(9:00 a.m.)
CHAIR:
Q. Good morning everyone.
MR. O'BRIEN:
Q. Good morning.
CHAIR:
Q. So, no preliminary matters?
MS. GLYNN:
Q. None that I'm aware of.
COFFEY, KC:
Q. Chair, I have Dr. Booth sitting here, I take it that that's fine with everyone.
CHAIR:
Q. Oh sure.
MR. O'BRIEN:
Q. No issues.
COFFEY, KC:
Q. I appreciate that.
CHAIR:
Q. So we'll go to Mr. O'Brien to introduce his witness. Oh, I guess we have to do the affirm versus the swear in.
MR. O'BRIEN:
Q. We do. So we have Concentric Energy Advisors Incorporated here and we've got Mr. Jim Coyne and Mr. Trogonoski here, so I think Mr. Coyne is going to be affirmed, is that right, or the Bible?

MR. COYNE:
Q. I'll swear on the Bible.
MR. O'BRIEN:
Q. Okay, both will swear on the Bible.
MR. JIM COYNE, MR. JOHN TROGONOSKI (SWORN)
CHAIR:
Q. Good morning gentleman, I'll turn it over to Mr. O'Brien.
MR. O'BRIEN:
Q. Thank you, Mr. Chair. Good morning, Mr. Coyne, Mr. Trogonoski. Turning to you first, Mr. Coyne, I understand you're a senior vice-president with Concentric Energy Advisors, is that right?
MR. COYNE:
A. Yes, I am.
MR. O'BRIEN:
Q. And that you have co-authored an expert report that's filed with the Board in this proceeding on behalf of Newfoundland Power on the cost of capital and that's with Newfoundland Power's initial application filed November 7th, your report is, 2023, is that right?

MR. COYNE:
A. That's right, we co-authored the entire report and developed the evidence together.
MR. O'BRIEN:
Q. Okay, and you filed rebuttal testimony on May 28th, 2024 responding to the evidence submitted on behalf of the Consumer Advocate by Dr. Lawrence Booth, is that correct?
MR. COYNE:
A. Yes, we did.
MR. O'BRIEN:
Q. Do you adopt the report and the rebuttal evidence as part of your evidence?
MR. COYNE:
A. We do.
MR. O'BRIEN:
Q. Are there any changes to the reports or the rebuttal evidence that you would like to make at this time?
MR. COYNE:
A. Yes, there is one correction, Mr. Trogonoski would like to make on the record to our direct.

MR. O'BRIEN:
Q. Okay, go ahead Mr. Trogonoski.
MR. TROGONOSKI:
A. It's on page 31 of our direct report on line 4, it currently says "at least 80 percent of regulated operating income from electric utility service", the 80 percent should be 90 percent. And that change was also noted in our response to a dated request from the Board which was PUB-NP-110. That's the only change we have.
MR. O'BRIEN:
Q. Okay. Now, gentlemen, have either of you testified before this Board before?
MR. COYNE:
A. Yes, I provided testimony before the Board in the Cost of Capital in 2016, 2019 and the 2021 General Rate Applications and it's nice to be back here again.
MR. O'BRIEN:
Q. So, Mr. Coyne, would you please provide the Board with a brief summary of your professional background?
MR. COYNE:
A. Sure. I have over 40 years of experience in

the utility and energy industries with a specialization in regulatory policy and the cost of capital for regulated utilities. This work includes estimating the cost of capital for the purposes of rate making and providing expert testimony and studies on matters pertaining to incentive regulation, rate policy, valuation, capital costs, fuels markets and power markets. I've testified or provided expert evidence in over 50 proceedings in state, provincial and federal jurisdictions in Canada and the US. I have also worked with regulatory commission staff and provided expert reports on the cost of capital, low income programs and demand side management programs. My educational background includes a bachelors degree in business and economics and a master's degree in natural resource economics. I've also passed security examinations that qualify me to act as a registered securities representative and supervisor of other security professionals in the US.

MR. O'BRIEN:

Q. And turning to you, Mr. Trogonoski, I

understand you're an assistant vice-president with Concentric Energy Advisors, is that correct?

MR. TROGONOSKI:

A. Yes, it is.

MR. O'BRIEN:

Q. And have you previously testified before this Board?

MR. TROGONOSKI:

A. No, I have not testified before the Board, but I have worked closely with Mr. Coyne on the previous reports and the analysis that was provided by Mr. Coyne before the Board on the cost of capital in the 2016, 2019 and 2021 GRA applications.

MR. O'BRIEN:

Q. And would you please provide the Board with a brief summary of your professional background?

MR. TROGONOSKI:

A. Certainly. I have 25 years of experience in the utility and energy industries specializing in matters pertaining to finance economics and public policy. I've testified or provided expert evidence on

more than 25 occasions in various US state and committee and provincial jurisdictions on behalf of both utilities and regulatory commission staff. Prior to joining Concentric in 2008, I was employed by the Colorado Public Utilities Commission where I supervised the financial and accounting group in the energy and telecommunications units. I've provided advisory services to the commissioners on financial and economic matters, and I've filed expert testimony on rate of return and public policy matters, among other issues. I have a master's degree in business administration and a bachelor's degree in marketing from the University of Colorado at Denver.

MR. O'BRIEN:

Q. So, gentlemen, can you please tell us about your firm?

MR. COYNE:

A. Sure, Concentric specializes in the North American energy and utilities industries. We're a firm of approximately 70 professionals focussed on applied economics, finance and regulatory advisory services to

clients in the energy and utility sectors. We work for utilities, public agencies, consumers and investors on these matters.

MR. O'BRIEN:

Q. So let's turn to the specific recommendations on the cost of capital for Newfoundland Power, can you please summarize those for the Board.

MR. COYNE:

A. Sure, we've recommended a cost of equity of 9.85 percent within a range from 9.42 percent to 10.37 percent on a 45 percent common equity layer for Newfoundland Power. We believe our recommendation appropriately compensates Newfoundland Power for its business and financial risk is reasonable relative to other investor-owned Canadian utilities and satisfies all three requirements of the fair return standard.

MR. O'BRIEN:

Q. And how did you develop your recommendations?

MR. COYNE:

A. Our recommendation is based on three commonly employed models used in regulatory proceedings for these purposes. One, the discounted cashflow model or the DCF; two, the capital asset pricing model of the CAPM; and three, the risk premium model. We've estimated these models using a combination of Canadian, US, and North American proxy groups placing principal reliance on the North American electric proxy group. The results produced a range of estimates from 9.42 percent to 10.37 percent and an average of 9.85 percent. Our view is that the existing capital structure with 45 percent common equity is the minimum reasonable both as compared to the proxy group companies and is also appropriate with respect to Newfoundland Power's Canadian peer utilities and its risk profile. We've tested and corroborated our results using analysis and empirical data, as well as comparisons to utilities in other jurisdictions to assess their reasonableness. These corroborating analyses show that our results are reasonable, if not conservative.

