

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

and

British Columbia Hydro and Power Authority -
F2020-F2021 Revenue Requirements Application

Vancouver, B.C.
June 12th, 2020

ORAL ARGUMENT

BEFORE:

D.M. Morton,	Panel Chair/Commission Chair
A.K. Fung, Q.C.,	Commissioner/Deputy Chair
R.I. Mason,	Commissioner
E.B. Lockhart	Commissioner

VOLUME 16

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VANCOUVER, B.C.

June 12th, 2020

(PROCEEDINGS RESUMED AT 9:00 A.M.)

THE CHAIRPERSON: Okay, so let's get started. I see that it is 9 o'clock. I am assuming that everyone who needs to be here is here, and so let's begin.

Good morning everyone, and welcome to this web-based hearing, the oral argument phase of BC Hydro's application that is seeking BCUC approval of their '20 to '21 revenue requirements.

My name is Dave Morton, I am the chair of the panel hearing this matter. Purpose of the hearing is today for a panel to ask questions of the applicant and receive their oral submissions on those questions. And those questions have gone out in writing. I don't believe at this point we have any further questions, unless there is follow up questions that arise from our discussions today. At least I am not aware if any of my fellow panel members have developed new questions over night, then there may be. But as far as I am aware, we have no additional ones.

Before my fellow panel members introduce themselves, and others introduce themselves also, I will ask everyone to mute their microphones and keep them muted until you are called upon to speak, and appear on the Teams video.

1 And since we are dealing with technology
2 here, I can't promise that everything will go smoothly
3 and without any hitches. However, we have conducted a
4 number of web-based hearing processes since April, and
5 Hydro has participated in a number of those. So I am
6 fairly confident we'll get through this. However, in
7 a worst case scenario, we will temporarily -- I will
8 temporarily adjourn the hearing and we'll try and see
9 where we go from there.

10 And I'd like to remind everyone the
11 proceeding is being transcribed, and it's also being
12 webcast, audio only, to the public. And please note
13 that no recordings or re-broadcast of the hearing are
14 permitted beyond those that are done by our hearing
15 officers Mr. Hal Bemister and Mr. Keith Bemister of
16 Allwest Reporting. Transcript of the hearing will be
17 posted to the BCUC website when it is available.

18 Intervenors and the public cannot
19 participate in the video conference, but as I said,
20 they can listen in on the -- and I assume they are
21 listening in on the web broadcast.

22 Intervenors do have an opportunity to make
23 further written submissions on what they've heard here
24 today if they so choose, and that's laid out in a
25 timetable, and they can do so next week.

26 We don't anticipate -- well, we the panel

1 does not anticipate filing of any new evidence.
2 However, we appreciate that that may be something that
3 BC Hydro chooses to do in the course of answering
4 their questions. If they do, the panel is prepared to
5 re-open the evidentiary record if that's required, and
6 if so, interveners would also be provided the
7 opportunity to make submissions on that evidence. And
8 depending on the nature of the evidence and the amount
9 of it and if there is any or not, we may revisit next
10 week's timetable for further submissions and argument.

11 **Proceeding Time 9:03 a.m. T2**

12 Just a word about confidentiality. And
13 again, I don't know if this issue will come up to not.
14 I don't know if it will come up in the answering of
15 the questions that we've already posed or it could
16 come up in the context of new evidence that may be
17 filed. But as you're aware, the oral hearing is
18 limited to invited participants who are appearing on
19 the web platform and we would turn off the internet
20 audio broadcast if there's an approved request for
21 confidentiality.

22 However, we also can't guarantee the
23 integrity of our discussion with any of the members
24 that are participating in the video conference. We
25 can't guarantee who is or isn't sitting in someone's
26 room, their kids, their spouse. We also can't

1 guarantee that all the Teams broadcast is encrypted.
2 We can't absolutely guarantee that that wouldn't be
3 detected on the web somewhere. So I just ask you to
4 keep that in mind if the confidentiality issue does
5 arise.

6 I would ask that to assist with the
7 transcription, please state your name before speaking.
8 And on that note, then, I'm going to begin the
9 proceeding and I'm going to first ask the panel to
10 introduce themselves and then followed by BCUC staff,
11 BCUC Counsel and then I'll turn it over to Mr. Ghikas
12 and ask you to please introduce who from BC Hydro will
13 be participating, yourself and people from BC Hydro
14 that are participating in the proceeding. Thank you.

15 So, I'll start with Commissioner Fung, then
16 Commission Lockhart and Commission Mason can introduce
17 yourselves. And then, Ms. Domingo, I'll ask you to
18 look after the Staff introductions, please. Thank
19 you.

20 COMMISSIONER FUNG: Thank you very much, Chair Morton.
21 My name's Anna Fung and I'm a Commissioner of the B.C.
22 Utilities Commission and I'm a member of the panel
23 assigned to this proceeding.

24 COMMISSIONER MASON: Good morning, Richard Mason, also
25 Commission and panel member on this proceeding.

26 COMMISSIONER LOCKHART: And my name is Blair Lockhart,

1 Commissioner and member of this panel. Thank you.

2 MS. DOMINGO: Good morning everyone. My name's
3 Yolanda Domingo, I'm the director of rates at BCUC.
4 We also have another member of staff with us, which is
5 Tanya Lai.

6 MS. LAI: Good morning everyone, I'm Tanya Lai. I'm
7 Commission Staff, thank you.

8 MR. MILLER: Paul Miller, counsel to the BCUC.

9 THE CHAIRPERSON: Thank you. Mr. Ghikas?

10 MR. GHIKAS: Good morning Mr. Chairman, Commissioners.
11 My name is Matthew Ghikas, G-H-I-K-A-S. Appearing
12 with me as co-counsel are my partners, Chris Bystrom.
13 B-Y-S-T-R-O-M, and Mr. Tariq Ahmed, A-H-M-E-D.

14 There are several representatives of BC
15 Hydro who are attending remotely. They're plugged
16 into MS Teams but they don't have their video running,
17 they're just observing to get the benefit of the
18 simultaneous audio in case we need instructions on
19 anything. They include two members of BC Hydro's
20 executive team, Janet Fraser and David Wong, who
21 you've heard from at the hearing; Ryan Lee, chief
22 accounting officer who you also heard from; and from
23 regulatory, Fred James, the chief regulatory officer;
24 and Chris Sandy, the manager who is responsible for
25 this proceeding.

26 Those conclude my introductions. I did

1 indicated, if there is a need on these questions --
2 and there were three of them that came to mind where
3 this issue might come up and that was 1.2 which dealt
4 with the impacts of COVID-19 on the DSM, the 3.2
5 dealing with system operations and Powerex where some
6 examples were requested, and 4.1 that dealt with the
7 incremental cost of FERC system of accounts.

8 We do have answers for you based on the
9 evidence today and we do feel they are compelling.
10 But in the event that you do conclude that you need
11 more evidence, obviously the procedurally appropriate
12 way to do this as you indicated is to formally reopen
13 the record, have BC Hydro file the information and
14 proceed from there. I can advise in terms of timing
15 that if the issues are, you know, restricted to those
16 three issues in terms of new evidence, if those are
17 the ones that are giving rise to the new evidence, we
18 have had people working, beavering away in the
19 background, in the event that it's necessary and we
20 believe that we will be in a position to file
21 responses, subject to whatever curveballs are thrown
22 at us today, but believe that we'll be able to provide
23 responses on Monday. So not too much of a delay, but
24 --

25 THE CHAIRPERSON: Thank you.

26 MR. GHIKAS: But my suggestion is that we hold off in

1 deciding that for now. And I'm hoping that we can
2 convince you that we're good.

3 THE CHAIRPERSON: Yeah.

4 MR. GHIKAS: Okay. So what I'll do now is I'm going to
5 hand it over to Mr. Bystrom. He's going to deal with
6 the first series of questions, series 1. And then
7 after he does that, Mr. Ahmed is going to deal with
8 the second set of questions, and then he's going to
9 hand it to me. So without further ado, I will pass
10 the mike to my colleague, Mr. Bystrom.

11 **ARGUMENT BY MR. BYSTROM:**

12 MR. BYSTROM: Good morning, Mr. Chairman,
13 Commissioners. So I'm going to address the first
14 series of questions related to demand side management.
15 And the first question was to clarify BC Hydro's
16 position on whether the *Utilities Commission Act* gives
17 the BCUC the authority to put any limits on how much
18 BC Hydro can reallocate with respect to its accepted
19 DSM expenditures during the test period, why or why
20 not. And so BC Hydro's position is that subject to
21 some clarifications of what we understand by limits on
22 reallocations – which I will speak to in a moment –
23 yes, the Commission does, in our view, have the
24 jurisdiction to impose such limits.

25 And so I would like to speak now just to
26 clarify what we mean or what we think the Commission

1 is meaning by these limits on reallocations. And our
2 view of that is informed by the Commission's decision
3 and Order G-47-19 on FortisBC Inc.'s 2019 to 2022 DSM
4 application. And I understand that you have been
5 provided a link to that decision if you want to follow
6 along. I am just going to read a few sentences from
7 it.

8 **Proceeding Time 9:13 a.m. T4**

9 So I think as you'll probably be aware in
10 that decision the Commission imposed reallocation
11 limits on FortisBC's expenditure schedule. And the
12 Commission explained on pages 12 to 13 of its decision
13 as follows. So, if you are following along on the
14 electronic copy, this quote begins at the bottom of
15 page 12. The Commission stated,

16 "The Panel finds that in the absence of explicit
17 approval from the BCUC, BCUC acceptance of FBC's
18 2019 to 2022 DSM as set out in detail in table
19 5.1 of the application, does not provide
20 acceptance of any inter-year transfers, or
21 inter-program transfers."

22 And then the Commission went on to say,

23 "For greater clarity, this finding is not
24 directed at fettering the FBC's ability to spend
25 DSM funds as it sees fit. Rather, it provides
26 clarity on what expenditures are included in the

1 accepted expenditures schedule for the purpose
2 of recovering those expenditures in rates."

3 And so, in the remainder of this decision
4 on this point, the Commission went on to approve
5 inter-year transfers and inter-program transfers up to
6 25 percent as requested by FortisBC Inc.

7 In my submission, there are three key
8 points to take from this decision in terms of what it
9 means to set reallocation limits. First, these limits
10 are not about constraining a utility's ability to
11 actually spend DSM funds. Rather, they are about
12 limits on cost recovery. That is, the BCUC does not
13 have the authority to prevent the utility from
14 spending DSM funds as it sees fit, as it acknowledged
15 in that decision, but it does have authority over the
16 recovery in rates of those funds.

