

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

And

Re: FortisBC Energy Inc.
Application for a Certificate of Public Convenience and
Necessity for the Advanced Metering Infrastructure Project

Kelowna, B.C.
November 8, 2012

PROCEDURAL CONFERENCE

BEFORE:

L. Kelsey,	Commission Chair / Panel Chair
N. MacMurchy,	Panel Member
D. Morton,	Panel Member

VOLUME 1

APPEARANCES

G.A. FULTON, Q.C.	Commission Counsel
L. HERBST	FortisBC Inc.
I. WEBB	British Columbia Hydro and Power Authority
C. WEAVER	British Columbia Municipal Electric Utilities
C. WEAVER	Commercial Energy Consumers Association of British Columbia
E. KUNG	B.C. Pensioner and Senior's Organization, BC Coalition of People with Disabilities, Counsel of Senior Citizens' Organizations and the Tenant Resource and Advisory Centre
W. ANDREWS	B.C. Sustainable Energy Association and Sierra Club of British Columbia
D. AARON	Citizens for Safe Technology
C. BENNETT	West Kootenay Concerned Citizens

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CAARS

KELOWNA, B.C.

NOVEMBER 8, 2012

(PROCEEDINGS RESUMED AT 9:37 A.M.)

THE CHAIRPERSON: Please be seated. Well, good morning, ladies and gentlemen. I am Commissioner Len Kelsey, and with me today are Commissioners Norman MacMurchy, on my immediate right, and David Morton on my left.

We make up the Commission panel assigned to make the necessary determinations related to the FortisBC Inc. advanced metering infrastructure project application. I'd also like to introduce Hearing Officer Hal Bemister. Mr. Bemister. The Commission counsel, Gordon Fulton. And with us today are Commission secretary Erica Hamilton, director of infrastructure for the Commission, Mark Thomas, lead staff on this matter from the Commission, Don Flintoff, also from the infrastructure division, and Laurel Ross, another member of the Commission's professional staff.

Commission counsel and staff will be happy to assist you if you have any questions about the proceeding, and I'd ask you to contact them during the break if you do have questions.

Now, in the interests of time, I'm not going to recite the details of the filing and the

1 regulatory timetable to this date. These matters are
2 all on the record and may be referenced on the
3 Commission website. I will note, however, that the
4 current approved regulatory timetable carries on to
5 Friday, December 14th, which is the date by which
6 FortisBC must respond to BCUC and Intervener
7 Information Request number 2.

8 The Commission letter of October 11th, 2012,
9 and entered as Exhibit A-10 proposes an agenda for
10 this procedural conference and also a proposal from
11 Commission staff for further steps in the timetable
12 and proposed dates for those steps. I want to
13 emphasize that this proposal is just that, a proposal.
14 Commission panel is not invested in it, and it should
15 not inhibit the exchange of ideas today. On the other
16 hand, it may be helpful as a reference point for our
17 discussions.

18

19 **Proceeding Time 9:40 a.m. T02**

20 Following this procedure -- or, sorry,
21 following this conference, the Commission panel will
22 determine the details of how the proceeding will
23 advance and what the specific timetable will be. I'm
24 sure everyone has Exhibit A-10 in front of them, but
25 if by chance you don't, please hold up your hand and
26 Mr. Bemister will provide a copy to you. Anybody need

1 a copy of Exhibit A-10, which laid out the agenda?

2 Okay. In considering how best to move
3 forward, I feel it important to remind everybody that
4 the application must be examined thoroughly and
5 efficiently. We should also be concerned that
6 ultimately it is the ratepayer who pays for the
7 hearing costs, and we should be respectful of that.

8 The entering of appearances will consider
9 the agenda for the morning to ensure it covers the
10 necessary topics and make adjustments as necessary.
11 We will then hear submissions on the agenda topics.
12 It's worthwhile reminding everything that the purpose
13 of the procedural conference is to assist the
14 Commission panel in making the necessary decisions on
15 how best to move this matter forward. It is not the
16 purpose today to begin to advance or argue issues in
17 the application that may be of concern to you.

18 Mr. Fulton, would you like to begin?

19 MR. FULTON: Thank you, Mr. Chairman. I'll begin by
20 calling out the order of appearances, and if people,
21 when they come to identify themselves for the purposes
22 of the record, indicate whether they have any
23 additions to the agenda other than any additions that
24 they may have referred to in written submissions that
25 they filed with the Commission prior to today.

26 FortisBC Inc.

1 MS. HERBST: Good morning, panel. Ludmilla Herbst for
2 FortisBC Inc. And if I may introduce three of the
3 people who are with me today. Dennis Swanson,
4 immediately to my left, the director of regulatory
5 affairs at FortisBC Inc., Mark Warren, director of
6 customer service at FortisBC Inc., and immediately
7 behind me, Roger Dall'Antonia, vice-president of
8 regulatory affairs. And we have no additions to the
9 list. Thank you.

10 MR. FULTON: British Columbia Hydro and Power Authority.

11 MR. WEBB: Good morning, Mr. Chair and Commissioners.
12 Ian Webb, appearing on behalf of B.C. Hydro. I appear
13 today to explain how B.C. Hydro anticipates it might
14 be involved in this proceeding, to assist the
15 Commission panel with planning the rest of the
16 process. All of my comments fall within the list of
17 items in Exhibit A-10, so I have nothing to add.

18 THE CHAIRPERSON: Thank you.

19 MR. FULTON: British Columbia Municipal Electric
20 Utilities.

21 MR. WEAVER: Good morning, Mr. Chairman, members of the
22 panel. Chris Weaver, appearing for the British
23 Columbia Municipal Electric Utilities, which are the
24 wholesale customers of FortisBC, the municipal
25 electric operations of Grand Forks, Nelson,
26 Summerland, Penticton and Kelowna.

1 MR. FULTON: Commercial Energy Consumers' Association of
2 British Columbia.

3 MR. WEAFFER: Mr. Chairman, members of the panel, Chris
4 Weafer also appearing for the Commercial Energy
5 Consumers' Association of British Columbia. I am
6 mindful of your comment in terms of an efficient
7 hearing. The two intervener groups have joined
8 together, although they will reserve the right to
9 potentially put in different comments in final
10 argument, although for the most part their issues are
11 aligned. We have no issues to add to the agenda you've
12 set for today. Thank you, sir.

13 THE CHAIRPERSON: Thank you, Mr. Weafer.

14 **Proceeding Time 9:44 a.m. T3**

15 MR. FULTON: British Columbia Pensioners' and Seniors'
16 Organization *et al.*

17 MR. KUNG: Good morning, Mr. Chair and Panel. Eugene
18 Kung, K-U-N-G, appearing on behalf of BCPSO *et al.* We
19 have no additions to the agenda this morning. Thank
20 you.

21 MR. FULTON: B.C. Sustainable Energy Association and
22 Sierra Club of British Columbia.

23 MR. ANDREWS: William Andrews representing the B.C.
24 Sustainable Energy Association and the Sierra Club of
25 British Columbia, and with me today is Mr. Tom
26 Hackney. I have no additions to propose for the

1 agenda today.

2 MR. FULTON: Citizens for Safe Technology.

3 MR. AARON: This is David Aaron by conference call. With
4 me on the line is Una St. Clair of the Citizens for
5 Safe Technology Society. We are intervening in the
6 proceeding on behalf of a coalition which includes not
7 only the society but also three other registered
8 interveners including the Coalition to Stop Smart
9 Meters per Sharon Noble, the individual representative
10 of that group and one of those individuals from Trail
11 who were granted intervener status per their
12 representative Jamie Charman, C-H-A-R-M-A-N, and
13 Shonna Hayes who is an individual, that's H-A-Y-E-S,
14 first name S-H-O-N-N-A.

15 With respect to the agenda, we have nothing
16 to add further to our written submissions.

17 MR. FULTON: Mr. Aaron, can you tell us what group it is
18 that you represent from Trail please?

19 MR. AARON: It's a group of individuals.

20 MR. FULTON: But is it a society? Does the group have
21 some legal form?

22 MR. AARON: No, not that I know of.

23 MR. FULTON: So does the group have a name?

24 MR. AARON: No.

25 MR. FULTON: So I'm just struggling with when the
26 Commission had granted that group status as an

1 intervener. I understand that the Citizens for Safe
2 Technology have been granted status as an intervener,
3 but I just need to know for the record who this group
4 is that you say that the Commission has granted
5 intervener status for. I understand that Ms. Hayes
6 has been granted intervener status, so, but I don't
7 have anything on my list for the Coalition to Stop
8 Smart Meters either. So --

9 MR. AARON: I think that's just simply we'll have to
10 refer to the record on that.

11 MR. FULTON: Well, can you help me here with who the
12 group in Trail is? Does it have a name?

13 MR. AARON: No, I said. So are we on the Coalition to
14 Stop Smart Meters Committee or the Trail group.

15 MR. FULTON: Let's deal with the Trail group first and
16 I'm sorry if I confused you.

17 I'm looking at the list of interveners and
18 I do not have any group from Trail listed as having
19 been granted intervener status. So I would like to
20 know for the record who this group is.

21 MR. AARON: Well, the representative of the group is
22 Jamie, J-A-M-I-E, Charman, C-H-A-R-M-A-N, and the
23 marriage between my principal client, the Citizens for
24 Safe Technology Society and this group was brokered by
25 Commission Staff. At the request of Commission Staff
26 I was asked to get in touch with these people and see

1 if we could make a coalition for the purposes of
2 streamlining proceedings.

3 MR. FULTON: Well, all I can say at this point is that
4 for the purposes of the record, there is no
5 recognition of Mr. Charman as an intervener or the
6 Coalition to Stop Smart Meters as an intervener. I
7 had understood from the letter that you sent that you
8 were representing some individuals beyond the Citizens
9 for Safe Technology, and I also understood that you
10 were representing Shonna Hayes' group, and she has
11 intervened. But I am struggling with the other ones.
12 And I suppose if you can't help us, then we'll just
13 leave it at that.

14 **Proceeding Time 9:50 a.m. T04**

15 MS. ST. CLAIR: This is Una St. Clair here. On October
16 the 1st the Commission secretary sent a letter to David
17 Aaron. It said here "Please find list of individuals
18 from Trail who would like to join efforts with
19 Citizens for Safe Technology," blah blah blah, "in the
20 hearing with regard to your subjects." Then it goes
21 on. It's from Lerato Chondoma at the BCUC, and it has
22 had the Trail group contact details.

23 MR. FULTON: But does it say that they have been granted
24 intervener status?

25 MS. ST. CLAIR: It just said here, "Please find the list
26 of individuals from Trail who would like to join

1 efforts with Citizens for Safe Technology.

2 MR. AARON: Yeah, and I have a letter from Jamie Charman
3 of September 18th that says "Ms. Chondoma has informed
4 me that the group I have registered as interveners in
5 the FortisBC application..."

6 MS. ST. CLAIR: That's correct.

7 MR. AARON: "...could be added to the Citizens for Safe
8 Technology Society." So, I know for a fact, Mr.
9 Fulton, that the other group that you're querying has
10 been granted intervener status. That is the Coalition
11 to Stop Smart Meters. So all of this could be
12 resolved as a matter of record.

13 MR. FULTON: All right. Well, we'll check the Commission
14 records. It doesn't appear on the list of interveners
15 on the Commission website. That was the reason for my
16 questions. So, we'll check that, and if those people
17 were granted intervener status, then the list of
18 intervenors will be adjusted accordingly.

19 West Kootenay Concerned Citizens.

20 MR. BENNETT: My name is Curtis Bennett. I'm the
21 registered intervener for the West Kootenays Concerned
22 Citizens. There is nothing further to add to agenda
23 that we haven't already submitted. But, Mr. Fulton,
24 something regarding what David Aaron was just talking
25 about. There was some discrepancies between whether
26 the West Kootenays and Trail were going to be part of

1 the CST Coalition, and him representing that. And
2 what they did is, they changed their name to
3 accommodate me as their registered intervener because
4 Mr. Aaron didn't want me, quite frankly, interfering
5 with that legal process. I don't know if that helps
6 at all, but I was in Trail and therefore I represented
7 that group. So I don't know if that information helps
8 the Commission.

9 MR. FULTON: I had understood that the West Kootenays
10 Concerned Citizens were a separate group from the
11 Citizens for Safe Technology, and they have been
12 recognized as having separate intervener status.

13 MR. BENNETT: Thank you.

14 MR. FULTON: Thank you.

15 Area D in the Regional District, Central
16 Kootenay, Mr. Chairman. Mr. Shadrack is not able to
17 be here today. He did file a submission which is
18 marked Exhibit C13-4. That submission includes two
19 matters that he wishes to have added to the list. And
20 yesterday he circulated as well a further letter.
21 That letter, which came by email, has not been marked
22 an exhibit, and I would therefore ask that letter be
23 marked Exhibit C13-5.

24 (E-MAILED LETTER OF NOVEMBER 7TH, 2012 FROM MR.
25 SHADRACK OF AREA D, REGIONAL DISTRICT, CENTRAL
26 KOOTENAY MARKED EXHIBIT C13-5)

1 MR. FULTON: The Nelson Creston Green Party
2 Constituency Association is not appearing today as
3 well. They, too, have filed a letter with two
4 additional issues that they're requesting. Their
5 issues are the same as those requested by Mr.
6 Shadrack. Their letter is marked Exhibit C18-3.

7 Is there anyone else here this morning who
8 has intervened whose name I have not called at this
9 point?

10 Thank you. There are no further
11 respondents. In terms of process this morning, I have
12 circulated amongst the parties here, and asked that a
13 copy be sent to Mr. Aaron, an order of appearances
14 which has four rounds. My proposal is, Mr. Chairman,
15 that rounds one and two relate to the items for the
16 agenda and rounds three and four relate to the topics
17 to be carried forward arising out of the agenda items.

18 **Proceeding Time 9:55 a.m. T05**

19 And so as has been the practice of the
20 Commission over the last several hearings, when we
21 have procedural conferences, we run down the list of
22 individuals who have items for the agenda, additional
23 items for the agenda. They can be spoken to and then
24 we'll come back in reverse order so everybody gets a
25 chance to respond to everybody else, and Fortis, as
26 the applicant, gets last submission. Rounds 3 and 4,

1 then, will deal with the items that fall out of the
2 agenda that the panel approves for today. So if
3 that's satisfactory to the panel, I propose that we
4 proceed in that way.

5 THE CHAIRPERSON: Yes, just perhaps a small addition to
6 that, and that is following the round 1 and 2,
7 depending on the subject matter that comes up, that
8 the panel then may take a brief break to make the
9 necessary decisions on the potential to alter the
10 agenda. We'll come back and announce that, and then
11 proceed with dealing with the items on the agenda.

12 MR. FULTON: All right. Thank you.

13 So, I will then move down the round 1 list
14 to those who had additional items for the agenda. And
15 the first individual who had additional items was Mr.
16 Aaron on behalf of the Citizens for Safe Technology.
17 Mr. Aaron?

18 **PHASE ONE:**

19 **SUBMISSIONS BY MR. AARON:**

20 MR. AARON: All right. Well, I would just work off my
21 October 30th correspondence. And Section B. Any
22 outstanding PACA funding issues, that matter has been
23 resolved by way of correspondence from the Commission
24 yesterday.

