barrier. I'll speak to that
5 later.
6 I did, though, by way relative to the
7 question of whether there are challenges in bringing
8 fuels into this market, it's more the question of is
9 it a tight market. I, in the last two weeks, reached
10 to a number of very large, very large biofuel shippers
11 in North American scale about whether they had
12 experienced any infrastructure issues on the receiving
13 end or whether there were any bottlenecks getting
14 products to the market and I got an unequivocal "no."
15 Though I think more of a summary, I think
16 I've talked about the -- most of these -- most of
17 these factors. The one last bullet, I think, ARCO
18 came into this market with a refinery that it owned
19 and has since sold in Cherry Point, and I've heard
20 anecdotally from people who worked in ARCO what it was
21 like to meet a fairly concentrated refine product
22 sector in this market and I think it would be an
23 instructive case study to look at what market -- the
24 exercise of market power can look like for new market
25 entrance, and ARCO's proposition was they were highly
26 competitive on price, that's what they're known for in

1 the California market where you can still see them
2 today.
3 I would note other -- my specialty is not
4 TMPL, but I must say when I started looking at the
5 TMPL apportionments and what was coming down the
6 pipeline, several years ago it occurred to me that it
7 was crude arbitrage because we've been paying --
8 certainly hard to not notice the WCS/WTI split and if
9 the backfill of the refined products has been more
10 expensive then B.C. consumers would be -- to be either
11 paying at the pump or somehow paying for higher costs.
12 I want to speak now more to the
13 competitiveness of the U.S. sector vis-à-vis ours.
14 California is a comparable market. It has a federal
15 regulation, as do we, that kind of overarches the
16 market and obligated parties in the California market
17 are still obligated parties federally. They have a
18 state low-carbon fuel standard the way that we have a
19 low-carbon fuel standard.
20 So when you look at this, the sources are
21 OPIS, we rely also a great deal on OPIS for our data
22 and E85prices.com. You can look at all of the
23 deployment that -- the number of stations, if you zero
24 in they become more so. California's got a 148 E85
25 stations. Again I note that B.C. -- neither B.C. nor
26 Canada has any E85 stations.

Proceeding Time 4:22 p.m. T71

The discount of E85 at retail is 22 percent below regular unleaded. At the stations in California today, from OPIS FOB on the Los Angeles racks, ethanol is 12 percent below regular unleaded, whereas B.C. is at 34 percent below regular unleaded today.

Canadian farmers, however, have had a long standing claim to say there is no demonstrated consumer demand for E85 despite -- this is a bit cheeky, but despite never having put E85 into the market, it is predetermined that there is no consumer interest.

So, in a competitive American market where you have large independents who don't have any vested interest in -- they don't care whether they sell ethanol or biodiesel. If they can make margin on it, they'll sell it. So, they look at cheap, they look at a discounted fuel like an ethanol, and they look at blending it as much as they can into gasoline, and they make great margins on the nominal price, but they can also earn credits under both the federal and state systems, and that's what is driving blending here. But it takes a significant independent sector to do that.

And then I think it should not go unmentioned that in British Columbia, refiners here

have claimed that they can't comply with the terms of the requirements of the low-carbon fuel standard, but have not deployed things like E85.

In California the same snapshot, I had to go slightly wider out to pick up B20. This is from a data set that we employ. This taps into data from three retailers. Love's, Pilot Flying J and Travel Centers of America are three large truck stop operators across the United States, and you can see the prices there. Biodiesel is priced at par at retail DOSD, ultralow sulfur diesel. The prices there you can see from OPIS, there is -- there was a comment made earlier about the lack of price discovery from firms like OPIS, they are a member of ours, so we engage with them quite closely. British Columbia is, in fairness, probably too small a market for them in and of itself to have price discovery. B.C. has no B6/B20 retail offerings at this point.

And I should make a note here by the way, that so a Love's is a large independent truck stop operator in the United States. Probably the closest thing we would have here would be Shell Flying J. They have -- they run 560 stations across the country, 253 of those are, have biofuel blending, so almost half, and most of that is B20. So to the question of whether you can blend B20 into a fuel into any

vehicle, I phoned a Love's in this map here, couple days ago and say, "Do you sell B20?" They said -- I said, "Do you sell B19?" That's what this is on the map, and they said, "We actually sell B20". I said, "Do you sell anything else?" They went and checked said "No, we just sell B20"

So if you pull up in your huge rig, and I didn’t include a picture of this, this is one of those huge American interstate truck stops. And you want diesel fuel, they say we'll sell you B20 and if you don’t like it you can go down the road.

Now, someone might say, well that's what small companies that are willing to take the risk would do. Well, Love's is a $19 billion company and between it and Pilot Flying J, which is a $21 billion company, sell more diesel fuel than the entire Canadian refining complex produces. And Pilot Flying J also has a significant portion of its stations that sell biodiesel.

So to the question of what you can do? The Americans are showing us wholesale what can be done. So I offer examples of what a comparable market to do and some might say you can do certain things and whether you can do certain things, I agree with that to an extent. But the absence, the complete absence of any of this blending in British Columbia, our

1 members would unequivocally -- have said it in other
2 settings, would unequivocally -- and these are members
3 that have significant operations in Canada and
4 significant operations in the United States, would
5 say, Canada's market does not function at the
6 wholesale level.
7 To the question of transparency, this might
8 be a thought that would be very surprising to someone
9 in Canada, but you can go, not onto the California
10 commission, the cite was referred earlier, this is on
11 the tax and California department of tax site and so
12 you can go online and on that three month delayed
13 reporting you can look at the sales of all of the
14 people who sell fuel at rack in California. None of
15 this kind of data is publicly available in Canada.
16 **Proceeding Time 4:27 p.m. T72**
17 THE CHAIRPERSON: This is the wholesale price?
18 MR. THOMSON: A: This is share, this is market share.
19 THE CHAIRPERSON: Of the retail market or the
20 wholesale?
21 MR. THOMSON: A: This would be what they would report
22 for their -- it would be probably rack. Say it's
23 Robinson Oil -- that's a good question. I don't know
24 if it's rack. Current oil, all of these are included
25 refiners but there are people in here who are not
26 refiners. Some of these would be jobbers. So this

1 would be people who are responsible for collecting
2 fuel tax for the state of California.
3 And then my colleagues do a whole lot more
4 work deep down in here, propriety work that I'm not
5 going to put up. They can pull apart market share,
6 they can pull apart a whole lot of data from this. So
7 this is publicly available information from the state
8 of California.
9 Another narrative, significant
10 administrative costs of regulatory action. I saw a
11 word "extraordinary" attached to Navius reporting on
12 fuel pricing, I believe it was. So, federal
13 regulations, provincial regulations, currently require
14 a significant amount of data. It's already being
15 reported to governments, or that it's already gathered
16 in the normal course of our operations. We've made
17 the same statement in a federal setting to the claim
18 that the additional burden to reporting, et cetera,
19 with regulations, Suncor's 2017 from the Climate
20 Disclosure Project attached exactly 0.009 percent of
21 annual revenues to compliance and administrative
22 costs. None of my CA training taught me to regard
23 that as significant.
24 I think you had a question, what the formal
25 question I think that the panel had -- pardon me, the
26 Commissioners had of Advanced Biofuels Canada, it was

do, do we have verifiable evidence of price control? And I can answer that question at this point. Or if you -- I have run through data to date that you want to question on, please feel free to ask.

THE CHAIRPERSON: Sorry, ask on what exactly?

MR. THOMSON: A: Did you want me to -- I've run through a lot of data. Do you have any questions at this point or did you want me to go into the formal question that I think you did have for me?

THE CHAIRPERSON: I do not have any questions at this point, no. Go ahead please.

MR. THOMSON: A: So the question -- I think the question that was asked, if my recall is correct, do we make statements about the existence of these supply agreements with brand retail stations and et cetera. And do we have verifiable evidence? Well, they are formal agreements, they are highly confidential and they are -- the short answer to your question is no.