17 Second point is that where the Commission
18 imposes limits on inter-year or inter-program
19 transfers, the saying that it accepts the expenditure
20 schedule as presented and within the limits of the
21 transfer rules it sets out. Perhaps more to the point
22 it is saying transfers beyond those rules are not
23 accepted, and thus need to be subject of a separate
24 expenditure schedule if they occur.

25 Third, it follows that the utility cannot
26 be required to file a separate expenditures schedule

1 before making a transfer in excess of the reallocation
2 limits. As it was noted above in the FortisBC case,
3 the Commission did not purport to be able to fetter
4 the utility's ability to spend DSM funds. The
5 Commission has also acknowledged that it cannot direct
6 a utility to file an expenditures schedule.
7 Therefore, the utility may spend funds above the
8 transfer limits, but it is at cost recovery risk if it
9 does so. And more particularly, the utility must seek
10 acceptance of an expenditure schedule for expenditures
11 beyond the reallocation limits, either before or after
12 the fact, before it recovers them in rates.

13 So, with those clarifications I can
14 reiterate that BC Hydro's position is that the BCUC
15 has jurisdiction to set transfer limits in this sense
16 when it accepts an expenditure schedule.

17 And I am just going to pause to take care
18 of a little technological issue. I am having phone
19 calls coming through to my computer as I speak. And I
20 have just turned that off. Sorry about that.

21 So, moving on. However, BC Hydro's
22 position in this proceeding has been that the BCUC
23 need not, and should not, set such parameters on its
24 acceptance of BC Hydro's DSM expenditure schedule.

25 To summarize the key points first as
26 discussed in paragraph 550 of our final submission, it

1 is important for BC Hydro to have the flexibility to
2 respond to challenges or opportunities in the market.
3 For instance, if an initiative is overperforming, or
4 under performing, then BC Hydro may need to reallocate
5 funds to maintain the overall portfolio performance
6 and portfolio balance. These changes are for the
7 benefit of customers, and in our submission, should
8 not be constrained.

9 **Proceeding Time 9:17 a.m. T5**

10 The second is discussed in paragraph 551 of
11 our final submission. Appropriate checks and balances
12 are in place regarding the reallocations made during
13 the test period. This includes BC Hydro's internal
14 approval policies and also BC Hydro's annual reporting
15 to the BCUC. Ultimately, as BC Hydro explained in
16 some detail in its response to BCUC IR 269.1, BC Hydro
17 is at cost-recovery risk to the extent it varies from
18 its DSM expenditure schedule. Therefore, there are
19 ample incentives in place to ensure that BC Hydro
20 manages its DSM expenditures prudently.

21 And finally, more generally, I submit that
22 the process is in place for the BCUC's oversight of BC
23 Hydro's DSM expenditures have been working well. The
24 review of DSM expenditures in BC Hydro's revenue
25 requirements application proceedings has been rigorous
26 and in depth. BC Hydro has been responsive to

1 Commission directions regarding its DSM expenditures,
2 as I submit we have demonstrated in this proceeding.
3 And to our knowledge there have been no reallocation
4 of spending that have raised concern.

5 So in summary, in my submission, the
6 current processes and oversight mechanisms are working
7 well, the reallocation of spending has not been an
8 issue and BC Hydro has continually demonstrated that
9 it carries out its DSM initiatives prudently and
10 effectively. Therefore I submit that increased
11 constraints on the acceptance of BC Hydro's
12 expenditure schedules are not needed at this time.

13 So those are my submissions in response to
14 the first question. I'm happy to pause there for
15 questions before I move on to the next one.

16 No? Perhaps -- unless there are other --
17 I'll move then on to the next question.

18 So question 1.2 was, "Please discuss
19 whether BC Hydro anticipates the COVID-19 pandemic to
20 result in over or under spending of its DSM forecast
21 during the test period." So based on the evidentiary
22 record, there are three points to be made in response
23 to this question.

24 First, BC Hydro's variance explanations for
25 previous years' DSM spending, such as those provided
26 in BC Hydro's DSM annual reports in Appendix Z of the

1 application, show that customer participation levels
2 and the timing of customer projects are a key driver
3 of variances. Thus, to the extent that the pandemic
4 or related health orders impact a customer's ability
5 to participate or the timing of their participation in
6 BC Hydro's DSM programs, then there could be an impact
7 on DSM expenditure levels over the test period.

8 Second, we are still in the midst of the
9 pandemic and the resulting economic consequences.
10 Consequently, whatever BC Hydro's expectations might
11 be at this time for DSM expenditures, the panel can
12 reasonably conclude that the outcome will be highly
13 uncertain. It goes without saying that we have not
14 gone through a pandemic like this before and
15 attempting to forecast the impacts on various cost
16 items is an uncertain exercise. For example, will
17 some customers be staying home more and be able to
18 carry out more efficiency projects? Or will they be
19 able to carry out fewer due to a loss of income?
20 Teasing out the exact implications is complex and
21 uncertain. So in the end BC Hydro submits that having
22 an up to date forecast of DSM expenditures would not
23 provide much value to the Commission.

24 The third point is, as I will explain in
25 response to the next question you posed, customers
26 will be kept whole from any underspending or

1 overspending of DSM expenditures due to the pandemic.

2 And unless there are questions on those
3 submissions, I will move to that response now.

4 COMMISSIONER FUNG: I do have a question, Mr. Bystrom.
5 It's Commission Fung speaking. When you say that
6 "customers will be kept whole," what exactly do you
7 mean?

8 MR. BYSTROM: Yes, so that is what I'll get to now, if
9 you'd like, in response to the question 1.3. Would
10 you like me to --

11 COMMISSIONER FUNG: Okay, no, I --

12 MR. BYSTROM: I feel like I should proceed directly to
13 that, then.

14 COMMISSIONER FUNG: That is my question. So if you
15 were planning to go there, please proceed unless my
16 fellow Commissioners have questions arising from your
17 response to 1.2.

18 MR. BYSTROM: I'm seeing shaking of heads so I'm going
19 to proceed to question 1.3, which was precisely around
20 this issues about -- maybe I'll perhaps just read the
21 question then.

22 "Given that the DSM regulatory account is a
23 benefits matching account rather than a variance
24 account, please explain whether any over or
25 under spending of DSM expenditures during the
26 current test period resulting from the COVID-19

1 pandemic would be recovered or returned to
2 customers. If yes, please explain how. If not,
3 please explain why this would not be necessary."

4 **Proceeding Time 9:23 a.m. T6**

5 So in response to that question, BC Hydro
6 can confirm that the DSM regulatory account will in
7 fact keep customers whole from over or under spending
8 of DSM expenditures over the test period due to the
9 pandemic. This is because any such over or under
10 spending over the test period would likely be confined
11 to Fiscal 2021, which will not be amortized into rates
12 until the next test period. Specifically, the
13 amortization of Fiscal 2021 DSM expenditures will
14 begin in Fiscal '22 -- 2022, sorry, and those
15 amortization amounts will be updated in BC Hydro's
16 next revenue requirement filing. So I will unpack
17 that answer in a little more detail. And there is
18 really three parts to that.

19 First, the public health orders in response
20 to the pandemic were issued in mid-March, 2020.
21 That's approximately two weeks before the end of BC
22 Hydro's Fiscal 2020 year. For this reason, any
23 significant variances in DSM expenditures due to the
24 pandemic over the test period would be expected only
25 in Fiscal 2021.

26 Second, there is a one-year lag before DSM

1 expenditures impact rates. As explained in the
2 application, BC Hydro's DSM expenditures are deferred
3 each year to the DSM regulatory account, and are then
4 amortized over 15 years beginning in the next fiscal
5 year. This means that the DSM expenditures for Fiscal
6 2021 year in which the impacts of the pandemic are
7 likely to be felt will not begin to be amortized into
8 rates until Fiscal 2022, which is the next test
9 period.

10 Third, in the next revenue requirements
11 application BC Hydro will update the balance of the
12 DSM regulatory account and its forecast amortization
13 of DSM expenditures with the most up to date
14 information. And as was done in this proceeding in
15 Exhibit B-11, BC Hydro would expect to update its DSM
16 amortization using actual 2021 information in an
17 evidentiary update. So the end result is that
18 customers will only pay for actual Fiscal 2021 DSM
19 expenditures, which will reflect any impact of the
20 COVID-19 pandemic.

21 So that brings me to the conclusion of my
22 responses to those three questions. I am happy to
23 take questions at this time.

24 And if there are none, I am going to pass
25 the microphone and video here to my colleague, Mr.
26 Ahmed, to respond to question number two.

1 **ARGUMENT BY MR. AHMED:**

2 MR. AHMED: Good morning. Hopefully I am coming
3 through. This is Tariq Ahmed. I am going to be
4 responding to the second question, question 2.1, which
5 is,

6 "Please clarify how it is possible to maximize
7 the value of surplus energy while maximizing
8 Powerex's trade income. Please provide a
9 concrete historical example of these scenarios."

10 I think a starting point is, to describe
11 what is going on, or to change the definitions a
12 little better, or clarify them. What the question
13 seems to be asking is, is how can BC Hydro and Powerex
14 simultaneously optimize BC Hydro's surplus sales and
15 trading using residual system capability,
16 respectively.

17 And first, as a point of clarification,
18 trading utilizing residual system capability is only a
19 portion of Powerex's trade activity that ends up as
20 trade income. Within the context of the RRA, trading
21 utilizing residual system activity gets labeled as
22 "net purchases" or "(Sales)" from Powerex.

23 **Proceeding Time 9:27 a.m. T7**

24 Now second, a key point is that the two
25 activities need to be optimized together, not
26 individually to yield the highest consolidated net

1 revenue, and hence the lowest cost of energy for BC
2 Hydro's customers. The way this is done is that
3 hourly trade decisions that involve imports or exports
4 from the BC Hydro system are based on the marginal
5 value of water in BC Hydro's reservoirs. Marginal
6 value is set based on forecasts of both BC Hydro
7 domestic and trade activity. The allocation of hourly
8 net imports or exports between domestic and trade
9 activities is done after the fact based on the market
10 price relative to the threshold purchase or sale price
11 that's set under the transfer pricing agreement. This
12 ensures that regardless of whether net imports or
13 exports are ultimately allocated to domestic or trade,
14 the right import or export decisions are made to
15 optimize the system value as a whole.

16 Now, put more simply, the decision as to
17 what happens with BC Hydro's surplus sales is based on
18 what's economic and the allocation as between BC
19 Hydro's surplus sales and Powerex is an accounting
20 exercise.