MR. O'BRIEN:
Q. And did you also perform a risk analysis?

MR. COYNE:
A. Yes, we performed a risk analysis of Newfoundland Power relative to both its Canadian and US electric utility peers. We found that the business risk of Newfoundland Power is currently higher than that of other Canadian investor-owned utilities. Contributing factors to this risk assessment include Newfoundland Power's small size, dependence on one supplier, the cost of the Muskrat Falls project, weaker economic and demographic trends in the province as compared to the remainder of Canada, and weather and storm related risk. In addition, reliability issues around the transmission system, the Labrador Island Link, remain a concern. Newfoundland Power's business and financial risk are also somewhat higher than the operating companies in the US electric utility proxy group. But we have not made any adjustments to our recommended ROE to these risk factors, but we believe they continue to support a higher than average equity ratio in relation to Canadian peers, although this equity ratio

remains still well below its US peers.

MR. O'BRIEN:
Q. And have you examined the testimony of Dr. Booth filed in this proceeding?

MR. COYNE:
A. Yes, we have.

MR. O'BRIEN:
Q. And can you please contrast your recommendations with those of Dr. Booth?

MR. COYNE:
A. Dr. Booth recommends a ROE of 7.7 percent for Newfoundland Power which is 80 basis points lower than the company's current authorized ROE of 8.5 percent and over 2 percent below our recommendation. He also recommends a 5 percent reduction in the company's deemed equity ratio from 45 to 40 percent.

MR. O'BRIEN:
Q. And can you please summarize your response to Dr. Booth's recommended ROE and equity ratio for Newfoundland Power?

MR. COYNE:
A. Dr. Booth's proposed reduction in the authorized ROE for Newfoundland Power from

8.5 percent to 7.7 percent in conjunction with his proposed reduction in the company's common equity ratio from 45 to 40 percent are both individually and collectively lower than any reasonable estimate of Newfoundland Power's cost of capital. Simply put, Dr. Booth's ROE and capital structure recommendations do not satisfy the fair return standard.

MR. O'BRIEN:
Q. Can you summarize some of your specific concerns with his analysis and recommendations?

MR. COYNE:
A. Dr. Booth's CAPM analysis produces a ROE estimate within a range from 7.28 percent to 8.13 percent. His recommended ROE for a benchmark utility of 7.7 percent is at the midpoint of his CAPM analysis. This return is 130 basis points below the lowest authorized ROE for any investor-owned utility in Canada and 160 points lower than the average authorized ROE for Canadian investor-owned utilities of 9.3 percent. As such, Dr. Booth's ROE recommendation clearly

does not meet the comparable return standard.

MR. O'BRIEN:

Q. And how do you account for the disparity between his results and yours?

MR. COYNE:

A. Dr. Booth's ROE recommendation is based primarily on the results of his CAPM analysis and supported by his DCF analysis. His choice of models is reasonable, but his choice of model inputs presents several problems that render his results unreliable. For example, in the CAPM, Dr. Booth's beta estimates were based on his personal judgment and failed to reflect current market data. As discussed in our rebuttal testimony, beta coefficients, both raw and adjusted, for regulated utilities in both Canada and the US have increased substantially since January 2020 when market risk for the utility shifted markedly higher compared to historic levels. Dr. Booth's CAPM analysis fails to take into account this increased level of risk for utilities relative to the barter market, and therefore

substantially underestimates the cost of equity. That's the first major issue.

(9:15 a.m.)

The second, Dr. Booth's market risk premium or the MRP of between 5.5 and 6 percent is lower than the market risk premium we have relied on at 6.4 percent for Canada and the US based on well-documented historic data. Dr. Booth's MRP is based on a combination of historic return data, investor surveys and his own judgment and underestimates investor market return expectations.

Thirdly, turning to the DCF model, Dr. Booth presents DCF estimates for the broad equity market in both Canada and the US and for a sample of US electric utilities, similar to our US proxy group. He argues that these DCF analyses corporate the reasonableness of his CAPM results, but number four, several of Dr. Booth's DCF estimates are understated because he relies on historic GDP growth rates and "sustainable growth rates", both of which understate future utility growth prospects

as forecast by knowledgeable equity analysis.

Number five, dividend yields for electric utilities in the DCF model have increased substantially compared to 2021, as utility share prices have declined in response to higher yields on government bonds. Nevertheless, Dr. Booth's DCF analysis continues to produce return estimates similar to those in his report in the 2022 GRA, even though dividend yields and the cost of capital have clearing increased for all companies, including electric utilities.

Number six, taken together his choice of model inputs in both the CAPM and the DCF models produce results that stand in sharp contrast to capital markets that demonstrate that equity costs have increased as yields on long-term government bonds and also A rated utility bonds have risen substantially in response to stronger economic conditions and higher inflation in both Canada and the US. Figure 3 on page 15 of our rebuttal testimony shows that 30-year Canadian bond

yields have increased by 250 basis points or 2.2 percent since March 2021 when we last conducted this analysis for the Board and A rated utility bonds have increased by 172 basis points or 1.7 percent since that same time. So clearly a reduction in ROE is not justified by global trends in capital markets.

MR. O'BRIEN:

Q. And can you comment on Dr. Booth's capital structure recommendation?

MR. COYNE:

A. Dr. Booth recommends a reduction in Newfoundland Power's deemed common equity ratio from 45 to 40 percent, as I mentioned, based on his view that the company's business risk has decreased because it faces less competition from alternative fuels due to decarbonization policies. He contends that Newfoundland Power is a low-risk utility that has consistently earned its authorized ROE over the past 30 years. In addition, Dr. Booth asserts that Newfoundland Power would be able to raise capital on reasonable terms with his recommended ROE of 7.7 percent and a deemed equity ratio of 40 percent.

MR. O'BRIEN:
Q. So how would you respond to Dr. Booth's assertion?

MR. COYNE:
A. Dr. Booth's proposed reduction in Newfoundland Power's common equity ratio from 45 to 40 percent is not supported by any persuasive evidence that the company's business risk has materially changed since the Board's decisions in the 2022-'23 GRA, the 2019-2020 GRA or the 2016-2017 GRA. We've provided detailed evidence on Canadian and US utilities and on Newfoundland Power which demonstrate that the company's business risk is similar today than the level at the time of the 2022-2023 GRA. Dr. Booth, on the other hand, has provided neither a detailed risk assessment of other comparable Canadian and US utilities, nor sufficient evidence regarding the change in Newfoundland Power's business or financial risk to support his proposed reduction of the company's common equity ratio.

