

BRITISH COLUMBIA UTILITIES COMMISSION

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

And

**NorthRiver Midstream Operations LP and NorthRiver
Midstream Operations GP Inc. Application for an
exemption pursuant to section 88(3) of the *Utilities
Commission Act* - Project No. 1598989**

**VANCOUVER, B.C.
March 18, 2019**

WORKSHOP

BEFORE:

B. Magnan,

Chair/Commissioner

T. Loski,

Commissioner

VOLUME 1

APPEARANCES

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C.W. SANDERSON, Q.C.,
I WEBB,

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P. Hawksworth
J. Morrison
B. Bissett

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INDEX

PAGE

OPENING STATEMENT BY MR. SANDERSON 3
PRESENTATION BY MR. BISSETT 14

1 **VANCOUVER, B.C.**
2 **March 18th, 2019**

3 **(PROCEEDINGS RESUMED AT 8:33 A.M.)**

4 THE CHAIRPERSON: Okay, be seated.

5 Good morning, gentlemen. My name is Bernie
6 Magnan and I'm the Panel Chair for this proceeding.
7 With me is Commissioner Tom Loski who is also my co-
8 panel member.

9 Welcome to this morning's workshop to
10 provide an opportunity for presentation of further
11 background related to the application for an exemption
12 from Part 3 of the *Utilities Commission Act* with
13 respect to natural gas processing plants and
14 associated raw gas pipelines now coming under the
15 jurisdiction of the British Columbia Utilities
16 Commission.

17 This workshop was established by order
18 number G-49-19, to which an agenda and scope document
19 for this workshop were attached. I would like to
20 acknowledge a number of individuals who are involved
21 in a review of this application. Damon Boyle and
22 Aiden Keyhill from BCUC staff and Commission counsel
23 for the proceeding is Lino Bussoli. As this meeting
24 is being transcribed, our hearing officer is Keith
25 Bemister.

26 Before Mr. Bussoli takes over the meeting,

1 I would like to ask all parties participating today to
2 please ensure they are directed at the issues outlined
3 in the agenda and scope and we accept, as appropriate,
4 any additions to the agenda.

5 Now, I don't know whether you just go
6 through -- this is not a formal hearing, it's a
7 workshop, so could I ask that the parties could please
8 introduce themselves, and I guess Mr. Sanderson, or
9 are you going to ask --

10 MR. SANDERSON: Well, I was just going to confirm that
11 there are no participants or interveners other than
12 the applicant today.

13 THE CHAIRPERSON: Okay, thank you. Mr. Sanderson, I'm
14 going to ask you if you would please have your group
15 introduce themselves.

16 MR. SANDERSON: I will, thank you, Mr. Chairman. I am
17 Chris Sanderson, to introduce myself first. With me
18 is Mr. Ian Webb. In a moment I'll say why we have us
19 both here. That would not be what we would normally
20 do for a workshop but in a moment I'll explain why.

21 But before I do that, sitting at the
22 witness table, I'll it that because that's what it
23 kind of looks like to me. Beginning closest to me is
24 Mr. Hawksworth. I'll ask him to quickly introduce
25 himself and say who he works with, and then I'll ask
26 the same of the other two gentlemen.

1 MR. HAWKSWORTH: Thank you, Mr. Commissioner. As Chris
2 mentioned, Paul Hawksworth here. I'm a senior vice-
3 president with Brookfield management, the owner of
4 NorthRiver, and obviously work closely with NorthRiver
5 going forth.

6 THE CHAIRPERSON: Thank you.

7 MR. SANDERSON: Mr. Morrison.

8 MR. MORRISON: My name is Jay Morrison. I'm an senior
9 external affairs advisor with NorthRiver Midstream.

10 THE CHAIRPERSON: Thank you.

11 MR. SANDERSON: And Mr. Bissett.

12 MR. BISSETT: Bob Bissett, I'm chief commercial officer
13 of NorthRiver Midstream and until a few weeks ago I
14 was interim president and CEO.

15 THE CHAIRPERSON: Okay, thank you.

16 MR. SANDERSON: Mr. Chairman, if I might.

17 THE CHAIRPERSON: Go ahead.

18 **OPENING STATEMENT BY MR. SANDERSON:**

19 MR. SANDERSON: I wanted to start by thanking the
20 Commission and that's part of explaining why Mr. Webb
21 and I are both here. I rather didn't think I was
22 going to have the opportunity or allow us the
23 opportunity to visit this room. It's been a couple of
24 years since I've been here.

25 **Proceeding Time 8:35 a.m. T02**

26 And I just wanted to thank the Commission

1 for having the workshop because it wasn't anticipated,
2 but it gives me an opportunity to have a last look at
3 the workshop. In theory I retired two weeks ago, and
4 so I'm really not supposed to be here. But I came
5 because I started working on this file when it was
6 determined that it would be necessary to bring these
7 assets into provincial regulation and didn't feel that
8 it was fair to Brookfield or anyone else to kind of
9 abandon the project on the very day that the
10 Commission decided to have this workshop. But, I am
11 abandoning it after today.

12 So should there be any further process, and
13 I doubt there will be, Mr. Webb will be taking over
14 for me, and it's why he's here today, just so there is
15 some continuity. I just wanted to both thank you and
16 explain why we have both of us here.

17 So, by way of introduction, that is all I
18 have to say, thanks.

19 THE CHAIRPERSON: Then I would ask Mr. Sanderson, or I
20 don't know which of the panel members, but do you wish
21 to make an opening presentation?

22 MR. SANDERSON: We do. If I have the floor again, let
23 me explain what I had in mind at least.

24 THE CHAIRPERSON: Please.

25 MR. SANDERSON: Which is the Commission's Order asked
26 for a brief overview, and then focuses on three issues

1 which you've cited in your opening. I've asked these
2 witnesses to be prepared to speak to those three
3 issues, and they are, and we've chosen them on the
4 basis that they all have different things to
5 contribute to issues A), B), C).

6 You've also asked for a brief overview, and
7 that is sort of broader, and so we thought it was
8 appropriate for me to give that, which I will do in
9 just a minute. And then turn it over to these
10 gentlemen.

11 Mr. Bissett will have a short opening to
12 walk you through the exhibit that was filed on Friday
13 night, and I probably should know, but don't, whether
14 that has an exhibit number yet. That would be the
15 letter with the table attached that was filed Friday
16 afternoon?

17 THE CHAIRPERSON: Do you have a copy of that?

18 MR. SANDERSON: Yes, we do. I think Commission counsel
19 and staff have got copies. It is Exhibit B-3 I'm
20 told.

21 Mr. Bissett will take you through that, you
22 will see it is just a letter from me indicating what
23 we saw happening today from our perspective, and
24 attaching a comparative table which we hope will help
25 the Commission with issue B) on the scope issue, on
26 the list of issues in the scoping document.