21 The question did ask for a historical
22 example and the following illustrates why both
23 activities must be considered together in the
24 optimization. Ms. Matthews' testimony provided an
25 example of the interplay that occurs and this excerpt
26 appeared at paragraphs -- pardon me, pages 43 and 44

1 of BC Hydro's final submission. And Ms. Mathews said
2 this:

3 "So yes, Powerex imports and exports out of the
4 system for trade, but I and my team have full
5 ability to put constraints on what they do and
6 we set those constraints on what they can and
7 can't do because ultimately I'm responsible for
8 operating the system. They like to trade and
9 sometimes there can be discussion back and forth
10 on if they are wanting to do something and we're
11 saying no. Like especially when we're coming up
12 to a peak. Like, we're going to be conservative
13 making sure we're holding back. So like last
14 week when we had a high winter peak, so it's us
15 who are setting, like, what we are needing to
16 have and if there's left over capability then
17 Powerex can use that, but we decide how to use
18 our resources."

19 So part of what Ms. Matthews was saying
20 there was this was a time when perhaps Powerex could
21 have generated more trade income if its trade income
22 was being maximized in isolation. However, that's not
23 what occurs. Ms. Matthews' team is also looking at
24 the possibility the system capability could be needed
25 to cover higher demand. Those considerations go into
26 determining how much residual capacity is available

1 for trading activities. And at the risk of repeating
2 myself, income is maximized on a net consolidated
3 basis.

4 That's all I have, unless there are any
5 questions.

6 MS. DOMINGO: Mr. Chair, you're on mute.

7 THE CHAIRPERSON: Sorry about that.

8 Mr. Ahmed, let me ask you a couple of
9 questions. I want to clarify a couple of things,
10 because it seems to me that you've introduced some new
11 terms, or at least you've used terms that weren't used
12 in the question. So can you just help me out here.
13 Have you actually answered the question as is or have
14 you redefined the question before answering it?
15 Because I think I heard you say that you're not
16 actually -- BC Hydro is not actually maximizing
17 Powerex's trade income, they're maximizing something,
18 their residual something-or-other. So is it that we
19 framed the question incorrectly, is that the issue?

20 MR. AHMED: I think, yes. I think the clarification
21 that's required is Powerex's trade income isn't just
22 the use of BC Hydro's surplus, there are all kinds of
23 other activities that Powerex engages in outside that
24 don't involve the BC Hydro system that results with
25 trade income. So it's maximization of trade income is
26 separate than the use of the surplus energy alone to

1 generate income.

2 THE CHAIRPERSON: Right.

3 MR. AHMED: So that was the reason for the need for
4 that clarification.

5 THE CHAIRPERSON: So it's only maximizing -- what
6 you're saying is it's only maximizing the portion of
7 trade income that relates to sales from BC Hydro
8 electricity or purchases from BC Hydro?

9 MR. AHMED: Correct, within the confines of the
10 systems' operation under the transfer pricing
11 agreement.

12 THE CHAIRPERSON: So does income also include
13 expenditures? Like, is it net income that's being
14 maximized or is it just the income? People use that
15 term in different ways. Accountants, as I understand
16 it, when they say "income" they usually mean "net
17 income" but not everybody does mean that.

18 **Proceeding Time 9:32 a.m. T8**

19 So can you also clarify whether when you
20 are maximizing that portion of income that relates to
21 Hydro's energy sales, whether you're talking about
22 maximizing the revenue portion? Or maximizing the net
23 income?

24 MR. AHMED: Is your question with respect to Powerex's
25 net income? Or BC Hydro's cost of energy as a whole?

26 THE CHAIRPERSON: It's the Powerex portion. It's the

1 while maximizing Powerex's trade income. So you're
2 saying it's not actually Powerex's trade income that
3 is being maximized, it's something else, it is a
4 portion of it. So I am further asking you to clarify
5 whether you're talking -- now that that has been
6 redefined, is that redefined as revenue or net income
7 of that portion?

8 MR. AHMED: I think the concept is there are two things
9 that are being maximized, but they are being maximized
10 on a consolidated basis to have the highest -- the
11 best overall cost of energy for BC Hydro's customers
12 at the end of the day. I'm not sure if I captured
13 what you were asking though, sir.

14 THE CHAIRPERSON: Well, I could maximize revenue and
15 take a loss.

16 MR. AHMED: Yeah, I see. It's on a net basis.

17 THE CHAIRPERSON: But that wouldn't be that helpful,
18 right?

19 MR. AHMED: Yes.

20 THE CHAIRPERSON: So it's on a net basis?

21 MR. AHMED: That's correct, it's on a net consolidated
22 basis.

23 THE CHAIRPERSON: Thank you.

24 MR. AHMED: My apologies. That's all I had for that
25 question unless there are further issues, and then I
26 will pass it on to Mr. Ghikas.

1 MR. GHIKAS: Just one moment Mr. Chairman, I just have
2 to seek instructions on something. Thank you.

3 **ARGUMENT BY MR. GHIKAS:**

4 All right, Mr. Chairman, that was for Mr.
5 Ahmed, so we may come back to Mr. Ahmed afterwards,
6 but in the meantime, let's keep this moving smoothly
7 and we will move on to the next question which is one
8 that I am dealing with.

9 So the issue is on 3.1, and the question
10 was, "Given that Direction 8 states that rate base
11 includes 'the amount listed as property, plant, and
12 equipment in service...' underscore, "...less accumulated
13 amortization', please clarify whether the inclusion of
14 these properties in rate base prior to their
15 development of the substations is in accordance with
16 Direction 8."

17 And my simple response is that these
18 properties are properly included in rate base under
19 the definition of rate base in Direction 8. And I
20 will walk you through a couple of reasons why I say
21 that's the case.

22 First of all is an accounting answer. And
23 Direction 8, just to recap there, says rate base
24 includes "the amount listed as property, plant and
25 equipment in service." So the question that arises
26 from that is, is this property listed as property in

1 service? And from the revenue requirements accounting
2 perspective the answer is yes. And where you go to
3 find that, and I will give you this citation, but we
4 don't need to turn there, because I'm going to read
5 you the applicable paragraph here. But it's Exhibit
6 B-11, BCUC IR 2.249.2. And it says this:

7 "The subsurface land and rights of way are
8 listed as a capital addition because..."

9 And here is the key point,

10 "...BC Hydro has acquired an item of property,
11 plant and equipment, and intangible assets that
12 meet IAS-16 property, plant and equipment, and
13 IAS-38 intangible assets recognition criteria,
14 that there are probable future economic benefits
15 from the item."

16 So these do meet that criteria, the
17 accounting criteria for regulatory purposes, and
18 accordingly it fits squarely within that.

19 The second point I wanted to touch on is
20 one that although that gives you a full answer, the
21 outcome would be consistent with a standard regulatory
22 principles employed to determine rate base. And that
23 is that rate base incorporates both assets that are
24 used and assets that are useful. So that's, we call
25 the used and useful test.

26 And if you look at the reason why these

1 assets were acquired, the only reason why this land
2 was secured was to reduce material project risks,
3 ensuring that an option is preserved in areas where
4 land is very limited. That's the evidence. And so in
5 other words, the lands were only secured for the
6 benefit of ratepayers.

7 **Proceeding Time 9:38 a.m. T9**

8 The lands aren't being purchased as an
9 investment vehicle, which would be a whole different
10 story. The land has value to ratepayers in the sense
11 that it is preserving a valuable future option that
12 would not otherwise exist. And this is set out in the
13 final submissions in paragraphs 359 to 361, this
14 evidence it talks about there. And it talks about the
15 need to replace the aging infrastructure being clear.
16 It's equally clear that the options for land meets the
17 requirements of -- that meets the requirements for a
18 substation is limited and that the project can't be
19 designed without knowing where the property is.

20 So one way of looking at this is to say
21 that it's important that you have assets that are used
22 and assets that are useful in this context, because if
23 you think about it from the perspective of something
24 that's not land, like spare conductor, and you think
25 about a stack of spare conductor over there that is
26 clearly being purchased for the purpose of providing

1 service and you need to have supplies like that on
2 hand, are they being physically used in service at
3 that very moment? No, they're not in use, they're
4 useful, right? And they're used -- or you can phrase
5 it as they are used in the sense that they are used as
6 insuring that there's something there to use when an
7 event happens that you need to repair something. So,
8 you have to have both of those concepts in there.

9 And if you think about it -- I'll give you
10 two counter-factual scenarios. One of them is, let's
11 take a hypothetical scenario where a utility, not
12 necessarily BC Hydro, let's say an investor owned
13 utility or BC Hydro, whatever, has land already and
14 the scenario is the disposition of that land rather
15 than the acquisition. And so excluding it from rate
16 base would suggest, based on the 2006 *ATCO* case, the
17 stores block case that we all know well, that
18 hypothetical utility could sell that property and
19 retain the proceeds and then when the property was
20 required buy it again and have ratepayers pay for it.
21 And that's what the *ATCO* case would say if you took
22 the view that a property like this isn't meeting the
23 rate base test in this circumstance.

24 Similarly, if you took my spare parts
25 example, selling the spare parts and sending the
26 proceeds to government when you know that you're going

1 to have to buy more conductor in the future, the
2 application of that principle would suggest that those
3 assets should very much be in rate base because they
4 are useful. And so it is all essential to provide the
5 service for ratepayers in a cost effective way over
6 time and that's why it belongs in rate base.

7 And you'll see -- I'll actually take you, I
8 thought it was actually quite useful. If you have the
9 -- I provided -- or Mr. Ahmed provided links to the
10 various decisions just in case we needed to talk about
11 them and I believe he may have forwarded that to you.
12 If you have the hyperlink available to go to the
13 *Fortis Alberta v. Alberta Utilities Commission*
14 decision, I'll walk you through a point because it
15 shows you that Alberta takes this approach when
16 they're dealing with assets that go into rate base.
17 And it shows you that these concepts are built in
18 equitable treatment of both the shareholder and
19 customers.

20 **Proceeding Time 9:42 a.m. T10**

21 So you have the factual scenario that we're
22 talking here and you have the counter-factual
23 scenarios. In any given circumstance, reaching the
24 wrong result here could disadvantage either customers
25 or the shareholder. And so the approach that we're
26 putting forward, and the approach that I believe

1 Direction 8 indicates you should adopt, is one that
2 preserves that equitable balance between the
3 shareholder and the ratepayers that's inherent in the
4 regulatory compact.

5 So in that Fortis decision, what I would
6 suggest, and just for people's reference, the link to
7 this decision is found in a footnote on page 69 of the
8 reply submission that BC Hydro found, for those who
9 are following along.