We have sought access to the general terms of these agreements. And I think as an indication of how sensitive even the more, kind of, public disclosure that this is how 75 percent of British Columbia's gas stations operate is, we brought this question up in a federal panel a year ago with a request that we have non-confidential. And this is people -- we're not going to ask people to put on the

1 table thing that are unreasonable, generic,
2 unattributed, disaggregated or aggregated information
3 about the nature of the terms in these contracts. And
4 the Refiner's Association representative said they
5 would leave the process if that was pursued, so we
6 knew we were on a sensitive topic.
7 Our recommendation very much is that to the
8 degree that it is within the power of the Commission,
9 that that would be, I think, information that would be
10 very much in the public interest of the generic terms.
11 And most people, according to the communications that
12 they receive from refiners, would not even understand
13 that that's what they're receiving when they pull up
14 to a gas station.
15 We have had, more anecdotally, discussions
16 with a number -- and these are not anecdotal, they're
17 actually discussions with a number of marketers about
18 putting in higher blends of biofuel. And we have very
19 clearly received back feedback that they have
20 significant restriction about what they can do on
21 labeling products, infrastructure.
22 **Proceeding Time 4:32 p.m. T73**
23 We have referenced -- and then the next
24 line will have reference to an American study that
25 gives reference to the kinds of terms, but you will
26 find -- because there has been significant investment

of downstream assets the last number of years you'll find a fair bit in the media. We provide one kind of example here.

And then lastly I believe some common agreement terms, our American colleagues who are far better funded and much larger, have done extensive work on this. These are the kinds of terms that are common to many of the agreements that branded retailers have with their suppliers. Some of them are specific to biofuels, which is why we're interested in them, but they are -- they have both prohibitions and requirements and they are not insignificant. And I've made the reference to the RFA study, we can provide that in full.

In closing -- and I will not be able to be here tomorrow, we would -- we will provide further input on this, but I do have one process point having been at the table in many, many federal and provincial and including some state regulatory processes. We have a concern from experience that claims can be made in a confidential setting that because we're not there appropriately there are no peer ability to review the accuracy of the claim.

So, for instance, the HDRD cost statement that was made yesterday, that's the renewable diesel product that was discussed. The first reference was,

"Can be four to five times more expensive than diesel." And I -- we model this pro forma. We know what the costs are. And I raised my eyebrow and shook my head, and then I phoned the company that makes that product, we work with them, and the answer I got back was, "Maybe at a sliver in time historically, but as to any current relevance that is just unreservedly inaccurate." And the claim was made — I don't know if it was this morning — about "Often times four to five." Well, that is just simply not an accurate statement, but if a statement like that is made in a confidential setting people like me who have peer knowledge can't review it.

So to the extent that claims were made, that if I were back in my auditor days I would go and seek counterparty evidence if that claim had veracity. The simple one I think we asked specifically yesterday about just providing underlying data in the Deetken Reports would be helpful for us.

And then the last one pertains to really the substance of our presentation, which is we think that it is absolutely in the public interest in British Columbia to have more insight, not confidential, but more insight into the kinds of terms that are in the supply agreements. And we have had advice that it would be worth on a more legal basis

1 checking more on the kind of consumer protection, fair
2 trade basis as to whether these present undo
3 restrictions on trade, particularly with broader goals
4 in the province and concerns about fuel pricing, et
5 cetera.
6 So those are the substance of my remarks.
7 Thank you.
8 THE CHAIRPERSON: Thank you. With respect to your
9 second recommendation, have you -- I'm sorry, I don't
10 recall exactly your questions to Deetken yesterday,
11 but do you have specific requests for specific data?
12 And if --
13 MR. THOMSON: A: I can make those available. It would
14 be things probably primary around pricing, because we
15 pay a lot of attention to that. It would be --
16 biofuel pricing I think would be one that we would --
17 THE CHAIRPERSON: So rather than us ask for them to
18 make all the data behind all of their graphs public --
19 MR. THOMSON: A: No, no.
20 THE CHAIRPERSON: -- if you could let us know what data
21 in particular?
22 MR. THOMSON: A: Yeah, yeah. And if some of that is -
23 - we use subscription data that I simply can't give
24 away, I'm not legally allowed to. If that's the case,
25 I'm fine to say, here's what the database was and I
26 can -- OPIS, I can -- I know what that is.

THE CHAIRPERSON: Okay. If you could send us a letter or an email.

MR. THOMSON: A: I will, thank you.

THE CHAIRPERSON: Thank you, yeah.

COMMISSIONER DOEHLER: Just, and I think your third recommendation, I'm not sure if that's in our terms of reference, unless you found if someplace.

COMMISSIONER COTE: I think it's probably a consumer protection issue, but anyway --

COMMISSIONER DOEHLER: And I just -- on page 4 of your submission you use "refiner margin", you have a graph of it, I'm just wondering what the source of that is? Is that Kent? You don't say the source.

MR. THOMSON: A: Refiner margin, the two charts?

COMMISSIONER DOEHLER: Yeah.

MR. THOMSON: A: Yeah. I'm sorry, your question, Commissioner Doehler?

COMMISSIONER DOEHLER: What's the source? What's your source for the data?

MR. THOMSON: A: That is probably Kent. That could be Kent or NRCan. I apologize, I should put that one there. Very close Kent does the research for and NRCan.

COMMISSIONER DOEHLER: And is that used in the same definition we are using in the OIC?

MR. THOMSON: A: Yes. Yes, sir.

1 THE CHAIRPERSON: Perhaps if you could -- if you can
2 find the reference, if you could file that, that would
3 be helpful.
4 MR. THOMSON: A: I will.
5 THE CHAIRPERSON: Thank you.
6 MR. THOMSON: A: Yeah.
7 COMMISSIONER DOEHLER: Just two other questions. One is
8 you have -- one of your first slides is a refinery
9 margins around the world. First or second slide,
10 whatever it might be. And you compared the various
11 places. Are all those refinery margins from market
12 driven firms or is there some government controlled?
13 I mean you have certain areas there. I can imagine
14 the U.S. ones are market driven. The other areas I
15 don't know if it's owned by the government and it's
16 artificially can be low or high, we don't know.
17 **Proceeding Time 4:38 p.m. T74**
18 MR. THOMSON: A: I do not know the answer to that
19 question. I do know the database, which is IEA's
20 database. This is based on the refining hubs, and by
21 the way I didn't put all of them on here. It would be
22 a completely unintelligible graph. They -- this is
23 probably half of the refining hubs that they report.
24 The hubs that they report certainly would include
25 state controlled refiners, and it would be from
26 jurisdictions that have any number of either controls

1 or supports. So, and -- well, you can see it here,
2 there are places in the world where from time to time
3 refining margins are negative.
4 COMMISSIONER DOEHLER: I guess the only thing is it's
5 kind of hard to read that graph, is actually comparing
6 apples to apples here. We don't know.
7 MR. THOMSON: A: Yeah, and I -- my only comment on
8 this, we asked the IEA in Paris if they would add the
9 Northwest Pacific Refining Hub and California would be
10 actually an important one to add given the policy
11 here, they weren't able to, but their methodology is
12 the most robust. It is far more than a refining --
13 just a refining -- pardon me, wholesale or rack less
14 crude. It's not that at all. They account for a
15 configuration, they account for kind of feedstock,
16 they -- whether it's a cracking or a coking they do,
17 it's a very robust methodology. Arguably the best
18 one. They have a very robust model that underlies it.
19 That it, I don't believe, would factor things like is
20 that -- is the market controlled, I don't think it
21 would do that.
22 COMMISSIONER DOEHLER: And you also then talked about,
23 in my last question, about biofuels in the States and
24 how these various stations and things like that.
25 Could that same biofuel be sold in Canada? Does it
26 meet Canadian standards? Are they different?