1 THE CHAIRPERSON: Okay.

2 MR. SANDERSON: With respect to the broader overview, I
3 just wanted to put this application in some sort of
4 context. You know, at one level it is a completely
5 uncontroversial request for an order of the type the
6 Commission has given uniformly and consistently with
7 respect to the natural gas plants and gathering
8 systems in B.C. over which it has jurisdiction. But
9 at another level, it raises a couple of nuanced issues
10 that those applications didn't. And I think the
11 Commission scoping document quite appropriately
12 narrows in on those. I wanted to kind of put them in
13 context to explain why this application is distinctive
14 in those very narrow ways.

15 **Proceeding Time 8:39 a.m. T03**

16 NorthRiver Midstream which, as Mr.
17 Hawksworth just told you, is owned by Brookfield Asset
18 Management, has agreed to buy, subject to various
19 conditions precedent, most of zone 1 and zone 2 of
20 what has up till now made up the Westcoast system and
21 so as the Commissioners will be aware, the Westcoast
22 system has four zones. Zones 3 and 4 are the
23 interprovincial pipeline that runs from Alberta through
24 B.C. to the U.S./Canada border and from which Fortis
25 picks up all of its gas for the Lower Mainland. PNG
26 picks up its gas for delivery into the Northwest, et

1 cetera.

2 The zone 1 and 2 assets are simply the
3 processing plants in the northeast part of the
4 province, and the gathering systems that serve those
5 plants.

6 Brookfield agreed to buy 19 such processing
7 plants. Thirteen of those were independent from the
8 Westcoast system, though ultimately owned by it. They
9 were already regulated provincially. They already
10 have exemption orders. But six were determined by the
11 courts 20 years to be functionally integrated with the
12 entire Westcoast system, and those six have therefore
13 been regulated as part of the Westcoast pipeline.
14 Their rates as a pipeline are determined by the
15 Commission on paper, and until 1998 they were treated
16 -- albeit the rates were different, they were treated
17 as if they were part of a fully regulated pipeline,
18 just like zones 3 and 4.

19 That proved a very cumbersome way to
20 operate in real time the gathering and processing
21 business. And both Westcoast and its customers and
22 the broad representative of those customers, the
23 Canadian Petroleum Association -- or I'm sorry, CAP as
24 it's now called, all of recognized that a more
25 flexible arrangement needed to be put in place and as
26 a result of that, a framework called the Westcoast

1 Framework was developed to pioneer, really, a light-
2 handed form of regulation. And that light-handed form
3 of regulation was applied exclusively to the zone 1
4 and zone 2 assets.

5 That brings me to the first distinctive
6 feature of this application and that is that we're
7 taking assets that have a form of regulation that all
8 customers have been familiar with for 20 years, and
9 removing those facilities into B.C. So we're taking
10 them from federal jurisdiction to provincial. We're
11 taking them from a structure of light-handed
12 regulation with which all of its customers are very
13 familiar, and indeed the operating personnel of
14 Westcoast are coming too. So the people who are
15 running those assets are also familiar with that
16 framework, and we're moving it into B.C. And that's
17 raises the question, well, when it gets here, what is
18 the form of regulation going to look like. That's not
19 a question one normally would have if somebody was
20 building a new natural gas processing plant or
21 facility but it's one that is unavoidably at the
22 forefront in this application.

23 **Proceeding Time 8:43 a.m. T04**

24 When the assets come across we have asked
25 that they be exempted from Part 3 regulation for the
26 same reason all other processing facilities in the

1 province are, and that is because these plants operate
2 in a highly competitive environment. Producers have no
3 obligation to use the facilities and, indeed, at the
4 drop of a hat won't use the facilities if the price
5 for the services being offered is not competitive.
6 They can find ways to get their gas through other
7 facilities. They can build facilities themselves.
8 There's simply no room for the owner of gathering
9 systems or processing plants to obtain anything other
10 than a competitive price for the services they offer.
11 And that's why I think the Commission has consistently
12 exempted these applications -- these sorts of
13 facilities from Part 3.

14 In this case the facilities are coming with
15 an elaboration of what that exemption looks like and
16 what form of regulation takes its place. The
17 Commission normally provides in its orders that the
18 processing plant should be exempt from Part 3, but
19 subject to a complaint space process of the type you'd
20 use under Part 4. And as the Commissioners are aware,
21 Part 4 are the provisions which cover common carriers
22 and common processors. And so the general approach is
23 to apply the same approach you would to common
24 processors and common carriers.

25 The only difficulty with that is that the
26 Commission has never had occasion to elaborate what

1 that form of regulation looks like. There are no
2 Commission decisions, which I'm aware of, which
3 explain what kind of process would be used and more
4 importantly perhaps what principles would be applied.
5 In this case we know what process has been in place
6 and we also know – and will Mr. Bissett elaborate this
7 – what principles have been in place. That is if
8 there were a complaint what principles would the
9 Commission apply to determine and resolve that
10 complaint? That's laid out in the framework. It's
11 not laid out, with great respect, in any Commission
12 decisions or previous rulings.

13 So what we're asking for in this
14 application is that the Commission do indicate the
15 manner in which it would regulate if there were a
16 complaint and the process it would use. We ask that
17 because customers have had the benefit of that for 20
18 years and because NorthRiver is purchasing these
19 assets all at once, in circumstances where the assets
20 have existed for a long time in some cases, some are
21 relatively new, but some are already been a key part
22 of the province for a very long time.

23 Determining the difference between an
24 acquisition base on market potential of these assets
25 as opposed to regulated assets subject to cost and
26 service regulation, it's a fundamentally different

1 proposition. Those two propositions are completely
2 different. Brookfield is paying a market price for
3 these assets, as such it wants to know it will be able
4 to obtain value from the assets on a market, not cost
5 of service basis. And so it wishes to establish the
6 principles already recognized with the customers for
7 the last 20 years that makes that clear to all comers
8 and has the impature of the Commission.

9 **Proceeding Time 8:48 a.m. T05**

10 So that's the ask and that's why it is
11 distinct, if you want, from a plan vanilla exemption
12 order.

13 In order to pursue this, the sales
14 agreement which was signed in July of 2018 provided
15 that this exemption order is a condition precedent to
16 the transaction completing. So that means that the
17 migration of these assets from federal to provincial
18 jurisdiction and the completion of the transaction
19 between Enbridge and Brookfield/NorthRiver is
20 dependent upon, amongst other things, an exemption
21 order being issued by the Commission consistent with
22 the application.

23 And so there are other -- I don't want to
24 overstate the Commission's role here. It's also
25 contingent on the NEB agreeing to the sale. There's
26 an application before the National Energy Board to

1 that effect, and also contingent upon the BCOGC
2 issuing 747 permits. And that's in progress.

3 But clearly the exemption order we're
4 seeking here is an important element of the entire
5 transaction. It's a multibillion dollar transaction.
6 You're seeing sort of the corporate seniority that's
7 present here today because a commitment of that kind
8 of capital to an existing facility really demands the
9 attention of senior levels of those companies before
10 they can, in conscience, complete the transaction.
11 So from a corporate point of view, you know today in
12 this whole process, is important.