10 So, if you turn to paragraph 138 and 139 of
11 that decision, there is a passage here where the Court
12 of Appeal in Alberta is discussing a previous case
13 called *Salt Caverns II*, that dealt with rate base
14 issues. And it's clear from the passages that they're
15 quoting from the *Salt Caverns* case, that it is
16 contemplating this concept that we need to be picking
17 up those things that are both used and useful, in the
18 used and useful test. And it references even the
19 counter-factual scenario that I identified as a note
20 of caution here. And so in paragraph 138, what it
21 quotes paragraph 41 from the *Salt Caverns* case -- *Salt*
22 *Caverns II* case, and there are two *Salt Caverns* cases.
23 But in paragraph 41, Court of Appeal in *Salt Caverns*
24 said,

25 "These authorities indicate that at least on a
26 go forward basis, assets no longer used or

1 required for use should not be included in rate
2 base and the utility can unilaterally remove
3 such assets from rate base without the consent
4 of the Commission."

5 So, in this case, so it's incorporating
6 those two concepts that we use here as the use and
7 useful test, based on the statutory framework there as
8 well.

9 And then it goes on to quote the following
10 statement from *Salt Caverns*,

11 "Fairness to consumers requires that rate base
12 include only assets used or to be used for the
13 operation of the utility, and not assets with no
14 production value."

15 And so does this land that we're talking
16 about here have production value? Does the spare
17 conductor that I talked about have production value?
18 And the answer is of course it does. It has
19 production value, because it has value for ratepayers
20 going forward, and that is why it was acquired in the
21 first place.

22 So then it goes on in paragraph 139 to cite
23 another quote from the *Salt Caverns II* case of the
24 Court of Appeal, and it says,

25 "At the end of the day, the Commission will have
26 the final say on whether property is or is not

1 required for the use or the future use of the
2 utility, because that falls squarely within its
3 legislative mandate. In addition, a Commission
4 has the right to make whatever adjustments are
5 necessary to compensate for imprudent removal of
6 such assets in the interim."

7 So that's my counter-factual scenario right
8 there. It's saying to utilities, if you pull the
9 spare conductor out of rate base and you exercise your
10 unilateral right to do, to pull it from rate base, and
11 then you sell it and you send the proceeds to your
12 shareholder, we have the ability to deal with that in
13 a way that is fair to ratepayers. But in my
14 submission, what we have here is not that situation.
15 Obviously we are saying it should be in rate base.
16 And this case, in my submission, makes that point loud
17 and clear.

18 THE CHAIRPERSON: Mr. Ghikas?

19 MR. GHIKAS: Yes.

20 THE CHAIRPERSON: So what you are laying out for us
21 here is the common law around the notion of used and
22 useful, would you agree with that?

23 MR. GHIKAS: Yes.

24 THE CHAIRPERSON: But our question is actually about
25 Direction 8. And the wording in Direction 8 is "in
26 service." It's not used and useful. So I am

1 that provision beyond that, that these principles that
2 I'm articulating would inform that concept of what is
3 "in service" in that context.

4 THE CHAIRPERSON: Thank you. Thank you, Mr. Ghikas.

5 COMMISSIONER MASON: Mr. Chair, can I ask another
6 clarifying question, please?

7 And again, I apologize if this is in anyway
8 restating Mr. Morton's question, but just to be very
9 specific, are you arguing that Direction 8 applies and
10 therefore these assets -- sorry, I'll rephrase that.
11 Are you suggesting that these assets should be in rate
12 base because of Direction 8, for the reasons you just
13 gave, or that notwithstanding Direction 8 they should
14 be in rate base for other reasons that you just gave?

15 MR. GHIKAS: It's the latter. It's the latter. Yeah,
16 the principles that would be applied in absence of
17 Direction 8 are the common law principles that I'm
18 outlining right now. And the question that really,
19 that is the crux of what you're asking here, what I
20 interpreted your question to be is, you know, if you
21 -- is this a departure from those common law
22 principles in some fashion because of the inclusion of
23 the words "in service". And my submission to you is
24 it was not intended to do that and it doesn't do that,
25 so the latter.

26 COMMISSIONER MASON: Thank you.

1 COMMISSIONER FUNG: So, I have a follow-up question, if
2 you don't mind, Mr. Ghikas. It's Commissioner Fung
3 speaking. I just want to test what you've just said
4 in terms of perhaps using a somewhat observed example,
5 but one that comes to mind is, are you saying that BC
6 Hydro could presumably acquire a shopping mall, let's
7 say, because that piece of land is something that they
8 see as potentially a good location for a new large
9 substation, or an office for that matter, in the
10 future and then be able to put that entire property,
11 including the shopping mall operations, into rate base
12 because it's potential for use down the road?

13 MR. GHIKAS: Well, the way I'd answer that,
14 Commissioner Fung, is that there are two test that get
15 applied in determining whether property can be
16 included in rate base. One of them is the used and
17 useful test, the other is the prudence test. So if
18 the Commission was to conclude that the acquisition of
19 a particular property was imprudent, it can be
20 disallowed from rate base anyway.

21 So in your case of the shopping mall, it
22 would be a factual question where, let's assume -- if
23 we took that shopping mall and we put in the context
24 where it was a shopping mall in downtown Vancouver and
25 happened to also be the only property that could
26 conceivable site a substation that you knew you

1 we have to separate here the question of what goes
2 into rate base from the question of what is
3 recoverable as a cost. So, you'll appreciate that in
4 a revenue requirements context some costs, like
5 capital costs, property, plant and equipment, for
6 example, get included in rate base. Other costs like
7 operating expenses never go into rate base. They are
8 just costs that are incurred in the current year, and
9 that are, if determined on a forecast basis that it's
10 a reasonable estimate of those costs, they get
11 included in rates as operating expenses and get
12 recovered.

13 So the only real reason why rate base
14 becomes a factor is because it is the base upon which
15 the utility earns a return. And so you could have --
16 we have to separate the issue of whether something
17 goes in to rate base or not, from the issue of whether
18 the expenses associated with that property are
19 reasonable. Just because something is in rate base
20 doesn't mean that all the associated expenses are
21 reasonable.

22 So, for example, you could have a dam that
23 has been in rate base for years, and you could
24 undertake work in respect of that dam that didn't make
25 a lot of sense and was imprudent. And the Commission
26 could say -- or that you could say, BC Hydro could

1 say, "we want to do some vegetation management," or
2 something like that, or clean the sidewalks on the
3 (inaudible). So we include a forecast amount in our
4 revenue requirements for that. And you could say
5 actually cleaning the sidewalks doesn't make a lot of
6 sense. We are not going to include -- sorry, can you
7 still hear me? I dropped the video.

8 COMMISSIONER FUNG: Yes. Yes.

9 MR. GHIKAS: Okay. We're not going to include in your
10 forecast revenue requirements your operating costs, an
11 amount for cleaning the sidewalks, because that
12 doesn't make sense. But it's separate from the
13 question of whether the dam should or should not be in
14 rate base. Does that answer your questions?

15 COMMISSIONER FUNG: Yes, yes it does, and I think it's
16 a nice segue on to your next question.

17 MR. GHIKAS: Okay, maybe it is, let's see. Okay,
18 that's true. So for -- so I did want to reiterate,
19 just to bring that last question home on this one that
20 you posed, Commissioner Fung, the decision that you
21 make with respect to whether or not something goes
22 into rate base or not with these two properties, it
23 doesn't affect, first of all, it doesn't affect the
24 calculation of the return, because the determination
25 of rate base is -- no matter what the rate base is or
26 isn't, the return on equity will be adjusted to reach

1 in the reply submissions we were, I was, making more
2 of a qualitative point in recognition of the fact that
3 the magnitude of costs is going to be one of the
4 factors that the Commission would consider when
5 determining whether to approve a new regulatory
6 account.

7 The BCUC doesn't have specific materiality
8 thresholds in its checklist for the approval of a new
9 regulatory account and the line isn't going to be cut
10 and dry. But in principle -- we were simply making
11 the point that in principle there is a point at which
12 costs may be significant enough to warrant creating a
13 regulatory account for a specific project or on a
14 combined basis for multiple projects and that that
15 would go into the mix with the other factors that the
16 Commission would consider in whether or not it's, you
17 know, just and reasonable to create such an account.

18 And effectively the qualitative submission
19 that I was advancing and BC Hydro was advancing was
20 that in these circumstances the costs weren't
21 sufficient to merit. And it's evident that on the
22 record that the pre-purchase of properties like this
23 has been a relatively rare occurrence to date, such
24 that an account for carrying the costs on a
25 consolidated basis hasn't been necessary to this
26 point.

1 does, thank you. I am not seeing any other questions,
2 so I think we're good.

3 MR. GHIKAS: Okay. I am on 4.1 as well. And --

4 MS. DOMINGO: Mr. Chair, it's Yolanda Domingo here.
5 I'm wondering if we can, before we move off this
6 topic, whether Staff might be able to ask a couple of
7 questions on this topic with your leave?

8 THE CHAIRPERSON: Please go ahead.

9 MS. DOMINGO: Okay, I am going to ask Tanya to step in
10 and ask the question, please?

11 THE CHAIRPERSON: Tanya?

12 MS. LAI: Thank you. I just have a few questions. The
13 first is regarding Mr. Ghikas' statements regarding
14 "used and useful." My question is with respect to the
15 surplus properties that BC Hydro is selling. These
16 are in relation to the real property sales accounts.
17 So for those properties, they were once used and
18 useful, but I understand that they are now considered
19 surplus, and BC Hydro is currently selling these
20 properties. So, how are those properties
21 appropriately in rate base under the used and useful
22 concept?

23 MR. GHIKAS: Just one second. I'm just clarifying on a
24 factual point, Ms. Lai. Just one moment.

25 MS. LAI: Thank you.

26 THE CHAIRPERSON: Should we take a five minute break

1 here? Would this be a good time to do that? Yes?

2 MR. GHIKAS: From my perspective that would be fine.

3 THE CHAIRPERSON: It is 10:02, we will come back at
4 10:10.

5 MR. GHIKAS: Thank you.

6 THE CHAIRPERSON: Thanks.

7 **(PROCEEDINGS ADJOURNED AT 10:02 A.M.)**

8 **(PROCEEDINGS RESUMED AT 10:11 A.M.)**

T15/16

9 MR. GHIKAS: My apologies, Mr. Chairman. Can you hear
10 me okay?

11 THE CHAIRPERSON: I can, thank you, no problem, welcome
12 back.

13 MR. GHIKAS: I'm sorry, my clarification just took a
14 little longer than we had on the facts.

15 So just to deal with Ms. Lai's comment.
16 The evidence, I don't think there is evidence on the
17 record that would confirm the status of -- where we
18 could point to definitively to say today whether these
19 lands are in or out of rate base. So I want to make
20 that clear up front.