25 MR. FULTON: Thank you.

26 MR. AARON: Item B, additional third round of information

1 requests, I think that speaks for itself. And we have
2 also addressed that substantively in our
3 correspondence. C, we say there should be a
4 determination as to how many witnesses or expert
5 witnesses will be participating in the oral component
6 of the hearing, which is material to the length of the
7 proceeding and the scheduling issues.

8 Plus we seek some clarity as to the
9 applicable deadlines for the exchange of any expert
10 reports.

11 E, we seek some clarity with respect to
12 scheduling witnesses. Our expert witnesses, some of
13 them are, you know, busy professionals, and in
14 retaining them we are having to give them some idea as
15 to what the scheduling of their testimony will be.

16 And finally we seek some kind of
17 arrangement whereby experts in the field who will be
18 testifying on behalf of my client group will be able
19 to testify by video teleconference.

20 MR. FULTON: Thank you. I will speak to the issues of
21 Area D in the Regional District of Central Kootenay,
22 Mr. Chairman, just to bring those issues to your
23 attention and I would -- Mr. Shadrack, in Exhibit C13-
24 4, has made two requests. One for a suspension in the
25 proceedings until FortisBC has provided the Commission
26 with the ability to consider a comprehensive wired

1 smart meter option. So, suspension of the proceedings
2 which is one item. And the second item relates to all
3 of the proceedings containing an oral component rather
4 than part of the proceedings being in writing and part
5 oral. And that's item 2 in the summary of his
6 observations on C13-4.

7 **Proceeding Time 10:00 a.m. T06**

8 Equally with the Nelson-Creston Green Party
9 constituency, they have filed their submission as
10 Exhibit C18-3, and they have requests that are similar
11 to those of the Area D in the Regional District of
12 Central Kootenay intervener. The first is that all
13 issues and topics relating to the nature of FortisBC's
14 finances and operations included in the oral hearing
15 and not restricted to written submissions, and
16 secondly that the proceedings be suspended until
17 FortisBC submits a business case to the Commission for
18 the installation of hardwired or wired-in smart meters
19 in its service area for comparison with its current
20 wireless proposals.

21 That than concludes the matters in the
22 first round for additions to the list, so reversing
23 back, Mr. Aaron, you're first in terms of responding
24 to the issues that are being suggested to be added by
25 both the Area D and the Regional District Central
26 Kootenay and the Nelson-Creston Green Party

1 Constituency Association.

2 MR. AARON: And are you seeking comments the way they
3 should be added or substantive comments?

4 MR. FULTON: If you're in agreement that they should be
5 added, you can indicate why you're in agreement that
6 they should be added.

7 **SUBMISSIONS BY MR. AARON:**

8 MR. AARON: Okay, so speaking to the question of whether
9 they should be added, not to the substantive --

10 MR. FULTON: We're speaking to whether they should be
11 added -- whether you agree or disagree that they
12 should be added to the list. If you agree, why you
13 agree. If you disagree, why you disagree.

14 MR. AARON: I take no position on whether they should be
15 added or not.

16 MR. FULTON: Thank you. B.C. Sustainable Energy
17 Association and Sierra Club of British Columbia.

18 MR. ANDREWS: I take no position on whether they should
19 be added.

20 MR. FULTON: Western Kootenay Concerned Citizens. Sorry,
21 Mr. Bennett, I skipped you and I didn't intend to.

22 MR. BENNETT: I take no position on whether they should
23 be added as well.

24 MR. FULTON: And British Columbia Pensioners' and
25 Seniors' Organization *et al.*, so it would be positions
26 on the addition to the agenda that have been advocated

1 previously.

2 MR. KUNG: We take no position on this as well, thank
3 you.

4 MR. FULTON: Commercial Energy Consumers Association of
5 British Columbia?

6 MR. WEAFFER: Mr. Chairman, and speaking for the CEC as
7 well, we take no position on the matters being added
8 to the agenda.

9 MR. FULTON: And the British Columbia Municipal
10 Electrical Utilities.

11 MR. WEAFFER: That's correct, yes.

12 MR. FULTON: B.C. Hydro?

13 MR. WEBB: B.C. Hydro also takes no position on those
14 agenda items, thank you.

15 MR. FULTON: FortisBC.

16 **SUBMISSIONS BY MS. HERBST:**

17 MS. HERBST: Thank you. We take no position on the
18 addition of the items that have been brought forward
19 by the Citizens for Safe Technology, namely the
20 addition of a third round of information request,
21 quantity of expert witnesses, timeline for expert
22 reports, scheduling of witness testimony expert
23 witness testimony, and the admission of expert opinion
24 testimony by video conference. We certainly have
25 submissions on the merits but take no position on
26 their addition to the agenda.

1 Commission made on September 21st, that it should deal
2 with security and health and otherwise, we don't
3 oppose it being added as an agenda item. Again,
4 certainly, we have submissions though as to why that
5 shouldn't happen.

6 Thank you.

7 THE CHAIRPERSON: Thank you.

8 MR. FULTON: That then concludes the submissions on round
9 1, Mr. Chairman.

10 THE CHAIRPERSON: Okay. Let me just have a quick
11 conference with my colleagues here and we will decide
12 whether we want to just adjourn for a few minutes to
13 the other room.

14 We will take -- I think a ten-minute break
15 will be sufficient, and we'll just retire to the other
16 room and consider the material that's been presented
17 and then come back with our decision on the agenda for
18 the remainder of the morning.

19 (PROCEEDINGS ADJOURNED AT 10:07 A.M.)

20 (PROCEEDINGS RESUMED AT 10:20 A.M.) **T08, 09, 10**

21 THE CHAIRPERSON: Please be seated, everyone.

22 Mr. Aaron, are you back on the line with
23 us?

24 MR. AARON: I am.

25 THE CHAIRPERSON: Thank you.

26 MR. AARON: My client, Una St. Clair, has had to move on

1 to another matter.

2 THE CHAIRPERSON: Thank you.

3 MR. AARON: But that doesn't matter.

4 THE CHAIRPERSON: First of all, I would ask just to, I
5 think, add some clarity as we go forward, if you would
6 look at Exhibit A-10 and the bullet points that are
7 contained on A-10. I would ask you to number those
8 starting with number one for the proposed agenda and
9 following on down to item number 7, which would be the
10 timing, location, and duration of the oral hearing.
11 That way, as we speak to these, there will be no
12 misunderstanding about which one we're speaking to.

13 First of all, on the issue of the call for
14 a suspension of the hearing, the panel has determined
15 that we will allow the two parties that were calling
16 for a suspension five business days from tomorrow to
17 either file an additional, perhaps more fulsome,
18 request for suspension, or to indicate that they
19 simply adopt what they have already filed.

20 Following that, we would ask interveners to
21 respond to that submission within five business days.
22 I'm going to ask -- mentioning five days here -- I'm
23 going to ask our Commission secretary as we wrap up
24 this portion of our session this morning if she could
25 feed back the exact dates that we're talking about. I
26 didn't have a calendar handy. So we'll allow the

1 interveners five days to respond to those submissions.
2 Then we'll allow five days for Fortis, the applicant,
3 to respond, and then five days for the applicants to
4 provide their reply.

5 And again, as we wrap up these agenda
6 items, I will ask the Commission secretary to assign
7 specific dates to that.

8 The second request, which was to hold --
9 no, that's fine, I don't want to take the time right
10 now, Mr. Bemister, thank you very much.

11 The second item, which was to hear the
12 entire matter through an oral hearing, I think we can
13 accommodate that as we discuss item number 2 on the
14 agenda. So, as we discuss item 2 on the agenda I
15 would ask you to include in your comments there the
16 concept of holding the entire hearing by way of an
17 oral hearing.

18 Now, the other items, and these items were
19 items that you raised, Mr. Aaron, the first one, I
20 believe, was a third round of Information Requests.
21 I'm going to insert that between items number 1 and 2.
22 So as we begin to review the agenda, I'd ask people to
23 comment on a third round of Information Requests at
24 the outset.

25 The number of witnesses, I would ask as
26 people deal with item number 5, other matters that

1 will assist the Commission, if they would address the
2 number of witnesses in that section. And then the
3 deadline for evidence as we address item number 6, the
4 proposed regulatory timetable, I think that fits quite
5 neatly in that area.

6 And also the scheduling of expert
7 witnesses. That also, I think, fits quite logically
8 under item number 6.

9 And then finally the idea of having certain
10 individuals participate by video conference for cross-
11 examination, we'll fit that in under item number 7.

12 **Proceeding Time 10:25 a.m. T11**

13 So that's how we'll deal with the issues
14 that have been raised as additional agenda items.

15 Now, Ms. Hamilton, can you come up to the
16 microphone and advise people of the dates that flow
17 from the series of five days? Five business days.
18 Or, Mr. Fulton, do you have that?

19 MS. HAMILTON: All right.

20 MR. FULTON: Yes, I do, Mr. Chairman. So, the five
21 business days, if we take into account that there is
22 -- and we must, I believe -- take into account the
23 statutory holiday on Monday, that means that the
24 applicants for a suspension of the proceedings must
25 file any further material by Friday, November the 16th.
26 Interveners will file their response by Friday,

1 November the 23rd. Fortis will file its response to
2 all the submissions by Friday, November the 30th, and
3 the applicants for the suspension will file any
4 further submissions that they have by Friday, December
5 the 7th.

6 THE CHAIRPERSON: Thank you, Mr. Fulton.

7 MR. FULTON: And if it's -- yes. And that would be no
8 later than 4:00 p.m. on those days.

9 THE CHAIRPERSON: Thank you. I should add that the panel
10 will expect that the hearing schedule, as it's
11 currently in place and as proposed or as issued
12 following this procedural conference, the process will
13 continue. It will not be suspended while those
14 exchanges of points of view are underway.

15 MR. FULTON: And, Mr. Chairman, do I take it that if one
16 of -- if, for example, the applicants indicate that
17 tomorrow, or Tuesday, that they have no further
18 submissions, then the five business days run from the
19 day after that indication? Or are we becoming too
20 complicated?

21 THE CHAIRPERSON: I fear we may be becoming too
22 complicated. I think we'll leave it so everybody can
23 do their work in a planful way. There is a
24 considerable amount of work involved in dealing with
25 this application, and I am mindful of the need for
26 people to schedule their time and so on. So I think

1 by FortisBC. There is already a considerable burden
2 on the utility and correspondingly its ratepayers in
3 dealing with the two rounds of Information Requests
4 from both the Commission and interveners that are
5 presently set out in the schedule. I understand that
6 to date there have been approximately 1,500
7 Information Requests that have been posed to FortisBC,
8 and of course there is, in any event, a further round
9 contemplated. And so, in light of that, in our
10 submission, it's simply not necessary to have a third
11 round, and it would be burdensome and prolong the
12 process.

13 Returning to the Chair's remarks earlier
14 this morning, it's important to have some efficient
15 parameters for proceeding with this, and we say that
16 simply wouldn't be the case with this third round.

17 Now, turning to agenda item 2, which are
18 the issues related to, first of all, health, security,
19 or privacy to be addressed at the oral hearing, and
20 potentially beyond that. In terms of the health
21 issues, as FortisBC set out in its brief
22 correspondence on October 30th, which I believe is
23 Exhibit B-10, we characterize the health issues to be
24 addressed at the oral hearing quite generally, and
25 that's the health effects, or the alleged health
26 effects, of the wireless radio frequency network

1 component of the AMI project. And while for the most
2 part I'll reserve to reply, dealing with particular
3 submissions that interveners have made in their
4 October 30th comments, I do want to flag one thing that
5 we incorporate in our affirmative submission, that was
6 raised by the B.C. Sustainable Energy Association in
7 its correspondence, which was Exhibit C4-5, and that
8 relates to this issue. The B.C. Sustainable Energy
9 Association broke down our characterization of the
10 health effects issue to encompass specifically the
11 alleged health effects of the RF-LAN. So, the radio
12 frequency local area network of Zigbee transmissions
13 to and from the meter, and wireless transmissions
14 between the collection system and the head end. And
15 we are content with that description of the health
16 issue to be addressed as part of the oral hearing.

17 The Citizens for Safe Technology, I also
18 flag, had a general characterization of the health
19 issue to be addressed as the risk, or as we would put
20 it, is there a risk to human health posed by AMI meter
21 RF, radio frequency, emissions essentially, and that
22 was set out in its Exhibit C9-3, and we accept that as
23 a characterization of the issues to be addressed at
24 the oral hearing as well.

25 As Citizens for Safe Technology pointed
26 out, in referring to that rubric, that would be a

1 matter for expert evidence and FortisBC agrees that
2 should be addressed by properly qualified experts who
3 set out the facts on which they rely, and whose
4 evidence can be tested and measured in light of their
5 experience and education and so on.

6 So, turning to the security component of
7 the oral hearing, here again I flag as something that
8 FortisBC incorporates in its affirmative submission on
9 this point a list that the B.C. Sustainable Energy
10 Association set out in its Exhibit C4-5. And there,
11 the B.C. Sustainable Energy Association set out a
12 definition of "security" that FortisBC accepts. And
13 that's "the potential unauthorized interception of
14 utility or personal information by FortisBC, a
15 customer or third parties". And B.C. Sustainable
16 Energy Association then specified a list of four
17 components of the security issues, and I believe the
18 Association didn't say whether it preferred that that
19 be dealt with orally or in writing. But we say it
20 should be dealt with orally, this list. So, it would
21 be: Does the proposed wireless system provide
22 adequate security? And I'm taking this from Exhibit
23 C4-5. Are there alternative architectures or security
24 systems within the context of the proposed wireless
25 system that would provide better security, and with
26 what benefits and costs? What are the security pros

1 and cons of a non-wireless system versus the proposed
2 wireless system? What criteria or principles apply to
3 the Commission's scrutiny of the security aspects of
4 the projects? And does the proposed Zigbee HAN Home
5 Area Network provide adequate security for the utility
6 and the customer? So FortisBC is content with that
7 characterization of the security issues to be
8 addressed at the oral hearing.

9 **Proceeding Time 10:35 a.m. T13**

10 Now, turning to the issue of privacy which
11 was contemplated as being part of the oral hearing in
12 the Commission's earlier determination, FortisBC's
13 submission on that, as reflected in our October 30th
14 correspondence, is that having reviewed the concerns
15 that have been brought forward so far, indeed
16 including at the community input sessions, certainly
17 through the information requests that have been
18 submitted so far, it seems that that need not be part
19 of the oral hearing and could be conveniently
20 addressed as part of the written process. It seems
21 that the concerns are quite limited in nature in the
22 sense of being quite discrete and narrow, and ones
23 that can be addressed through written evidence and
24 parties' submissions on that written evidence.

25 In addition, a large part of the privacy
26 issue really relates to what are the applicable laws

1 that may pertain and govern what FortisBC is doing to
2 ensure the privacy of the information? And that's
3 really a matter for legal argument as opposed to
4 having someone sit on a panel and address the
5 questions that arise. It's really for lawyers and the
6 interested citizens who are participating to write out
7 their submissions, or if there's an oral component to
8 submissions, to make those rather than having a
9 witness be sworn in to testify on those points.