13 With respect to customers, I don't see any
14 here today. I don't see anybody else. And I think
15 that's because the core value in this application is
16 the status quo. What customers have all been talked
17 to, first by Westcoast, second by NorthRiver, it has
18 been explained to all of them that the objective of
19 NorthRiver is to maintain the status quo. Mr.
20 Morrison and Mr. Bissett can answer your questions
21 with respect to how that consultation has occurred,
22 but it has occurred.

23 All customers have consented to NorthRiver
24 stepping into Westcoast's shoes. And I point out,
25 they didn't need to do that. They did it voluntarily.
26 There was no right of assignment between Westcoast and

1 its customers. They needed to consent to NorthRiver
2 stepping into Westcoast's shoes. They have. And as
3 Mr. Morrison will elaborate, while I don't think it's
4 necessary from the Commission's perspective, there's
5 also been an extensive reaching out to all First
6 Nation communities and local communities in the areas
7 that these plants operate just to introduce
8 NorthRiver, make everybody comfortable that the status
9 quo and manner of operation will not be compromised
10 with the change of ownership. Again, the absence of
11 attendance here today I think can give us some comfort
12 that people are comfortable around that.

13 Any questions you may have with respect to
14 that outreach, Mr. Morrison would be happy to address
15 in the context of communities, Mr. Bissett in the
16 context of customers.

17 **Proceeding Time 8:52 a.m. T06**

18 I think that's all I have proposed to say.
19 With that, as I say, Mr. Bissett is here to help you
20 with two things, really. One is, looking at your list
21 of issues, the interdependence of the pricing
22 principles and the complaints process, which is a
23 question you had at Appendix 2 and Appendix 3 to the
24 proposed order, how do they work together. Mr.
25 Bissett is going to help you with that I hope.

26 And I think Mr. Hawksworth will add to that

1 only the owner's perspective, that is how does the
2 owner see the importance of Appendix 2 and 3. If
3 you've got questions around that, Mr. Hawksworth will
4 be happy to help you.

5 With respect to how the proposals differ
6 from the framework, again, that is Mr. Bissett and
7 that is what Exhibit B-3 I think is designed to help
8 you with, and then finally with respect to
9 consultation as had foreshadowed, Mr. Morrison and Mr.
10 Bissett will tag team, Mr. Morrison with the
11 community, Mr. Bissett with the customers.

12 With that, I will turn it over. I'm not
13 sure if you want to start with questions from
14 Commission staff, but maybe first I will ask Mr.
15 Bissett to open in this way by walking you through
16 Exhibit B-3. Thanks.

17 **PRESENTATION BY MR. BISSETT:**

18 MR. BISSETT: Thank you, Mr. Sanderson. Yeah, if I
19 could draw your attention to Exhibit B-3. As Mr.
20 Sanderson laid out, the application asks the
21 Commission to establish both the process and
22 principles that would apply in the event that a
23 dispute is brought forward to the Commission. The
24 proposed dispute resolution process and principles
25 applying to a dispute are found in Appendix 2 and 3 to
26 the application. These appendices are largely based

1 on elements from two sections of the Westcoast
2 framework that Mr. Sanderson talked about earlier, the
3 framework for light-handed regulation, that has been
4 in place for the gathering and processing business
5 that Westcoast has been operating under since the late
6 1990s.

7 More specifically, in terms of the
8 framework is section E of the framework which deals
9 with the complaint process. And that is associated
10 with Appendix 2 of the application. And then there is
11 section 3 of the framework which addresses contracting
12 practices and is associated with the principles we
13 proposed to be associated with resolving a dispute,
14 and is contained in Appendix 3 of the application.

15 We also draw in a few instances from
16 section A of the Westcoast framework in terms of
17 establishing principles that we would propose be
18 referred to in the event that a dispute is brought
19 forward to the Commission.

20 I am going to keep my remarks fairly short
21 here, but having said that, if you look at Exhibit B-
22 3, and you look at the changes in what we've laid out
23 here is what was in the framework and what we're
24 proposing in terms of changes to the framework of
25 those particular sections, I'd say there is really
26 three categories of changes with respect to all of

1 this. One is what we've described as adapting the
2 framework to the context of NorthRiver Midstream. So,
3 you will see things where Westcoast is changed to
4 NorthRiver Midstream, the NEB references are taken
5 out, replaced with other regulatory bodies, that sort
6 of thing. We've also taken the liberty of cleaning up
7 some of the language in here, and correcting some
8 grammar as lawyers are sometimes want to do. So we've
9 done that.

10 There are some modifications in here that
11 go beyond just changing names or cleaning up grammar,
12 and those are to reflect changes that we believe have
13 occurred over the years, and make some clauses of the
14 framework either unnecessary or no longer relevant.
15 Either the market has changed or just various
16 circumstances have changed, which we think leads to
17 needing to make a change in terms of what the
18 framework originally said.

19 **Proceeding Time 8:56 a.m. T07**

20 I'll start with Appendix 2. In terms of
21 Appendix 2, I would say the vast majority of all the
22 changes in Appendix 2 from the framework would fall
23 into the bucket of just putting this in the context of
24 NorthRiver Midstream and tidying up some of the
25 language. I would, though, draw your attention to, in
26 Exhibit B-3 in the Appendix 2 part of it, to 6(e) and

1 this one element here where if you look at the last
2 line of 6(e) there's a striking of a sentence that
3 says, "A sample spreadsheet is attached as Appendix C
4 to this framework." The idea back when the Westcoast
5 framework was put together is that a spreadsheet would
6 be maintained that laid out all of the contracts and
7 all of the major terms and conditions associated with
8 all the contracts would be kept by Westcoast. That
9 was never done. That spreadsheet doesn't exist.

10 And what we would propose in terms of this
11 application is that we wouldn't maintain such a
12 spreadsheet either, but if a complaint was ever
13 brought forward to the Commission and it was desirable
14 to have a summary like that done, that we would put
15 one together. But as a course we would -- as a matter
16 of course we wouldn't suggest that we would always
17 keep that spreadsheet updated and available.

18 I'd suggest the rest of the changes within
19 Appendix 2 all fit within those other two categories
20 that I talked about.

21 If we go to Appendix 3, there are a few
22 items here that I'd like to talk about. Section 1,
23 you can see some additions there in terms of what is
24 in Section C, the contracting practices portion of the
25 framework. What we've done here is we've pulled some
26 elements of Section A of the framework out, which are

1 really associated with principles that we believe are
2 relevant if a dispute was ever brought in front of the
3 Commission in terms of the Commission resolving that
4 dispute.

5 Generally speaking, it says that customers
6 are knowledgeable and they are sophisticated and they
7 have information at their disposal to make informed
8 decisions. And we also generally say in here that we
9 would treat all customers fairly, just to summarize it
10 at a very high level.

11 1(c) though is one that goes back to what
12 Mr. Sanderson talked about before, and what we are
13 asking for here is that Commission would not have at
14 its disposal in terms of resolving a dispute, that it
15 wouldn't push NorthRiver Midstream into being rate
16 regulated or into a cost of service basis, and Mr.
17 Sanderson outlined why we would not like that to
18 happen.