MR. O'BRIEN:
Q. So I'm going to ask you to place Dr. Booth's ROE and capital structure recommendation in the context of other Canadian electric and gas investor owned utilities.

MR. COYNE:
A. Sure. The combination of Dr. Booth's recommended 7.7 ROE and common equity ratio of 40 percent produces a weighted ROE of 3.8 percent for Newfoundland Power. This weighted ROE falls below any Canadian investor-owned electric or gas utility that sets rates through a litigated proceeding. Dr. Booth's cost of capital recommendations, if adopted, would place Newfoundland Power at a significant disadvantage relative to other Canadian investor-owned utilities when raising capital, it would not satisfy the fair return standard.

MR. O'BRIEN:
Q. Can you summarize your overall recommendations?

MR. COYNE:
A. Sure, in closing we believe an increase in the authorized ROE with the equity thickness

currently approved by the Board is justified based on the quantitative analysis and detailed risk assessment we've provided in support of our recommendations. We further believe our recommendations appropriately compensate Newfoundland Power for the risks it takes on relative to the other Canadian investor-owned utilities and it would satisfy all three requirements of the fair return standard.

MR. O'BRIEN:
Q. Thank you, gentlemen. Both witnesses are passed on for cross.

CHAIR:
Q. So, it's over to the Consumer Advocate?

MS. GLYNN:
Q. Yes, the Consumer Advocate is first.

CHAIR:
Q. Mr. Coffey.

COFFEY, KC:
Q. Thank you, Mr. Chairman. Good morning gentlemen. My name is Bernard Coffey, I'm co-counsel for Mr. Browne who is the Consumer Advocate. Gentlemen, who wrote which parts of your report and rebuttal?

MR. COYNE:
A. We collaborated, as I mentioned in my opening remarks, on every aspects of the report.

COFFEY, KC:
Q. That's not what I asked. I asked who wrote what?

MR. COYNE:
A. When you say, "who wrote what", let me tell you how the report was drafted, make it more responsive, the first answer wasn't. We drafted the report together and in various sections over time and updated our analysis as we did so, so there was no portion of the report that neither one of us didn't touch in doing so, but there was no one author of any specific section.

COFFEY, KC:
Q. Well perhaps you can explain to the Board how that actually, in practise, works? I mean, I can pick a paragraph at random in your report and could you tell the Board who drafted the paragraph?

MR. COYNE:
A. The way we typically draft, when Mr.

Trogonoski and I work together, we typically draft a piece of evidence like this more often than not and that was the case this time around. Mr. Trogonoski is tasked with drafting our initial report and also conducting our initial analysis and then we come together to review the results of that analysis and pick pieces of the report that we feel need extra attention or extra evidence or extra analysis and then it proceeds from there. Oftentimes it takes us several drafts before we get the report that we feel like it's ready for the client and then also ready for submission to the Board and that's typical of how our process works.

COFFEY, KC:
Q. Okay, so Mr. Trogonoski in this particular instance, I'm not talking about like what your practise is overall, I'm asking in this particular case, do I understand you correctly, Mr. Trogonoski did the initial research and drafted the initial report, is that correct?

MR. COYNE:
A. That's correct.

COFFEY, KC:
Q. And then you reviewed it and made whatever revisions, suggested revisions?

MR. COYNE:
A. That's correct.

COFFEY, KC:
Q. And was there ever, do you recall was there ever any disagreement between you as to what should be in the report?

MR. COYNE:
A. I don't recall any disagreement about what should be in the report. As a starting place, we both go back to look at prior decisions from this Board, and to make sure that we haven't been tone death in anyway to positions that the Board has taken with regards to our evidence or other prior evidence. We also look to other recent decisions by other Canadian regulators specifically to make sure that we understand that their concerns pertaining to this type of analysis so that we can stay, I guess, both not only just up to date, but also in tune with how regulators in Canada are thinking about these issues. So I would say

it's more a matter of making sure that, let me give an example here, the market risk premium has been controversial in Canadian jurisdictions in terms of how the market risk premium is set in the CAPM model, and we've had a lot of discussion about that as we reflected on what the forward looking market risk premium is versus the historic market risk premium and we had substantial discussion with each other around a preferred approach, what the data was telling us and the best way to present those results to this Board. And we ultimately decided that the more conservative path there was to use the historic market equity risk premium because we felt as though it took controversy off the table and interest rates having increased now looked more like they did in the historic level and therefore, we felt as though that was both appropriate and a conservative approach to take in presenting our results. So that would be indicative of the type of discussion we would have together and then in reaching agreement, then we penned that

aspect of our report around that solution. So that's typical of how we worked together.

COFFEY, KC:
Q. Okay, in relation to that then, to come back to my question which was did you disagree in relation to anything in the report and if so, what was it about and who got to call, make the final call.

MR. COYNE:
A. Let me turn to Mr. Trogonoski to see if he recalls any disagreement. I, off the top of my head, do not recall disagreements.

MR. TROGONOSKI:
A. I do not either. We've talked about these issues over the last 15 years, I think we have a pretty good working understanding of each other and our opinion on various issues, so we've come to an agreement on how to present the information and that evolves over time, as Mr. Coyne was describing as new decisions come out from regulators in Canada, but, I don't think there's any area of disagreement where we had to make a decision of who was going to have the final say on something.

COFFEY, KC:
Q. So as between the two of you, if there was a disagreement, who gets to make the call? Who is the senior person in this context?
MR. COYNE:
A. Well title wise, I would be the senior person, but we don't work with each other that way and in fact, I don't work with anybody in our firm that way. We let the merits of our arguments, if we have arguments or disagreements, carry the day, as opposed to somebody who is carrying the senior title. There are cases where a junior analyst will bring something to our attention and if that analyst has pervasive arguments, then we'll let that carry the day, but as Mr. Trogonoski said, we have worked together for a long time and we're constantly looking to improve our work. So it's not a static product, it's evolving over time both analytically and how we present the results, but it doesn't lead to disagreements typically.
COFFEY, KC:
Q. Okay, so I've looked at your CVs, attachment