1 MR. THOMSON: A: Identical fuel.
2 COMMISSIONER DOEHLER: Thank you.
3 MR. THOMSON: A: And Canada, by the way, ships a fair
4 bit of -- on the biodiesel side, we ship a fair bit of
5 biodiesel into the United States and import biodiesel
6 back for trade reasons, just the same way you would
7 find products. Canada is a net ethanol importer,
8 about 1.3 billion litres a year, so we don't -- the
9 trade is more one way in that regard.
10 THE CHAIRPERSON: Mr. Bussoli?
11 MR. BUSSOLI: No questions, Mr. Chair, but just two
12 things that I would be remise to get done, and if the
13 Commission Secretary and the Hearing Officer would be
14 all over me for this. So could we mark this
15 presentation as the next exhibit, C-6-4; and then I'd
16 ask Mr. Thomson if he could provide us with an
17 electronic copy of this presentation so that --
18 MR. THOMSON: We do already have, yes.
19 MR. BUSSOLI: You do, okay, perfect. Thanks very much.
20 (POWERPOINT PRESENTATION OF ADVANCED BIOFUELS CANADA
21 ASSOCIATION MARKED EXHIBIT C-6-4)
22 THE CHAIRPERSON: Thank you, Mr. Thomson, I appreciate
23 that.
24 (WITNESS ASIDE)
25 THE CHAIRPERSON: We're just going to take a short
26 break, we will come back at 10 to. Thank you.

1 **(PROCEEDINGS ADJOURNED AT 4:41 P.M.)**
2 **(PROCEEDINGS RESUMED AT 4:53 P.M.) T75-77**
3 THE CHAIRPERSON: Please be seated.
4 MR. DINELEY: Good afternoon --
5 THE CHAIRPERSON: Good afternoon.
6 MR. DINELEY: -- Mr. Chairman, Commissioners. Just a
7 few brief opening remarks from me, and then just an
8 outline of how Husky is prepared to proceed today.
9 THE CHAIRPERSON: Sure.
10 **OPENING STATEMENT BY MR. DINELEY:**
11 MR. DINELEY: Firstly, Husky Energy would like to thank
12 the Commission for the opportunity to participate in
13 this inquiry. Husky's voluntarily participating
14 because they welcome the opportunity to provide
15 information on the gasoline markets in British
16 Columbia. Husky hopes that the inquiry will benefit
17 all stakeholders involved, and looks forward to
18 providing clarity on how the very competitive market
19 works in British Columbia.
20 Just briefly, Husky Energy is a Canadian
21 based energy company. It has approximately 5,000
22 employees and is headquartered in Calgary, Alberta.
23 It operates in Canada, the United States and the Asia
24 Pacific region. Husky has two core businesses. It's
25 integrated corridor operates in Western Canada and the
26 United States, where oil and gas production is

integrated with the downstream business that produces a whole range of products, including gasoline, jet fuel, diesel, asphalt and petrochemical feedstocks.

Offshore the company has oil and gas production operations in the Asia Pacific region and in Atlantic Canada. Most relevant to the inquiry is that Husky operates a 12,000 barrel a day light oil refinery in Prince George, British Columbia. This refinery produces low Sulphur gasoline and ultra-low Sulphur diesel fuel, mixed propane and butane and heavy oil fuel. It's refined products are used by Husky in our other retail outlets in the Prince George area, and in the central and northern regions of British Columbia.

The company also operates a coast-to-coast retail and commercial fuels network, consisting of more than 500 stations, travel centres, cardlock operations and bulk distribution facilities.

Appearing on behalf of Husky Energy today is Krista Friesen. Krista Friesen is the vice president downstream business and operational services. Krista has 20 years' experience in the energy industry and has been with Husky for more than five years.

And just by way of background, Husky Business and Operations Services, which is known as

1 Husky BOS, it's a central function that supports the
2 downstream -- Husky downstream in many of its
3 activities, including its refining and retail
4 operations.
5 So with that introduction I'll turn it over
6 to Ms. Friesen. Just to outline the way we plan to
7 proceed, Ms. Friesen has prepared a presentation that
8 goes through the answers to the Commission's questions
9 that were set out in Exhibit A-8, and welcomes
10 questions from the Panel either at the conclusion of
11 that presentation or during that presentation. And
12 after the conclusion of the public remarks I
13 understand that we'll be going *in camera* for a few
14 additional questions that relate to confidential
15 information. Thank you.
16 THE CHAIRPERSON: Thank you.
17 MS. FRIESEN: Thank you, for the introduction.
18 Good afternoon, Mr. Chairman and
19 Commissioners. I'd like to thank the Panel for
20 providing the opportunity for Husky to speak to you
21 this afternoon.
22 As you've heard, Husky Energy is a Canadian
23 based integrated energy company. It's integrated
24 corridor includes a downstream business that produces
25 a range of refined products, and most relevant to this
26 inquiry, operates a 12,000 barrel a day light oil

1 refinery in Prince George, as well as retail outlets
2 and commercial fuel network in B.C.
3 My presentation today is intended to
4 address the written questions provided by the Panel in
5 advance of the oral hearing, to the extent those
6 questions are applicable to Husky, and if it pleases
7 the Panel, I would initially like to address some
8 preliminary matters prior to going into detail on the
9 prepared questions. And I'd be happy to answer any
10 questions you might have on my presentation.
11 THE CHAIRPERSON: Before you begin, I'm going to ask
12 Mr. Bemister to affirm you, please. Just be a moment.
13 **HUSKY ENERGY INC. PANEL:**
14 **KRISTA DAWN FRIESEN, Affirmed:**
15 THE HEARING OFFICER: Please state your full name for
16 the record.
17 MS. FRIESEN: Krista Dawn Friesen.
18 THE CHAIRPERSON: Thank you. Please go ahead.
19 **PRESENTATION:**
20 MS. FRIESEN: Thank you.
21 The Panel has heard much over the last two
22 days about shipments of refined products from Alberta
23 to British Columbia. I'd like to clarify at the
24 outset that Husky is not a refined product shipper on
25 the Trans Mountain Pipeline, but we have shipped crude
26 oil to western stock on that pipeline, and we've also

1 committed to transport crude oil on the extended
2 system. We do not, however, ship refined products on
3 the Trans Mountain Pipeline.
4 We do not have refining assets in Edmonton
5 to supply refined products to Trans Mountain, nor do
6 we have products terminals at delivery points off the
7 Trans Mountain system. So as a result we will not be
8 speaking about supply of refined products to B.C. via
9 Trans Mountain.
10 **Proceeding Time 4:35 p.m. T78**
11 I should also note that we do not directly
12 utilize marine logistics for refined products in the
13 B.C. market and do not have additional comments
14 regarding marine import of products or associated
15 costs.
16 The other item I'd like to address at the outset
17 is that Husky does not post a rack price in B.C., or
18 anywhere in Canada for that matter. The reason that
19 Husky does not post a rack price at Prince George is
20 because we've determined that the cost of setting a
21 rack price outweighs any business benefit of doing so.
22 There are significant costs associated with setting
23 the rack price. These costs include, to name a few,
24 employing sophisticated pricing and analytics teams,
25 compliance monitoring and training related posting
26 activities, back office support, and implementation of

1 associated logistics such as IT systems. The expected
2 costs have been determined by Husky to outweigh any
3 benefits it would see by posting a rack price.
4 Because Husky does not post a rack price, we use
5 other available posted racks as a basis for pricing.
6 Consequently there are a number of questions in this
7 inquiry, in particular the wholesale pricing matter as
8 addressed in the Deetken phase two report, for which
9 Husky will decline to comment.
10 With those preliminary matters addressed, I'll
11 move on to addressing the questions posed by the panel
12 in the July 10th oral workshop questions.
13 The first question that Husky has been asked to
14 address, question 1B, is related to the impact of
15 increasing tolls for transportation of crude oil.
16 Husky sources crude oil for Prince George on the
17 Pembina West Pipeline. This question was specifically
18 addressed to Husky, so I'll take some time to go
19 through the answer.
20 In short, the increase in Husky's pipeline
21 transportation costs have decreased Husky's refining
22 margins. The reason for that is we cannot pass on the
23 incremental transportation costs of crude oil to
24 either crude oil producers or to refined products
25 customers. On the crude supply side, the crude we
26 source it out of Taylor. B.C. The Taylor, B.C. crude

is priced on an Edmonton market price. Any incremental transportation costs for that crude oil are borne by Husky.

We have no ability to pass along those costs to the crude oil producers, for example by discounting the price we're willing to pay for the crude, because it is based off Edmonton market. The result is an increase in Husky's total cost of crude oil supply to the refinery in order to supply it with feedstock.