21 What, from a principled perspective, the
22 principle that I've articulated would suggest that if
23 property is no longer used and useful, it should come
24 out of rate base. And that's the storage block case.
25 And BC Hydro doesn't take issue with that principle.
26 The issue we are wrestling with right now is chasing

1 down the facts.

2 What I will say, this is what I would
3 propose, Mr. Chairman, is that the compliance filing
4 be updated to reflect whatever is BC Hydro's
5 determination of whether the properties are used and
6 useful. And the reason why I think that approach
7 works in the current context is that the rate base, as
8 we've discussed, the rate base determination actually
9 has no implication on rates at all, because whether it
10 goes up or down the return on equity is going to be
11 adjusted to ensure the result is 712 million. So for
12 our current purposes, that approach will work.

13 THE CHAIRPERSON: Right.

14 MR. GHIKAS: Recognizing that the next time the
15 application comes around, we're going to have to
16 address this in the next application and make sure
17 it's clear to the Commission whether or not these
18 properties, although they have been discussed by the
19 witnesses as surplus properties, whether in fact there
20 is some -- whether they are in fact being used and are
21 useful in that context or not. So the justification
22 can be provided at that time, and it's at that time
23 when it will start to matter.

24 So that would be my proposal as to how to
25 go forward, rather than dealing with it through
26 further evidence at this point when the result doesn't

1 matter. Just taking it and having BC Hydro do the
2 best determination that they want to make in the
3 compliance filing and then caveating that with the
4 need to revisit it next time.

5 THE CHAIRPERSON: Seems reasonable to me. Thank you.

6 MR. GHIKAS: I can't hear you, Mr. Chairman, sorry.

7 THE CHAIRPERSON: It seems reasonable to me. Can you
8 hear me?

9 MR. GHIKAS: He is not on mute?

10 MR. BYSTROM: I can hear you.

11 THE CHAIRPERSON: Everyone can hear me? Yes.

12 MR. BYSTROM: I think Matt is just solving his
13 technical difficulties.

14 THE CHAIRPERSON: He didn't have his earphones.

15 COMMISSIONER FUNG: I think he is switching headsets.

16 MR. GHIKAS: I can hear you now. Can you hear me?

17 THE CHAIRPERSON: Yes, thank you. So that proposal
18 seems reasonable to me, and I'm not seeing anyone that
19 has a counter opinion, so I think we're good.

20 MR. GHIKAS: Okay, thank you Mr. Chairman.

21 THE CHAIRPERSON: No problem. Do you have further
22 questions, Tanya?

23 MS. LAI: No, that is it for me, thank you.

24 THE CHAIRPERSON: So, Mr. Ghikas, it looks like we can
25 move on.

26 MR. GHIKAS: Thank you. Okay, so 4.1, that's me again.

1 prudently incurred flowing from the decision to
2 purchase now rather than later.

3 COMMISSIONER FUNG: Thank you.

4 MR. GHIKAS: Okay, so question 4.1.

5 "Please provide the incremental cost of
6 implementing and maintaining the FERC uniform
7 system of accounts for regulatory and
8 benchmarking purposes, compared to using the
9 BCUC uniform system of accounts."

10 Okay, so let me start off by saying on the
11 record, which I think the panel is aware of and that's
12 why you're asking, is that BC Hydro didn't provide an
13 estimate of the incremental costs associated with the
14 FERC uniform system of accounts compared to the BCUC
15 system of accounts. That said, what I'll do is I'm
16 going to just draw your attention to a couple of
17 evidentiary points where, in my submission, it will
18 allow you to draw reasonable inference from the
19 evidence for these purposes. And in the event that
20 you're still not satisfied, we can go to the approach
21 that I talked about before about reopening the record
22 but in my submission -- or I'll just give you these
23 points and allow you to make that determination.

24 So the inference that I'm going to say can
25 be drawn from this evidence is that the costs could
26 reasonably be expected to be somewhat greater than for

1 the BCUC system of accounts, and here's why I say
2 that.

3 So, in the passage at issue quoted in the
4 preamble you talk about -- My. Layton talked about the
5 labour costs and he said it would be less than half an
6 FTE on an annual basis for the BCUC system. And
7 that's dealing with the ongoing labour costs. And so
8 in that approach then BC Hydro's contemplating that it
9 would layer on to someone else's existing work this
10 task and presumably displace some other work, but
11 layer on this new work.

12 When it comes to the FERC uniform system of
13 accounts there would obviously be an ongoing labour
14 cost as well. But in addition to that, what I would
15 ask you to consider is the fact that BC Hydro hasn't
16 actually used the NERC system of accounts before and
17 unlike the BCUC system of accounts, and so you could
18 expect that they would lack some immediate
19 institutional understanding and proficiency for
20 implementation of the NERC system of accounts.

21 And the other evidence that you've got in
22 this regard is, you know, BC Hydro retained the
23 Brattle Group to do the benchmarking. Brattle Group
24 was the one that was using its expertise with the FERC
25 system of accounts to help compare the operating
26 costs. So, admittedly, not perfect precise dollar

1 amounts information, but I think it gives you a good
2 flavour that, you know, what you could expect in terms
3 of relative costs. Obviously it's not going to be an
4 order of magnitude difference between these things,
5 but you can get that flavour that there is more to
6 this than simply readopting what's already been done.

7 So that's where I'll leave this point,
8 that's the evidence that's on the record. I can leave
9 it to you to deliberate as to whether you need more on
10 that and move on.

11 You've got a question, Thank you, Mr.
12 Chair.

13 THE CHAIRPERSON: Yes. So do I understand you, I think
14 what you're saying is the FERC system of accounts
15 would require somewhat more upfront costs but on an
16 ongoing basis would likely be equivalent? I'm not
17 trying to put words in your mouth, but I think that's
18 what you said. Is that correct?

19 **Proceeding Time 10:21 a.m. T18**

20 MR. GHIKAS: The inference that I'm suggesting can be
21 drawn from the existing evidence, Mr. Chairman, is
22 that the real kicker here is the institutional
23 capacity. That's the difference between the two.
24 That's the difference that you can --

25 THE CHAIRPERSON: Right, but that be an upfront cost,
26 so to speak, presumably.

1 MR. GHIKAS: The institution, yes.

2 THE CHAIRPERSON: Yeah.

3 MR. GHIKAS: Yes. So admittedly, you know, we don't
4 have definitive evidence on this. But -- so if you do
5 need it, obviously we can provide it.

6 THE CHAIRPERSON: Okay. To the panel, staff, does
7 anyone have a comment whether we need more
8 information? No comment or we don't need more? I
9 think we're fine.

10 COMMISSIONER MASON: I'm satisfied with that
11 submission, thank you.

12 COMMISSIONER LOCKHART: Yeah.

13 THE CHAIRPERSON: I think we're fine. Thank you, yeah.

14 MR. GHIKAS: Thank you. Okay, I am onto question 5,
15 and then I'll pass it back to Mr. Bystrom.

16 Question 5 reads:

17 "Given that by Order R1819 dated September 9,
18 2019, the BCUC had approved a compliance
19 violation investigation of BC Hydro with respect
20 to a number of vegetation related events, please
21 explain how the testimony regarding vegetation
22 management follows the BCUC's finding and
23 recommendations in the SAP inquiry regarding BC
24 Hydro's approach to information disclosure."

25 Okay. And just as an initial caution, I'm going to be
26 very careful with the way that I describe this point

1 dealing with this, recognizing that the details of the
2 process that was established by R1819 is actually a
3 confidential process under the Commission's rules. So
4 I'll touch more on that, but I just wanted to
5 highlight the fact that we're all going to need to
6 collectively be cautious about that.

7 THE CHAIRPERSON: We understand that, Mr. Ghikas, and
8 we're not asking to go any further than the fact that
9 the order existed and was public at the time of the
10 oral hearing is as far I think as we need to go along
11 that route.

12 MR. GHIKAS: Okay.

13 THE CHAIRPERSON: Yeah.

14 MR. GHIKAS: Perfect. Okay, that works from my
15 perspective too. So my fundamental submission, Mr.
16 Chairman, Commissioners, is that that testimony that
17 was provided was reasonable and it was consistent with
18 BC Hydro's approach and disclosure throughout
19 proceeding, and consistent -- and that approach being
20 to heed the recommendations of the SAP inquiry and do
21 its best to provide the information that the
22 Commission needs to make its decision. And there are
23 five reasons that I'm going to walk you through as to
24 why I say this is the case. And I am going to spend a
25 bit of time in this question because I think this one
26 is obviously important to the panel and it's very

1 important to BC Hydro too that we address this one
2 comprehensively.

3 So the first point I would characterize as
4 being that we have to look at this particular exchange
5 in the overall context of the evidence. And in this
6 specific instance that you have cited, Mr. Kumar was
7 speaking to the true fact, I don't think there's any
8 debate about that, the true fact that BC Hydro's
9 policy on inspection frequency does exceed the MRS
10 requirements. And the key point is that that exchange
11 did not occur in a vacuum. And it occurred in a
12 broader context of BC Hydro including both of the
13 witnesses that are cited here, Mr. O'Riley and Mr.
14 Kumar, having already singled out vegetation
15 management as one of the areas where BC Hydro expects
16 to need to increase its spending next year.

17 And there is nobody at BC Hydro, none of
18 these witnesses -- BC Hydro is not taking the position
19 that the status quo is going to be enough going
20 forward. That's not its position, and I am going to
21 ask you to turn and look at some passages because I
22 think this is really important context.

23 **Proceeding Time 10:25 a.m. T19**

24 And the first passage that I want to go to
25 is actually quoted in BC Hydro's final submission at
26 paragraph 229, which is on page 101. So final

1 submission, not reply. Final. Paragraph 229, page
2 101. And this is a -- the paragraph includes a quote
3 from Mr. O'Riley. Are you with me?

4 THE CHAIRPERSON: I'm getting there, personally.

5 MR. GHIKAS: Okay, yeah. No problem.

6 THE CHAIRPERSON: Okay.

7 MR. GHIKAS: Okay, so what Mr. O'Riley said, setting
8 the stage here is that -- he says:

9 "And I think the approach of utilities towards
10 vegetation is changing significantly and it's
11 changing for three reasons: One is the
12 seemingly increased prevalence of storms that
13 were experienced and the reliability effects of
14 that particularly in rural areas."