No. 1 to the Concentric report evidence filed November 2023, can we bring that to the screen please? Thank you. It should be there in front of you, gentlemen, thank you. My count, like, one, two, three, four sort of count, has you, Mr. Coyne, testifying in about 20 proceedings in Canada since 2008, beginning in 2008 and more particularly since 2012, okay, does that sound about right?
(9:30 a.m.)
MR. COYNE:
A. I trust your count.
COFFEY, KC:
Q. Okay, and again, your know, I might be off by one. There are, as well, by my count, about somewhere in the mid 70s proceedings listed in terms of, proceedings that might have involved cost of capital, sound about right?
MR. COYNE:
A. Again, I trust your count.
COFFEY, KC:
Q. Now in the 20 proceedings that are listed in Canada, they are proceedings to which you

had input. How often have you actually testified in a contested hearing?
MR. COYNE:
A. In Canada?
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. Oh I would say most of them were contested proceedings.
COFFEY, KC:
Q. Okay, well, for example, in Newfoundland and Labrador, here, for this Board, it's about two for four.
MR. COYNE:
A. That's correct.
COFFEY, KC:
Q. Would that be generally true?
MR. COYNE:
A. No, I'd say Newfoundland and I would commend the parties in Newfoundland on this basis, have been able to settle the last two proceedings. In my experience it's more common in the US than it is in Canada for parties to settle these matters prior to going to hearing. My experience in Canada

is that, especially where the generic cost of capital proceedings are concerned, does typically become litigated and substantially litigated, so it does vary by jurisdiction. For example, almost always settle and for strong arms to parties to get them to settle, they like to hold their hearing time for what they consider to be big policy issues as opposed to standard rate cases.
COFFEY, KC:
Q. Mr. Trogonoski, have you ever testified in Canada?
MR. TROGONOSKI:
A. Yes, I have.
COFFEY, KC:
Q. How often, do you know approximately?
MR. TROGONOSKI:
A. I testified in Alberta, in Prince Edward Island, in New Brunswick, in Quebec, in the Yukon and now here today, so six times.
COFFEY, KC:
Q. Six times. Now I'd like to try and get a sense of, for the Board, like who Concentric is. You provide expert opinion, advice, in relation to cost of capital issues, correct,

particularly for regulated utilities?
MR. COYNE:
A. Yes, correct.
COFFEY, KC:
Q. What competitors do you have in that regard?
MR. COYNE:
A. In Canada, the US or both?
COFFEY, KC:
Q. Well we'll start with Canada.
MR. COYNE:
A. The Brattle Group provides that expert testimony, Scott Madden, who am I forgetting John? I'm trying to think of the most recent proceedings. Jonathan Lessor has provided testimony in BC recently.
COFFEY, KC:
Q. So are they Canadian consultants, based in Canada?
MR. COYNE:
A. They are, Brattle Group is based in Cambridge; Scott Madden is based in Georgia, I believe, but I think those are both US based companies. Jonathan Lessor is based, I believe, in the DC area, so I think they're all principally US based, although

they practise, like we do, across Canada and the US.
COFFEY, KC:
Q. And you asked me to differentiate between Canada and US, how about within the US, who are your competitors?
MR. COYNE:
A. Again, Scott Madden, Brattle does a fair amount of that work. There are a number of individual professors that have also done that work over time. Dr. Rodger Warren has been very active in that area, he also writes books on the issue. Dr. Vander Weide would be another processor that also does this work, anyone else that comes to mind?
MR. TROGONOSKI:
A. Not really.
COFFEY, KC:
Q. So in relation to that then, gentlemen, it would be about a dozen competitors? It's a fairly small world in the north of the Rio Grande context?
MR. COYNE:
A. I'd say that's true, yeah.
COFFEY, KC:

Q. Now, in relation to a regulated public utility, we've heard from witnesses—you weren't here the last three days or so, obviously, but we've heard from witnesses from Newfoundland Power who have made the point that they see the role as providing power as reliably as possible at the least cost, that paraphrases the legislation here requires the Board, requires of the public utilities. Now, I'm going to ask you, Mr. Coyne, a regulated utility, its management's primary goal is what, is to maximize profit? Would you agree that that is the case?
MR. COYNE:
A. That it's primary goal is to maximize profit? No, no.
COFFEY, KC:
Q. Okay, so what is its primary goal there?
MR. COYNE:
A. Well I think you mentioned two of them, there are multiple goals and it's not that there's a single goal that drives the management for a utility company, it is, it needs to provide reliable service at a reasonable price to its customers. It needs

to honour its regulatory—and that's consistent with its regulatory compact of providing reliable service at reasonable rates. It ultimately needs to do that in a way that's, you know, it's more complicated these days because it also has social mandates. Any utility that I'm aware of recognizes the fact that it operates in a community that it's part of, so it has responsibilities that are philanthropic, environmental and other aspects that management needs to focus on. It needs to be a responsible steward of capital to its shareholders and that's also part of its mission, but it's not simply there to maximize profit and I think that's a distinction –
COFFEY, KC:
Q. No, no, I didn't say it's simply there to maximize profit, I said the primary goal was to maximize profit.
MR. COYNE:
A. And I'm differing with that.
COFFEY, KC:
Q. Okay. Are you aware of a Supreme Court of

Canada decision in 2006?
MR. COYNE:
A. Which decision specifically?
COFFEY, KC:
Q. ATCO.
MR. COYNE:
A. Are you talking about the Stores Block decision?
COFFEY, KC:
Q. No, this is, well I can give you a copy of it, if I could.
MR. COYNE:
A. When I think of ATCO and Supreme Court, I automatically that it's Stores Block and its progeny, I'd be surprised if it didn't relate to that.
COFFEY, KC:
Q. This was distributed, copy of this case was distributed, Mr. Chair.
MR. O'BRIEN:
Q. Just want to make sure we got it. Have you got two copies there, Bern, for the witnesses?
COFFEY, KC:
Q. I just had one.

MR. O'BRIEN:
Q. That's fine, yeah, they can –
MS. GLYNN:
Q. So we'll enter that as Information No. 6.
COFFEY, KC:
Q. Thank you. Now this case goes on, as many of these cases do, for quite some significant length and I'm not going to, there's only a couple of points in it that I will point you to. In the top right-hand side you will see some page numbering, top right-hand left, depending on which page. Page 150, the case is called ATCO Gas and Pipelines v. Alberta 2006 1SCR, page 140. Get you to look at that, okay.
MR. COYNE:
A. It is what I think, it was the Stores Block decision, yes.
COFFEY, KC:
Q. And page 150, direct your attention to, at the bottom of the page, page 150. You'll see some highlighting, that's been inserted by myself, I draw your attention to that. You can read it to yourself if you'd like.
MR. COYNE:

A. I see the text you have highlighted, yes.
COFFEY, KC:
Q. Yes, so there's that at paragraph 3 and in fact, although for some reason and it has nothing to do with me, whoever produced this reported judgment, at page 151—oh yeah, my apologies, paragraph No. 4 is to the bottom right-hand side, you'll see the numbering switches sides. Paragraph 3, the highlighted section and the beginning of paragraph 4 and as well, paragraph 78.
MR. COYNE:
A. Are you still on page 151?
COFFEY, KC:
Q. Yeah, no, I'm going to come back to that. I'll ask you to read that to yourself, paragraphs 3 and 4.
MR. COYNE:
A. Okay, if you want to go through that –
COFFEY, KC:
Q. I'll be going through that.
MR. COYNE:
A. All right, then let me take a moment to read three and four.
COFFEY, KC:

Q. Sure. And page 182, the highlighted portion of paragraph 78, okay?
MR. COYNE:
A. Not yet. I'm looking at the context in the paragraph.
COFFEY, KC:
Q. Sure.
MR. COYNE:
A. Okay, we're ready to respond, well within the context of those paragraphs of this limited review.
COFFEY, KC:
Q. Okay, and at paragraph 78 the majority of the court back in 2006, in the context of this case, it's an Alberta utility, regulated utility, the majority said "At the risk of repeating myself, a public utility is first and foremost a private business venture which has as its goal, the making of profits. This is not contrary to the legislative scheme, even though the regulatory compact modifies the normal principles of economics with various restrictions explicitly provided for in the enabling statutes." Okay, which is you

refer to as the compact. And that was said, at the risk of repeating myself, as he said, when you look back at paragraph 4—I'm sorry, paragraph, yes, paragraph 4, which is at the bottom of page 151, "As in any business venture, public utilities make business decisions, their ultimate goal being to maximize the residual benefits to shareholders. However, the regulator limits the utility's management discretion over key decisions, including prices, service offerings and a prudency of plant and equipment investment decisions." Which is, of course, why we're sitting here. Now, in terms then, at least as of 2006 in the context of this case, the Supreme Court of Canada said, would you agree that from their perspective a regulated utility is primarily a private business?

MR. COYNE:
A. Yes, well in the context of this utility it's a private business, some, as we know, are municipally--yeah.

COFFEY, KC.:
Q. Some are not, yes. But regulated private

utility is this, and in that context, a regulated private utility, which Newfoundland Power is, its primary goal is, in its own right, to make profit, to maximize its profit, to make and maximize its profit.

MR. COYNE:
A. I don't see that written here and I disagreed with your assertion in your question. You keep saying –

COFFEY, KC:
Q. If I could, sir, -

MR. COYNE:
A. Could I finish my answer?

CHAIR:
Q. Could the witness finish his answer.

COFFEY, KC:
Q. If you could look at paragraph 4, the second clause in the first sentence "Their ultimate goal being to maximize the residual benefits to shareholders." Doesn't that mean maximize profit?

MR. COYNE:
A. Well, and I can't, the second sentence is there for a reason, "However, the regulator

limits the utility's management discretion over key decisions, including prices, service offerings and a prudency of plant and equipment investment decisions", and if you go to the second—the paragraph that you cited later in the document, it speaks to the regulatory compact and that, to me, is the context it's missing from a statement that asked is the primary goal of a private utility to maximize profits and my answer to you is no, because that broader context of the regulatory compact is embodied in legislation, both here in Newfoundland and elsewhere, that gives a regulated utility more responsibilities than just maximizing profits. So I would agree with you that it is a goal of a regulated utility, but it is not the primary goal. There are multiple goals associated with running a public utility, and that doesn't conflict with earning profits, but it's broader than that.

COFFEY, KC:
Q. Would a utility, such as Newfoundland Power, would they be incentivised to earn as much as possible, money, within the regulatory

scheme?

MR. COYNE:
A. It depends, the incentives in a regulatory model would typically provide, create those incentives. In the case of Newfoundland Power specifically, they're limited, they're capped in terms of –

COFFEY, KC:
Q. Oh yeah, that's the nature of regulations.

MR. COYNE:
A. So I would say under the regulatory model, I would say that Newfoundland Power is incentivised to earn up to its cap, but beyond that, it can't maximize profits beyond that, so it's not a position to "maximize profits beyond its cap", so you can't ignore that regulatory model.

COFFEY, KC:
Q. But up to the cap, it's incentivised to maximize profit, correct?

MR. COYNE:
A. Up to its cap it's incentivised, well, it's incentivised to earn profits up to its cap would be how I would say that.

COFFEY, KC:

Q. And it's incentivised, as the shareholders to, if possible, to have the cap increased because the higher the cap, the more of a profit.
MR. COYNE:
A. I would say that's fair.
COFFEY, KC:
Q. Now in this context, sitting as we are in this room, over the past several days of testimony, Newfoundland Power's CEO and CFO on a number of occasions, you know, were asked about why the move from 8.5 ROE to 9.85 ROE—I'll just go back again, your ability to concentrate, over the past several days of testimony the CEO, Mr. Murray of Newfoundland Power and Ms. London, who is the CFO, have testified and whenever they were asked pretty well about why the 9.85 as opposed to the 8.5 which currently exists and the request is 9.85 plus the band, they routinely deferred to Concentric, I'll just tell you that, that's a fair reading, I'm going to suggest, of what they had to say was don't blame us, ask Concentric, we hired them.

MR. O'BRIEN:
Q. I don't think that's a fair representation to say, "don't blame us".
COFFEY, KC:
Q. Well, the responsibility for the 985 ask is Concentric.
MR. O'BRIEN:
Q. I think they deferred to Concentric is fair.
COFFEY, KC:
Q. Deferred to. Now, Mr. Coyne, do you know whether or not Newfoundland Power went looking to any other consultant such as Concentric in relation to this hearing looking for advice on cost of capital? Do you know?
MR. COYNE:
A. I'm sorry, what was the question?
COFFEY, KC:
Q. The question is: do you know whether or not Newfoundland Power, in relation to this hearing, this GRA, went looking to any other cost of capital consultant, consulting, other than Concentric? They hired you and you've provided a report, very detailed report. Do you know if they went to anyone

else?
MR. COYNE:
A. For provision of these same services?
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. I do not know.
COFFEY, KC:
Q. Would there be anything to have prevented them from doing so, to your knowledge?
MR. COYNE:
A. No.
COFFEY, KC:
Q. If they had done so, might the consultant have provided a recommended ROE less than 9.85?
MR. COYNE:
A. Or more. It would have -
COFFEY, KC:
Q. Or more. Or -
MR. COYNE:
A. - depended upon their analysis and what they based their conclusion and recommendation on, just likes ours.
COFFEY, KC:

Q. Sure, yeah, because it's – you and your competitors might concur in any one instance or differ?
MR. COYNE:
A. That's true.
COFFEY, KC:
Q. Now, sir, just a term I'd like from your perspective and Mr. Trogonoski, I invite you to weigh in on this too, okay. From your, both of your perspectives, we've heard here the term "short term" and "long term", those two terms being used by witnesses. In your world, the consultant world in this context, what would you classify as short term? What kind of duration are we talking about?
MR. COYNE:
A. Would you like to answer first?
COFFEY, KC:
Q. And I appreciate it might vary – you might say, "it varies on the context, Mr. Coffey" and but what would you say "short term" in the context of this?
MR. TROGONOSKI:
A. I think we would typically say short term was anywhere from one to three years.