Likewise, Husky is not able to pass the incremental cost of crude oil to customers of refined products. The reason for this is that Husky sells its product at the Prince George rack price. As you know, Husky does not set rack prices at the Prince George refinery, those are posted by Suncor, Imperial and Shell. Therefore the expected outcome of increased transportation costs of crude oil to the Prince George refinery is a corresponding reduction in our refinery's margin.

On a related question, in question 2D(ii), the panel asks whether Husky makes up for negative margins on crude oil by its refined products pricing. I'd like to note that Husky does not produce any light oil in Taylor, B.C., which is the area that supplies feedstock for the Prince George refinery. All of the crude supply to the Prince George refinery is

1 purchased from third-party producers at market prices.
2 While Husky is a vertically integrated energy
3 company, we do not take the cost of feedstock for the
4 Prince George refinery into account when pricing our
5 gasoline and diesel. Similar to my earlier statements
6 regarding crude oil transportation costs, refined
7 product sold by Husky in B.C. are priced off the rack
8 price which is not set by Husky.
9 The next question that Husky has been asked to
10 address is question 2A in relation to the refinery
11 availability. You have heard from others on this
12 topic. Would you like me to provide you with an
13 overview of Husky's handling of refining shutdown and
14 supply outages?
15 THE CHAIRPERSON: Yes.
16 COMMISSIONER COTE: Yes.
17 COMMISSIONER DOEHLER: Yes, please.
18 MS. FRIESEN: Yeah? Okay. Addressing the first part
19 of the question, Husky does not coordinate with other
20 parties to plan maintenance, repairs and shutdowns.
21 Planning for maintenance schedules, including
22 contracting for labour and contractors, is a
23 commercially sensitive topic. And as such, Husky does
24 not share this information with our competitors.
25 Specifically, the Prince George refinery does not
26 coordinate scheduling of maintenance, repairs and

1 shutdowns with other refineries in western Canada.
2 Husky does, however, coordinate maintenance and
3 turnarounds with its other Husky owned facilities.
4 This internal coordination allows Husky to optimize
5 its internal resource allocation, including timing of
6 cashflow, subject matter experts and other resources.
7 Refinery shutdowns are not flexible in timing.
8 Due to the very significant scope of work and
9 specialty contractor requirements, major turnarounds
10 are scheduled years in advance and have little
11 flexibility around execution timing.
12 **Proceeding Time 5:04 p.m. T79**
13 By way of example, the Prince George
14 refinery executed a major turnaround in the Spring of
15 2019, and the timing for that turnaround was finalized
16 in late 2017.
17 In terms of managing inventory during
18 outages such as a turnaround, the Prince George
19 refinery develops a detailed inventory management plan
20 in advance. For the most recent turnaround, the
21 refinery built up finished product inventory in order
22 to meet supply commitments while the refinery was
23 undergoing turnaround -- or undergoing planned
24 maintenance.
25 Husky also purchased third party fuels
26 during this time to ensure adequate supply at Prince

George. Husky planned these inventory builds and third party product purchases to reduce or eliminate any potential impact to fuel supply in the Prince George region.

Another mechanism used by Husky to reduce impacts of fuel supply during planned shutdowns is to schedule major turnarounds for spring, as it is locally a low-demand season for diesel, and is before the peak of the summer driving season demand for gasoline.

In terms of mitigation of impacts of unplanned refinery outages, Husky maintains five to six days of gasoline inventory, and eight to ten days of distillate inventory in storage at the Prince George refinery. In addition, Husky ensures that we maintain robust relationships with multiple trading partners. This allows Husky to approach different sellers to purchase alternative supply to replace lost production when needed. Likewise, to mitigate unplanned interruptions of crude oil supply to the Prince George refinery, Husky maintains three days of crude oil inventory in storage.

Husky is not able to speak to wholesale pricing in B.C. during shutdown events, given that we do not set rack prices in B.C. As Husky only uses publicly available Canadian rack prices to determine

wholesale prices, we do not take into account U.S. refinery outages when determining these wholesale prices.

My next comments are related to the price differential between summer and winter refined product prices. Again, we've heard from others on this topic, but I'm happy to give Husky's observations. We've not observed a set price differential between summer and winter gasoline and diesel prices. I can, however, comment on general trends that we've observed due to increased cost to make seasonable blends for both gasoline and diesel.

Gasoline blending costs are typically higher in summer months due to vapor pressure restrictions. These restrictions prevent the use of lower cost, higher vapor pressure octane blending components such as butane for being used in the gasoline pool. The cheaper components such as butane can be utilized in winter months when vapor pressure restrictions are much less stringent. Distillate blending costs are typically higher in winter months due to minimum cloud point restrictions. These minimum restrictions require the use of more valuable, low cloud point distillate blending components. In summer, lower valued, higher cloud point components can be utilized in distillate blends due to relaxed

1 cloud point restrictions.
2 The next topic that I intend to address are
3 supply agreements. Most supply agreements are marked
4 to rack price. Where supply relationships with
5 marketers and other customers, the relationship with
6 the rack price is generally volume based. In other
7 words, the greater the volume, the greater the
8 difference to rack price. For sales to wholesalers,
9 as well as from wholesalers to branded dealers, other
10 considerations will also be taken into account such as
11 credit worthiness of the purchaser. The difference
12 between rack price and the price to a wholesaler or a
13 branded dealer is measured in 1-1/100th of a cent per
14 litre, and may be greater or less than rack price.
15 THE CHAIRPERSON: Excuse me, so if you don't publish a
16 rack price, and I assume you're talking about supply
17 agreements that you are involved with with your
18 customers, and if you don't publish a rack price, what
19 rack price do you use?
20 MS. FRIESEN: We reference another party's rack price
21 that says post to rack.
22 THE CHAIRPERSON: And is that the same party
23 consistently, or there could be any party's rack price
24 for any particular contract?
25 MS. FRIESEN: It depends on the agreement.
26 THE CHAIRPERSON: Okay, thank you.

1 COMMISSIONER DOEHLER: Oh, I see.
2 MS. FRIESEN: Some of the parties post their rack
3 prices on their websites and they are publicly
4 available.
5 **Proceeding Time 5:09 p.m. T80**
6 THE CHAIRPERSON: And you would use one of those
7 publicly available rack prices?
8 MS. FRIESEN: That's right.
9 THE CHAIRPERSON: So you don't -- so the reason I'm a
10 little confused now is because I thought you said
11 earlier you don't publish a rack price but you do have
12 a wholesale price? Or did I mishear you?
13 MS. FRIESEN: Our wholesale prices are agreements,
14 bilateral agreements with our customers.
15 THE CHAIRPERSON: And that wholesale price is
16 somebody's else's rack price with a discount or --
17 MS. FRIESEN: That's right.
18 THE CHAIRPERSON: Okay. Right, thank you.
19 MS. FRIESEN: Or a premium, that's right.
20 THE CHAIRPERSON: Yeah.
21 COMMISSIONER COTE: So did you ever -- with the rack
22 price you have posted, do you ever -- do you match one
23 individual or do you go typically with the lowest cost
24 provider or do you sometimes go under them or do you
25 always match I guess is -- let me rephrase this.
26 In terms of -- you don't have a rack price,

1 but in terms of what you charge, do you -- if you're
2 going to pick a price do you ever go below the price
3 of the -- I think there's three competitors up there
4 that have terminals up there, do you ever go below
5 them or is it always meeting at the same price that
6 one of your competitors has?
7 MS. FRIESEN: Huskey will enter into bilateral
8 agreements with our wholesalers that references a rack
9 price posted publicly.
10 COMMISSIONER COTE: Okay, I understand.
11 MS. FRIESEN: You know, reference someone else's rack
12 price. It may be a premium, it may be a discount
13 depending on various factors like volume and credit
14 worthiness of the party that we're contracting with.
15 THE CHAIRPERSON: I understand now, thank you.
16 MS. FRIESEN: Thank you. One thing Husky would like to
17 note as we talk about prices in this inquiry is that
18 refining margin as defined for the purposes of the
19 inquiry is a gross number from which various costs
20 like feedstock, energy, utilities, labour, regulatory
21 compliance, and other things must be deducted.
22 Likewise, retail margin is defined in this inquiry is
23 also a gross number from which various costs like
24 retail -- I'm sorry, real estate, labour and credit
25 card fees must be deducted. As these costs increase
26 the gross margin must also increase in order for the

refinery or retailer as applicable to make a profit.