19 So that's in terms of the framework and
20 what we are proposing in Appendix 3, that's obviously
21 a difference.

22 If we go to section 3, is another area
23 where we've made what I would consider a more
24 significant modification. We're proposing to remove
25 the last sentence of this section. As indicated in
26 the notes, both the market and the resources in B.C.

1 in the context of Westcoast's gathering and processing
2 business have changed significantly in the last 20
3 years. Unconventional gas has vastly changed the
4 resources in all of our operating areas. In
5 particular, the composition of the gas in these areas
6 is very different than what existed in the late 1990s
7 and also is a very big differentiator in terms of the
8 resources between areas as well. So this sentence
9 talks about comparing tolls between supply areas.

10 That's really difficult to do these days
11 because the gas composition is so different. And with
12 the gas composition being so different, and the nature
13 of the resource being so different it is extremely
14 difficult to compare fees that a person might pay in
15 one area versus fees that a person might pay in
16 another area. So we don't think that is relevant any
17 more.

18 **Proceeding Time 9:01 a.m. T08**

19 There is also some other minor things here,
20 that sentence refers to the Pine River area which is
21 not part of this process. It also refers to the Fort
22 Nelson area and the Fort St. John areas. We've --
23 there have been facilities added in the Westcoast
24 business, and what is described as -- or what was
25 conceived as being the Fort St. John area in the late
26 1990s really isn't what is associated with this

1 business anymore. So we just felt like it was more
2 appropriate to remove that part of the framework here.

3 The last item I'll talk about here in terms
4 of the differences between the framework and what
5 we're proposing for Appendix 3 is at the bottom of the
6 page where it talks about removal of clauses three to
7 five of section C of the framework.

8 For me, clause 3, to address that one
9 first, this is really something that was put in place
10 originally to affect an orderly transition is
11 Westcoast gathering and processing went from being a
12 rate regulated business and went into negotiated
13 contracts, and in the context of the market becoming
14 more competitive. So, they wanted to put some
15 structure around what contracts would look like.

16 Well, 20 years now in the future, or where
17 we are now 20 years later, is the market has changed
18 quite a bit. We are no longer in transition from
19 being a company that maybe had higher degree of market
20 share. Market share is quite a bit less today. It is
21 a very competitive market. I don't think there is any
22 need from our perspective to have the kind of
23 structure that is indicated in section 3 of the
24 framework.

25 Clause 4 of the framework talks about
26 certain non-negotiable terms and conditions. Things

1 that Westcoast shouldn't have to negotiate on in the
2 context of being safe, that sort of thing. We are,
3 you know, NorthRiver takes safety, reliability,
4 compliance, environmental responsibility very
5 seriously. We would never negotiate terms that would
6 affect any of those parts of our business. And again
7 I think this was more in the context of a transition
8 type of arrangement. We are well beyond that. Things
9 are negotiable, but not when it comes to things like
10 safety. And everybody understands that, that is just
11 one of our core values.

12 Clause 5 of the framework talks about
13 renewal rights. And it lays out how renewal rights
14 will be done. It talks about, it references the early
15 2000s and a variety of things that were in place at
16 that time. We are well beyond the renewal rights that
17 were in place at that time. People have freely
18 negotiated new renewal rights, references to 2000 and
19 2001 just isn't relevant anymore. And again we are in
20 a very competitive market, and there really isn't a
21 need to put structure around what renewal rights look
22 like.

23 So that is all I've prepared in terms of
24 opening remarks. Hopefully that was helpful to give
25 you a little bit of context in terms of how we adopted
26 parts of the framework and put them into Appendix 2

1 and Appendix 3.

2 MR. SANDERSON: Thanks, Mr. Bissett. I think that is
3 all we have from our end, so I'm not sure how the
4 Commission wants to proceed who is questioning first,
5 but these witnesses are happy to answer whatever
6 you've got.

7 MR. BOYLE: Hello there, good morning, I'm Damon Boyle.
8 If you don't understand my Irish brogue, just feel
9 free to ask me to repeat the question, but I'm sure it
10 is going to be all right. So, I've just got a number
11 of questions here, I think we're going to walk
12 through, and hopefully get responses on, and then we
13 can take it from there.

14 So, the first one will be around the
15 interdependency of the pricing principles in the
16 complaint process

17 **Proceeding Time 9:06 a.m. T09**

18 So could you please discuss why the pricing
19 principles and the complaint process are
20 interdependent? If you could elaborate a bit more of
21 why the two are so interdependent on one another?

22 MR. BISSETT: Sure. The process itself, you know, lays
23 out a structure that, as Mr. Sanderson alluded to,
24 we're quite familiar with and all of other customers
25 are quite familiar with. So when we propose that for
26 the application it was really the idea of maintaining

1 the customer's familiarly and as well making sure
2 that, you know, nothing really changed for the
3 customers, which is what we really heard from them in
4 terms of what a complaint process would look like.

5 In terms of the principles, again, these
6 are principles that the customers are familiar with.
7 And the way that they work together, you know, they
8 are interdependent on each other in terms of the
9 process and the principles, but really it's putting
10 something in place that the customers are familiar
11 with and that we're familiar with.

12 MR. BOYLE: Okay, thank you. So following on from that
13 the Westcoast framework was agreed to in its entirety
14 between Westcoast and the parties. Could you perhaps
15 discuss why other aspects then, if framework were not
16 deemed as necessary, such as the fair dealing policy,
17 why is it only these two that are independent and
18 necessary for us to see to adopt?

19 MR. BISSETT: So when we looked at the framework and
20 what elements of the framework to pull over it really
21 was in the event that a dispute was brought before the
22 Commission. There are elements -- you know, and you
23 raised the fair dealings policy, which is an
24 interesting one. If you look at the fair dealings
25 policy it talks a lot about how the regulated -- the
26 NEB regulated portion to Westcoast would deal with

1 affiliates, for instance. And that was in the context
2 of the federally regulated transmission pipeline being
3 functionally integrated with the NEB regulated
4 gathering and processing assets and how they would
5 behave to make sure that the provincially regulated
6 affiliates on the gathering and processing side didn't
7 achieve any kind of undue benefit.

8 Well, once we go forward with this
9 transaction the pipeline and the gathering and
10 processing part of Westcoast will be separated and
11 will all become one entity as opposed to affiliates.
12 So really the fair dealings policy, for instance,
13 really just doesn't seem relevant anymore because the
14 circumstances have hanged quite a bit.

15 And I would say for the other elements of
16 the fair dealing policy that we didn't include in
17 there I would say that they have varying degrees of
18 irrelevancy due to the way the market operates or what
19 they were intended to achieve and circumstances have
20 just changed now to make them just not necessary in
21 our view.

22 MR. BOYLE: Okay. So then the onus that's been put on
23 the complaints process and the pricing principles, I
24 was just wondering, in the responses to some of your
25 IRs you noted there'd be a material risk that this
26 transaction may not close if both the adoption of

1 that our customers are familiar with, again as a
2 condition precedent to closing.