COFFEY, KC:
Q. Yes. And long term then would – well, I shouldn't say it, it's not necessarily that – is there such a thing as medium term and then long term or is it just short and long term? And again, I'm asking.
MR. COYNE:
A. If you're talking about business risk, we'd typically think of it as either short term or long term.
COFFEY, KC:
Q. Okay. So, from now to the three years, and again, I appreciate it's probably not necessarily precise, you know, to the day, but the next three years would be short term business – in terms of business risk and beyond three years would be long term, in the context of business risk?
MR. TROGONOSKI:
A. That's probably a fair characterization, I think.
COFFEY, KC:
Q. Okay. Now in relation to the business risk that Concentric has spoken about that exists in relation to Newfoundland Power from

Concentric's perspective, okay, I want to focus for a little while on that. What business risks does Newfoundland Power face?
MR. COYNE:
A. In general or distinguishing Newfoundland Power from other utilities?
COFFEY, KC:
Q. Well, we'll go with distinguishing first.
MR. COYNE:
A. Well, in my opening – our opening remarks, I summarized those as distinguishing elements and one would be its reliance – its small – well, I'll start with small size. With 274,000 customers, it's a small utility by North American or global standards.
COFFEY, KC:
Q. Okay. If I could, just stop there. Okay, just interject there. In the Canadian context, where would it stand?
MR. COYNE:
A. Still small.
COFFEY, KC:
Q. Privately-owned utilities?
MR. COYNE:
A. Small at the – well, there are utilities

that are smaller than that, but that is still a small utility.
COFFEY, KC:
Q. And what is the demarcation point between small and not small?
MR. COYNE:
A. Well, it's getting bigger all the time. I'd say that the market, you know, in my experience, you know working with investors and utilities, they consider utilities under a million customers to be small. These companies aren't growing bigger over time. The scale requirements of the industry are moving towards larger utilities. So, the threshold is increasing for a couple of reasons. One is, you know, operating scale economies and diversification across industries and also the ability to raise capital. It's expensive for companies as small as Newfoundland Power to raise debt capital, for example, in private placement markets and that's – they don't have the same advantages as those that are raising capital in public markets would. So, I would say that they're at the small end of

the scale. We have a chart in our testimony that I'll refer to that puts that into context. That's in our – is that direct?
MR. TROGONOSKI:
A. It's our direct report, Figure 36 and Figure 37 on pages 61 and 62 of our report.
MR. COYNE:
A. It's probably worth bringing that up, if we can. Page 60 in direct or 61?
MR. TROGONOSKI:
A. 61. The first chart looks at Newfoundland Power compared to the other operating companies in our North American proxy group based on retail electric customers in 2022 and then Figure 37, the same comparison but based on net profit plant and equipment in 2022. So, in both cases, Newfoundland Power is small relative to these other companies.
COFFEY, KC:
Q. Now, Newfoundland Power is not the smallest in this country?
MR. COYNE:
A. No.
COFFEY, KC:
Q. And do you have any reason to believe that

Newfoundland Power has had any problem raising capital?

MR. COYNE:

A. I'm not aware of the company having problems raising capital.

(10:00 a.m.)

COFFEY, KC:

Q. So, in relation then to business risk, you know, the relatively small size in the North American context certainly. What else?

MR. COYNE:

A. We also focus on -- Newfoundland Power is unique because of its dependence on one supplier for 93 percent of its energy requirements, as I recall, and that's Newfoundland Hydro, and that's a unique relationship, whereas other utilities, those that are operating in organized markets, have the ability to sign contracts with a host of parties and also rely on organized markets, such as MISO or PJM or ERCOT and markets like that, and the credit rating agencies, and we point to the fact that when you're relying on a single supplier, that creates supply vulnerability.

COFFEY, KC:

Q. Well, for Newfoundland Power, they're only vulnerable if – in that context, I'm going to suggest to you, if Newfoundland and Labrador Hydro cannot deliver the power.

MR. COYNE:

A. Well, vulnerability comes in a lot of different forms. There's physical and electrical vulnerability. There's also economic vulnerability and -

COFFEY, KC:

Q. Well, I get – okay, if I could, okay, let's forward this. The physical vulnerability, do you actually know anything – you're not an engineer, I take it - so, do you know anything about the actual physical vulnerability percentage wise that Newfoundland Power has, like what kind of risk they actually are at in not being able to get power from Newfoundland and Labrador Hydro?

MR. COYNE:

A. You're correct I'm not an engineer.

COFFEY, KC:

Q. Yeah.

MR. COYNE:

A. But I am aware that reliability of the Long (sic.) Island Link has been an issue and subject to scrutiny by this Board. And I don't know if you want to follow up on that further.

MR. TROGONOSKI:

A. No, go ahead.

MR. COYNE:

A. Yeah. So, it's been a concern raised by this Board and it's one of the reasons why the company is keeping – it's retaining its -- Newfoundland Power is retaining and extending the lives of its fossil fuel assets, including the Holyrood station, in order to be better prepared for reliability concerns that it now has concerning its reliance on Hydro.

COFFEY, KC:

Q. I'm sorry. Who's maintaining Holyrood?

MR. COYNE:

A. Newfoundland Power. I'm sorry, the lives of those assets – I'm sorry, the lives of those assets are being maintained longer in order to provide reliability in Newfoundland

longer than had been anticipated because of reliability concerns associated with the line.

COFFEY, KC:

Q. Okay. So, Newfoundland and Labrador Hydro is maintaining the Holyrood plant, oil-fired plant, as a backup to the LIL?

MR. COYNE:

A. That's correct, yeah.

COFFEY, KC:

Q. But so long as either the LIL works and even if it – on the off chance it doesn't work, so long as the sufficient generation capacity at Holyrood, Newfoundland Power is going to get electricity it needs from Newfoundland Hydro.

MR. COYNE:

A. That's my understanding.

COFFEY, KC:

Q. Yes, okay.

MR. COYNE:

A. But that's – what I'd point out, and the credit rating agencies also point this out, is that it is a unique reliability on a single supplier for 93 percent of its power.