10 Now, turning more generally in terms of the
11 addition to the agenda items on the scope of the oral
12 hearing and whether it should go beyond health,
13 security and potentially privacy, although FortisBC's
14 submission on that is as I have said. We support the
15 preliminary determination that was made by the
16 Commission, and recognizing of course that it can be
17 changed, but the preliminary determination on
18 September 21st that there is merit to reviewing issues
19 of a financial or operations nature by way of a
20 written process. That seems to be a very reasonable
21 approach and lend itself to an efficient process, as a
22 lot of these items are highly technical in nature,
23 numbers are involved, particulars are involved that
24 people can conveniently address in written form.

25 In terms of, if I can characterize
26 generally, reasons for an oral process, they include

1 things like it's important to give people an
2 opportunity to speak. That is in part the reason for
3 the community input sessions that have been occurring
4 over the past two days and are occurring again later
5 today. So there's certainly a forum in which people
6 can make oral submissions to the Panel without
7 necessarily including all issues in the context of the
8 formal oral hearing that will be before the Commission
9 itself. And certainly, not only have there been the
10 community input sessions, but prior to the application
11 being filed, FortisBC had public consultation sessions
12 so there has been some back and forth.

13 In terms of whether an oral versus written
14 hearing is appropriate, there's no reason to
15 characterize written hearings as inferior to oral
16 hearings. Certainly in some circumstances I'd submit
17 they can be superior to them, and as I said, lend
18 themselves to an efficient process. That's
19 contemplated by the *Utilities Commission Act*. Section
20 86(2)(1) says specifically that despite any other
21 provision of this *Act*, in any circumstance in which
22 under this *Act* a hearing may or must be held, the
23 Commission may conduct a written hearing, and I say
24 that fairly reflects the fact that a written hearing
25 provides a very high quality of input and a very high
26 quality of ability to consider the issues that have

1 utility and answered, or in the course of being
2 answered. So it's not that an oral hearing is
3 required to extract additional matters that haven't
4 been addressed already.

5 And perhaps anticipating somewhat a comment
6 that may be addressed by some of the interveners, but
7 certainly something of which I have the tenor, through
8 hearing people at the community input sessions and
9 through reading some of the submissions that have been
10 put forward on this point, there seems to be an urge
11 to have an oral hearing to cover a range of issues,
12 because of perceived deficiencies with the process
13 that has involved B.C. Hydro. And, certainly whatever
14 people's arguments are on that, and FortisBC doesn't
15 necessarily accept that there have been flaws in that
16 process, but whatever the arguments on that point, it
17 shouldn't be FortisBC and its ratepayers that bear the
18 brunt, as they would through an oral hearing, of
19 remedying that. And having a greater or expanded oral
20 hearing because of a perceived issue with B.C. Hydro,
21 I submit, is simply not appropriate.

22 FortisBC has taken the position from the
23 outset that the Commission should have care -- and
24 this has been reflected in the care that the
25 Commission has taken in terms of screening intervenor
26 applications and screening participants of the

1 community input sessions -- should have care to ensure
2 that this is a FortisBC-oriented process, not a B.C.
3 Hydro-oriented process. And having an oral hearing
4 that would in part be justified by unease with the
5 B.C. Hydro process, I submit, is simply not
6 appropriate.

7 Now, turning to agenda item 3, and that is
8 the issues or topics of significance of a financial or
9 operations nature that should be included in the
10 written process, here I repeat what I said in
11 FortisBC's October 30th correspondence, and again
12 that's Exhibit B-10. FortisBC is proposing that the
13 financial benefits of the AMI project, the non-
14 financial benefits, its future benefits, project costs
15 and project alternatives, with one caveat, be
16 addressed in the written process and written
17 submissions.

18 My caveat is that, to the extent that there
19 are health or security issues that relate to project
20 alternatives, we do contemplate those as being part of
21 the oral hearing.

22 And as I flagged in my October 30th
23 submissions, and just for greater certainty, I would
24 expect that the written arguments would also include
25 written legal arguments on the sort of evidentiary --
26 deriving from the evidentiary component of the oral

1 hearing, and covering off sort of the bits and pieces
2 that might not have been caught within the strict
3 categories that we have discussed. But certainly, as
4 I have listed, we say a substantial component of this
5 can be dealt with in writing.

6 Now, agenda item 4 related to the
7 identification of other significant issues. And
8 FortisBC doesn't have any significant issues to add
9 into the mix in terms of what would be dealt with at
10 either an oral or a written hearing. I simply use
11 this opportunity to flag, although it's not a
12 significant issue in the sense of, it wouldn't have a
13 significant impact on the AMI application, just for
14 completeness, FortisBC will be submitting an
15 application shortly to the Utilities Commission to
16 acquire the city of Kelowna's electrical utility. And
17 as part of that, or derived from that, FortisBC will
18 be filing some additional written evidence that will
19 show the impact of the AMI project if it occurred that
20 both the AMI project and the city of Kelowna
21 acquisition were approved.

22 **Proceeding Time 10:45 a.m. T15**

23 So it's not an issue that has a significant
24 impact, but I just didn't want to pass by this without
25 raising it as something that will be coming forward.

26 Now, agenda item 5 relates to the other

1 matters that will assist the Commission to efficiently
2 review the application. There were no suggestions
3 that FortisBC had to raise, as I'll get to on my
4 submissions in terms of the regulatory timetable that
5 was proposed in Exhibit A-10. If that regulatory
6 timetable is proceeded with, that seems to lend itself
7 to an efficient review and we certainly support that.

8 In terms of the addition to the agenda
9 which I believe was to be addressed here which relates
10 to the number of expert witnesses – and I believe here
11 that in particular the Citizens for Safe Technology
12 have raised a request for 12 witnesses or 12 expert
13 witnesses to be put forward on its behalf – we
14 certainly have some concern with this in terms of that
15 number in relation to what should be an efficient
16 regulatory process, and we're concerned about
17 proceeding with anything like that if Citizens for
18 Safe Technology doesn't demonstrate that there won't
19 be redundancy between the witnesses. And we have
20 worked out that that could possibly be demonstrated
21 and that it's in the public interest to incur these
22 costs. It seems, respectfully, grossly excessive in
23 relation to anything we've seen in terms of other
24 processes that might be equated to this. It would
25 seem to be something that would require an enormous
26 amount of funding and, although it could be managed,

1 potentially infringe on the time that's set aside for
2 the hearing. And so we do have concerns about that
3 number or anything approaching it.

4 Now, agenda item 6, the proposed regulatory
5 timetable for review of the application, and that
6 proposed regulatory timetable is the one set out in
7 Appendix A to Exhibit A-10. That is a timetable that
8 would be acceptable to FortisBC, and as I probably
9 said before, I think lend itself well to an efficient
10 regulatory process. It sets out dates currently for
11 responding, of course, to the -- responding and
12 providing second round of information requests and for
13 the hearing itself, and I'll address the hearing in a
14 moment in terms of its timetable.

15 The additions to the agenda that fall
16 within -- or fall under this agenda item, first of
17 all, deal with the deadline for evidence, or for the
18 filing of evidence. That's presently set for January
19 10th. By interveners that is. That presently falls on
20 January 10th, and in FortisBC's submission it should be
21 maintained.

22 And I believe Citizens for Safe Technology
23 is asking for an extension to February. The requests
24 respectfully should be put in context. FortisBC has
25 been pursuing AMI for a long period of time, since at
26 least 2007 onward. Everyone is well aware of the

1 issues. In the context of the first application there
2 was a consultation process. In the context of the
3 second application there's been a consultation
4 process. It's a very thorough and thick application
5 that's been available to people since its filing date
6 on July 26th. And certainly members, or FortisBC
7 believes members of Citizens for Safe Technology have
8 attended sessions that have been held in relation to
9 it, and so this provides a framework and a context
10 that I submit fully equips the interveners to be ready
11 to file by January 10th, and it provides -- and in turn
12 that January 10th date provides a good foundation for
13 being able to proceed through the rest of the
14 regulatory process and conclude it in time for what is
15 a date that FortisBC is concerned about, which is in
16 July of 2013, a date that it would need to have a
17 regulatory decision by in order to maintain a fixed
18 price under its contract. It's not an issue that has a
19 significant impact, but I just didn't want to pass by
20 this without raising it as something that will be
21 coming forward.

22 **Proceeding Time 10:50 a.m. T16**

23 And specifically in terms of the filing
24 date, and I don't mean to now invite comments from
25 other interveners that hadn't been made before, but
26 Citizens for Safe Technology is, as far as I'm aware,

1 the only intervener that's raised an issue with that
2 deadline. I don't say that bumping out the process is
3 something that it's trying to do deliberately, but
4 effectively for those interveners who are opposing
5 smart meters, drawing out the process may cause or may
6 enhance their ability to accomplish through procedure
7 the result that they seek substantively, which is
8 endangering the AMI project and its ability to proceed
9 at a fixed price under the contract.

10 Now, another addition to the agenda item
11 under item 6 was the scheduling of expert witnesses.
12 And in that respect, I say that the current regulatory
13 timetable, the dates that are set out for the oral
14 hearing, of February 19th to 21st, should be maintained,
15 that the bulk of the evidence from experts who will be
16 participating will be done by way of a written
17 process, and cross-examination flowing from that. But
18 I say that those dates should be maintained. And
19 again, it's a set of dates that's been in circulation
20 for some time. It's important to keep the process
21 moving and I say that that can be done and witnesses
22 scheduled approximately.

23 Now, to lend itself to that, or to
24 facilitate that, another agenda item that was added
25 here was the possibility of having people testify by
26 video conference. Certainly that's not something that

1 FortisBC wishes to take advantage of. FortisBC has
2 the utmost of respect for this process going forward
3 and will arrange for its witnesses to be here in
4 person. It hopes that the other people who are
5 bringing forward witnesses follow the same lines. But
6 we have no technical objection to make to that. We
7 certainly hope to see everyone here in person. But
8 that's all I say on that point.

9 Now, turning to agenda item 7, which is the
10 timing, location, and duration of the oral hearing
11 process, and I've touched on this in part already, so
12 FortisBC says that as set out in the proposed
13 regulatory timetable that's Exhibit A, in Exhibit --
14 sorry, Appendix A to Exhibit A-10, the oral hearing
15 should start on February 19th. We would propose and
16 want that it be scheduled only for the three days that
17 are presently set aside, and that it be in Kelowna.

18 In FortisBC's submission, the matter can be
19 dealt with very efficiently. As I said, the bulk of
20 the evidence will be in written form, which will leave
21 cross-examination of experts only. If the issues are
22 confined to health and security, as FortisBC has
23 suggested, that can be addressed at that time. And
24 certainly, as well, part of the constellation of
25 arguments that will be addressed is that really the
26 health issues fall on and can be resolved with

1 reference to standards that have already been set in
2 that in somewhat parallel proceedings, like the
3 Vancouver Island Transmission Reinforcement Project
4 and the Okanagan Transmission Reinforcement Project,
5 that the Commission has looked to as being reliable
6 and useful guidelines. And so that would minimize, as
7 well, the scope of the hearing as a whole.

8 And as I said, no days of oral hearing were
9 required for the first AMI application. So three
10 days, we say, is an efficient process.

11 In terms of location, we say Kelowna makes
12 a great deal of sense. It's easily accessible for
13 those of us traveling up from Vancouver. The airport
14 is reliably open and it can, to some extent, be
15 accessed by road, even in winter-time. It is of
16 course the headquarters of FortisBC, so to the extent
17 that -- I don't want to over-emphasize the convenience
18 of FortisBC personnel, they're certainly willing to
19 travel, but it certainly saves ratepayer money to have
20 them stay here.

21 And it's certainly, as well, a major
22 population centre within the region and within the
23 service territory, so from that perspective I say
24 Kelowna makes a great deal of sense.

25 And if I may just have a moment to make
26 sure that I haven't, in running through the new agenda

1 items, lost track of something -- but, subject to
2 that, those will be my submissions on the points.

3 **Proceeding Time 10:55 a.m. T17**

4 THE CHAIRPERSON: Thank you.

5 MR. HERBST: Thank you for that indulgence. Those are my
6 submissions on the points.

7 THE CHAIRPERSON: Thank you very much.

8 MR. FULTON: British Columbia Power and Hydro Authority.
9 Or British Columbia Hydro and Power Authority. Sorry,
10 Mr. Webb.

11 **SUBMISSIONS BY MR. WEBB:**

12 No problem. I'll just take a moment,
13 please.

14 As I mentioned at the beginning of the day,
15 I'm here mainly to explain how B.C. Hydro anticipates
16 it might be involved in the proceeding, and I preface
17 my comments by saying I'm not asking the Commission
18 for any orders respecting the process or the
19 timetable. I'm here to speak more about what might
20 happen, how we might need to get more involved to
21 assist the Commission with planning its process, and
22 really to notify people that if we do get more
23 involved, the circumstances that will happen.

24 The extent of B.C. Hydro's involvement will
25 be driven by concerns it has with considerable
26 inaccurate information about smart meters going

1 around, and which we expect will likely be presented
2 to the Commission Panel as evidence in this
3 proceeding, and I do not mean by my good friends
4 FortisBC. I'm referring to information about B.C.
5 Hydro's Smart Metering Program and also the
6 allegations regarding health and safety risks related
7 to radio frequency emissions from smart meters. I
8 note that FortisBC's AMI meters are the same Itron
9 openway meter as B.C. Hydro has installed.

10 On the health and safety issue
11 specifically, to be completely clear, there is
12 overwhelming evidence that the radio frequency
13 exposures that result from the operation of smart
14 meters are very low, comply with all scientifically
15 based exposure limits by a wide margin.

16 THE CHAIRPERSON: Mr. Webb, I'm going to interrupt you at
17 this stage --

18 MR. WEBB: Yes.

19 THE CHAIRPERSON: -- because I sense you're moving into
20 presentation of point of view and argument and so on,
21 and that's not what we are here for today.

22 MR. WEBB: Understood, and I anticipated that that might
23 be the perception of where I'm going. It's not where
24 I'm going. This is clearly not --

25 THE CHAIRPERSON: Okay, perhaps you can tell us where
26 you're going and then we'll be perhaps better able to

1 understand your presentation.

2 MR. WEBB: Yes. Right, thank you.

3 In scoping this proceeding and determining
4 is it three days, is it oral hearing, is it written
5 hearing, is it 28 days as has been suggested, I think
6 it is important for the Commission Panel to be mindful
7 of the amount of evidence that is out there on the
8 safety issue and how it is overwhelmingly in support
9 of the conclusion that there is no significant health
10 or safety risk. So that is really the only point I'm
11 making by raising that little bit of evidence, I
12 admit.

13 THE CHAIRPERSON: Thank you.

14 MR. WEBB: As Ms. Herbst has mentioned, there has been an
15 amount of interest in this proceeding in B.C. Hydro's
16 SMI program. I'll just provide a couple of examples
17 that I'm, you know, not being hypothetical here, in
18 B.C. Sustainable Energy Association IR 1.21.1 the
19 party asked FortisBC to discuss any improvements or
20 changes that FortisBC made to its AMI project as a
21 result of B.C. Hydro's experience with SMI. In B.C.
22 Pensioners' and Seniors' Organization IR 1.57.2 the
23 party asked FortisBC to describe the similarities and
24 differences between FortisBC's AMI program and B.C.
25 Hydro's. There are many other examples and it is my
26 understanding that B.C. Hydro's SMI program has been

1 an interest of considerable concern at the community
2 input sessions as well.