15 And then a little further down he cites the second
16 reason:

17 "We are also increasingly concerned in our
18 industry about forest fires."

19 And then he goes on to refer to the situation in
20 California and Australia.

21 And then lower in that paragraph, about six
22 lines up, eight lines up from the bottom he says:

23 "And the third is that we have these mandatory
24 reliability standards that govern vegetation and
25 what that does is really increase the penalty
26 costs if you find yourself with a violation and

1 I think that's going to drive out management and
2 quality control and our quality assurance and
3 the actual spend on vegetation."

4 So that's setting the stage. And then I'm
5 going to turn you to some passages from Mr. Kumar
6 which occurred within an hour or two before the
7 exchange. It's probably within an hour of the
8 exchange that you've cited in your preamble.

9 So if I can ask you then to turn to Volume
10 13 of the transcript and I'm going to start on page
11 2,486. Volume 13, 2,486.

12 Let me know when you're there.

13 THE CHAIRPERSON: Yes, please Please, go ahead.

14 MR. GHIKAS: Okay, so the passage -- the context for
15 the discussion that's occurring on this page is about
16 BC Hydro's acknowledgement that it's experiencing
17 outages caused by vegetation and it starts on the
18 previous page, but here is the passage that I want to
19 read to you at this point. I'd encourage you to read
20 the exchange as a whole, but the passage where Mr.
21 Kumar says, at line 12:

22 "And Mr. O'Riley talked about, in his opening
23 comments, in the Panel 1 discussion, that
24 vegetation management is an area that we are
25 definitely going to be looking at in terms of
26 the test period -- beyond the test period."

1 I think he meant beyond the test period, he corrected
2 himself.

3 Then it carries over. If I can ask you to
4 turn to page 2487, 2-4-8-7. And Mr. Kumar is again
5 discussion the need for additional investment going
6 forward.

7 So he says:

8 "So currently we have a hazard tree program, but
9 as we go forward with this frequency of storms
10 that we are starting to see, one of the areas we
11 have been able to explore and Mr. O'Riley talked
12 about it is that we will look at it how we can
13 manage the risk of the increased storm that we
14 are starting to see on the system in terms of
15 our approach towards those hazard trees and
16 perhaps look at having a more expensive..."

17 I think he meant expansive but probably both --

18 "... expensive program to address those as we go
19 forward."

20 And then shortly there after, and again
21 this is only 30 pages in the transcript before -- now
22 20 pages before in the transcript -- Mr. Kumar
23 revisits, talks about how they are revisiting the risk
24 and investment in vegetation management and this is at
25 page 2491 starting at line 3. 2-4-9-1.

26 And so Mr. Kumar says:

1 "So as far as that risk assessment is concerned,
2 we actually are in the midst of launching that
3 right now. So that is going to be something
4 that is going to be completed in F21, in terms
5 of the risk assessment on the distribution and
6 on the transmission system in terms of the risk
7 we see from wildfires and the vegetation.

8 In terms of our increased programs as Mr.
9 O'Riley has said before, we have a set budget
10 for F2021. When we come back for the next RRA,
11 we are going to have a better understanding of
12 the expansiveness of our hazard tree program to
13 address those risk and we will be sharing that
14 information at the next RRA."

15 And Mr. Chairman, you intervened and asked,
16 "And probably looking for more budget?" And Mr. Kumar
17 says, "On the vegetation side." And then you say,
18 "Thank you."

19 **Proceeding Time 10:31 a.m. T20**

20 So if I can sum up this point on context, I
21 would say that while Mr. Kumar in that specific
22 passage you've noted on that page is indicating that
23 BC Hydro's standards for frequency of inspections
24 exceeding MRS standards on inspection frequency,
25 nobody, not Mr. Kumar, not Mr. O'Riley, not any other
26 witness and not BC Hydro in general was saying or

1 implying that further spending on vegetation
2 management was unnecessary in the near future. And in
3 fact when you have those exchanges that I've just
4 given you, only shortly before Mr. Kumar had
5 referenced the quoted passage that you provided, on
6 three separate occasions that work and risk assessment
7 in vegetation management was necessary.

8 So, in my submission, when you take this --
9 when you look at a transcript like this, when you look
10 at it with hindsight, there has to be some recognition
11 that there is an ebb and flow to the exchanges that
12 happened during a hearing where the witness is
13 responding in a particular frame of reference to a
14 question being posed. And if you look at the sum
15 total of the transcript, I would submit that it yields
16 a different picture than what it yielded by
17 juxtaposing the two questions in the preamble. It's
18 yielding a vision of BC Hydro as recognizing that more
19 work will need to be done and that, in my submission,
20 is an important point.

21 That takes -- yes?

22 THE CHAIRPERSON: Mr. Ghikas, so a couple of things.
23 First of all, when you began your submissions here on
24 this question I think you said that it was a fact that
25 Hydro's vegetation management policy exceeds the MRS
26 standards or words to that effect.

1 MR. GHIKAS: The frequency, the policy of frequency of
2 inspection.

3 THE CHAIRPERSON: Right. So I'd like to point out,
4 that's not what Mr. Kumar said. He's not speaking to
5 policy. He said, "If you look at the transmission
6 levels of inspections, we actually exceed." So it's
7 not a submission on what BC Hydro's policy is, it's a
8 submission on what they actually do.

9 And what this question is, is it's very
10 specifically focused on the MRS standards. A lot of
11 the quotes that you just made were made in the context
12 of the distribution system or the distribution system
13 and the transmission system spoken about together.
14 This question is not about the distribution system.
15 BC Hydro may well need to spend more money on the
16 distribution system and may well be planning to, but
17 that's not the issue in the question.

18 The issues in the question is a statement
19 that was made about compliance with MRS standards and
20 it was stated as, you know, fairly clearly that BC
21 Hydro, they're on the ground adherence to MRS
22 standards exceeded those standards. And that was at
23 the same time or after -- or during an audit that was
24 taking place that had been ordered by the BCUC on that
25 exact compliance. It's not about whether BCUC's -- or
26 sorry, whether BC Hydro is planning to spend more

1 money on vegetation management in the distribution
2 next year, that's not what the question is about.

3 MR. GHIKAS: Okay. Well, let me, Mr. Chairman, let me
4 respond with the remaining portions of my submission,
5 my other four portions, and we can revisit this point
6 afterwards. My submission is, on the second point --
7 excuse me.

8 **Proceeding Time 10:36 a.m. T21**

9 The second point is that the Commission
10 already had all of the information on this point.
11 There is perfect symmetry of information as between BC
12 Hydro and the BCUC. The existence of the order
13 establishing the compliance violation investigation in
14 relation to this was known not just to the Commission
15 generally, but obviously to you, Mr. Chairman, as you
16 had signed the order. And it was public.

17 And as the body that's overseeing MRS
18 compliance, the BCUC is privy to all of the
19 information about the compliance violation
20 investigation. BC Hydro and its witnesses were all
21 aware of that fact, and it's reasonable in my
22 submission for BC Hydro and witnesses to assume that
23 the BCUC will be taking notice of its own decisions
24 and orders in this. And the panel can obviously ask
25 any questions of BC Hydro's witnesses that it wished.
26 Although, and this is my third point, had it happened,

1 it would have had to be in camera. And I will touch
2 on that next. But since it wasn't raised, in my
3 respectful submission it appears that what is
4 happening is that it is being reviewed with hindsight
5 and not at the time. If it was raised at the time,
6 the witness could deal with it. But it wasn't raised
7 at the time. And if that's because it wasn't
8 recognized at the time, that makes Mr. Kumar as well,
9 would be in the same boat.

10 With hindsight, it takes me back to the ebb
11 and flow of the context of it. But if the intent of
12 the question was to draw a parallel between these
13 facts and the facts of the SAP inquiry, which I don't
14 think it was, and I hope it wasn't, but in my
15 submission they are not even in the same stratosphere.
16 And what differentiates it is the total symmetry of
17 information in these circumstances.

18 These witnesses are giving testimony
19 knowing full well that Mr. Kumar is involved in
20 planning the -- he's aware of Order R19, just as BC
21 Hydro is, and just as you, Mr. Chairman are, with all
22 due respect.

23 So, in my submission, that is a really
24 important factor that we need to consider here. The
25 SAP inquiry is dealing with an asymmetry of
26 information, and relying on BC Hydro to bring forward

1 information that the Commission would not otherwise
2 have access to when making its decision. And so this
3 is a different circumstance. And in my submission
4 it's appropriate for BC Hydro to think that the
5 Commission is going to be cognizant of its own
6 processes when it is giving evidence.

7 And that links closely to my third point,
8 which is that BC Hydro's witnesses would have violated
9 the BCUC's own rules of procedure had it talked about
10 the details of those investigations in this. I
11 appreciate that you're referring to the Order, and the
12 fact that the Order wasn't mentioned in passing, but
13 in my submission it's important to understand that the
14 BCUC has issued rules of procedure that -- to deal
15 with MRS. There is a whole framework of compliance
16 that deals with MRS. It is a separate framework
17 governed by the BCUC. And that framework is set up by
18 order, that while the fact that a compliance violation
19 investigation is public, none of the details were, and
20 nor could anybody talk about the details. And as you
21 know, to step back as to how that process unfolds, the
22 compliance program is started by a compliance
23 violation investigation. It first has to complete, it
24 has to move to a notice of alleged violation, and then
25 a potentially a confirmed violation. So throughout
26 that process, the rules that the Commission has

1 established for compliance monitoring, contemplate
2 confidentiality, full confidentiality of the
3 materials.

4 **Proceeding Time 10:40 a.m. T22**

5 THE CHAIRPERSON: Mr. Ghikas, I'm sorry. I don't think
6 we really need to go through all of the MRS issues.
7 I'm not suggesting that Mr. Kumar should have said
8 anything about the order or about any of the steps in
9 a violation. All he simply needed to do was not make
10 that statement in quite that way. That's all he
11 needed to do. He didn't need to mention the Order.
12 And, you know, I accept your argument and, you know,
13 unless there's anything further that you have to add,
14 I suggest that we move on.