The refinery is asked about the impact of interprovincial refining capacity on product pricing. There are many factors that affect cost and pricing, which include facility capital and operating costs, wages, cost of product, transportation costs, taxes and a host of other factors. In any event, Husky does have a refinery in B.C.

In terms of decisions on whether to build additional refining capacity in B.C., Husky downstream ranks all of the capital investment opportunities in its portfolio and chooses the most attractive from a strategic and financial perspective to review. It considers all potential capital investments including greenfield, brownfield and acquisitions. Items are prioritized and ranked against multiple criteria, including business and operating risk, strategic fit, free cash flow and earnings, project payout and capital exposure, resources and stability of returns.

It's on this basis that Husky evaluates its investment decisions in B.C. and elsewhere. The Prince George refinery is ranked against all other assets in Husky's portfolio in order to determine where to allocate capital.

I'll now move on to comments in response to question 2J regarding supply challenges. Husky has

1 typically not experienced challenges in sourcing
2 supply. Although we may occasionally have a
3 disruption from an individual supplier or asset, this
4 has not had the effect of an overall supply
5 disruption. In an unconstrained environment Husky is
6 able to allocate a hundred percent of contract volumes
7 to each of its purchasers. On occasion over the past
8 five years Husky had needed to go on sub 100 percent
9 allocations for short periods of time in the Prince
10 George region due to unplanned outages. In addition,
11 Husky has encountered from time to time temporary
12 supply shortfalls at individual retail locations
13 during that timeframe.
14 Husky reacts to its own Prince George
15 supply/demand balance by attempting to source
16 alterative supply if needed. Because we do not post a
17 rack price, we do not use price to manage shortfalls.
18 Since Husky often buys delivered products from a third
19 party trading company during times of product
20 shortfall, we do not always have good visibility as to
21 the original source of that product. In terms of the
22 impact of refinery shortages in other markets, Husky
23 does not take into account U.S. refinery outages when
24 determining wholesale prices.
25 **Proceeding Time 5:14 p.m. T81**
26 Husky only uses publicly available Canadian

1 rack postings to determine those wholesale prices. We
2 cannot comment on USA wholesale prices.
3 Moving now into retail cost drivers in
4 question 4A, this is another topic that has been much
5 discussed by other intervenors, but I am happy to
6 discuss Husky's experience on this topic.
7 THE CHAIRPERSON: Please go ahead.
8 MS. FRIESEN: First of all, I'd like to caveat the
9 responses in this section on retail pricing by saying
10 that any comments regarding retail price are limited
11 to Husky Corporate sites. As stated in our survey
12 responses, Husky has both owned and leased corporate
13 retail stations, as well as independent dealers
14 operating Husky branded retail stations. Husky does
15 not have any power or influence over the pricing
16 offered by the independent dealers.
17 At its corporate stations, gasoline retail
18 pricing at each station is determined by Husky, not by
19 the retail operator. Pricing decisions are generally
20 made by Husky district manager in the region, in
21 consultation with an operations manager and a senior
22 operations manager at Husky headquarters in Calgary.
23 Generally pricing is based on overall market
24 conditions, particularly movement in the prevailing
25 publicly posted local rack price, and information
26 conveyed to the district manager on local market

conditions and posted street prices by operators or retailers.

Husky headquarters may also direct the district manager to either increase or reduce prices in an attempt to either increase profits per litre, or volume of gasoline sold respectively.

To address the panel's questions regarding retail cost drivers, B.C. has had a number of cost increases that were not replicated in other provinces. For example, real estate and minimum wage. In terms of real estate costs, the average rent for leased sites in B.C. has increased by 12 percent since 2014, and the total rent across Canada has increased by only 5 percent since 2014. B.C.'s increase is higher than we have experienced in any other province.

For minimum wage, our data shows a 35 percent increase in B.C. minimum wage over a five year span from 2014 through today. Alberta is similar in terms of minimum wage increase in 2015 to 2019, but looking only at the last three years and the announced increases in 2020 and 2021, B.C. takes the lead as the most impacted province for minimum wage increases.

As explained above, it is the rack price and prevailing market conditions such as competing street prices, that directly translate into the retail fuel price, not the underlying cost. The cost

1 increases listed by Suncor can cause cost pressure
2 against margin on the retail price. This means that
3 more margin is required to stay profitable and achieve
4 an acceptable return on investment. An increase in
5 cost to the retailer, such as minimum wage increases,
6 does not mean that customers cost per litre will
7 immediately change.
8 My last topic is regarding competitive
9 activity at a retail level. Retail pricing of
10 gasoline and diesel is done at a competitive
11 environment with prices posted on street level signs
12 by retailers to advertise -- I'm sorry, to advise the
13 public of current pricing. In this highly competitive
14 environment, prices can move very rapidly. Husky
15 always engages in competitive market prices. Of
16 relevance to this inquiry, we have responded to
17 numerous downward trends and retail pricing in the
18 GVRD with some more significant than others. For
19 example, we have seen aggressive pricing in B.C.
20 markets when new, big box stores with fuel are trying
21 to enter the market. Given the fixed and relatively
22 inelastic demand for fuels in a given region, new
23 entrants must attract customers from existing
24 retailers in that region. This forces existing
25 retailers, at times, to sell product at below cost to
26 retain those customers. This activity, including

retailers pricing at or below cost, has been described as a price fork.

Proceeding Time 5:18 p.m. T82

Retail pricing must be competitive in order to attract and retain customers. As noted in the Kent report, higher volume sites have lower operating costs per litre, enabling those sites to be more profitable and price competitive. Conversely, sites must remain price competitive or that site will lose volume and incur higher operating costs per litre.

Retail costs such as real estate and labour are relatively fixed costs which do not tend to fluctuate with volume sold at a particular site. Put another way, in order to be profitable sites will strive to sell more volume. A primary strategy to attract sales volume is to have a competitive fuel price.

Retail prices are a factor of many different variables including the local competition. For example, a retail site just inside the GVRD boundary is competing against those outside of the tax zone. In order to maintain sales those inside the tax zone must post a competitive price. The same is true regardless of where you're located, whether you're inside or outside of the tax zone.

We have observed that there's generally a

higher concentration of gasoline and diesel retail locations outside the GVRD, but near the tax borders. In other words, retailers pump more volume just outside of the tax border. Within the tax border it is very difficult to compete on pricing without selling at significant discounts or even below cost to maintain a customer base.

In addition to competitive product pricing, retailers may over a range of products in the back court to increase overall profits of the site and use marketing mechanisms to draw customers. Back court revenue and other incentives such as rewards programs are ancillary ways to attract customers and move additional fuel volume.

Husky uses various mechanisms to attract sales volume in addition to competitive fuel pricing, such as myHusky Rewards and mobile apps. These are marketing mechanisms meant to increase retail sales without a change to the retail price of fuel. For example, Husky recently launched a mobile application for both iPhone and Android that allows customers to locate Husky stations, receive coupons and promotions, collect myHusky Rewards points and pay from their phones.