3 **Proceeding Time 10:59 a.m. T18**

4 We are also seeing certain interveners
5 submitting their own evidence, or argument, related to
6 B.C. Hydro's SMI program, under the guise of
7 requesting information from FortisBC. For example, in
8 Mr. Miles's IR, page 11 of 20, he states that B.C.
9 Hydro is claiming that older house wiring is not
10 compatible with smart meters, and that people have had
11 their wiring redone at their -- have to have their
12 wiring redone at their own expense. There are many
13 examples.

14 Information related to B.C. Hydro's SMI
15 program is of limited value, I suggest, to the
16 Commission in reviewing Fortis's CPCN application for
17 its AMI project.

18 Given that the requested information is
19 about a B.C. Hydro program and not FortisBC's program,
20 it may have no relevance to assist the Commission with
21 issues in this proceeding. However, it is conceivable
22 that certain evidence related to B.C. Hydro's SMI
23 program may be of some relevance and value to the
24 Commission in considering Fortis's application.

25 If the information has no value, producing
26 it on the record in no way contributes to an efficient

1 review of this application. On the other hand, if the
2 Commission considers the information has value to
3 assist it in reviewing the Fortis application, it is
4 important that that information be accurate and
5 reliable.

6 Can the Commission rely on the evidence of
7 third parties about B.C. Hydro's SMI program? Can it
8 rely on such evidence being complete and accurate? At
9 best, such information would be hearsay. The witness
10 would not have personal knowledge of the alleged
11 facts, and therefore the reliability of those alleged
12 facts is questionable. The reliability of the
13 evidence only gets worse from there if it's not
14 hearsay.

15 THE CHAIRPERSON: Mr. Webb, I'm going to interrupt you
16 again.

17 MR. WEBB: Mm-hmm.

18 THE CHAIRPERSON: It would be helpful, perhaps, to all of
19 us if you could indicate by referring to the agenda
20 here --

21 MR. WEBB: Yes.

22 THE CHAIRPERSON: -- what item are you speaking to?

23 MR. WEBB: I'm really speaking to two items. Item number
24 2, I have provided some comments on health and
25 security and privacy. But more generally I am
26 speaking about item number 5, efficient review of the

1 application and item number 6, timetable. And
2 although I did mention at the beginning I'm not
3 seeking any changes on any of those items, I do want
4 to bring to the Commission's attention these concerns
5 and also to identify how B.C. Hydro might become more
6 involved -- the circumstances in which it might become
7 more involved within this process so that if that does
8 happen, you're not taken by surprise at the time, just
9 to provide some advance notice. I won't take too much
10 longer with my comments, if that helps.

11 THE CHAIRPERSON: I hope not. Thank you.

12 MR. WEBB: Okay, thank you.

13 So, to move along, if information about
14 B.C. Hydro's program is submitted in evidence in this
15 proceeding, and the Commission considers it is
16 relevant, B.C. Hydro has -- and I think the Commission
17 has an interest in making sure that information is
18 accurate. So there are possible scenarios where B.C.
19 Hydro will have to become more involved, or want to
20 ask IRs, cross-examine witnesses putting forward this
21 evidence, and what I'm really trying to get to, at the
22 end, is a scenario could arise where B.C. Hydro might
23 need to submit rebuttal evidence.

24 If through those other actions, Information
25 Requests, cross-examination, we are unable to correct
26 inaccurate information about B.C. Hydro's program, all

1 **SUBMISSIONS BY MR. WEAVER:**

2 Mr. Chairman, I'd like to start off, just
3 to put in context our comments because they're
4 identical to your opening comment and it's a reminder
5 that the ratepayers pay for this process, and my
6 comments today come from representation of two, the
7 significant ratepayers of FortisBC. And on behalf of
8 the CEC, also a ratepayer group that has been involved
9 to the extent there was any process on B.C. Hydro
10 smart meters, paid attention and reviewed what was on
11 the record as that project moved forward, and I'll
12 touch on that later in my comments.

13 In terms of your specific agenda with
14 respect to the third round of IRs, we're going to see
15 the first round of IR responses to the CEC tomorrow,
16 and so we're fairly comfortable that two rounds of IRs
17 will do it, assuming that the company is fulsome in
18 their responses to IRs Rounds 1 and 2. So it's
19 difficult to talk about Round 3 when we haven't seen
20 the answers to Round 1 yet, and at this point we would
21 say two rounds will suffice.

22 Your item number 2 on the agenda, "Identify
23 issues or topics of significance related to health,
24 security and privacy that should be included in the
25 oral hearing," on process as put forward by Fortis we
26 tend to align with their submissions. Ms. Herbst gave

1 the broad comment in terms of the health effect of the
2 wireless radio frequency network component of the AMI
3 project being the general health issue that should be
4 part of an oral hearing, and we agree with that at a
5 broad level. You'll note that the CEC IRs do not deal
6 with that topic and it's not a topic we are as
7 concerned of because we have looked at this issue in
8 the past. We will deal with the issue in the
9 proceeding, but it's certainly not a topic that we'd
10 be leading evidence on and we'll participate in the
11 process, but we do not share the concerns that have
12 been raised by other interveners at this point. But
13 they are matters appropriate for oral hearing.

14 The privacy issue, in our letter of comment
15 we indicated that the privacy issue, which was the
16 potential for third party interception of personal
17 information through the wireless radio frequency
18 network component of the AMI project, we had indicated
19 in our written submission that that could be a matter
20 for the oral proceeding. Ms. Herbst's comments this
21 morning that that's largely a legal argument carried
22 some sway with me, and we can go either way on that
23 topic but it will be certainly a topic that will lead
24 legal argument in the final written submissions and we
25 will likely not need to cross-examine on it in an oral
26 hearing.

1 are not looking to fund a process that looks at
2 revisiting something that's already been determined.
3 And just a couple of side comments that go
4 to that. The Commission on its website does have a
5 "Questions around smart meters" page. And on that
6 page, it does refer the public, and anybody who
7 wishes, to sites of B.C. Hydro and others that deal
8 with the health issues. And there is a significant
9 hurdle to overcome if you review those materials.
10 There is a significant hurdle to overcome to show that
11 those submissions are not -- and that information is
12 not persuasive. And again, as ratepayers, we're not
13 looking to fund something that there is a fair bit of
14 substantive material on the record and in the public
15 realm saying that these issues are not live. That
16 said, we have not seen the request for interim funding
17 by counsel for -- by Mr. Aaron. We don't know what
18 he's put before the Commission in terms of what
19 evidence he's planning to lead. We are in the dark on
20 that at this point. But suffice it to say, if that
21 evidence is coming in, it needs to come in in an
22 efficient, effective way so that you can manage this
23 process on behalf of ratepayers.
24 And related to that significant issue, BCUC
25 IR 1.50 highlights the application costs and the
26 regulatory costs for this project. And they're

1 budgeted at \$4.9 million, including \$2 million for
2 this project. I don't know if that budget was
3 prepared on the forecast of a three-day hearing or a
4 28-day hearing. It's a lot of money. It's over 10
5 percent of the costs of this project. We would ask
6 you, as ratepayers, to be mindful of that as you make
7 your determination on process.

8 In terms of item 5, other matters that will
9 assist the Commission to efficiently review the
10 application, one of the concerns is the number of
11 potential witnesses being proposed. It may be
12 worthwhile -- two comments on that. If the Commission
13 determines that multiple experts are appropriate, we
14 would ask from a process standpoint that those
15 witnesses be empanelled as part of your process and
16 sit as a panel to more effectively manage the time of
17 the hearing. So that's a less significant comment.
18 Another comment, a suggestion with respect to how the
19 hearing may be more efficiently handled -- given this
20 unprecedented request for the number of witnesses that
21 are being proposed, it may be worthwhile having
22 another procedural conference when the evidence comes
23 in, and look to submissions from participants with
24 respect to whether the witness needs to be called,
25 whether the witness has been established as an expert,
26 that should be heard. And that second procedural

1 conference within days of the filing of the expert
2 evidence, I propose, may assist the Commission in
3 dealing with that body of evidence in an efficient
4 manner. I don't know what it's going to say. I'm not
5 saying it can be prejudged. But I would just make
6 that suggestion as a way to efficiently handle this
7 process.

8 **Proceeding Time 11:13 a.m. T21**

9 Turning to the proposed regulatory
10 timetable item 6 set out in Appendix A to Exhibit A-
11 10, the CEC and BCMEU have no difficulties with the
12 proposed regulatory timetable with the exception of
13 that proposed additional procedural conference. We
14 have no issue with the deadline, a date for filing
15 evidence as we don't intend to file any.

16 Turning then to item 7, the timing,
17 location and duration of the oral hearing process, we
18 are concerned about the proposal for a 28-day hearing
19 as indicated, and would hope that the proposal by
20 Commission Staff is closer to the appropriate length
21 for this hearing.

22 With respect to location, we fully endorse
23 the hearing in Kelowna. Fortis is based in Kelowna.
24 The primary cost of this proceeding is going to be
25 there. Teams' participation and being able to go home
26 at night to sleep and being able to use your office

1 may hopefully reduce some of the costs for the
2 ratepayers. I think I've -- video conference for
3 experts, sorry, I should have touched on that. We
4 have no problem with that. We've not seen them in a
5 BCUC process, but if that improves efficiency that's
6 certainly supported by my clients.

7 So absent any questions, those are my
8 submissions, Mr. Chairman.

9 THE CHAIRPERSON: Thank you very much.

10 MR. FULTON: British Columbia Pensioners' and Seniors'
11 Organization *et al.*, Mr. Kung.

12 MR. KUNG: Thank you, Mr. Fulton.

13 **SUBMISSIONS BY MR. KUNG:**

14 BCPSO is in a similar position to my friend
15 Mr. Weafer and his clients. As representatives of
16 FortisBC's low and fixed income residential ratepayers
17 we will be ultimately responsible for a large portion
18 of the costs of this proceeding and our interest is in
19 balancing a thorough process with one that is
20 efficient and appropriate for the scale of this
21 application.

22 Turning to the specific items. On the
23 question of IR3 again, we echo Mr. Weafer's comments
24 that it may be too early to judge the usefulness of a
25 third run of IRs without having seen the responses to
26 Round 1. I would suggest that a third round of IRs

1 could be useful if it could reduce the days of oral
2 hearing. That is to be determined and is going to be,
3 as I said, dependent on the responses to both IRs 1
4 and 2.

5 Turning to issue 2, we are interested in
6 examining and reviewing the concerns of some of the
7 interveners around health and privacy. Those are
8 issues that can be examined and should be examined, in
9 our view, in an oral hearing. The question of course
10 is how extensive that is going to be. We hear my
11 friend Mr. Aaron's proposal for 28 days, and again
12 balancing the efficiency question with thoroughness,
13 in our submission that seems quite high for this
14 proceeding.

15 Turning to item 3, some of the issues that
16 we are concerned about that have financial or
17 operational consequences may, in our submission, be
18 suited to oral cross-examination. That again is going
19 to depend on the responses to the IRs. In particular
20 our clients are interested in the reasonableness of
21 the revised depreciation rate and service lives that
22 have been attributed to these meters, the costs of
23 implementing AMI to the extent that those have been
24 scoped or determined at this point, and the questions
25 about the benefits and particularly those associated
26 with the theft of power. Depending again on the

1 of those who intend to do so. But again, the key here
2 for our clients is balancing the proportionality of
3 the process and efficiency of the process with the
4 scale of the project itself.

5 With regards to location, we would tend to
6 agree that Kelowna would be an appropriate location.
7 I do note that a number of the participants here today
8 are based in Vancouver, and there are significant
9 costs to locating -- to having a hearing in Kelowna.
10 Those costs versus the location and the convenience is
11 something that you'll have to balance.

12 Again, we question whether if a three-day
13 place-holder is enough, and that will factor in,
14 obviously, to the costs. And that may factor into the
15 location question, but at this point Kelowna seems to
16 make the most sense.

17 As far as videoconferencing, just in
18 general, we would suggest that it's easier and better
19 to assess credibility with live evidence and cross-
20 examination. That said, we are not opposed to
21 videoconferencing, if that is the only way that
22 certain witnesses are able to join. But we do just
23 generally prefer in person for reasons of assessing
24 credibility.

25 I think those are the issues. Subject to
26 any questions, those are my submissions.

1 THE CHAIRPERSON: Thank you.

2 MR. KUNG: Thank you.

3 MR. FULTON: B.C. Sustainable Energy Association, Sierra
4 Club of British Columbia, Mr. Andrews.

5 **SUBMISSIONS BY MR. ANDREWS:**

6 Thank you, Mr. Chairman, members of the
7 panel. I'll be referring to my letter of October 30th,
8 2012, Exhibit C4-5. And of course to the agenda at
9 Exhibit A-10.

10 I don't intend to necessarily read all of
11 my letter. Touching first, and just because it's at
12 the top of the list, item one and a half, as it were,
13 the question of a third round of IRs, I agree with
14 previous speakers that have said that it's -- or at
15 least I will say that it's not normal to have a third
16 round of IRs, and it doesn't appear at this point that
17 there would be a need for a third round of IRs. But
18 whether the responses to the first two rounds of IRs
19 leave open the benefit of a third round of IRs,
20 particularly if that was as an alternative to having
21 matters raised in an oral hearing, that could be a
22 possibility. In other words, normally after two
23 rounds of IRs if there is any -- there may well be
24 major points left, but they are to be dealt with in an
25 oral hearing.

26 **Proceeding Time 11:23 a.m. T23**

1 In terms of the topics for the oral
2 hearing, in my letter I addressed the health,
3 security, and privacy issues. One point that I want
4 to draw some attention to is the distinction between
5 the security topic and the privacy topic. And
6 ultimately this may be semantic, but I think it's
7 important that the Commission sort out the definitions
8 there, so that people understand when the terms are
9 used what exactly the content is. And Ms. Herbst
10 endorsed the suggestion of wording, and there is
11 nothing magic in this wording, but sort of for
12 identification what I'm proposing is that the term
13 "security" here refers generally to the potential
14 unauthorized interception of information. And that
15 would include utility information, and not just
16 personal information. So it's not just a privacy
17 issue, it could be unauthorized interception of
18 utility information, and that could be in an
19 unanticipated way by customers or it could be by third
20 parties.