3 THE CHAIRPERSON: Could I just interject here? Why do
4 you assume that we would impose cost of service?

5 MR. HAWKSWORTH: We don't. And as you could imagine,
6 this is a new process going forward from federal to
7 provincial and we just want to ensure that the risk of
8 that in an unknown complaint process is struck, that
9 we don't have that risk because we didn't value it on
10 that basis.

11 THE CHAIRPERSON: Because we do have companies that we
12 regulate that are not on a cost of service basis, they
13 are on a market basis.

14 MR. HAWKSWORTH: Correct.

15 THE CHAIRPERSON: And on a complaints-based basis. So
16 we do have that as part of our mandate and several of
17 those that we regulate are done on that basis as well
18 as on a light-handed basis.

19 MR. HAWKSWORTH: Mm-hmm.

20 THE CHAIRPERSON: It's interesting -- that assumption is
21 interesting.

22 MR. BISSETT: Just to elaborate on what Mr. Hawksworth
23 just said, we didn't presume that that's where you
24 would go, but it was the one option that we wanted to
25 take off the table. If we did end up in a cost of
26 service type environment that would be, as Mr.

1 Hawksworth said, highly detrimental to the business.

2 COMMISSIONER LOSKI: Good morning. First, I have a
3 couple questions just to follow up, but before I ask
4 my questions I'd just like to say hi to Mr. Sanderson
5 and Mr. Webb and certainly I want to say I appreciate
6 you three gentlemen being here today.

7 So just to follow up on the cost of service
8 based risk, regulation risk, is that a risk that has
9 been let's say in place or potentially to be there for
10 Westcoast under the NEB framework as it stands today?

11 MR. HAWKSWORTH: No, and that's why we are continuing
12 to have these -- you know, want the continuity of
13 these core pricing principles.

14 COMMISSIONER LOSKI: So we're saying then that under
15 the framework, the NEB, when adjudicating a complaint
16 cannot apply discretion as it relates to that
17 complaint in terms of deeming the rates to be
18 appropriate or not?

19 MR. HAWKSWORTH: I'm not sure if it's appropriate or
20 not, but the moving to a cost of service basis. So
21 it's our understanding that we wouldn't have a cost of
22 service imposed on us through the light-handed NEB
23 regulation.

24 COMMISSIONER LOSKI: So perhaps this ends up being
25 something that comes into argument. I'd like to
26 understand perhaps the legal basis for that view.

1 Thank you.

2 MR. BISSETT: Yes, and I guess just to elaborate on
3 that, I think we're probably not the experts on that
4 part of what could happen in terms of an NEB ruling,
5 but certainly my understanding is the same as Mr.
6 Hawksworth, that the framework was negotiated with
7 Westcoast and various other parties. That would be
8 the situation that would continue to go forward. But
9 I'm not the expert on that, that's for sure.

10 MR. SANDERSON: Mr. Boyle.

11 MR. BOYLE: Okay, so we've talked about the rest of the
12 transaction may not close if we did not obtain these,
13 so I was wondering if you could discuss what would
14 NorthRiver do in the event that you didn't obtain
15 these regulatory approvals for the complaints process
16 and the pricing principles.

17 MR. BISSETT: Sorry, if we didn't get them?

18 MR. BOYLE: Yes, if that was not approved.

19 MR. BISSETT: Right. Well, so today we do own 13
20 plants. We would certainly continue to run that
21 business, that there is no interdependency between
22 what we've already acquired and what we're proposing
23 to acquire. But if that did -- you know, if we didn't
24 receive the approval, we would have to decide on our
25 course at that time.

26

Proceeding Time 9:15 a.m. T11

1 MR. BOYLE: Okay. So the Westcoast framework provided
2 a mechanism by way which contracts were previously
3 negotiated and the application that NorthRiver brought
4 forward that proposes adopting process which seems to
5 look only at complaints and the principles those
6 complaints should be adjudicated on. Could you first,
7 please, just confirm this remains NorthRiver's
8 position?

9 MR. BISSETT: Correct.

10 MR. BOYLE: So again, could you just please discuss why
11 this change is necessary from the full framework. If
12 it's been consistent for so long and customers are
13 comfortable under it, why is the change necessary and
14 what value is derived from adopting these two bits out
15 of it?

16 MR. BISSETT: I would say that just the circumstances
17 of the market have changed a lot since the late 1990s
18 and as we talked about earlier in the context of the
19 fair dealings policy, to use that as an example.
20 Things have just changed so much that it makes, at
21 least in my opinion, certain elements of the framework
22 just not necessary any more. The market back in those
23 days, certainly from a Westcoast perspective on the
24 gathering and processing side, had a fairly high
25 market share, and I think when -- and just for a
26 little bit of background, I guess, I've been

1 associated with this business since 1996. I haven't
2 -- I didn't participate in, you know, putting together
3 the framework for light-handed regulation but I've
4 been around for a while.

5 In the late 1990s, Westcoast, on the
6 gathering and processing side, did have a fair big
7 market share. I believe that we were somewhere
8 probably north of 75 percent of the market share
9 associated with gathering and processing, just on the
10 NEB side. That market share has decreased
11 significantly over the years. You know, we are
12 probably somewhere associated with the assets that we
13 are transferring over being less than 20 percent now.

14 So the circumstances have changed a lot and
15 I think when the framework was put together, people
16 were a little bit worried about Westcoast exercising
17 its market power. And again, the market was
18 transitioning from, you know, maybe with a significant
19 player being there, coming out of rate regulation, the
20 market was transitioning into competition. I think
21 there was some concern that how orderly would that
22 transition be and how do we structure things so that
23 Westcoast doesn't use its market power.

24 Now fast forward twenty years, Westcoast's
25 market power is quite a bit reduced. The market has
26 transitioned. People are very sophisticated. It is a

1 highly competitive market now. You know, in all the
2 years that I've been in the business, I've never seen
3 competition like it is today. And so when we looked
4 at some of the other aspects of the framework, like
5 the fair dealings policy or the interconnect policy to
6 pull out another example, they just don't seem
7 relevant any more in the current context.

8 MR. BOYLE: Thank you. So we had a look at the NEB back
9 in 1998 as you mentioned, the light-handed framework.
10 Then it had been noted that a negotiated settlement
11 process must not fetter their ability and discretion
12 taking into account any public interest considerations
13 which makes them the only immediate concerns of the
14 negotiating parties. So from that, could you please
15 discuss does the adoption of these pricing principles
16 in the complaint process fetter the British Columbia
17 Utilities Commission's discretion if we adopt this?

18 MR. SANDERSON: Mr. Chairman, I'll let Mr. Bissett
19 answer that if he wants. On the other hand, it's a
20 pretty nuanced legal question, and if Mr. Bissett
21 doesn't want, I'm happy to address that in argument.

22 MR. BISSETT: Yeah, I feel out of my element there
23 commenting on something like that.

24 MR. BOYLE: Okay, thank you. So following on from that
25 then, and under the Westcoast framework the complaint
26 process was an avenue for a person who believed the

1 Westcoast framework was not complying with the
2 policies and practices set out in the framework or who
3 is unable to reach a satisfactory contractual
4 agreement with Westcoast. There's no policies or
5 practices set out in appendix 2.