15 MR. GHIKAS: Okay. Well, I would like to finish with
16 my last two points, Mr. Chairman. I take what you're
17 saying and I appreciate that. I think, you know, I
18 will just highlight two more points, because this is a
19 very important point for both the witness, the person
20 in-person, and it's an important point from the
21 perspective of BC Hydro as a whole. So let me make --
22 I just actually have to -- I'm being asks to caucus
23 for one moment and I'll be back, Mr. Chairman.
24 Just --

25 THE CHAIRPERSON: Sure. Okay.

26 MR. GHIKAS: Mr. Ahmed wants to talk to me. Thank you.

1 THE CHAIRPERSON: Thank you.

2 **(PROCEEDINGS ADJOURNED AT 10:43 A.M.)**

3 **(PROCEEDINGS RESUMED AT 10:44 A.M.)**

4 THE CHAIRPERSON: Are we back?

5 MR. GHIKAS: We are back, Mr. Chairman. Apologies for
6 that.

7 Okay, so I've had my discussion with Mr.
8 Ahmed, but I'm just going to finish off this point
9 just by saying that there is a separate process for
10 these MRS processes and it does receive the full
11 engagement of BC Hydro, and so we do have to
12 necessarily be careful about venturing into these
13 details in the context of this proceeding. And I
14 wanted to leave you with the idea that if you look at
15 the overall way that the processes unfold, the company
16 and the participants, the witnesses, they have bent
17 over backwards in this proceeding, Mr. Chairman, to
18 try to provide the Commission with what it needs to
19 decide this.

20 And I think, in fairness I think what I
21 would ask the Commission to do and what I think the
22 Commission should do, in my submission, is that it
23 step back, it consider the points that I made, and it
24 consider it in the general context of what BC Hydro
25 has been trying to do throughout this proceeding in
26 its disclosure. It has answered questions that go

1 well beyond what the scope of the proceeding is. It
2 has been throughout filing information updates when
3 things had happened, like the new -- you know, the
4 change of the status of the projects. It has been
5 trying to live within the spirit of the
6 recommendations of the SAP report. And I would urge
7 the Commission to take that overall context into play.

8 And being a witness is not an easy thing to
9 do. And certainly in the moment if it -- you know, if
10 this issue had come up at the time, it would be easier
11 to address. If it's being addressed in the -- you
12 know, from a second read of the transcript afterwards,
13 MR. Kumar also didn't have the benefit of going back
14 and, you know, changing his testimony either at that
15 time. Witnesses don't have that, you know, that
16 ability, and you have to consider the ebb and flow of
17 the discussion.

18 So I will leave it with that unless there's
19 further comments that you want to make, Mr. Chairman.

20 **Proceeding Time 10:46 a.m. T23**

21 THE CHAIRPERSON: Is there anything else that the panel
22 would like -- any comments the panel would like to
23 make?

24 COMMISSIONER MASON: No, I'm satisfied with that
25 summation.

26 COMMISSIONER FUNG: Not currently.

1 COMMISSIONER LOCKHART: Not for me, thanks, but I
2 appreciate Mr. Ghikas' clarification.

3 MR. GHIKAS: Thank you very much.

4 THE CHAIRPERSON: I just have one comment. I
5 appreciate your clarification also and I do understand
6 the position that you're taking. However, you know, I
7 have to say that it seems to me that you're putting
8 the onus on the Commission to ensure that the
9 witnesses are being as forthright as they can be. In
10 my view the onus is on the witnesses to do that and it
11 doesn't make any difference whether the Commission
12 already knows something or doesn't already know
13 something. For a witness to not -- it's still the
14 responsibility of the witness, as I said, to be as
15 forthright as possible. It's not only the Commission
16 that they're testifying to, they're testifying to
17 other interveners and they're testifying to the
18 general public. And to paint a picture that is
19 perhaps not quite the picture -- you know, that is not
20 the picture that maybe could be painted, I think a
21 witness should think twice before doing that and I
22 don't know that it's BCUC's responsibility to ensure
23 that they do it correctly.

24 MR. GHIKAS: Mr. Chairman, I wasn't suggesting that the
25 onus be on the BCUC to do that. What I was trying to
26 make the point is that we should have -- that you

1 should take into consideration that there is an ebb
2 and flow in these discussions and that witnesses are
3 not perfect and that there is -- that we need to work
4 together to make a hearing work well. And I take your
5 point that there are other people and the public as
6 well. The Order of the Commission process is on the
7 public record but I do think -- and I take your point
8 and we'll definitely take that to heart, what you're
9 saying.

10 You know, there is, in my submission, some
11 aspect of being able to take the public record, the
12 Commission's processes and orders and decisions, as a
13 given. There is some need to do that and I want to
14 reiterate that we are going to take your comments to
15 heart and we're going to go back and we're going to
16 think about it. But in my submission it would be
17 judging unfairly in this context to take that hard
18 line view. And I appreciate your comments and
19 prospectively we are going to look and evaluate on
20 what we're doing on this, I can certainly say that,
21 but that is my point.

22 THE CHAIRPERSON: Thank you, Mr. Ghikas. Thank you.

23 MR. GHIKAS: Thank you. I'm going to turn the
24 microphone to Mr. Bystrom to deal with questions, the
25 6 series. Thank you.

26 **ARGUMENT BY MR. BYSTROM:**

1 MR. BYSTROM: Good morning, again, Mr. Chairman and
2 Commissioners. So I'm going to address questions 6.1
3 and 6.2 together. Those questions are,
4 "Please discuss the legal and practical issues
5 regarding an advance assessment by the BCUC that
6 BC Hydro is planning to consider."

7 And,

8 "Please clarify when BC Hydro plans to initiate
9 further discussions with BCUC staff."

10 So, as indicated in the preamble to the
11 panel's questions, BC Hydro states in its final
12 submissions that it would be considering the issues
13 related to advanced assessment, prescribed
14 undertakings following this proceeding.

15 **Proceeding Time 10:51 a.m. T24**

16 So in terms of when BC Hydro will be
17 initiating discussions with BCUC staff, I can only
18 confirm that once the argument phase here is done BC
19 Hydro will be carefully considering the issues
20 involved and will be reaching out to BCUC staff in due
21 course to explore potential options.

22 As BC Hydro has not yet assessed all of the
23 issues or potential options for advanced assessment,
24 the best I can offer at this time in response the
25 panel's first question is some illustration of the
26 legal and practical issues involved and I have three

1 broad illustrations and I'm going to go through those.

2 But I would like to stress that I'm not
3 purporting here to provide a comprehensive list of
4 issues or full consideration of them. The key point I
5 wish to make is that there are some complicated issues
6 that need carefully consideration and that this is a
7 matter that is best left to future discussions between
8 BC Hydro and BCUC staff to determine the path forward.

9 So with that I'll move to some discussion
10 with the issues, the legal and practical issues
11 involved in this.

12 So first, one of the issues is that BC
13 Hydro needs to consider whether there is the same need
14 for an advanced assessment of all the categories of
15 prescribed undertakings. Section 4 of the GGRR
16 describes eight kinds of electrification prescribed
17 undertakings and BC Hydro has described those --
18 sorry, divided those generally into two categories:
19 LCE infrastructure projects and LCE programs, and
20 these are each different beasts, if you will.

21 So BC Hydro's LCE programs are much like BC
22 Hydro's traditional DSM programs and the expenditures
23 were presented in Appendix Y of the application for
24 the test period, much like other expenditures, and as
25 shown in that appendix, the expenditures have been
26 relatively small to date. And presenting these

1 expenditures provided an opportunity for the BCUC to
2 review them and determine if it agrees that they are
3 prescribed undertakings.

4 So BC Hydro needs to consider whether this
5 approach to assessing LCE programs is sufficient or
6 how another advanced assessment process could add
7 value while at the same time not conflicting with the
8 revenue requirements process. So that's just, again,
9 an illustration of one of the legal or practical
10 issues that need to be considered carefully.

11 And a second example is that BC Hydro needs
12 to consider carefully how it would bring forward an
13 advanced assessment to the BCUC. The only experience
14 to date along these lines are the cases related to
15 Fortis BC's biomethane purchase agreements that are
16 prescribed undertakings under the GGRR. And in those
17 cases there is a clear regulatory pathway under the
18 *Utility Commissions Act* for the Commission to consider
19 those agreements, because utilities are required to
20 file energy supply contracts under Section 71 of the
21 UCA.

22 However BC Hydro's prescribed undertakings
23 are not energy supply contracts, so that same
24 regulatory pathway, if you will, isn't available. So
25 BC Hydro will need to consider under which Section of
26 the UCA it would be appropriate to file each type of

1 prescribed undertaking and what it will be asking the
2 BCUC to determine in order to make its advanced
3 assessment.

4 And in each case the advanced assessment
5 needs to provide a meaningful result. We're conscious
6 that Section 75 of the *Utilities Commission Act* states
7 that the Commission is not bound to follow its own
8 decisions. So given this, there needs to be a clear
9 decision point that will be meaningful for BC Hydro
10 and future panels.

11 And a third illustration is just there's
12 number of practical issues that need to be worked out,
13 including what kind of evidence will need to be
14 provided to the Commission, when would BC Hydro be in
15 a position to have that evidence for each type of
16 undertaking, how that affects when BC Hydro would file
17 with the Commission relative to the project or program
18 timeline, how long will the regulatory process take
19 and how will that affect the prescribed undertaking?
20 BC Hydro needs to consider whether there would be
21 impacts to project cost and schedule, where there
22 would be lost opportunities if BC Hydro delays while
23 it awaits commission determination.

24 And finally, how would an advanced
25 assessment line up with the other regulatory processes
26 ongoing. Would it be more efficient to combine them

1 with another filing, for instance.

2 So these are just some of the factors, the
3 legal, the practical issues that need to be carefully
4 considered. And just to sum up my submission on this
5 point, BC Hydro has stated that it is open to
6 considering advanced assessment of prescribed
7 undertakings but there are issues related to that
8 assessment that deserve careful consideration.

9 And given that this has not been an area
10 explored in any substantive way in this proceeding, I
11 submit that the determination of the appropriate path
12 forward is best left to future discussions between BC
13 Hydro and the BCUC rather than being addressed in this
14 proceeding.

15 **Proceeding Time 10:56 a.m. T25**

16 So that concludes my response to the first
17 two questions in this series. I am happy to take
18 questions before I move on to the third.

19 Hearing none, so the third question is
20 "Please explain whether BC Hydro plans to bring the
21 Bear Mountain Terminal to Dawson Creek Transmission
22 Voltage Conversation project, and the North Montney
23 transmission development project to the BCUC for an
24 advanced assessment of the applicability of the GGRR."
25 And there is a sub-question, "If so, please discuss
26 when BC Hydro plans to bring these two projects to the

1 BCUC for an advanced assessment. If not, please
2 discuss why not."

3 So, the response to that question is that
4 BC Hydro does not have any plans at this time to bring
5 the Bear Mountain and North Montney projects forward
6 for an advanced assessment, because these projects may
7 or may not be prescribed undertakings under the GRR.