21 Privacy, by way of distinction, I would
22 suggest, refers generally to the collection of use --
23 collection and use of information only for its
24 intended and authorized purpose. And this is
25 particularly in this proceeding focused on FortisBC's
26 collection and use of information, and the rules that

1 it -- that apply to it, and the procedures that will
2 govern. And I'll just comment specifically while I'm
3 on the point of privacy, I do argue that privacy ought
4 to be within the oral portion of the hearing, because
5 while I agree that there are legal -- many simply
6 legal aspects of what privacy provisions Fortis must
7 comply with, what is fundamentally different here is
8 the potential access by the public utility to types of
9 information that are, at least arguably, personal
10 information belonging to the customer that the utility
11 has never before had access to. And it may well not
12 have privacy policies or decisions may not have been
13 made about the privacy treatment of those kinds of
14 information. And we have tried to explore that in the
15 Information Requests, and I'm not suggesting that by
16 asking that privacy issues be in the oral hearing that
17 that means that my clients will have a lengthy and
18 oppositional approach on the issues. It may well be
19 that much of the topic is thoroughly developed in the
20 information responses. But I think that it is part
21 and parcel of the novelty, the technical novelty, of
22 this information system.

23 So in terms of the health topics, I've
24 proposed a list at 2.3 and the effort there is simply
25 to be more concrete about getting -- about what the
26 health issues are. And I'll just briefly go through

1 them at 2.3.1, and I'll paraphrase as we get to some
2 of the longer ones:

3 One is, what safety standards or guidelines
4 are applicable?

5 Two, how do the proposed meters and
6 transmission devices compare to the safety standards
7 or guidelines.

8 Three, what measures can and should
9 FortisBC take to mitigate health risks in the context
10 of the wireless system as proposed?

11 **Proceeding Time 11:28 a.m. T24**

12 Five [*sic*], what are the merits of changing
13 the entire system away from wireless to a wired
14 system?

15 Six, what technical options are available
16 to provide non-wireless meters to selected customers
17 within the context of a wireless system? And what
18 would be the cost of such options, both at the system
19 level, that is, how much it would cost to make the
20 whole system be able to handle the existence of
21 special non-wireless meters, and at the customer level
22 what would a cost to install a non-wireless meter
23 compared to the cost of a wireless one? And then of
24 course what are the pros and cons of implementing
25 selected non-wireless meters on the financial and
26 other benefits of the project? That is, whether, if

1 you had an opt-out program, would it or would it not
2 undermine the financial benefits of the program as a
3 whole?

4 And then last but not least, if the
5 Commission was to require Fortis to provide some form
6 of non-wireless meters within the context of the
7 wireless system, what should be the defining
8 characteristics of an opt-out system? Using that term
9 just for identification. And here, in some respects,
10 is one of the key issues. Should the incremental
11 costs of such an opt-out program be borne by the
12 participating customers or by all ratepayers or in
13 some proportion, and if so, in what proportion?

14 In terms of -- thank you, Mr. Fulton, I
15 didn't intend to skip point 3 on my list and it is an
16 important one. This is on the list of sub-topics
17 under the heading of Health. The suggested topic is:
18 Should the Commission look behind the applicable
19 safety standards or guidelines to determine if they
20 are adequate or if there are factors relevant to the
21 public interest? And in my submission that obviously
22 has a major implication for the duration of the
23 hearing and of the scope of the evidence that will be
24 considered relevant and material.

25 In terms of turning now to the security
26 topic, and I'm at 2.5 in my written submission, point

1 1 sub-topic: Does the wireless system provide
2 adequate security.

3 Two, are there alternative architectures or
4 system -- security systems within the context of the
5 proposed wireless system that would provide better
6 security? If so, what are the costs and benefits?

7 What are the security pros and cons of a
8 non-wireless system compared to the proposed wireless
9 system?

10 What principles or criteria apply to the
11 Commission's scrutiny of the security aspects of the
12 public utility's proposed project?

13 And fifth, does the proposed Zigbee and
14 Home Area Network System provide adequate security for
15 both the utility and for the customer?

16 Regarding privacy, which I touched on
17 earlier, the two questions that I identified there
18 are: What privacy rules or guidelines do or should
19 apply to FortisBC in relation to the collection,
20 storage and use of customers' personal information
21 under the proposed AMI project? And second, does the
22 Zigbee and SEP2 Version 2 approach, Version 1 and
23 Version 2 approach, provide adequate privacy
24 protection for customers?

25 In the context of the security and privacy
26 issues, BCSEA/SCBC propose that the Commission include

1 in the oral hearing list, either under the existing
2 rubric or as a new matter, the topic of essentially
3 the electronic relationship between the customer and
4 FortisBC, and that involves elements like Zigbee and
5 the software protocols that are being proposed, and
6 what the alternatives to them are, the in-home
7 devices, the home area network, the software/hardware
8 upgrade path that is implicit in the proposal.

9 **Proceeding Time 11:33 a.m. T25**

10 And BCSEA has filed numerous information
11 requests and looks forward to getting the responses.
12 So, I'm not able to say specifically what issues my
13 clients will have, based on looking at those
14 responses, and certainly after the second round of
15 IRs. I will jump ahead to say that BCSEA has not
16 decided if it will file expert evidence. If it did,
17 it would be in this area, that is to do with the
18 software/hardware upgrade path, and that sort of
19 thing.

20 In terms of identifying financial issues
21 that would be suitable for the written process, I want
22 to emphasize that BCSEA supported the concept of a
23 hybrid written and oral process because of a desire
24 for efficiency in the process. That being said, my
25 clients absolutely do not want to interfere with any
26 other intervener's right to cross-examine relevant and

1 material evidence provided by the proponent. And so
2 in my submission the real issue is, the identification
3 of issues on which cross-examination needs to occur.
4 And that there may be some scope and -- or some
5 opportunity and I second Mr. Weafer's positing of the
6 possibility of a second procedural conference to
7 identify topics. Because it strikes me that one of
8 the practical issues in terms of efficiency is whether
9 Fortis has to prepare a witness panel on a particular
10 topic. If there are going to be no cross-examination
11 questions on it, then great efficiencies are achieved
12 by knowing that in advance. If a party wants to
13 cross-examine on an issue that Fortis takes the
14 position is not material and relevant, then again it
15 would be much more efficient to have the materiality
16 and relevance dealt with if it's possible before the
17 whole oral hearing gets underway.

18 In terms of the number -- I'm on item 5 in
19 the main agenda now. I've mentioned that my clients
20 don't know yet if they will file expert evidence. In
21 terms of the number of experts, it would greatly help
22 BCSEA prepare if they knew what the topics of the
23 experts -- the topics the experts were going to
24 address. It seems to me in principle that if an
25 intervener wishes to provide evidence, whether expert
26 or not, it's free to do so, and it's up to the other

1 parties to make application to the Commission if they
2 find -- if they want the Commission to rule that the
3 topics are beyond the scope, or redundant, or in any
4 way ought not to be considered. So in that sense I
5 don't see there is any, in principle, limit to a
6 number of experts. Whether there is funding for it is
7 a whole different issue.

8 And on that topic, BCSEA has limited
9 resources to participate in a proceeding like this,
10 and for that reason, it does not want to see an overly
11 lengthy oral hearing by any means. And I would add
12 that there is a serious additional problem with
13 lengthy oral hearings, which is that they can tend to
14 take on a life of their own. The length alone creates
15 issues that wouldn't otherwise have arisen, and in my
16 submission it really ought to be possible for the
17 parties to get the best information before the
18 Commission in a relatively short time, if things are
19 organized properly.

20 **Proceeding Time 11:38 a.m. T26**

21 In terms of the proposed regulatory
22 timetable, that timetable is generally acceptable to
23 BCSEA. If it did file evidence, it would endeavor to
24 meet the January 10th deadline. That would not be
25 comfortable; it never is. And if other interveners
26 have specific arguments, we're certainly not, you

1 know, absolutely in favour of January 10th, but that we
2 recognize that dates have to be set.

3 In terms of a videoconference way of
4 hearing, or conducting cross-examination, I agree with
5 Mr. Kung that that wouldn't be desirable, but -- that
6 is, other things being equal, we'd be much better to
7 have the witness appear in person. But if
8 circumstances arise, then it would be something that
9 this Commission could explore, and BCSEA in the past
10 has had witnesses from the east coast of the United
11 States that, you know, might have saved some time and
12 money to have been able to have them testify by a
13 video link.

14 In terms of the location and duration,
15 BCSEA is okay with the scheduled three days, subject
16 to the other submissions regarding the topics that
17 have to be dealt with, and I would endorse Kelowna as
18 being a practical cost-effective location.

19 Subject to any questions, those are my
20 submissions.

21 THE CHAIRPERSON: Thank you very much, Mr. Andrews.

22 I'd like to call a short comfort break at
23 this stage. We are going to continue with the pre-
24 hearing conference. We don't have a set deadline,
25 although we do have a practical deadline, and that is
26 we have a really important community input session

1 this afternoon, and we do need time to adjust for
2 that, and so I don't want to extend the length of this
3 pre-hearing conference unnecessarily. But we will --
4 we do want to complete our work. So let's have a ten-
5 minute break and reconvene -- I don't see a clock
6 around. My watch indicates that we'd be back about
7 11:47, something in that neighbourhood.

8 **(PROCEEDINGS ADJOURNED AT 11:40 A.M.)**

9 **(PROCEEDINGS RESUMED AT 11:52 A.M.)** **T24**

10 THE CHAIRPERSON: Please be seated, every one.

11 MR. FULTON: Mr. Chairman, where we're at at this point
12 is that --

13 THE CHAIRPERSON: Just a moment, Mr. Fulton. I don't
14 know that we have Mr. Aaron on the line.

15 MR. FULTON: And that's what I was going to say.

16 THE CHAIRPERSON: Okay, I'm sorry.

17 MR. FULTON: So what we need to do, I think, is in the
18 event that his watch has a different minute hand than
19 ours do -- there we go. There he is.

20 THE CHAIRPERSON: We may have him on the line. I think
21 his watch has exactly the same minute hand as ours
22 does.

23 Hello, Mr. Aaron.

24 MR. AARON: Mr. Aaron is here.

25 THE CHAIRPERSON: Thank you.

26 MR. FULTON: The next party to speak is the Citizens for

1 Safe Technology, Mr. Aaron.

2 **SUBMISSIONS BY MR. AARON:**

3 Thank you. Mr. Chair, if I may start by
4 addressing comments made by Mr. Webb on behalf of B.C.
5 Hydro.

6 THE CHAIRPERSON: No. I think we'd like you to comment
7 first on the agenda items.

8 MR. AARON: All right. Well then, starting with the
9 question of adding a third round of information
10 requests, I don't have too much to add above and
11 beyond what's set out in my letter of October 30th,
12 2012. The point made therein under item F, paragraph
13 1 is that my client group has not gone into the first
14 round of information requests with the benefit of
15 consultants due to the fact that, I think, the
16 question of interim PACA funding had not been resolved
17 early enough for consultants to be retained with
18 respect to the formulation of our first round of the
19 information requests. So we had to deal with that on
20 the basis of a layman's approach to issues of fact
21 that were very very technical.

22 And my submission is that the rationale of
23 having two rounds of information requests is that
24 there may be follow-up questions to matters arising
25 from the first round of information requests. So in
26 order to really have that opportunity, we seek a

1 chance to go into two rounds of information requests
2 with the benefit of consultants. And that would
3 require the additional -- an opportunity by way of a
4 third round of information requests to follow up on
5 whatever arises from a second round of information
6 requests, which we will be able to address with a the
7 benefit of consultants.

8 In terms of agenda item number 2 and the
9 issues to be addressed in the context of an oral
10 hearing, we have summarized our view on that in my
11 letter under item C.

12 On the issue of the health impact of the RS
13 emission, there is a -- the first question that arises
14 under that issue is really what is the nature of the
15 RS emission? What specifically is being emitted? And
16 there are some technical particulars around that set
17 of facts that may need to be fleshed out by way of
18 cross-examination with respect to the characteristics
19 of the RS emissions produced by the proposed AMI
20 meters. So what we have a description of those
21 characteristics by Fortis, and a characterization of
22 them, in terms of arguments we heard Mr. Webb say that
23 they're very low. Really, this is really an important
24 area of fact that in my submission may be worthy of
25 cross-examining Fortis's technical representatives on.
26 And so that would flow within the scope of the oral

1 hearing.

2 **Proceeding Time 11:56 a.m. T29**

3 With respect to expert evidence on health
4 issues, I had troubling hearing the representative of
5 Fortis today, and I am not sure if we have had
6 information as to whether Fortis intends to adduce
7 further opinion evidence on health issues, and how
8 many experts it intends to put forward on that issue.
9 We have the Exponent report as part of Fortis's
10 application package. This is a question in mind which
11 will inform many of the procedural questions, how many
12 experts and who does Fortis intend on using to advance
13 opinion evidence on the contested health issues.

14 THE CHAIRPERSON: Let me just stop here for a moment. I
15 think it might be helpful, and I appreciate we're
16 departing from the process, but it might be helpful to
17 -- if Fortis can, to answer that question, because I
18 think that might help deal with an issue that's been
19 raised here in terms of the number of experts and so
20 on. Is Fortis able to give a quick answer to that
21 question?

22 Mr. Aaron, are you able to hear?

23 MR. AARON: Actually, I have trouble hearing the
24 representative of Fortis. So, perhaps if she could
25 just speak into the microphone on the telephone, that
26 would be wonderful.

1 MS. HERBST: All right. So, I can advise what the
2 present anticipation is of FortisBC in terms of expert
3 evidence, and that's primarily as Mr. Aaron
4 identified, there is a report by a company called
5 Exponent, which is included in the FortisBC
6 application at Appendix C. And what we anticipate is
7 that one of the authors of that report, a Dr. Bailey,
8 will be called to testify at the oral hearing. As the
9 exponent report reflects, there is a fair number of --
10 there are a fair number of standards already in place,
11 so part of the evidence will deal with that, and part
12 of the remainder of the report. It may be that a
13 panel including Dr. Bailey will have a representative
14 of FortisBC on it as well, but that's certainly the
15 primary intent at this stage in terms of the health
16 issue from FortisBC's point of view.

17 I should note as well, supplementing that
18 in the application there is Health Canada safety code
19 6 and so on. So, of course we're relying on the
20 existing material and responses to IRs, but that's the
21 present plan.

22 THE CHAIRPERSON: So, to be clear, then, you don't
23 anticipate filing additional evidence at this point in
24 time.

25 MS. HERBST: That's correct. I suppose there might be a
26 situation if what we see on January 10th somehow --

1 THE CHAIRPERSON: Certainly.

2 MS. HERBST: -- gives rise to an application. But
3 certainly we're simply proceeding on what's in our
4 application, and responses to IRs.

5 THE CHAIRPERSON: Thank you. Is that helpful to you, Mr.
6 Aaron?

7 MR. AARON: Would you might just summarize that in terms
8 of -- there was a reference to a doctor or the -- the
9 authors of the Exponent report.

10 MR. FULTON: Yes. I believe that the transcript will
11 show that Ms. Herbst referred to Dr. Bailey as being a
12 person who would appear on a panel, perhaps with a
13 Fortis witness as well. And that at this point at
14 least and subject to what is the outcome of any expert
15 evidence that is filed on the date for intervener
16 evidence that is chosen by the Commission Panel
17 following this procedural conference, FortisBC is
18 relying on the Exponent report and the responses to
19 the IRs and any other evidence that has been filed to
20 date by Fortis in the proceedings.

21 **Proceeding Time 12:01 p.m. T30**

22 MR. AARON: Okay. Is Dr. Bailey the author of Exponent
23 report?

24 MS. HERBST: He is one of the authors of the Exponent
25 report, yes.

26 MR. AARON: Okay. We'd asked for that information by way

1 of an information request so I'm sure a lot of my
2 questions will be answered in that regard.