Each of these consumer programs are meant to attract customers, increase volumes and therefore

1 mitigate potential losses in a low margin environment.
2 For example, the myHusky Rewards loyalty program has
3 about 1.6 million members which are given the
4 opportunity to also collect points, receive coupons
5 and participate in contests and promotions. These are
6 meant to get into increased retail sales without a
7 change to the retail price of fuel.
8 Thank you, Panel, that concludes Husky's
9 response to July 10th oral workshop questions. I'm
10 happy to take any of your questions.
11 THE CHAIRPERSON: I have one question. I think you
12 said that you don't ship any refined products by
13 pipeline but you do ship crude by pipeline, correct?
14 MS. FRIESEN: A: That is correct, yes.
15 THE CHAIRPERSON: And you ship that on the Pembina
16 Pipeline, not on Trans Mountain, is that correct?
17 MS. FRIESEN: A: We ship crude to Prince George
18 refinery on the Pembina west system. That is the sole
19 source of pipe supply to Prince George. We have also
20 separately shipped crude oil on the Trans Mountain
21 Pipeline to the Westridge dock.
22 THE CHAIRPERSON: And then what do you do with it at
23 the Westridge dock?
24 MS. FRIESEN: A: Our sales at the Westridge dock are to
25 third parties.
26 THE CHAIRPERSON: That's not to get to your refinery

1 though? That's not to get the crude to the refinery?
2 MS. FRIESEN: A: No, that's right. That would be
3 shipments of Husky's upstream producing assets in
4 western Canada.
5 THE CHAIRPERSON: Understood. Right, so that's for
6 export essentially? For export, right?
7 MS. FRIESEN: A: That's right.
8 THE CHAIRPERSON: And then you said that you've
9 purchased, or will purchase, or you've committed to
10 the space on the expanded pipeline?
11 MS. FRIESEN: A: That's right.
12 THE CHAIRPERSON: And is that -- that's for export
13 also? That's not for your Prince George refinery
14 either?
15 MS. FRIESEN: A: That's right. The crude that goes
16 down the Trans Mountain Pipeline is not logistically
17 connected to the Prince George refinery.
18 THE CHAIRPERSON: Okay. So just as a peripheral
19 question, if you can't answer it that's fine. But we
20 heard this morning, or this afternoon I think it was,
21 that the tolls on the expanded pipeline are expected
22 to be significantly larger than the tolls on the
23 existing pipeline. Would you have any knowledge of
24 that or not? And if you can't answer, it's fine.
25 **Proceeding Time 5:23 p.m. T83**
26 MS. FRIESEN: A: The National Energy Board held a

1 proceeding a few years ago on the commercial terms of
2 service on the expanded Trans Mountain Pipeline. The
3 tolls for that pipeline will be filed -- are unknown
4 today and will be filed when the pipeline goes into
5 service.
6 THE CHAIRPERSON: Understood, okay, thank you.
7 COMMISSIONER DOEHLER: I have one question, and it
8 arises I know from the confidential information. I am
9 not looking for the details of numbers, but you have a
10 term in there called "cost of sales." I just wondered
11 if you could explain what is in cost of sales?
12 MS. FRIESEN: A: Can you refer me to a specific
13 question?
14 COMMISSIONER DOEHLER: I don’t have the confidential
15 information with me. You responded to the question,
16 you have a fair amount of financial data there, and
17 one of the terms you use is "cost of sales." As I
18 say, it's in the confidential submission that you did.
19 I just want to know what the definition is.
20 MS. FRIESEN: A: Without refreshing my memory on which
21 question that was associated with, I'm not sure if it
22 is cost of sales of the retail basis, or the
23 wholesalers.
24 COMMISSIONER DOEHLER: Oh.
25 MS. FRIESEN: A: Perhaps we can address this in the
26 confidential section?

THE CHAIRPERSON: I think at this point, that's the only question we have around the confidential information. So if it is possible for you to answer that, non-confidentially, then we wouldn't need to have a confidential. But we don't have the information with us.

COMMISSIONER COTE: Do you want to go to your computer and I'll ask her a couple questions?

COMMISSIONER DOEHLER: Okay.

COMMISSIONER COTE: I have just got a few here, I'm sorry. To follow-up on some earlier questions, you mentioned that on another occasion you buy third party product during your shutdowns and whatnot. Do you bring any other refined product in to augment what you do through your refinery? Or is everything pretty much refined here in Prince George? In other words, do you truck any product in from Alberta as well that -- that would be refined product I would assume in addition?

MS. FRIESEN: A: Yes, we do have the capacity to do that if necessary.

COMMISSIONER COTE: Yeah, but do you do that was the question. Is it a regular program that you would run? You produce what you can through refinery and then you argument that with product you've trucked in or rail from Edmonton?

1 MS. FRIESEN: A: Are you referring to refinery outages
2 and supply in the Prince George region?
3 COMMISSIONER COTE: I am talking about moving -- like
4 your overall business is tied into taking crude and
5 then refining it, and then selling it. In addition to
6 that, does that handle most of your needs except
7 during periods of shutdowns?
8 MS. FRIESEN: A: In the Prince George region, that's
9 true. We would sell the product that we produce from
10 the refinery. We also have commercial arrangements
11 with third parties to supply our retail stations.
12 COMMISSIONER COTE: I see, okay. And down in the
13 Vancouver area, how do you get product here? Is it
14 all through Prince George and down or --
15 MS. FRIESEN: A: No, we are supplying other stations,
16 we will do commercial arrangements with third parties
17 to buy and sell fuel at various locations in the
18 province.
19 COMMISSIONER COTE: Okay. You mentioned your retail
20 business, and you mentioned that you control, at least
21 in the stations that report directly to you or that
22 you own, that you control the pricing on them. Do you
23 do that on a daily basis, and if so, how do you react
24 to small changes within the marketplace?
25 MS. FRIESEN: A: Yeah, so prices, we react to prices on
26 a real time basis. That may involve changing daily,

it may involve intraday changes.

COMMISSIONER COTE: Yeah, so how do you stay on top of that? What process do you use to stay on top? What is going out to your -- it's a fairly wide geographical market you deal with.

Proceeding Time 5:28 p.m. T84

MS. FRIESEN: A: We have a team employed that looks at pricing in head office and they are in constant communication with the district managers, who in turn speak with the people at the retail sites.

COMMISSIONER COTE: Okay, thank you. One last area. You've mentioned that you've been facing rent increases of 12 percent with the stations. Do you own literally the land that sits -- on your own locations? Are they locations you control? Do you own the land in some cases as well as rent or is it strictly rent?

MS. FRIESEN: A: It's a combination of lease and owned. So the numbers we cited you on rent are for our leased locations.

COMMISSIONER COTE: Okay. With respect to your retail pricing on the ones that you had owned, do you take into account the value of land in determining those prices that you may charge at the pump?

MS. FRIESEN: A: So again, pricing at the pump is competitively priced based on what is going on in the area. It's not a cost-based pricing system.

COMMISSIONER COTE: Okay. Thank you very much.

COMMISSIONER DOEHLER: I found the reference. It's reference to question 10 and schedule A.

MS. FRIESEN: A: Got it, okay.

COMMISSIONER DOEHLER: So I'm just looking for the definition of cost of sales.

MS. FRIESEN: A: Okay, just bear with me for one moment. I'm looking at my answer here.

MR. DINELEY: Just a moment. If it pleases the Commission, I believe you may be referring to question 29 from the original question the Commission sent out. We provided some confidential numbers in response to that. Question 29 reads:

> "Please provide information on your monthly average retailing margin per litre of gasoline and diesel since January 2015."

We then responded to that in our in letter dated July 15th, 2019 whereby we attached a schedule B that was confidential, which contained some actual numbers.

COMMISSIONER DOEHLER: But my schedule A shows actual numbers as well.

MR. DINELEY: Yeah, and schedule A is in reference to question 10, which reads,

> "Please provide information on your monthly average refining margin."

I believe we're looking for the retail margin or the refining margin?

COMMISSIONER DOEHLER: It's schedule A is the one that talks about costs of sales. I can't find it in schedule B. Or maybe I can.

THE CHAIRPERSON: It's a Husky term, "cost of sales", that was used in response to a question, correct?

COMMISSIONER DOEHLER: Schedule B has a --

MS. FRIESEN: A: Okay, so our cost of sales at a high level, because I don't want to delve into the confidential portion --

COMMISSIONER DOEHLER: I understand.

MS. FRIESEN: A: -- would include -- it would include freight, any arbitrage allocation based on geographic differences, but it would not include loyalty programs and commissions.

COMMISSIONER DOEHLER: Okay, so schedule A is the retail margin then, I guess. I think that's what you're trying -- correct me.

MS. FRIESEN: A: That's what I'm referencing, schedule A.

COMMISSIONER DOEHLER: Okay, thank you.

THE CHAIRPERSON: Okay, that's great. Thank you very much.