6 **Proceeding Time 9:20 a.m. T12**

7 So, has the scope of the complaint process
8 been constrained significantly? Could you please
9 discuss why or why not?

10 MR. BISSETT: Sorry, I'm not sure I quite catch the
11 question.

12 MR. BOYLE: Sure, so if I perhaps repeat it again,
13 under the Westcoast framework the complaint process
14 was an avenue for anyone who was unable to reach a
15 satisfactory arrangement with Westcoast, but it says
16 that it is also an avenue for anyone who was not
17 complying with the policies and practices set out in
18 the larger framework. Now, there will be no policies
19 or practices adopted going forward if we were to
20 approve the application. So is that almost
21 constraining the basis on which complaints are looked
22 at by adopting just the principles that you've set
23 out?

24 MR. BISSETT: I guess I'll start to answer this, and if
25 I wander, because I'm not exactly understanding. So,
26 we are proposing to adopt a process and principles

1 associated with the process in the event of a dispute
2 only. We would always suggest that we will negotiate
3 with our customers to make sure that we always reach a
4 negotiated settlement, and that there would never be,
5 or hopefully never be a need for somebody to feel like
6 they need to come to the Commission to resolve a
7 dispute. And we've been very successful in that over
8 the years.

9 I believe it is in the IRs where we talk
10 about in the time that we were under NEB regulation
11 that there were two instances where a complaint was
12 brought forward, and only one that went to a hearing.
13 So, we would always seek to come to a negotiated
14 settlement.

15 In the event that there was a dispute
16 though, Appendix 2 and Appendix 3 in my mind provide
17 some structure in terms of how that dispute gets
18 resolved. And a structure that again we are familiar
19 with and our customers are familiar with in the
20 context of the framework for light-handed regulation.

21 So that is why we pulled those parts in,
22 because that is what we've been operating in the last
23 20 years. And again when we talk to customers, one of
24 the things they said is "we really don't want anything
25 to change from the way it is today." Which is we want
26 to be free to negotiate agreements, and from our

1 perspective if there was a dispute, this again is the
2 same as what they've seen in the past.

3 Did that answer it?

4 MR. BOYLE: Yes, sort of what we were getting at is
5 what you have pulled in from say the pricing
6 principles to adjudicate complaints, do you feel that
7 that that has been maintained from the original
8 Westcoast framework? Or has it been significantly or
9 in any way constrained by the principles that have
10 been put forward?

11 MR. BISSETT: I don't think it has been constrained.
12 If you go through the black line, you can see where
13 we've added the things that we have added. And the
14 changes that we've made, and the changes are pretty,
15 as we walk through them earlier, hopefully gave you a
16 good appreciation for them, but I think they are not
17 that many changes. And I think they are changes that
18 were necessary. But there is not that many of them.

19 MR. BOYLE: Okay, thank you. So, I suppose leading on
20 from that, if you could look at the Exhibit B-3, the
21 black line version you did provide, and if you go to
22 9(b) in Appendix 2 please.

23 MR. BISSETT: Okay, yes.

24 MR. BOYLE: So, could you please discuss why the
25 language has been adapted from the Westcoast framework
26 in the manner it has been? So you'll see here in 9(b)

1 had been provided to them, and we'd like to ask you if
2 you could please discuss whether you feel raises
3 sufficient awareness with the current Westcoast
4 customers that only part adoption of the framework is
5 being requested and not the entirety?

6 MR. BISSETT: As you mentioned, we did send out a -- we
7 send out a notification in advance of doing the
8 filing, letting customers know that there would be a
9 filing coming, and we did provide a copy of it. In
10 addition, you know, we have been meeting with
11 customers and talking about the application. Nobody
12 that I'm aware of, none of the customers have come to
13 us and expressed any concern with any element of the
14 application.

15 MR. BOYLE: Okay, because we'd just like to garnish a
16 better understanding then if it was almost at any
17 point expressly conveyed. Because it would be one
18 thing, the customer is thinking all of the Westcoast
19 framework is still being maintained, it's the same as
20 before as opposed to the only avenues are the
21 complaint-based process and the pricing principles
22 that have been adopted. In your opinion, are they
23 fully aware that this is the only provisions of the
24 original Westcoast framework which they may have
25 operated under for 20 years has been adopted?

26 MR. BISSETT: When we talked to the customers about

1 this process and the transaction, they knew if the
2 transaction was to be completed that the NEB regulated
3 assets would come out NEB regulation and that the
4 framework in its entirety would cease to exist. They
5 knew that explicitly, and so that was well understood
6 by everybody.

7 Certainly they've had lots of opportunity
8 to review the application. And again, we just haven't
9 heard from anybody in terms of any concerns raised at
10 all with any element of the application, whether it's
11 the dispute resolution or any -- you know, the
12 exemption, or anything else like that.

13 MR. BOYLE: Okay, thank you. So in your opinion you
14 would consider they would be fully aware of the nature
15 of the application going forward and the framework
16 that it would operate under?

17 MR. BISSETT: Yeah, I would presume that everybody, you
18 know, is -- well, those who are interested will have
19 read it and I would have thought if anybody had any
20 concerns with any aspect of it, that we would have
21 heard about it, or there would be somebody here today
22 to listen in or participate.

23 MR. BOYLE: Okay, thank you.

24 THE CHAIRPERSON: Mr. Bussoli, do you have anything else
25 on your plate?

26 MR. BUSSOLI: Sure. I'm just going to add one more

1 was not complying with the policies and practices, *or*
2 if anybody believed that they were unable to reach a
3 satisfactory contractual arrangement with Westcoast."
4 And now that "or" has been deleted, and I don't know
5 if that was intentional or not, but that is something
6 that the Commission would like to be addressed. And
7 if you know the answer, you can answer it now, if not
8 then I suggest we leave that for final submissions. I
9 don't know if that was completely understood when the
10 question was asked.

11 MR. SANDERSON: I'll let Mr. Bissett respond to whether
12 he understands it, I think I understand. So, if Mr.
13 Bissett doesn't want to deal with it, then I have the
14 point.

15 MR. BISSETT: Yeah, I think I better defer. I think
16 I'll defer to Mr. Sanderson on this one, I'm not quite
17 sure.

18 MR. BUSSOLI: Those are all the questions from staff.

19 THE CHAIRPERSON: Okay. Mr. Loski?

20 COMMISSIONER LOSKI: Thank you, Mr. Chairman, I have a
21 few follow up questions, gentlemen.

22 Some questions around the -- we've talked
23 about as being the conditions precedent. So, I just
24 want to make sure I understand what those are on the
25 context of the application. So, maybe I'll tell you
26 what I think it is perhaps, and maybe that can lead to

1 a one-word answer, but feel free to answer as you may.

2 Are the Appendix 2 and Appendix 3 I guess
3 part of the conditions associated with regulatory
4 approval?

5 MR. HAWKSWORTH: That is correct.

6 COMMISSIONER LOSKI: Okay, so again, in the application
7 on page 5 talk about regulatory approvals and the BCUC
8 exemption orders, and there it talks about -- maybe
9 I'll just read it.