3 MS. HERBST: And I can just add that that's correct and
4 those information requests are being worked on for the
5 deadline for tomorrow.

6 MR. AARON: All right, and is that Dr. Bailey as in --
7 all right, we'll get it by way of information request.
8 All right.

9 THE CHAIRPERSON: Please carry on, Mr. Aaron.

10 MR. AARON: The environmental issues we foresee
11 pertaining to pollinating insects and birds since they
12 are affected by the AMI or RF emissions. When we talk
13 about this -- we've got health environment. And
14 security and privacy there is somewhat of an overlap
15 there. So we distinguished the security/privacy
16 category from the safety category and sometimes we're
17 not very consistent in making that distinction in our
18 submissions. So there's an issue with respect to the
19 firing proposed by the -- proposed AMI project, and
20 that is a matter that we submit should be addressed
21 through expert testimony as the oral component of the
22 hearing.

23 Additionally with respect to security and
24 the ability or the vulnerability of the system to be
25 hacked, that would go to security/privacy. It's not
26 only a privacy issue. I think there is a concern that

1 we will address by way of expert opinion evidence in
2 the oral hearing that the system could be hacked into
3 so that the supply of electricity could be interfered
4 with, as well as hacked into for -- in a manner that
5 would interfere with privacy. There's an evidentiary
6 element of the privacy issue, and then of course
7 there's legal argument with respect to the privacy
8 issue which the former must be dealt with by way of
9 oral submission and expert evidence, and the latter
10 legal argument can be dealt with by way of written
11 submissions. And so rather than refer to security and
12 privacy because there can be some confusion, I think
13 what I will try to do is refer throughout to an issue
14 that's being that of fire, that of hacking for the
15 purpose of interfering with the supply of electricity,
16 and then hacking for the purpose of obtaining private
17 information. And then there's just legal issues
18 dealing with privacy in terms of Fortis's proposed
19 collection of information.

20 **Proceeding Time 12:06 p.m. T31**

21 I do agree that project alternatives also
22 may be a topic to be addressed in oral hearings. So
23 far as that topic relates to health issues, and oral
24 issues that are germane to the matter of RF emissions.
25 What non-emitting alternatives are available? Have
26 they been properly addressed? And because that comes

1 under the rubric of health, there may be oral hearing
2 components to that issue. But also written arguments
3 will include submissions deriving out of some oral
4 issues addressed through the oral process.

5 With respect to the health issue, we look
6 forward to finding out who are the authors of the
7 expert Exponent report and having an opportunity to
8 cross-examine those authors, along with any other
9 experts that Fortis is going to put forward.

10 So, those are the issues that we see being
11 addressed in the oral process. In terms of issues
12 included in the written process, all we have said
13 under the heading D in our letter is including
14 whatever comes out of Information Requests, questions
15 of fact raised in that process. But also if there are
16 any outstanding issues of disclosure arising from the
17 information requests, that's also a matter to be
18 addressed in the written process.

19 Other significant issues -- I don't want to
20 get into the merits of the issues that Mr. Webb went
21 into on behalf of B.C. Hydro. I just want to flag a
22 couple of procedural points in that regard, if I may.

23 Firstly, the matter of the prospect that
24 B.C. Hydro might seek the opportunity to advance
25 rebuttal evidence raises a red flag with me. That
26 being that B.C. Hydro wants the last kick at the can.

1 And all I want to say is that if B.C. Hydro wanted to
2 include applying to the Commission for a CPCN with
3 respect to the wireless components of its smart meter
4 program, the matter of whether the exemption under the
5 *Clean Energy Act* covers the wireless component of its
6 smart meter program is not a question of fact. But
7 it's a contested question of law. And I really would
8 emphasize that, because there is lots of references in
9 the material to the fact, or to the suggestion, which
10 we dispute, that B.C. Hydro's smart meter program is
11 exempt under the *Clean Energy Act*. And I emphasize
12 that that is in dispute. It's a matter currently
13 before the Court of Appeal as to whether that
14 exemption includes --

15 THE CHAIRPERSON: Mr. Aaron, I'm going to stop you at
16 this stage, because I'm just not clear how what you're
17 taking us through relates to the agenda for today.
18 We've already dealt with Mr. Webb's comments, and I
19 asked him to come back to the agenda. I'm asking you
20 to do the same thing, please.

21 MR. AARON: I think it relates in terms -- with the
22 question of the order of the proceedings, the order of
23 evidence on whether there is -- whether the panel
24 should consider the prospect that B.C. Hydro might
25 have rebuttal evidence.

26 **Proceeding Time 12:11 p.m. T32**

1 THE CHAIRPERSON: Well, I think if B.C. Hydro has reason
2 to object to -- or, you know, raise an objection to
3 issues that have been brought forward, they will raise
4 that objection at that time, and the Commission will
5 deal with that objection, perhaps by laying out a
6 process to deal with it at that time. We have been, I
7 think, I'll use the term "warned" -- that's probably a
8 little too strong. We've been notified politely by
9 Mr. Webb that that's -- that Hydro sees the potential
10 for that to happen, and I appreciate the heads-up that
11 we received on that. But the Commission will deal
12 with that by way of process if that eventuality
13 materializes.

14 So, I'd ask that you not spend any more
15 time on it, and let's go back to the agenda.

16 MR. AARON: All right. In terms of agenda item number 5,
17 then, number of witnesses, Fortis has, you know,
18 referred to -- in making objection to the proposed
19 number of witnesses from my client, Fortis has
20 referred to the need for an efficient regulatory
21 process. I want to say that these are obviously
22 highly, highly contentious issues of our time. And
23 particularly with respect to the health impact and the
24 health concerns relating to the RF emission. These
25 are very difficult questions that are being argued all
26 around the world. It's not a simple matter; not a

1 matter that can be dealt with in three days. And if
2 the Commission is an administrative tribunal, and
3 expeditious and efficient matters of proceeding on its
4 mandate, it's also a body which likely has some
5 expertise and a particular familiarity with the
6 operation of utilities. And this is the opportunity,
7 this is the opportunity to flesh out these questions
8 of fact. This is the only opportunity. It's not
9 going to happen at the -- at any subsequent -- it's
10 not going to happen on reconsideration, it's not going
11 to happen before the Court of Appeal.

12 The Commission is the finder of fact here
13 on some very, very difficult issues, and so, yes,
14 efficiency is definitely called for in the manner it
15 deals with these issues, but to short-circuit the
16 investigation and consideration of fact and the
17 hearing of submissions from all appropriate parties on
18 these matters would not serve the interests of
19 justice. My client has identified at least four
20 issues -- health, environment, fire safety, and
21 hacking, information technology security issues, and
22 we've proposed to put forward three witnesses on each
23 issue. I agree with the submissions, formal
24 submissions of my friend, that typically the general
25 principle by which a party should be limited in terms
26 of what case it puts forward and evidence it presents,

1 to do so would be without procedural foundation.

2 Now, on a case-by-case basis if evidence is
3 turning out to be redundant or not relevant, then
4 that's another story. But what we're anticipating is
5 that we will have three relevant witnesses to provide
6 expert opinion on each of these four topics.

7 **Proceeding Time 12:16 p.m. T33**

8 And we have in our October 30th submission
9 taken the position that it would be inappropriate to
10 abridge the proper determination of these issues
11 solely to meet Fortis's contract deadline for the
12 supply of the AMI meters. That, in itself, begs the
13 question of whether the proposed project meets the
14 standard of the convenience and necessity. It
15 presupposes the outcome of the very proceeding. So
16 you know, if the cost of the meters is going to be
17 higher because the regulatory process requires time,
18 well, so be it, then that's the cost, the higher cost
19 is what has to be considered in terms of whether the
20 project is suitable and is eligible for a CPCN. But I
21 think it would be unfortunate if the proceedings were
22 rushed or inappropriately abridged in order to
23 facilitate that deadline.

24 With respect to the proposed timetable,
25 that would be agenda item 6, obviously that would be
26 affected by our submission with respect to the third

1 round of information requests.

2 Secondly, under our submissions heading in
3 our letter, item number 2 there, we are concerned that
4 there is not enough time given after having received
5 Fortis's responses to the first round of information
6 requests to properly process that information with our
7 consultants for the purpose of formulating our second
8 round of information requests, and we're submitting
9 that the November 23rd deadline for the second round of
10 information requests ought to be extended by a week.

11 Thirdly, we are seeking an extension of the
12 January 10th deadline for the submission of our written
13 expert opinion reports so as to allow our consultants
14 to sufficient review and opine on the materials filed
15 in this proceeding that whatever comes out of the
16 information requests. Again, these are very
17 contentious issues of fact on which there's no global
18 consensus and we submit that it would be a mistake and
19 in nobody's interest, in nobody's interest to rush
20 into it. And January 10th, 2013 would constitute an
21 unmanageable deadline for submission of expert opinion
22 report, considering that there is the Christmas
23 holiday in the interval.

24 Item number 4 in our letter, we've
25 estimated a 28-day hearing on the basis of our best
26 guess, and our view that we will require time to

1 the best evidence on technical and scientific issues
2 from experts that otherwise we would not have an
3 opportunity to access, experts around the world.

4 So if we can't get videoconference evidence
5 that will definitely affect the scheduling of our
6 experts. So, I think that the question of whether
7 video cross-examination will be allowed ought to be
8 determined before we move on to the matter of
9 scheduling experts, because former will affect that
10 latter.

11 Before I move off of the timeline issue,
12 under item 7, under our heading F in our letter, we
13 request the opportunity to prepare written submissions
14 for at least three weeks and preferably four weeks
15 after having received Fortis's written submissions.
16 We propose a one-week interval between Fortis's
17 submissions and our submissions is insufficient in my
18 respectful submission.

19 Needless to say, the three-day hearing
20 schedule for the oral component is extremely
21 insufficient.

22 Finally, with respect to the location of
23 the oral hearing, we're proposing Rossland, B.C. For
24 reason of its centrality to several of the intervener
25 parties. And its fantastic conference facilities, not
26 to mention ski hills.

1 MR. BENNETT: Thank you, I appreciate it very much. In
2 regards to -- I'm going to be giving some very
3 technical information here and some missing data.

4 THE CHAIRPERSON: Mr. Bennett, before you begin --

5 MR. BENNETT: Yes?

6 THE CHAIRPERSON: -- just those few words concern me a
7 little bit.

8 MR. BENNETT: Okay.

9 THE CHAIRPERSON: Because we're here today to talk about
10 the procedure.

11 MR. BENNETT: Precisely.

12 THE CHAIRPERSON: We're not here to talk about your point
13 of view, and the evidence that you will ultimately
14 want to include in the hearing.

15 MR. BENNETT: Precisely. I truly respect that, and my
16 comments are only as a technical and qualified B.C.
17 government trained professional. And in order for
18 procedure to move forward, I've just got to present a
19 little bit of technical information related to that.
20 I'm not stating an opinion. I'll look forward to
21 qualifying all that after the fact.

22 THE CHAIRPERSON: As you do that, then, I think it would
23 be helpful if you could relate what you're talking
24 about to the agenda that we have --

25 MR. BENNETT: A hundred percent. That's actually what
26 I'm doing right now with this.

1 THE CHAIRPERSON: Thank you.

2 MR. BENNETT: So, again, so you'll just see this as I
3 move through the agenda here.

4 Now, regards to 1(a), I fully support. A
5 third round of Information Requests is going to be
6 important, because of the missed science related to
7 the issues. Okay?

8 Now, regarding number 2 here, now, to get
9 into the health and security and privacy issues,
10 here's what's important with the health related
11 issues, is that everything is governed by Safety Code
12 6 when it comes to human exposures to these
13 frequencies. Safety Code 6 is -- it requires
14 everybody to be compliant with Safety Code 6. Safety
15 Code 6 is the government standards for exposure.
16 Safety Code 6 admits it's missing critical data
17 related to how the frequencies are causing adverse
18 health effects. And so Safety Code 6 also states that
19 once they have that information they would change the
20 code if deemed necessary. Now, information was
21 submitted to Health Canada and at the request of
22 Canadian Parliament standing committee, actually
23 outlining the mechanisms linking the frequencies to
24 adverse health effects, and what it is is that the
25 smart meters were considered only as an end-use
26 device, that a little bit of distance from the meter

1 would make you safe. And what happens with that is,
2 the rest of the radiation infrastructure in the
3 coverage areas has been left out as a radiation device
4 that's actually hitting people that would cause these
5 adverse health effects. And actually hit people,
6 substantiating that. Because Health Canada Safety
7 Code 6 says that, you know, if the frequencies are
8 hitting people, it's going to cause stimulation of
9 tissue which is to be avoided. You know, experimental
10 studies have shown it's causing neurological and
11 muscle stimulation which is to be avoided.

12 Okay? So regarding the health issue -- go
13 ahead, I'm sorry.

14 MR. FULTON: Mr. Chairman, Mr. Bennett is getting into
15 evidentiary matters.

16 THE CHAIRPERSON: That's right.

17 MR. FULTON: So, you've cautioned two people previously.
18 Mr. Bennett did provide evidence at the community
19 input session in Trail. He has filed his submission
20 for the purposes of the procedural conferences.
21 Mostly evidence doesn't relate to procedural matters.
22 And his is a procedural conference, and so I would ask
23 him to address the procedural issues on the agenda.

24 MR. BENNETT: I fully respect that, and if I can add that
25 the people that have submitted and talked before me
26 have talked about the safety issues having been dealt

1 with, when the reality is that they haven't, and they
2 just do need to be addressed, related to that.

3 Regarding the security issues -- let's see.
4 Regarding the security issues, the only other thing
5 I've got to say regarding that matter is, you know,
6 it's widely reported that the grid can be hacked. And
7 security has to be confirmed and not just stated.
8 Okay?

9 When it comes to privacy, you know,
10 electrical information is significant information that
11 has to be respected as the owners and the utilities
12 for energy concerns alone, not to be utilized as a
13 marketing tool for people to make money on that.

14 **Proceeding Time 12:31 p.m. T36**

15 Now, on issue number 3. Now, identifying
16 issues or topics of significance to the financial and
17 operations related to this, here again only as a
18 technical professional regarding the procedures is for
19 B.C. -- what Fortis is doing is very important, but
20 solar radiation is causing buildings to grossly exceed
21 design temperatures and we're using a massive energy
22 response to this. So one, reacting to symptoms.
23 Fortis, I'd like to find out how much power is used by
24 Fortis with an air-conditioning load because it's
25 reacting to the symptoms, and that could be knocked
26 off the grid related to issues. So just --

1 THE CHAIRPERSON: I don't see that as being an item
2 that's --

3 MR. BENNETT: I'm just saying that it's a matter of
4 financial reality that here's these costs that could
5 be knocked off there immediately without a smart meter
6 use. That's all. Okay?

7 And the fact that, you know, here's an
8 issue as well that, you know, when you get into
9 finances, and I might be doing some overlapping into
10 this. But when you leave out the routers and the
11 infrastructure radiating big coverage areas, you're
12 also talking about radiating buildings, and that's
13 causing buildings -- and here's just a reality -- to
14 exceed *B.C. Building Code* Part 4, and I say this
15 again, with Fortis's, who wants that liability or that
16 additional cost related to that? Okay?