MS. FRIESEN: A: Thank you.

THE CHAIRPERSON: Much appreciated.

COMMISSIONER COTE: Have a nice evening.

THE CHAIRPERSON: Have a nice evening.

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

(WITNESS ASIDE)

THE CHAIRPERSON: Thank you.

Mr. Wright? Please come forward. We're just going to take a couple minutes to get some screens down.

Please go ahead, sir.

MR. WRIGHT: Thank you, Mr. Chair. At this point I have two introductions to make. I have, first of all additional co-counsel today, Mr. Justin Mooney, who's joining us.

THE CHAIRPERSON: Okay.

MR. WRIGHT: And I also have Mr. Doug Rosencrans of 7-Eleven Canada. I will be very brief here. Mr. Rosencrans will provide some opening remarks.

THE CHAIRPERSON: Thank you.

MR. WRIGHT: Having regard to the fact that we proceeded a fair but into this inquiry, rather than go through a recitation of answers to all of your questions, at this point we're prepared to answer your questions but we will hear from you the specific questions you would like from 7-Eleven. Mr. Rosencrans will do his best to his best to provide responses.

Proceeding Time 5:34 p.m. T85

So without and further ado, unless there's any preliminary issues, I'll turn it over to Mr. Rosencrans.

THE CHAIRPERSON: Thank you. sir. And we'll just let Mr. Bemister affirm you.

7-ELEVEN CANADA INC. PANEL:

DOUG ROSENCRANS, Affirmed:

THE HEARING OFFICER: Please state your full name for the record?

MR. ROSENCRANS: Douglas Evan Rosencrans.

THE HEARING OFFICER: Thank you very much.

MR. ROSENCRANS: Thanks.

PRESENTATION:

MR. ROSENCRANS: Good evening, Mr. Chair.

THE CHAIRPERSON: Good evening.

MR. ROSENCRANS: Good evening to you, Commissioners. It's my pleasure to speak with you and to the citizens of British Columbia today regarding the Commission's inquiry into gasoline and diesel prices in British Columbia.

My name is Doug Rosencrans. I represent 7-Eleven Canada Incorporated. On behalf of thousands of our team members or employees across Canada and here in British Columbia. I'm the vice president and general manager of our Canadian business which just

1 celebrated our 50th anniversary in Canada.
2 THE CHAIRPERSON: Congratulations.
3 MR. ROSENCRANS: Thanks you. I'm looking forward to
4 our discussion and I hope that our are voluntary and
5 complete disclosure in our written submission to the
6 Commission have been helpful to you in preparing.
7 THE CHAIRPERSON: It's been very helpful, thank you.
8 MR. ROSENCRANS: Our business operates in five
9 provinces: British Columbia, Alberta, Saskatchewan,
10 Manitoba, and Ontario. We operate 630 retail
11 locations across this geography, including 360 that
12 offer gasoline, and in some cases diesel fuel as well,
13 to our customers. While our convenience stores carry
14 the 7-Eleven brand, and in a small number of
15 alternative cases the Smart Stop store brand, we sell
16 our fuel under any one of three distinct brands: 7-
17 Eleven, Esso, or Petro-Canada. We also operate
18 approximately 100 car washes co-located on site.
19 Our locations are operated by our 7-Eleven
20 team members, with the help of our operations team and
21 our support functions based primary here in Surrey,
22 B.C., with supplemental support from our U.S. based
23 parent company, including daily retail fuel pricing
24 and transportation coordination. The physical
25 locations are either owned land or leased properties.
26 Speaking specifically to British Columbia,

1 we operate 124 locations with fuel. The majority of
2 B.C. sites carry the Esso fuel brand followed by
3 Petro-Canada, and a remainder of 7-Eleven branded.
4 Since our business began in British Columbia fuel has
5 been one of our product offers at some but not all of
6 our stores in the province. In late 2016 our fuel
7 business footprint in British Columbia grew
8 significantly following the successful acquisition of
9 66 Esso branded sites that were formerly owned by
10 Imperial Oil.
11 In part preparing for today's Commission
12 hearing our team reviewed the Deetken Group consultant
13 report Phase 2, which I know we've had plenty of
14 discussion on today already. And if I may, changing
15 subjects a little bit, I'd like to comment on one
16 specific area and that's in regards to land value.
17 The Deetken Group and other interveners have spoken to
18 the high cost of land in B.C. as one of the factors
19 contributing to the higher price of fuel and the
20 corresponding margins. I'd like to comment on how
21 this factor has contributed to our organic growth as
22 opposed to acquisition growth in B.C.
23 As urban densification continues in the
24 GVRD and other parts of B.C., what we would consider
25 to be prime locations for a convenience store with
26 fuel are often the same locations desired by

developers and other retailers. Our challenge lies in the fact that a convenience store location with fuel is only a single-storey complex. This is in alterative to a multi-use mixed commercial and residential building that has the opportunity to build up and minimize the developer's investment risk.

In the second quarter of 2018 there were 81 such mixed-use residential projects under file in Vancouver as developers look to improve upon the one percent vacancy rate for apartments in Vancouver. As a result, the capital investment costs for 7-Eleven are significantly higher as a developer must consider our offer versus the opportunity cost of a mixed-use multi-storey building.

I did mention before that we've had fuel in B.C. as part of our offer for many years and in our fuel footprint increase by acquisition in 2016. However, we have opened only four brand new organic fuel locations in British Columbia since 2015.

Proceeding Time 5:39 p.m. T86

Yes, we did acquire Imperial's retail assets in B.C. And I would characterize the transition to be like-for-like in terms of ongoing use for the sites acquired. But please note the following: Even within the portfolio of sites purchased from Imperial, several sites have been sold

to the same developers mentioned before as our opportunity cost was deemed to outweigh our ongoing business opportunities.

My point is that we have experienced financial challenges and alternatives in our long-term investment strategies in Vancouver and British Columbia as a result of higher land values. In contrast to B.C., we've opened 28 new convenience and fuel sites since 2015 in our other operating provinces. Again, excluding our Imperial site acquisition in 2016.

That concludes my opening remarks. I'm happy to address any of the questions that you had shared with us prior to today's meeting or any other questions that may be on your mind.

THE CHAIRPERSON: In regard to what you said just towards the end of your remarks there. I appreciate the problems you must be having in Greater Vancouver about high real estate prices and opening new stations, or acquiring land for new stations. But are you having that problem all over British Columbia? Because the higher real estate prices are only really prevalent here and in Victoria, perhaps in Kelowna and few other isolates areas.

MR. ROSENCRANS: A: It is not as much of a challenge in other parts of British Columbia. However, as

1 densification continues to occur, we look to service
2 the population as best we can. We tend to look to
3 Vancouver more frequently.
4 THE CHAIRPERSON: Right, okay.
5 COMMISSIONER COTE: How many of your combined units,
6 where you've got the store and gas station, do you
7 have in the Vancouver area currently? In Vancouver
8 first of all, and then the Greater Vancouver area?
9 MR. ROSENCRANS: A: Overall for the Vancouver area
10 we're at about 60 stores with fuel in the GVRD.
11 COMMISSIONER COTE: Okay, what about Vancouver proper?
12 MR. ROSENCRANS: A: Vancouver proper, I could find that
13 number for you. I don't know the exact number off the
14 top of my head. But if I considered downtown
15 Vancouver right now, there's one store. It's about
16 two blocks from here. And that site has since been
17 sold.
18 MR. WRIGHT: And Commissioner Cote, I don't want to
19 interrupt. But in our responses to the initial set of
20 questions we gave a very detailed list of every
21 location, including address. So you'll be able to
22 determine exactly where they are.
23 COMMISSIONER COTE: Sorry, I didn't commit it to
24 memory.
25 In terms of your price control and price
26 management, they're all -- all pricing is controlled

by 7-Eleven through a central location or do you delegate that authority?

MR. ROSENCRANS: A: The pricing activity is completed daily out of a central location in Irving, Texas. That is where our fuel support team is located. Our parent company is based in Irving, Texas.

COMMISSIONER COTE: How do you deal with competitive situations that arise through the day?