8 So, to explain, one of the criteria for
9 these projects to qualify as prescribed undertakings
10 under section 4(2) of the GRR, is whether,

11 "The public utility reasonably expects on the
12 date the public utility decides to carry out the
13 undertaking, that the facility will have an in-
14 service date no later than December 31st, 2022."

15 As indicated in BC Hydro's response to BCUC
16 IR 254.2, these projects are in the identification
17 phase only. That means that BC Hydro hasn't made a
18 final determination on whether to proceed with the
19 projects, and therefore the expected in-service date
20 for the purpose of satisfying the criteria in the GRR
21 isn't known yet.

22 And can also say, as time marches on,
23 obviously it is getting increasingly unlikely that you
24 could reasonably expect these projects to meet that
25 December 21st, 2022 date in the regulation. So for
26 these reasons, there are no plans at this time whether

1 to bring these projects forward for an advanced
2 assessment.

3 And unless there are any questions on that,
4 I'm going to pass the -- yes, Mr. Chairman?

5 THE CHAIRPERSON: Just one quick question. Those
6 projects that are in the identification phase, if they
7 don't go ahead does the spending on the identification
8 phase, is that a GRRR expenditure? Or is that part of
9 the revenue requirement? The general revenue
10 requirement?

11 MR. BYSTROM: It would be part of the general revenue
12 requirement would be my answer, because the GRRR has
13 specific requirements for a prescribed undertaking and
14 they have to meet those and so in that case, if it
15 doesn't -- if it isn't implemented with that expected
16 in-service date, then you couldn't meet that criteria.

17 THE CHAIRPERSON: Thank you.

18 MR. BYSTROM: With that, thank you, I'm going to pass
19 it back to Mr. Ghikas.

20 **ARGUMENT BY MR. GHIKAS:**

21 MR. GHIKAS: Okay, It's Matt Ghikas again. With
22 question 7.1,

23 "Please clarify why BC Hydro is now proposing to
24 budget for project write-offs, and have it
25 recoverable from ratepayers when in the past its
26 practice was to have these costs be borne by its

1 operating costs, much like other operating costs that
2 are incurred in the course of planning, and they
3 should be approached in the same way. And what is
4 that approach? That approach is that the utility
5 presents a forecast of costs that it expects to occur
6 based on what it believes is a reasonable level of
7 spending. And the BCUC then examines that forecast of
8 the operating costs and it determines based on the
9 totality of the evidence that is before you what amount
10 is reasonable for inclusion in the rates. And that
11 is the approach that, in my submission, makes sense in
12 the context of these costs as operating costs.

13 The second point is on the evidence and
14 what is that evidence that the Commission should be
15 making its mind of using in this case when it
16 considers all the factors? And a sample of the
17 evidence that's on the record is that this type of
18 continued reassessment of whether a project should be
19 in -- whether a project should proceed as part of a
20 mature planning process and that that should be
21 encouraged, and we deal with the evidence, for
22 reference, in the final submissions, paragraph 370.
23 There's also evidence that BC Hydro has a mature
24 capital planning -- capital program, pardon me, and
25 that it has been recognized as such by third parties.
26 And again, the final submissions on page 134 deals

1 with that evidence.

2 And there's evidence about the processes
3 being subject to continuous improvement. And again,
4 in the final submissions you see, for example, on page
5 115 a discussion about value based assessments coming
6 up, page 160. And there's reference to the delivery
7 improvements in the final submissions in paragraph 283
8 on page 126.

9 And BC Hydro also provided tangible
10 examples in the case of the Ruskin Dam, where not
11 undertaking the seismic study and the work would have
12 left BC Hydro with a choice between two undesirable
13 outcomes for ratepayers. And there is no evidence of
14 past imprudent write offs from which one could
15 reasonably conclude that imprudent write offs will
16 occur in the test period.

17 So, just to sum up on that point then, the
18 panel is entitled to and should, in my submission,
19 consider this issue from the perspective of the
20 evidence and the regulatory principle and that a
21 change in the capital planning process is not and
22 should not be a pre-condition of granting what BC
23 Hydro is seeking in the circumstances.

24 What you need to grant the order, in my
25 submission, is two things. First of all, a sound
26 principle on which to base your decision and evidence

1 about the current planning process to demonstrate that
2 the forecast is reasonable and that BC Hydro's sound
3 practices should be encouraged. In my submission you
4 have both of those things before you on the evidence.

5 So that's all I have to say on that issue,
6 if there's any questions.

7 COMMISSIONER FUNG: I have a question, Mr. Ghikas, if
8 you don't mind?

9 MR. GHIKAS: Yes.

10 COMMISSIONER FUNG: I'm actually quite in support of BC
11 Hydro, you know, kind of looking at its capital
12 planning processes and deciding not to proceed with
13 projects which, frankly, are not warranted. And if
14 they change their minds on that I think it's great,
15 you know, based on additional evidence and
16 investigations.

17 But the question is much more specific than
18 that and that is that, now BC Hydro is proposing to
19 budget for project write offs and have it recovered
20 from ratepayers when in the past the practice was to
21 have the costs borne by the shareholder. And our
22 question is very simple, that what is driving that
23 proposal now? And, you know, why should the costs
24 that have traditionally been borne by the shareholder
25 be recovered from ratepayers now?

26 MR. GHIKAS: Yeah, and thank you for asking for that

1 Mr. Chairman.

2 THE CHAIRPERSON: Yeah, Mr. Ghikas, thank you. And I
3 would -- and in support of what you just said, I note
4 that it's only up to a maximum. The amount of
5 write-offs is only up to a budgeted maximum every
6 year, so it's only a partial, you know, return to this
7 -- to the more normal, as it were, approach. Is that
8 fair to say?

9 MR. GHIKAS: Well, it's -- factually, yes. The
10 proposal is to put in a budgeted amount. But I would
11 actually say that the normal -- that is the normal way
12 of doing it, treating an operating cost. And what you
13 would do is, with an operating cost, whatever it is,
14 you would say we're forecasting it, we're going to
15 expend on that. And then there's a risk of variance
16 that either lies with the shareholder or the
17 ratepayer.

18 THE CHAIRPERSON: Fair enough. And in this case that
19 risk does lie with the shareholder, just to be clear?

20 MR. GHIKAS: If there is over -- if you exceed your
21 budgeted amount of (inaudible) the shareholder will
22 bear those costs.

23 THE CHAIRPERSON: Right, yeah. Fair enough.

24 MR. GHIKAS: If you're not -- on the flip side, if
25 you were -- didn't have as many write-offs as you --

26 THE CHAIRPERSON: Under, yeah.

1 MR. GHIKAS: Yeah. That would go to the ratepayer.

2 THE CHAIRPERSON: Understood. So I do have a question.

3 In your view does it make any difference whether the
4 capital cost was approved by the BCUC or not? I'm
5 thinking of exempt projects here. It makes no
6 difference, right, to the treatment, I'm assuming?

7 MR. GHIKAS: That's right. That would be my -- my
8 submission would be that -- well, if something was
9 exempt, you have essentially a determination of need
10 in advance. So I guess from that perspective is, you
11 know, you had the exemption and the authorization to
12 move forward with the project, or you wouldn't be
13 second guessing that decision.

14 THE CHAIRPERSON: Right. So whether that assessment
15 of need came from the BCUC or it came from government
16 makes no difference to the treatment of it when it
17 gets written off, that's what you're --

18 MR. GHIKAS: That's right, that's my proposal. Yeah.
19 If it's a reasonable forecast of what you would expect
20 from write-offs as part of your overall capital
21 planning process, that should be the amount that --

22 THE CHAIRPERSON: Thank you.

23 MR. GHIKAS: If there's no more questions on that
24 point, I did have one thing brought to my attention
25 about -- in response to Ms. Lai's question of 3.2
26 about what evidence is on the record about assets and

1 rate base. So I'll just clarify that now.

2 So in undertaking -- and Ms. Lai, just for
3 the record's purpose, had asked about the treatment of
4 the surplus, the surplus properties that are being
5 sold by BC Hydro from a rate base perspective. And
6 Undertaking No. 54, which is Exhibit B-58, indicates
7 that the net book value of those properties is in rate
8 base currently.

9 So my overall answer doesn't change, which
10 is that in the compliance filing BC Hydro will be
11 revisiting that and determining to make sure that it
12 makes sense within the context of what should and
13 shouldn't be in rate base based on the principles that
14 I articulated and what's stated in Direction 8. But I
15 did want to draw your attention that there is in fact
16 evidence as to its treatment in the application
17 record.

18 MS. LAI: Thank you.

19 MR. GHIKAS: So, Mr. Chairman, unless there are any
20 further questions on that and then, Commissioners,
21 that takes us to the end of the seven questions.

22 THE CHAIRPERSON: Panel, do you have any further
23 questions?

24 COMMISSIONER LOCKHART: I don't have any, thank you.

25 THE CHAIRPERSON: Staff have any further questions?

26 Mr. Miller, do you have anything you'd like to ask?

1 MR. MILLER: Nothing from me, Mr. Chair.

2 THE CHAIRPERSON: Thank you.

3 MR. GHIKAS: So, Mr. Chairman, just on the procedural
4 point, are we -- I just want to make sure I have
5 clarification, and maybe you can't provide it now, but
6 is there any expectation of filing for the material
7 such that we'd need to reopen the record? And I just
8 wanted to clarify that now, if possible, or you can
9 advise us later.

10 THE CHAIRPERSON: So I did not make any notes of
11 anything that needed to be filed. I'll open it up to
12 the rest of our team here.

13 No, I don't think -- so there's nothing
14 further to be filed. In my view, there's no new
15 evidence that has come out in testimony here today or
16 in our discussions here today.

17 **Proceeding Time 11:12 a.m. T28**

18 So I don't see any -- the evidentiary record remains
19 closed and I think we should proceed with the timeline
20 as we've already laid out for next week.

21 Unless there's any objection to that, then
22 that's what we'll do.

23 MR. GHIKAS: Thank you very much, Commissioners and
24 Panel.

25 THE CHAIRPERSON: Thank you, and I'd like to thank all
26 from BC Hydro for participating today and also for

1 their prompt response to the questions and their
2 fulsome response to the questions. It's much
3 appreciated.

4 And now I guess the ball is certainly in
5 our court, isn't it? Or will be in a few days. Looks
6 like we've got a lot of work to do.

7 So thank you very much. I hope everyone
8 makes the best of what might be a damp weekend and
9 take care everyone and thank you once again. We're
10 adjourned.

11 **(PROCEEDINGS ADJOURNED AT 11:13 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.

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A.B. Lanigan, Court Reporter

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June 12th, 2020

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