17 And here's another issue as well is
18 regarding billing peak hours is when you're spending a
19 lot of money with air-conditioning loads during the
20 daytime and here you've got this air-conditioning
21 waste or this energy waste, people are being billed
22 for the peak hours as opposed to knocking that load
23 off the grid. So that's just an issue related to the
24 financial aspect of that.

25 Okay, and again, all I'm talking about
26 within, again, I'm truly to be respectful to this is

1 I'm just talking about the liability, you know, for
2 health, buildings, and radiating infrastructure over
3 these large areas and accelerated corrosion. These
4 are issues that -- these are technical issues that
5 truly have to be addressed. And again, this is a very
6 complex and technical issue.

7 Okay, and again I'm talking about sharing
8 infrastructure costs with B.C. Hydro. If you're going
9 to get into, one, the antennas radiating large areas
10 and not being allowed to do that because of the
11 interaction with humans and everything else, then you
12 want to be careful with those shared infrastructure
13 costs with B.C. Hydro because the antennas themselves
14 will not comply with Safety Code 6 which is mandatory
15 in a conditional licence.

16 Now, regarding, you know, with the
17 identification of other significant issues, and I'm
18 truly again talking about radiating buildings over
19 large coverage areas, you're going to cause those
20 buildings to violate *B.C. Building Code*. That cost is
21 going to come back to -- and I say this in my
22 professional capacity consulting structural engineers
23 on the issue, that who's going to pay for the cost of
24 that building when it's radiated, because the building
25 is going to be no longer compliant. Why are people
26 going to pay a mortgage? And we say that after

1 actually looking at \$200 million high-rises saying
2 "When do engineers call that off?" And again just to
3 bring that up as a very technical issue related to
4 that.

5 Okay. Number 5. Number 5, you know, the
6 matters of issues to assist you guys over this. In
7 addressing a number of witnesses. Now, something
8 really important with this is when you're going to --
9 we generate electricity by moving a conductor through
10 an electromagnetic field. When you're going to have
11 coverage areas of 17,000 kilometres, you've got to
12 consider every biological thing being hit by the
13 frequencies and incorporate those professionals into
14 that, because you're creating electricity into
15 something that's not designed for that electricity.
16 So addressing a number of witnesses, like I said,
17 bringing those right professionals into this and
18 getting those opinions on that because you're
19 effectively changing science and education if you
20 don't.

21 Okay, and proposed regulatory timetable.
22 Now, one, you know, I know I'm bringing up what might
23 seem like controversial issues here, but if we don't
24 address those issues then we're going to run into more
25 troubles and some very serious costs and liabilities
26 down the road. And so, you know, incorporating a

1 third round of information requests, additional
2 witness is important, and also when someone talked
3 about the additional procedural conference which would
4 be fully supported because when other professionals
5 get this information, we're going to have to discuss
6 this as a group within our specific areas of
7 expertise.

8 Okay, and when it comes to time and
9 location, Kelowna is fine and as far as, you know,
10 video conference, but again, you know,

11 **Proceeding Time 12:36 p.m. T37**

12 And again, please accept my apologies if it
13 seems like anything less than, but you know, we do
14 consult for energy and industry and everybody above
15 related to these issues, and we'd like to have
16 Minister Colman and the housing minister supply
17 information related to the frequency interaction with
18 buildings. This is actually causing problems
19 providing the attenuation coefficients of everything
20 biologically within the coverage areas to see if we're
21 hurting anything, and also to get comments from the
22 provincial health officer on the fact that the dangers
23 of the technologies or wireless is actually a lecture
24 in medical education for education credits. So
25 electromagnetically inducing pacemakers are a reality,
26 and again just considerations with all these cost-

1 related issues.

2 THE CHAIRPERSON: Okay.

3 MR. BENNETT: Any questions?

4 THE CHAIRPERSON: No, sir.

5 MR. BENNETT: Thank you.

6 THE CHAIRPERSON: Thank you.

7 MR. FULTON: Mr. Chairman, we're almost at the end of the
8 first round, and I say "almost" because I did want to
9 just address three items. Two arose -- and this will
10 allow people, as they come back on phase -- round 4 to
11 address my comments.

12 The first item is just -- well, I think two
13 of them at least are procedural items. The first one
14 relates to witnesses and time for a hearing.

15 Those who are not familiar with the
16 proceedings before the Commission need to understand
17 that unlike a trial, there is a very limited direct
18 examination of witnesses. The witnesses and the
19 expert witnesses are basically asked, when they're
20 called, whether there are any changes to their
21 evidence, and we're generally not talking here about
22 fundamental changes but typographical changes or
23 changes that are of a minor nature, and then they're
24 asked to adopt that evidence, and then they're made
25 available for cross-examination. So that decreases
26 the amount of time that witness panels before the

1 Commission take, and prior to the Commission
2 commencing its oral hearings, the parties usually
3 advise as to whether they require a panel of experts
4 or one expert in particular to be made available for
5 cross-examination. So that's a factor I believe that
6 gets taken into account in terms of scheduling.

7 The second matter related to video
8 conferencing, and I may be wrong but I thought I heard
9 Mr. Aaron say that the Commission has conducted cross-
10 examination by video link in the past. To my
11 knowledge it has not done so. There have been the
12 rare occasions where -- and I can't recall this
13 happening for many many years now -- where parties who
14 were out of town appeared on a video link on a
15 procedural conference, but never to my recollection
16 has there been a cross-examination of witnesses by
17 video link. That's not to say that it can't happen.
18 I'm just correcting the record that the Commission has
19 done it before.

20 The third matter related to the reference
21 to the B.C. Hydro case, and I can leave others to deal
22 with this. The only thing that I wanted to say was
23 that there was a more recent discussion of what public
24 interest is for the purposes of certificates of public
25 convenience and necessity in the leave to appeal
26 application decision of Madam Justice Levine, I

1 believe it was, in connection with the Vancouver
2 Island Transmission Reinforcement Project.

3 **Proceeding Time 12:41 p.m. T38**

4 The last matter relates to Mr. Bennett's
5 comments, and on the topic of witnesses what I did
6 hear from him was how many witnesses, how many expert
7 witnesses he intended to call. That's something that
8 would be important, I would say, for the Commission to
9 know, in terms of the decision it might make in
10 estimating what the trial length, or, I'm sorry, the
11 hearing length might be. So, when Mr. Bennett comes
12 back for Phase 2, I think it would be helpful for the
13 record if he identified the number of expert witnesses
14 that he intends to call, and what areas he
15 anticipating calling them in.

16 So with those remarks, Mr. Chairman, I'll
17 turn the mike back to Mr. Bennett, who gets to speak
18 to the submissions of the other parties in this round
19 of the procedural conference.

20 THE CHAIRPERSON: Thank you, Mr. Fulton.

21 MR. BENNETT: I'm sorry, this is regarding the expert
22 witnesses you're talking about?

23 THE CHAIRPERSON: Well, this is -- sorry, you might just
24 explain very briefly to Mr. Bennett, and perhaps for
25 others' point of view as well for the purpose of this
26 next and last phase.

1 MR. FULTON: Yes. So, for this next phase, you have the
2 opportunity to respond to any of the submissions that
3 you have heard from the parties who have spoken before
4 you on procedural matters.

5 MR. BENNETT: Okay.

6 MR. FULTON: And also I think it would be helpful, as I
7 have indicated, if you would let the Commission panel
8 know how many expert witnesses you anticipate calling
9 and what their areas of expertise would be.

10 **SUBMISSIONS BY MR. BENNETT:**

11 MR. BENNETT: Okay. Something again, as I'm sitting
12 back there. You know, something -- you know, I want
13 to state this really -- because it's really important.
14 You guys are administrators. This is a very technical
15 and dangerous issue, and everything related to the
16 agenda and the costs are related to these very
17 technical issues. So when I'm bringing these issues
18 forward, something that we do for our work for Fortis
19 and for everybody is related to costs for insurers,
20 for medicine and all the above. And that's just
21 really important.

22 Now, with this -- I would actually have to
23 look at some time, a little bit of time as to the
24 number of witnesses, expert witnesses related to this,
25 because the technical reality is, you have to consider
26 everything the frequencies are touching in the

1 coverage area, whether it be trees, and knocking the
2 foliage off of trees, fish spawning, hydrologists,
3 geologists, bees and birds use a magnetic field for
4 navigation, and throwing them into an electromagnetic
5 field affects those. So if I can, you know, submit
6 that information a little bit later, but you're really
7 looking at several different professionals, when you
8 think of the different departments related to science
9 in this.

10 THE CHAIRPERSON: I think it's important to understand
11 that the expectation would be that the expert
12 witnesses would first file evidence and then be
13 available as required to be cross-examined on that
14 evidence.

15 MR. BENNETT: Okay. Absolutely. Absolutely. And that's
16 what I even look forward to your counsel on that bit,
17 now that we know that you know exactly what you're
18 wanting related to that part of it, you know, we can
19 accommodate that and actually get some advice on the
20 required professionals, how we can also incorporate
21 some together and keep those costs down.

22 And otherwise it's just, you know, to
23 inform people, here are the same issues, just, you
24 know, people presenting before me are missing this
25 incredibly technical information, and Fortis, they're
26 electrical professionals, understand that. Okay? So

1 is there a time frame that I can just submit this?
2 Because I'll have to literally talk to -- and again,
3 science professionals. And I'm talking university
4 professors and those quality --

5 THE CHAIRPERSON: Well, it would be helpful if you are of
6 the view that you would be providing expert evidence,
7 if we could have some indication of that very, very
8 soon, because we do have to consider that in providing
9 time within the regulatory schedule.

10 MR. FULTON: My concern, Mr. Chairman, is at this point
11 parties should have been able to at least estimate the
12 number of expert witnesses that there would be. One
13 of the purposes of today is to set a schedule going
14 forward in terms of when the hearing would take place.
15 And if Mr. Bennett hasn't contacted people who he
16 expects will come to give evidence it's a problem and
17 it will be up for the Panel to decide after it hears
18 the other submissions today whether it's prepared to
19 wait on that at this point, or deal with the issue
20 down the road if he comes forward with some expert
21 evidence as to whether or not the schedule should be
22 adjusted to accommodate those experts.

23 **Proceeding Time 12:46 p.m. T39**

24 MR. BENNETT: And part of that procedure here is that
25 when you've got this missing critical data, I'm
26 actually looking at the B.C. Utilities Commission to

1 say it's important you bring in the expert witnesses
2 from the universities and --

3 THE CHAIRPERSON: Well, let me be clear on that issue,
4 Mr. Bennett. We are here to hear the evidence that's
5 placed before us.

6 MR. BENNETT: Yes.

7 THE CHAIRPERSON: And it's up to the applicant and up to
8 the interveners to present the evidence that they
9 think is important that the Commission consider in
10 making its decision. And it's important that that
11 evidence be available for cross-examination so that --

12 MR. BENNETT: Okay. Absolutely.

13 THE CHAIRPERSON: -- the Panel can properly assess the
14 credibility, the weight, et cetera, of that evidence.
15 And so I would leave it to you to decide what evidence
16 you want to -- you feel is important that be placed
17 before the Panel in this matter. And if you haven't
18 contemplated that at the moment in any specific form,
19 you know, we'll have to see if we can accommodate it
20 if and when you --

21 MR. BENNETT: And this is something that's important to
22 you now, something that our job in our capacity is we
23 contacted the health minister regarding this. We
24 contacted the housing minister, the energy minister,
25 all of them related to this, looking for their
26 leadership as it relates to law, and we just haven't

1 heard back from them. So if you could just allow a
2 little bit of time I can actually just give them
3 pushes today and submit that information to you. But
4 there are, like I said, there are additional required
5 witnesses. We actually waited for the ministry
6 because of the relevance of the data, the changed in
7 the data and how it's applicable to the process.

8 THE CHAIRPERSON: Well --

9 MR. BENNETT: And again, bear the authority having
10 jurisdiction for the province, and that's why we went
11 to them on that issue.

12 THE CHAIRPERSON: Yeah. The Panel has to begin working
13 immediately on designing the schedule, taking into
14 account the comments made today, which we'll be doing
15 over the next several days. So I don't think we're in
16 a position to allow you additional time to do that.
17 There will be a deadline for filing evidence, we've
18 already discussed that, and if you have evidence to
19 file, that deadline will be part of our decision
20 that'll flow from today. If you have evidence to file
21 by that deadline then you're invited to do so.

22 MR. BENNETT: And also regarding to the witnesses that we
23 would bring in?

24 THE CHAIRPERSON: Well, the evidence would be filed by --
25 would be evidence that would be supported by those
26 witnesses.

1 MR. BENNETT: Okay.

2 THE CHAIRPERSON: And again I want to be clear, and I'm
3 taking a little extra time here because I appreciate
4 that a process like this is perhaps somewhat foreign
5 to you and perhaps to others. But the intention here
6 is to have evidence placed before the Commission and
7 have an opportunity for people involved in this
8 hearing to cross-examine that evidence and for the
9 Commission to then make a decision on it. It's not to
10 have a discussion. And so let's be clear on that.

11 MR. BENNETT: No, I appreciate that, and it's only
12 because of the urgency related to the issue as all
13 those things. So that deadline for me as an
14 intervener, what was that, the 23rd?

15 THE CHAIRPERSON: The deadline for filing evidence has
16 not been set. It's been proposed. It hasn't been
17 set.

18 MR. BENNETT: Okay.

19 THE CHAIRPERSON: And we will be setting that in the
20 order that flows from this pre-hearing conference
21 today.

22 MR. BENNETT: Okay. Thank you.

23 THE CHAIRPERSON: Thank you.

24 MR. FULTON: The proposed deadline, Mr. Bennett, at this
25 point at least, is January the 10th.

26 MR. BENNETT: Okay.

1 MR. FULTON: Now, we've heard submissions from people on
2 that in front of you, and the Commission will make a
3 decision on what that deadline should be following the
4 submissions today.

5 MR. BENNETT: Okay. And so again, and I can bring in
6 that evidence and those proposed witnesses within the
7 timeframe?

8 THE CHAIRPERSON: Yes.

9 MR. BENNETT: Okay, thank you very much.

10 **Proceeding Time 12:51 p.m. T40**

11 MR. FULTON: Citizens for Safe Technology, Mr. Aaron.

12 MR. AARON: No submissions in this round.

13 MR. FULTON: Thank you. B.C. Sustainable Energy
14 Association and Sierra Club of British Columbia.

15 **SUBMISSIONS BY MR. ANDREWS:**

16 MR. ANDREWS: I have just two points. One is that I
17 agree with the point made by counsel for CSTC that
18 only one week between Fortis filing its final
19 submission and the deadline for intervener final
20 submissions is too short. In my submission,
21 respectfully, it should be at least two weeks.

22 My second point at the risk of belabouring
23 a point that Mr. Fulton made already is that because
24 the Utilities Commission has its own way of doing
25 things, and language, people may not be understanding
26 that the term "witness" means someone who will provide

1 a written statement of their evidence, as I understand
2 it. And so when we talk about witnesses in an oral
3 hearing, they will be people who have filed written
4 evidence already and then if some party wants to
5 cross-examine them, they will be present in person or,
6 if it works out, by video to answer questions there.