MR. ROSENCRANS: A: That is through phone conversation and observations on the street. In addition there are --

COMMISSIONER COTE: With Irving, Texas?

MR. ROSENCRANS: A: Excuse me?

COMMISSIONER COTE: With your offices in Irving, Texas?

MR. ROSENCRANS: A: That is correct. So our information comes on two fronts in terms of how we gather information from the street. The first is through required pricing observations of competitors by our store managers. That's on a daily basis, on a certain frequency. In addition, we subscribe to an OPIS feed that provides verified credit card information of other retailers in the area. So it's two different ways to gather information.

THE CHAIRPERSON: So going back to the issue of land values then. Do you have any comments on Deetken's report and their assumptions that part of the

1 difference in retail price between British Columbia
2 and other parts of Canada can be explained or could
3 possibly be explained by higher land values?
4 **Proceeding Time 5:44 p.m. T87**
5 MR. ROSENCRANS: A: Our perspective on what Deetken has
6 presented is that for 7-Eleven, is a longer term
7 question. So when I speak to capital investment for
8 new sites, capital reinvestment in existing sites,
9 those values do come into consideration. On a daily
10 basis for which is how retail fuel is priced in our
11 case, our primary considerations are what we observe
12 on the street in order to remain competitive.
13 THE CHAIRPERSON: Right.
14 MR. ROSENCRANS: A: On a longer term view, those costs,
15 as well as labour costs, rent costs, all the other
16 many other factors that have been brought to the
17 Commission's attention, do play in on a day-to-day
18 basis. That's what we observe.
19 THE CHAIRPERSON: Right. Okay. So, whether one does
20 or doesn’t subscribe to Deetken's view of the impact
21 of higher real estate values, there is a difference
22 between the retail margin in British Columbia as
23 opposed to the rest of Canada, and it's just the
24 magnitude of it is different depending on what you
25 accept of those assumptions. So I'm wondering if just
26 generally speaking you have thoughts on why it is

1 different?
2 And we've heard from many parties that
3 retail prices are set competitively, and often set
4 very reactively, as you've pointed out, in response to
5 what the gasoline station across the street is set.
6 So, how is it then that the result is a price that
7 seems to be, over the last few years, consistently
8 higher, or at least results in a margin that is
9 consistently higher than in other parts of the
10 country?
11 MR. ROSENCRANS: A: Our observations with other parts
12 of the country, the provinces in which we operate,
13 where there have been changes of late in performance,
14 is based on how we observe competitors in those
15 markets to be acting in the open marketplace. By that
16 I mean, I can observe where they set, where a
17 competitor sets his or her particular price. What my
18 observation would be is it appears to be more
19 aggressive than competitors in the B.C. market, for
20 whatever reason. I would be guessing.
21 THE CHAIRPERSON: Right.
22 MR. ROSENCRANS: A: But the competitive situation is
23 such that the margins are simply more compressed in
24 other markets. I cannot speak to why competitive
25 behavior is changed outside of what our observations
26 are.

1 THE CHAIRPERSON: Right, okay, thank you.
2 COMMISSIONER DOEHLER: Just two questions if I may.
3 One is, have you ever experienced a shortage of
4 supply? I mean we've heard just recently that
5 shortage is a big issue, and -- well, that's the first
6 part of the question.
7 MR. ROSENCRANS: A: Sure. Shortage of supply from our
8 supplier partners in British Columbia of late, no.
9 Where we have experienced on-site disruptions have
10 been because of weather, transportation challenges,
11 minor setbacks. But long-term outages in British
12 Columbia we have not experienced.
13 COMMISSIONER DOEHLER: And do you have an idea when a
14 shortage happens that the price goes up? Are they
15 linked in any fashion?
16 MR. ROSENCRANS: A: We do not see that. When we have
17 -- if there is a disruption in supply, whether it's
18 planned or unplanned, we rely on our supplier partners
19 to provide to us alternate pickup points, and then our
20 pricing is handled accordingly through our contracts.
21 COMMISSIONER DOEHLER: And my second question is about
22 again the land value. We've talked about it a bit,
23 and we heard of course earlier today I guess, that a
24 gas station is a one-level issue. So there has been
25 no thought of having the first area part of a multi-
26 storey building being a gas station? It has been

1 done.
2 MR. ROSENCRANS: A: Yes, it has been done. I don't
3 recall considering one here in British Columbia. But
4 it's an interesting idea.
5 COMMISSIONER DOEHLER: Okay. Thank you.
6 **Proceeding Time 5:48 p.m. T88**
7 THE CHAIRPERSON: There's been a fair amount of
8 discussion about the wholesale market and market
9 concentration in the wholesale market and how
10 wholesale prices are set. Now, I realize that, you
11 know, you don't operate in the wholesale market, but
12 the wholesale market price affects you significantly
13 and I was wondering if you have any thoughts on
14 British Columbia's wholesale market and, you know,
15 there's been argument both ways of whether it's a
16 fully competitive market or whether there's market
17 concentration.
18 So, I'm wondering if you have any thoughts
19 on that and whether you feel the wholesale market is a
20 competitive market and you're happy with the way it
21 operates?
22 MR. ROSENCRANS: A: As you outlined, Mr. Chair, we do
23 not participate in the wholesale market. Our
24 agreements are set with our supplier partners with
25 very specific terms and cost structures to them.
26 Those terms and cost structures, we feel, allow us to

1 remain competitive in the marketplace on average over
2 time.
3 On any given day a margin situation could
4 be very favourable or it could be unfavourable, but on
5 average over time we feel we are in a position to
6 compete effectively in the marketplace based on the
7 structure we have.
8 THE CHAIRPERSON: Okay, thank you. I think that ends our
9 questions then.
10 MR. BUSSOLI: Just a second, Mr. Chair. Sorry, to
11 interrupt.
12 THE CHAIRPERSON: You would think I'm doing it on
13 purpose.
14 COMMISSIONER DOEHLER: He feels neglected, poor man.
15 MR. BUSSOLI: Perhaps tomorrow morning you will remember.
16 THE CHAIRPERSON: Okay, perhaps. It does end our
17 questions though, that was quite true.
18 MR. BUSSOLI: There you go.
19 THE CHAIRPERSON: Yes.
20 **EXAMINATION BY MR. BUSSOLI:**
21 MR. BUSSOLI: Q: Just one comment. Can you expand on
22 -- we didn't quite catch all of the comment in respect
23 of the OPIS credit card comment you made earlier.
24 Could you just repeat that or --
25 MR. ROSENCRANS: A: So OPIS -- OPIS has been talked
26 about several times throughout the day.

MR. BUSSOLI: Q: Yes.

MR. ROSENCRANS: A: Typically, from a rack pricing, rack posting perspective. There is a service to which you can subscribe as a retailer where OPIS collects only the verified unit price, unit retail price for gasoline purchases at sites. That information can then be sent to anybody who chooses to subscribe to that service. So it is used as a way to observe what is occurring on the street.

MR. BUSSOLI: Q: Okay, so then the question I would add is is, so how does that inform your pricing?

MR. ROSENCRANS: A: The same way as if I were to walk out of the store and look down the street to what competitors are doing. So it is -- but the frequency of that can be based on how -- as frequent as we choose to subscribe to the volume versus if I'm having a human resource go out and observe price on a regular basis. So it increases frequency if we choose to do so.

MR. BUSSOLI: Q: And does that provide you with -- does that information provide you with price and quantity or just price?

MR. ROSENCRANS: A: Just price.

MR. BUSSOLI: Q: Okay.

Those are all the questions, thank you very much.

THE CHAIRPERSON: Thank you. Thank you, Mr. Rosencrans, much appreciated.

MR. ROSENCRANS: Thank you Mr. Chair, Commissioners.

(WITNESS ASIDE)

THE CHAIRPERSON: So that brings us to the end of our day today and I'd like to thank everyone for attending and which you all safe travels.

We will be back tomorrow. The panel will be here at 8 o'clock with Super Save for our *in camera* session, and then we'll begin the public session at approximately 9 o'clock.

Thank you, we're adjourned.

(PROCEEDINGS ADJOURNED AT 5:52 P.M.)