10 "The BCUC exemption order means an order
11 pursuant to section 88(2) of the *Utilities*
12 *Commission Act* exempting the buyer and the
13 facilities from all of the provisions of
14 Part 3 of the *Utilities Commission Act*, with
15 all facilities to be regulated under the
16 *Utilities Commission Act* on a complaint
17 basis with the complaint taking the form of
18 a written application to the BCUC from a
19 person whose interests are affected, and
20 with such additional reasonable conditions
21 or reasonable related orders as they may
22 have been contained in buyer's application
23 to the Commission."

24 So again, Appendix 2 and Appendix 3 are the
25 conditions that you are referencing there?

26 MR. HAWKSWORTH: Correct, with the heavy underline
under that last component of the section, of the

1 reasonable conditions and related orders.

2 COMMISSIONER LOSKI: Okay, thank you. Now, would those
3 conditions then also be considered part of the
4 contractual arrangements between the shipper, the
5 customers and NorthRiver?

6 MR. HAWKSWORTH: I don't quite understand the question.
7 So, if we haven't closed, and we don't have a
8 contractual -- those contracts that are coming across
9 are also conditioned on the transaction closing. So
10 we don't have any obligation to them until the
11 transaction closes.

12 **Proceeding Time 9:34 a.m. T15**

13 COMMISSIONER LOSKI: Okay, I guess I meant then in
14 terms of after the contract's closed. Maybe I'll
15 start at it a different way and I'll get back to it.

16 So under the current regulatory regime with
17 the Westcoast framework under the NEB, are the -- is
18 the framework and all of the principles and policies
19 and practices there, considered part of the sort of
20 contractual arrangements between the customers and the
21 service provider?

22 MR. HAWKSWORTH: Correct

23 COMMISSIONER LOSKI: So what I'm getting at now is then
24 if this application is approved as proposed, do
25 Appendices 2 and 3 become part of the continued
26 arrangements between your customers and NorthRiver?

1 MR. BISSETT: I think that's kind of a nuanced answer.
2 Some elements -- I would say that some of the elements
3 that are in Appendix 2 and Appendix 3, we negotiate on
4 all sorts of stuff. But really, if a dispute was
5 brought forward, you know, the idea of treating people
6 fairly, you know the principles, those are what we
7 apply in every negotiation. But do people in certain
8 instances have a dispute resolution process of their
9 own that's part of their contract? In some instances,
10 yes.

11 COMMISSIONER LOSKI: Maybe I'll go to -- perhaps if we
12 could look at a response we had to IR 3.1, I believe
13 it was, and I can just read it out. I'll just read
14 out part of it. And this really gets to the question
15 around maintaining status quo, okay, which we've heard
16 several times from both Mr. Sanderson and yourselves,
17 but -- Are you guys ready and I can read it out?
18 Okay.

19 I'm just in the middle part where it says:
20 "NorthRiver Midstream understands that a
21 number of existing customers of Westcoast
22 express the desire that their long-term
23 contractual arrangements would not be
24 altered by the transfer of these assets from
25 Westcoast to NorthRiver, and indeed some
26 customers insisted on the assurance that

1 their long-term contractual arrangements
2 would not be altered before consenting to
3 the assignment of their service agreements
4 from Westcoast to NorthRiver."

5 So it's in that context that I'm asking
6 this question. And so when we talk about after
7 successful close of the acquisition here of these
8 plants, would the complaints process and the pricing
9 principles as proposed, would they form part of the
10 contractual arrangements between the customers and
11 NorthRiver?

12 MR. BISSETT: I would say they help guide negotiations,
13 but my expectation is that when the deal closes, any
14 individual contracts that customers have will come
15 over in their entirety and not change.

16 COMMISSIONER LOSKI: Okay, so we've said that your
17 answer to previous question was that the framework
18 creates contractual arrangements as it relates today,
19 and we're also saying that Appendix 2 and Appendix 3,
20 assuming the deal closes, won't be part of the
21 contractual arrangements but yet customers have stated
22 emphatically it seems – my word there – that they
23 don't want the long term contractual arrangements to
24 change.

25 MR. BISSETT: Right.

26 COMMISSIONER LOSKI: Can you please help us understand

1 stays as familiar to customers and us as I has in the
2 past. Is that helpful?

3 COMMISSIONER LOSKI: Yes, I have some further
4 questions, but I see Mr. Sanderson has risen?

5 MR. SANDERSON: Well, Mr. Loski, I just wondered if
6 this would help too, that I can't answer the question,
7 but I think it is what you're asking, which is do the
8 existing contracts between Westcoast and its customers
9 contain a contractual provision which incorporates the
10 framework. Or, alternatively, is it just a regulatory
11 construct which everybody understands is applicable to
12 the relationship. That is what I'm hearing in your
13 question. And then you're asking will that change if
14 the application is accepted?

15 And I'm embarrassed to say I don't know
16 what the existing situation is. I don't know whether
17 the contract between Westcoast and its customers makes
18 the framework a contractual term, or whether it is
19 just all of the customers in 1998 and their
20 representatives agreed that the regulatory framework
21 would take the form that it does in the Westcoast
22 framework. That is something we can find out for you.
23 But if that is the question you're asking, I'm not
24 sure Mr. Bissett's answer to it, and I don't know the
25 answer, so.

26 COMMISSIONER LOSKI: I would say that that could be

1 part of it, so perhaps it is something that could be
2 addressed in submissions.

3 But I do have some follow up questions
4 where it is more specific to the customers and how
5 they are going to be -- the relationship between
6 NorthRiver and its customers post a successful
7 acquisition here. So it is more, it's really
8 understanding along those lines in understanding we
9 want to understand how -- if things are going to be
10 different for customers than they have been. And
11 whether they understand that.

12 So, Mr. Bissett, thank you for your
13 previous response, but I want to follow up with a
14 couple of other related questions then. And I am
15 looking at the response to IR 4.5, and 4.5.1. So
16 these were questions again understanding the
17 interdependence of the complaints process and the
18 pricing principles, and the pricing principles which
19 are now subsumed, if that is the right word, as part
20 of the complaints process, whereas before those
21 pricing principles were part of the contracting
22 practice of parties and Westcoast under the framework.
23 So that is what these questions were getting at.

24 And so the response to 4.5, "NorthRiver
25 Midstream's contracting practices will reflect the
26 commercial circumstances it encounters." And then --

1 and this is consistent I think from what I heard from
2 you, Mr. Bissett, but the next part then talking about
3 the principles that will apply in the event of a
4 dispute will no doubt provide a framework for those
5 commercial discussions.

6 **Proceeding Time 9:44 a.m. T17**

7 But I just want -- so with that here,
8 please help me understand here, because it seems to me
9 that now NorthRiver is asserting that there may be
10 differences in how NorthRiver contracts or negotiates
11 in contracts with customers as compared to what's done
12 under the framework whereas again, those pricing
13 principles were part of the core contracting practice,
14 and so they were there to help guide negotiations,
15 whereas what I'm inferring from here is that those
16 contracting practices or pricing principles are not
17 going to be there to guide the commercial discussions
18 and negotiation of rates, but rather they are only
19 there if there's a need to adjudicate a complaint. So
20 I'd like to understand -- oh, and then -- yeah.