7 Those are my submissions.

8 THE CHAIRPERSON: Thank you, Mr. Andrews, and that's a
9 useful re-statement of Mr. Fulton's comments. Thank
10 you.

11 MR. FULTON: British Columbia Pensioners' and Seniors'
12 Organization *et al.*

13 **SUBMISSIONS BY MR. KUNG:**

14 MR. KUNG: Thank you. Other than echoing my friend Mr.
15 Andrews's point about the time between the Fortis
16 submission and intervener submission, we have no
17 further comments. Thank you.

18 THE CHAIRPERSON: Thank you.

19 MR. FULTON: Commercial Energy Consumers' Association of
20 British Columbia and the British Columbia Municipal
21 Electrical Utilities.

22 MR. WEAVER: Thank you, Mr. Fulton. I would also endorse
23 Mr. Andrews's comment and Mr. Aaron's, with respect to
24 time we can file argument for interveners, that we
25 would have two weeks from the time of Fortis filing
26 argument. The only other comment I would make -- I

1 appreciate Mr. Aaron acknowledging empanelling his
2 witnesses in four panels of three witnesses each, but
3 I would continue to maintain the position that we may
4 be over the top in terms of 12 expert witnesses, and I
5 would encourage him to refine his evidence further.

6 Thank you.

7 THE CHAIRPERSON: Thank you.

8 MR. FULTON: British Columbia Hydro and Power Authority,
9 Mr. Webb.

10 MR. WEBB: Just for the record, Mr. Chair, you did quite
11 accurately describe my position earlier and I thank
12 you for that. I have no further comments. Thank you.

13 THE CHAIRPERSON: Thank you.

14 MR. FULTON: FortisBC Inc., Ms. Herbst.

15 **SUBMISSIONS BY MS. HERBST:**

16 MS. HERBST: Thank you. I just have a few reply comments
17 that I've tried to organize around particular agenda
18 items, and so I'll run through those.

19 The first relates to -- or the first set of
20 comments relates to agenda item 2, really the scope of
21 the oral hearing. And in particular aspects -- or in
22 relation to particular aspects of that, firstly the
23 health issue. Counsel for B.C. Sustainable Energy
24 Association ran through a portion of the letter that
25 he had sent in on October 30th. And that is Exhibit
26 C4-5. And in particular, ran through a list in item

1 2.3 in his letter as to particular issues that he
2 described as health issues that should be included
3 within the scope of the oral hearing. And I'd like to
4 just run through those as well, and provide FortisBC's
5 comment on whether or not we agree those are properly
6 within the scope of the oral hearing.

7 Much of my comments relate to whether or
8 not we in fact agree that those are properly
9 characterized as health issues, and so in terms of the
10 items that are set out at 2.3.1, 2.3.2, and 2.3.3,
11 which are:

12 “What safety standards or guidelines are
13 applicable?”

14 “How do the proposed meters or other
15 transmission devices compare to the safety
16 standards or guidelines?”

17 “Should the Commission look behind the
18 safety standards or guidelines to determine
19 if they are adequate or if there are factors
20 relevant to the public interest?”

21 we agree that those are properly characterized as
22 health issues, and that they would fall, in our
23 submission, within the scope of the oral hearing.

24 **Proceeding Time 12:56 p.m. T41**

25 We say the answers are clear but certainly
26 that the questions are health-related ones that do

1 fall within that scope.

2 We don't agree that the balance of the
3 items in item 2.3 should fall within the scope of the
4 oral hearing, and to deal with particular ones, 2.3.4
5 relates to what, if any, measures can and should
6 FortisBC take to mitigate health risks in the context
7 of the wireless system as proposed. We say if there
8 are any health risks, which FortisBC denies, the issue
9 of mitigation does arise but it's been addressed in
10 the application, is addressed in the written material
11 including in the responses to the IRs, and that there
12 is no need to further extend the oral hearing to
13 address those points.

14 There are then issues 2.3.5 the merits of
15 change in the entire system away from wireless to say
16 a wired system, and 2.3.6 technical options available
17 to provide non-wireless meters to selected customers,
18 costs of such options and so on, we say those are not
19 in essence health issues, that consideration of them
20 may arise because of people's health concerns or a
21 host of other concerns, I suppose, but that the issues
22 themselves are different. They tie into issues of
23 finances and operations and that those are properly
24 the subject of the written process that we contemplate
25 happening.

26 And much the same for issue 2.3.7 which has

1 been described or set out as if the Commission was to
2 acquire FortisBC to provide non-wireless meters within
3 the context of the wireless system, what should be the
4 defining characteristics of an opt-out system, and so
5 on. We say that's not, in essence, a health issue.
6 Again that may be something or a consideration that
7 arises because of people's concerns as to health. It
8 maybe an issue that arises out of other concerns that
9 people may have. However meritless we would say those
10 are. But how to deal with those concerns in this
11 regard gives rise to technical financial issues that
12 we say are not properly within the scope of the oral
13 hearing and can efficiently be addressed in the
14 context of a written process.

15 And again returning to and continuing with
16 agenda item 2, the scope of the oral hearing, there
17 were some submissions made on privacy-related issues,
18 including by Mr. Andrews, counsel for BCSEA. Mr.
19 Andrews referred to item 2.4.2 in his October 30th
20 letter, which is again Exhibit C4-5, and the
21 definition that he would put forth of "privacy"
22 referring generally "to the collection and use of
23 information only for its intended and authorized
24 purpose, and in particular in this context FortisBC's
25 collection and use of customers' personal
26 information". FortisBC agrees with that definition of

1 privacy as a helpful guideline, but reaffirms its
2 position that that should not be addressed in the
3 context of an oral hearing.

4 Still within the context of privacy, Mr.
5 Aaron raised as an evidentiary element as he described
6 it of the privacy issue the concept of hacking and the
7 possibility of hacking occurring and someone gaining
8 access to personal information. In our submission
9 that is something that can be dealt with in the
10 context of the security issue that we do say should be
11 part of the oral hearing. That doesn't mean that
12 privacy issues as a general matter need be addressed
13 there. It's already dealt with in the context of
14 security.

15 I heard more generally in submissions a
16 suggestion that there is another factual element or
17 some sort of further factual element that
18 characterizes privacy issues and that might warrant
19 going into this in the context of an oral hearing as
20 opposed to simply legal submissions. I'd submit the
21 application makes clear and IR responses make clear
22 there's no new information being collected. It's a
23 matter of the law that applies to the information that
24 is being collected under the old system or new. And
25 again, tying back to my submissions on that point.

26 In terms of still agenda item 2 but

1 particular suggestions in terms of an expanded oral
2 hearing beyond topics of health and security or
3 health, security and privacy, BCSEA raised the concept
4 of addressing the electronic relationship between the
5 utility and customers in an oral hearing.

6 **Proceeding Time 1:01 p.m. T42**

7 With the greatest of respect, that's a very
8 amorphous concept. I'm not sure what would fall
9 within it. To the extent that it relates to health or
10 security issues, that certainly would be addressed, in
11 our submission, properly within the context of the
12 oral hearing. But I submit that's not a useful
13 concept more generally to include. I simply don't
14 even know what it quite means.

15 BCSEA also raised as potentially the
16 subject of an oral hearing, or potentially arising in
17 an oral hearing, cross-examination on issues that go
18 beyond health or security, or health, security, and if
19 others prevail, privacy. I say that shouldn't be --
20 cross-examination shouldn't be granted on all issues.
21 As Mr. Fulton has noted, and Mr. Andrews has noted,
22 the standard would be that evidence in direct is
23 adduced in written form. Saying that cross-
24 examination could then happen on any issue essentially
25 means there could be an oral hearing on any issue, and
26 for the reasons I said earlier, that's not an

1 efficient process.

2 Mr. Andrews, I think, said in his initial
3 submission that there is -- or referred to a right to
4 cross-examination. I submit there is no such right.
5 There is potentially a right to test evidence, and
6 certainly interveners have that in the context of a
7 written process, including, and primarily through the
8 submission of Information Requests that the utility
9 can respond to. And certainly there is an upcoming
10 round of Information Requests that interveners should
11 be encouraged to tailor to extract as much information
12 as they would wish, and would wish to extract in
13 cross-examination. And that can be accommodated
14 through the written process.

15 Now, still on agenda item 2, Mr. Aaron
16 referring to his October 30th letter, which is Exhibit
17 C9-3, raised as an element of the oral hearing the
18 issue of risk to insects and birds. So, sort of an
19 environmental issue. FortisBC doesn't believe it's
20 necessary to address -- doesn't intend to put forward
21 evidence in its own right on those issues, but trying
22 to scope out the borderline between health and
23 security on one hand, financial operations on the
24 other. We tend to think that falls more within the
25 realm of the oral hearing. And so to the extent that
26 someone does adduce evidence on risk to insects and

1 birds, would propose that cross-examination be open on
2 that, because it's more aligned with health, albeit
3 not human health. It also raises some points of
4 novelty which perhaps are suited to cross-examination.

5 Mr. Aaron also raised the fire issue, or
6 alleged fire issue, as falling within the scope of the
7 oral hearing. In FortisBC's submission, that should
8 be addressed as part of the written process. It's a
9 technical issue, it's an engineering issue. I
10 understand, and this is a very rough estimate, because
11 it's just a question that I asked during the course of
12 this morning's proceedings, but I understand that
13 already there have been a few dozen Information
14 Requests posed on the issue of fire. They're in the
15 course of being responded to, and I say that can
16 handily be addressed in the context of a written
17 process.

18 So, turning to agenda item 3, and that's
19 the scope of the written process, in part it's a bit
20 of the flip side of what I've been saying as to the
21 oral process. We say more should be in the written
22 process than certain other interveners do. But there
23 is a specific point that was raised by Mr. Aaron, for
24 Citizens for Safe Technology Society, and that's the
25 issue that, as part of the written process, issues of
26 disclosure arising out of Information Requests should

1 be addressed.

2 And certainly I agree that if there are
3 issues of disclosure arising from Information
4 Requests, that should be addressed in writing. The
5 one thing that I would like to flag is that they
6 should be addressed in a timely manner. So it
7 shouldn't be that if there are issues of disclosure,
8 they'd be left to be addressed in the course of final
9 submissions. They should be brought forward in a
10 timely manner and, if necessary, a ruling sought from
11 the Commission on whether or not there is some
12 deficiency, or perceived deficiency, in answers to
13 Information Requests. That would then allow FortisBC
14 to address the deficiency, insert the necessary
15 information, if so found, in the evidentiary record
16 and allow interveners and the Commission to test that
17 evidence as opposed to leaving this to a round of
18 final submissions, where it might be too late to
19 usefully accommodate that.

20 **Proceeding Time 1:06 p.m. T43**

21 In terms of agenda item 5, and that's
22 whether there are suggestions for a more efficient
23 review of the application, our primary position would
24 be that an efficient process can very much be driven
25 at this point by an order issued out of this
26 procedural conference without the need for a second

1 one. We think there's sufficient basis to assess the
2 scope and necessary length of the process at this
3 time. And certainly to the extent that there's any
4 hedge contemplated by certain of the interveners for
5 the possibility that FortisBC might not answer
6 information requests in a fulsome manner, that
7 shouldn't be the presumption. FortisBC does answer
8 information requests, is working hard to answer the
9 information requests that have been posed to it, and
10 submit no window need be inserted for that possibility
11 that it would be otherwise.

12 Then turning to agenda item 6 which are
13 particular points arising out of the proposed
14 regulatory timetable, Mr. Aaron suggested that there
15 be a deferral of the date for the submission of the
16 second round of information requests by interveners,
17 and more generally that the process not be rushed,
18 that there's no rush in this process in the sense that
19 it's been ongoing in some form or another or
20 contemplated since 2007. FortisBC has been able to
21 answer a large volume of IRs very quickly and is again
22 working toward that deadline quickly, and interveners
23 should also accommodate and work toward a deadline,
24 and that deadline, the upcoming second round IR
25 deadline was set back on September 26th as part of
26 Order G-135-12.

1 Mr. Aaron also addressed as part of agenda
2 item 6 matters the deadline for the filing of
3 intervener evidence. I have already touched on that
4 in my first round of remarks so I won't go back to
5 that again.

6 The last point relates to Mr. Aaron's
7 request and some interveners' request for an extension
8 of the time period for the filing of intervener
9 written argument in the process, and presently I
10 believe it's scheduled for a one-week turnaround time.
11 Mr. Aaron has asked for three weeks, preferably four
12 weeks, and some interveners I believe I heard asked
13 for two weeks. FortisBC doesn't have an objection to
14 the extension of time to a two-week period for
15 interveners to respond to FortisBC's main submission,
16 and I note FortisBC, itself, has simply a two-week
17 time frame to write its main submission after the oral
18 hearing concludes and so there's no need, I would
19 submit, to provide more to interveners, particularly
20 as the application is clear and there will be numerous
21 responses to information requests. Interveners can
22 pretty much anticipate what FortisBC will be saying on
23 certain points and don't need to start working simply
24 when receiving, or on receipt of FortisBC's written
25 argument.

26 And I believe subject -- if I may have just

1 a moment to check but I haven't omitted anything. I
2 believe that would be it.

3 THE CHAIRPERSON: Yes, certainly.

4 MS. HERBST: Thank you.

5 Thank you again for that indulgence. Those
6 are our submissions. Thank you.

7 THE CHAIRPERSON: Thank you very much. Mr. Fulton.

8 MR. FULTON: Yes, Mr. Chairman. That concludes the
9 submissions on the procedural conference.

10 THE CHAIRPERSON: Thank you very much. Well, I think
11 that draws this procedural conference to a close, and
12 I'd like to thank everyone for their work in preparing
13 for this. You know, I view that as very much in
14 keeping with a respect for the -- frankly, the
15 ratepayers who end up having to pay for this process.
16 It's a necessary process but it's incumbent on
17 everyone to be as efficient and as effective as they
18 can. So I thank you for the work that you put in to
19 preparing for this and providing very detailed
20 submissions ahead of time, and also for your
21 participation and your attention during the course of
22 the morning and early afternoon. Thank you very much.

23 **Proceeding Time 1:11 p.m. T44**

24 And I will remind people that there's a
25 community input session to convene at 3:00 this
26 afternoon. And we have preceded the community input

1 sessions -- sorry, I have my head in this morning
2 rather than this afternoon -- we've preceded those
3 community input sessions with a short presentation on
4 the Utilities Commission, who we are and what we do,
5 and how that relates to this particular matter going
6 forward. And I think those have been helpful,
7 particularly to the large number of citizens that have
8 wanted to attend the community input sessions and have
9 had some confusion or misunderstanding about how the
10 whole process unfolds. So again, if anybody wants to
11 listen to that, they are welcome to be here 15 minutes
12 before the 3:00 community input sessions.

13 Thank you very much.

14 MR. FULTON: Mr. Chairman, we are adjourned?

15 THE CHAIRPERSON: We are.

16 (PROCEEDINGS ADJOURNED AT 1:12 P.M.)
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