21 The next one then is -- well maybe I'll ask
22 the question then. Is that what was intended by
23 NorthRiver and do customers understand that nuance?

24 MR. BISSETT: They certainly understand that once this
25 transaction closes and the NEB regulated assets go
26 into provincial regulation, they do understand that

1 the framework will go away. So the framework will no
2 longer be there. And so they understand that
3 perfectly.

4 In terms of how we will negotiate with
5 them, again, there are elements I think of the
6 framework that just really aren't relevant in the
7 context of the current market, and we would negotiate,
8 as NorthRiver, with customers as we always have.

9 I think there will be potentially some
10 differences depending on the individual customers and
11 what they would like. If a customer came to us and
12 said, "You know, the framework doesn't exist anymore,
13 but I like this part of it. Would you consider
14 including that in our arrangement?" Absolutely we
15 would consider it. But you know, they do understand
16 that the framework in its entirety will cease to be
17 there. And I'm confident of that.

18 COMMISSIONER LOSKI: Okay. Earlier when you were
19 speaking in response to Mr. Boyle, you did mentioned
20 that -- and I jotted it down here, but I may not have
21 it exactly accurate, but that customers had basically
22 stated to you that they don't want really anything to
23 change from the way things have been done today. So
24 presumably that's how things are done under the
25 framework. And I recognize the framework ceases to
26 exist, but again, just to make sure it's clear,

1 because I wasn't sure on this part of -- the question
2 was address or I may have missed it, so forgive me.
3 But the fact again that these pricing principles no
4 longer form guidance to negotiations, that to me seems
5 like it is a big change from the way things are today,
6 and I just would like to -- please explain or help me
7 understand that, how it isn't a big change, but yet it
8 seems to be a big change from our perspective at this
9 juncture. Help us.

10 MR. BISSETT: I think the circumstances of the market
11 are quite a bit different than when the framework was
12 put together. And I would suggest that, you know, in
13 the transition and, at least in my opinion, the
14 framework is being sort of a transitory type of
15 structure and way of doing business. I think we've
16 evolved past certain elements of the framework that
17 just -- you know, the market is much more robust, and
18 really, we've gotten to the point where everything is
19 negotiable, you know, again other than things
20 associated with safety or regulatory compliance or you
21 know, environmental responsibility, that sort of
22 thing, and we've really gotten to that point in terms
23 of the way we operate in Northeast B.C. and again, I
24 think there are elements of the framework. You know,
25 whether it's pricing principles or any of that. The
26 customers are very sophisticated and they understand

1 Act, like the regulatory regime that exists for the
2 other 13 plants that you've got, that allows for this
3 full flexibility in negotiating contracts, and would
4 certainly result in market-based pricing of contracts
5 as determined by those negotiations, is that correct?

6 MR. BISSETT: Correct.

7 THE CHAIRPERSON: Okay, thank you, Mr. Loski.

8 Mr. Sanderson. Question directed to you
9 since we seem to have come to the end of the gathering
10 of information in this workshop. As there are no
11 intervenors, there is no need for this backwards and
12 forwards about argument and final argument and so on.
13 So, it goes to your final argument, and I was going to
14 offer you the option of doing it orally today, or if
15 you wish, we settle on a specific period of time, in
16 which period you would submit a written argument, so I
17 don't know what your particular choice may be in that
18 matter.

19 MR. SANDERSON: Thank you, Mr. Chair. I did come
20 prepared today, depending on the nature of your
21 questions to make oral argument if that suited the
22 Commission. So, I appreciate the invitation. I think
23 in light of the discussion, however, that Mr. Loski
24 just had, I want to make sure that I can fairly
25 address a couple of his points, and also Mr. Boyle's
26 points.

1 So what I'd like to suggest, is if I could
2 caucus for about 15 minutes with my client, then
3 return with a proposal either to give our argument
4 right now, or alternatively to it after lunch or
5 finally give you a firm date for a written submission,
6 if that's okay?

7 THE CHAIRPERSON: Well, I think your suggestion of a 15
8 minute recess is a good one. It is about that time to
9 have one, so why don't we do that. You can caucus
10 with your client, and we will reconvene at ten after
11 ten.

12 MR. SANDERSON: Thank you very much.

13 **(PROCEEDINGS ADJOURNED AT 9:53 A.M.)**

T19/20

14 **(PROCEEDINGS RESUMED AT 10:15 A.M.)**

15 THE CHAIRPERSON: All right, be seated, please.

16 Mr. Sanderson, I left a question in your
17 ball court so --

18 MR. SANDERSON: Thank you. You did.

19 THE CHAIRPERSON: -- I'll let you answer it

20 MR. SANDERSON: I will answer it. You can imagine that
21 I had a very strong inclination to want to finish up
22 today, but in fairness, Mr. Chairman, seriously,
23 questions that Mr. Loski raised, to my mind, do turn
24 in large measure on the existing relationship between
25 Westcoast and its customers, and I don't think the
26 witnesses today, and certainly I know I can do those

1 justice, that issue justice, without talking to some
2 of the people who have the broader responsibility for
3 the transaction, and so I think in conscience we need
4 to do that.

5 THE CHAIRPERSON: Okay.

6 MR. SANDERSON: So I am going to take your offer of
7 suggesting a time to submit written argument. With
8 your leave, the submission will kind of combine a very
9 summary final argument, because I think the Commission
10 has demonstrated it clearly understands the
11 application, clearly understands what the issues are
12 and has questions about some specific things. That's
13 what we'll deal with. There might be a bit of IR
14 response really in the response, or there might be a
15 bit of fact and submissions mixed in, but with your
16 leave, that's what we'll do in one document. I think
17 we can get you that early next week if that's
18 acceptable.

19 THE CHAIRPERSON: So if we said ten days? Said a week
20 Wednesday. Does that make sense?

21 MR. SANDERSON: That makes lots of sense, sure.

22 THE CHAIRPERSON: Okay. So if you could note that date,
23 that would be the 27th.

24 MR. SANDERSON: Right.

25 THE CHAIRPERSON: So we'll issue an order today setting
26 that out and we'll go from there.

1 Anything else, Mr. Sanderson, or is that --
2 MR. SANDERSON: No, just to clarify, it will be our
3 understanding then that with that submission the
4 record is closed --
5 THE CHAIRPERSON: Yes.
6 MR. SANDERSON: And we're just awaiting a decision.
7 THE CHAIRPERSON: Yes, that would be our understanding
8 as well
9 MR. SANDERSON: Thank you.
10 THE CHAIRPERSON: Okay? Thank you. And on that basis
11 then this workshop is adjourned.
12 (PROCEEDINGS ADJOURNED AT 10:18 A.M.)

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I HEREBY CERTIFY THAT THE FORGOING
is a true and accurate transcript
of the proceedings herein, to the
best of my skill and ability.



A.B. Lanigan, Court Reporter

March 18th, 2019