And when I mentioned economic vulnerability, just to finish that response, it's – I don't have to tell anybody in this room the extraordinary circumstance associated with figuring out a way to pay for a 13.5-billion-dollar facility when you have 274,000 customers. So, in my experience in the US and Canada, that's an extraordinary amount of economic stress that causes customers in Newfoundland that don't exist for utilities elsewhere.
COFFEY, KC:
Q. Well, if I could – just one second, Mr. Chair.
MS. GLYNN:
Q. So, we have the Hydro press release entered as Info No. 7 and then the Government of Newfoundland press release for Information No. 8.
COFFEY, KC:
Q. Thank you, Mr. Chair.
CHAIRMAN:
Q. Proceed.
COFFEY, KC:
Q. Now, gentlemen, these are two press

releases, media releases, one by Hydro, Newfoundland and Labrador Hydro, and one by the Provincial Government of Newfoundland and Labrador, both issued on May 16th, 2024. You're aware, I take it, both of you are, as your rebuttal evidence refers to, the implementation of the rate mitigation plan -
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. - for the Muskrat Falls Project? You're aware of that?
MR. COYNE:
A. Oh yes.
COFFEY, KC:
Q. And rate certainty -- I'm going to put it this way. Rate certainty in relation to what Newfoundland and Labrador Hydro will charge for – in terms of charge for its power, at least increase the cost of its power between now and the end of 2030 is being capped at 2.25 percent increase per year. Does that sound right?
MR. COYNE:
A. Could you repeat the portion about what is

capped?
COFFEY, KC:
Q. Well, the rate of increase by Newfoundland and Labrador Hydro, what they will charge Newfoundland Power. There's been a commitment, I understand, given that it will not increase any more than 2.25 percent from now through 2030. Okay?
MR. COYNE:
A. We have that understanding, yes.
COFFEY, KC:
Q. And that is – the end of 2030 is six and a half years and two weeks. So, it's not short term, it's long term, that period. Would you agree?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. In the context in which Mr. Trogonoski explained long term.
MR. COYNE:
A. Right. Is your question whether or not after 2030 is long term?
COFFEY, KC:
Q. Well, is 2030 long term?

MR. COYNE:
A. Yes, it would be in our long-term horizon.
COFFEY, KC:
Q. So, in the short term then, there is a certain amount of certainty in relation to the price of – any increase in the price of power attributable to the Muskrat Falls Project here?
MR. COYNE:
A. Can you repeat the question?
COFFEY, KC:
Q. I'm trying to say to you, sir, is this: Look, beyond 2030 and who knows, but before 2030, there's price certainty in relation to the amount of increase attributable to the Muskrat Falls Project that the ratepayer will pay. Is that your understanding?
MR. COYNE:
A. That's our understanding, yes, based on this rate mitigation plan.
COFFEY, KC:
Q. And the idea, I'm going to suggest to you, is to – that the supporters of this, Newfoundland and Labrador Hydro, which is in effect Nalcor Energy, the parent company,

and the Provincial Government have committed to this. That's your understanding?
MR. COYNE:
A. That's our understanding.
COFFEY, KC:
Q. And they've done so in relation to too having the Government of Canada's support. You understand that to be the case?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And that support was announced well over a year ago?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. So that an observer – I'm going to suggest this to you. An observer, an analyst looking at this entire situation, in terms of, you know, what effect, if any, Muskrat Falls, the cost of Muskrat Falls is going to have on ratepayers in the short term, actually up to six years, two short terms combined, three and three is six – the outside observer, an analyst, independent

analyst would realize that well, there's significant support from the Government of Canada to ensure that rates don't rise uncontrollably, correct, up to the end of 2030; similar support from the Government of Newfoundland and Labrador and as they control Nalcor Energy, Newfoundland and Labrador Hydro, similar support from Newfoundland and Labrador Hydro for that idea. Is that your understanding?
MR. COYNE:
A. I would characterize it differently.
COFFEY, KC:
Q. Okay. Well, how would you characterize it?
MR. COYNE:
A. I see the rate mitigation plan as a stop-gap measure to address a huge problem but that huge problem remains and it's not yet addressed by this rate mitigation plan. In the press release, it says accurately that "rate mitigation is designed to allow Hydro to recover a small portion of the costs related to the Project assets from customers while providing certainty for customers and preventing rates from doubling". And I've

looked at what it would cost to put 13.5 billion dollars into rates for Hydro and, in my view, it would be a – it certainly would be a shock to its customers to be able to fully absorb the cost of Muskrat Falls. So, I hate to use the colloquial expression but I think it's true, the way I see this is that it's kicking the can down the road, but it's a problem that has yet to be resolved in a way that would prevent a massive increase in rates for the Province's electric customers. So, when you ask the question is it resolved, I would say -
COFFEY, KC:
Q. I didn't say it was resolved, period.
MR. COYNE:
A. I thought it – I thought -
COFFEY, KC:
Q. I said for the next six years it's a resolve.
MR. COYNE:
A. Well, yeah, but within those six years, you still know that you have that cliff out there and we look at this from an investor's perspective and if you're an investor

looking at a utility such as Newfoundland Power, you would have to say this is an unaddressed problem at this point in time beyond that period and these are investments that are made for 30, 40, 50 years. So, you need to consider both those long-term consequences as well as the short term. We have not made any adjustment to our ROE analysis based on this problem, but it's unique. The only other utilities that I can think of in the US that face challenges like this would be Southern Company bringing on the Vogtle Nuclear Power Plant, for example, or BC when they're bringing on their new hydroelectric project. But they are much larger and better able to absorb this type of investment cost than are customers in Newfoundland. So, I think this is a unique challenge to this company and to Hydro.
COFFEY, KC:
Q. Well, how -
MR. COYNE:
A. That transcends just this short-term rate mitigation period.
COFFEY, KC:

Q. How then – would you agree that the actions of Newfoundland and Labrador Hydro and the Provincial Government and the Federal Government of Canada to date have shown a willingness by those three parties to ensure that rates, increases in rates for Newfoundland, for the electricity ratepayers of this province, is kept to a reasonable amount at least for the next six and a half years?
MR. COYNE:
A. I would say yes, they have collaborated to achieve that outcome.
COFFEY, KC:
Q. Do you have -
MR. COYNE:
A. What I would prefer – can I finish?
COFFEY, KC:
Q. Sure, go right ahead, yeah.
(10:15 a.m.)
MR. COYNE:
A. It's an important aspect of this. I've also done quite a bit of work with OPG and OPG faces also a similar rate challenge with its refurbishment of the Darlington Nuclear

power plants that are costing over ten billion dollars, but they're serving the entire customer base of Ontario with these, and in that case, they came up with a long-term plan that's designed to smooth the rate impacts of Darlington coming into rates and from a rate policy perspective, as well as an investor perspective, I would far prefer to see a longer term solution than one that's the stop-gap measure because my concern with this measure is that if you're only recovering a small portion of the cost within this next six-year period, you're just exacerbating the costs that have to be covered down the road. So, I think you can't – you can't just look at these six years. It's a longer-term problem than that and it's a bigger problem than that. So, I don't think that the parties that you've mentioned have come together yet to sufficiently meet the challenges of the entirety of the problem.
COFFEY, KC:
Q. Now, wasn't that unknown solution the case in 2016 and 2019 and 2022?

MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And so even back in those years, those three GRAs, it was even more of an unknown because there was no rate mitigation plan in place, correct?
MR. COYNE:
A. That's correct, but the magnitude of the problem was not fully realized until you knew the entire cost of the project and you knew -
COFFEY, KC:
Q. Well -
MR. COYNE:
A. - what willingness would exist on behalf of the Federal Government and the Provincial Government to address the issue, and it's still the case that this is a problem that's a work in motion. So -
COFFEY, KC:
Q. Well, with all due respect, sir, we do know now that the Federal Government has shown a willingness to support ratepayers, provide financial support. We do know that the

Provincial Government has shown a willingness, correct?
MR. COYNE:
A. That's correct.
COFFEY, KC:
Q. And as you say, in the past, that was not known. That was an unknown.
MR. COYNE:
A. It was anticipated, but the magnitude of the support was unknown and remains unknown. You know, if you look at the last line of the press release, I think it says everything I said more elegantly. What that might look like beyond 2030 will be reviewed again into the future.
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. And the credit rating agencies also focus on that; that it's a problem that's yet to be solved. It's an interim solution or it's a short-term solution.
COFFEY, KC:
Q. But it is certainly no worse now than it was, in terms of being an unknown, than it

was in 2016, 2019 and 2022?

MR. COYNE:
A. I'd say that's right.

COFFEY, KC:
Q. And in fact, you would agree, wouldn't you, that there's at least some more certainty for the next six and a half years than there was at each of those years for the next six years?

MR. COYNE:
A. There's – yes, there's some more certainty in that rate period.

COFFEY, KC:
Q. Now, sir, in relation to – what else then is there in terms of business risk?

MR. COYNE:
A. Well, we've talked about the small size, dependence on one supplier, the cost of the Muskrat Falls Project. Another significant issue is -

COFFEY, KC:
Q. If I could just interrupt. I apologize. In relation to the single supplier, which has not changed in – I'm going to suggest to you, in many decades here.

MR. COYNE:
A. I don't know how long it's been the case.

COFFEY, KC:
Q. But certainty in relation to – well, how far back does your knowledge of local electricity system go, in terms of time?

MR. COYNE:
A. When I first began doing this work in Newfoundland would have been 2015.

COFFEY, KC:
Q. Okay.

MR. COYNE:
A. And beyond that, I looked at history, but my personal experience began at that time.

COFFEY, KC:
Q. So, but the relative mix that Newfoundland Power gets in terms of its own generation versus generation it takes from Newfoundland and Labrador Hydro, that hasn't significantly changed in many – at least to your knowledge, in decades?

MR. COYNE:
A. I don't know how long that dependence has been at 93 percent where it is today. It's not – the change in that reliance is not a

factor that we're citing in our evidence. It's the fact that it exists. I was mentioning weaker macroeconomic and demographic trends, can I continue now?

COFFEY, KC:
Q. Yes. Thank you. Yes, please, if you would.

MR. COYNE:
A. Okay. So, if you look at, as you see in our evidence, that the Province of Newfoundland has the weakest economic outlook of any of the Canadian provinces and significantly so, and if you look at the analysis that we cite from the Conference Board, they go as far as to characterize the economic outlook as grim, and they're looking at things like housing starts, economic job growth and things of that nature. And when it comes to utility economics, some growth is advantageous. Adding new customers is helpful in a lot of different ways because you can spread your existing fixed cost over more energy, more customers and that generally is beneficial. When you're operating in a weaker economic environment,

you also tend to have issues associated with just the overall economic viability for the service area creates challenges for the utility or any other company that's operating in a weak economic environment, and that's true for utilities as well as other businesses.

COFFEY, KC:
Q. You said adding customers. Well, as well wouldn't it be also equally true, even more so true, because you don't have to string any more wire, if you just have customers using more electricity in the existing system.

MR. COYNE:
A. Yeah, that would be true if you could leave the system as it was.

COFFEY, KC:
Q. Yes.

MR. COYNE:
A. But you have requirements of reliability and storm pardoning and things of that nature and these assets have to be replaced, and even if you did nothing with the system but provide the same service you're providing

today, when you replace a pole or wire or transformer with an asset in 2024, the costs are a multitude greater than they were when you put them in place in 40-50 years ago that they're now getting ready to retire. So, that creates an economic challenge for a utility such as Newfoundland Power.

COFFEY, KC:
Q. Why is that? They come here and ask the Board to approve of the capital cost.

MR. COYNE:
A. They can.

COFFEY, KC:
Q. They can, and I can ensure they routinely have.

MR. COYNE:
A. But my point about weaker economy is that if you can spread those new investments out over more customers and more energy, it has less of an economic impact. So, it serves as a drag on your growth when you're just – when you're replacing and maintaining assets in order to maintain a reliable system and you have fewer customers or energy kilowatt hours sold to spread it out over, it creates

rate impacts and that further – you know, that furthers the drag on your ability to grow your system and spread those costs out further.

COFFEY, KC:
Q. Now, in relation to the economic outlook, which you've referred to, and I don't – how much do you really know or do you think you know about the economic outlook over the past 30 or 40 years in Newfoundland and Labrador?

MR. COYNE:
A. Well, as I've said, I first testified in Newfoundland based on evidence provided in 2015, but I've looked at economic history and I find it interesting. I've read books about it. So, I have some knowledge.

COFFEY, KC:
Q. Okay. If you have some knowledge then would you – would that knowledge suggest to you that, depending on which particular year you look at, which decade you look at, for the past 40 years, that the outlook here has been positive at times and very negative at times. Is that your understanding?

MR. COYNE:
A. That's true, yeah. I think as I look at the economy of Newfoundland and Labrador, I think it's – especially in the – well, over the last two decades, it's been whipsawed by the outlook for offshore oil and gas, which has been a principal driver of the economy, and as other economies have been dependent on oil and gas, they've been riding that cycle, but in the case of – and that's a commodity cycle associated with oil and gas, but in addition here, it's also been the fact that offshore prospects that were thought to be great at one point in time are now diminished and also the economics for offshore oil and gas exploration are challenging compared to what they were 20 years ago.

COFFEY, KC:
Q. So, okay, economic, general economic outlook. Anything else?

MR. COYNE:
A. We also cite too weather and storm related risks. This utility operates in a pretty harsh weather environment and as a result of

that, it's exposed to ice storms, windstorms and other things that create challenges for it, and unlike other utilities, it doesn't have a rider that covers those risks.

COFFEY, KC:
Q. At the same time, are you aware of any instance involving Newfoundland Power that it wasn't able to – you know, or was denied the ability to claim from the ratepayer for repairing storm damage?

MR. COYNE:
A. Yeah, our understanding is that the company would have to file an application to do that.

COFFEY, KC:
Q. Yes, yeah. But you're -

MR. COYNE:
A. As opposed to a rider that has an account that's set up for those purposes.

COFFEY, KC:
Q. Sure. But you're not aware of any instance where in the past this Board has said no?

MR. COYNE:
A. We haven't examined it, but I'm not aware of it.

COFFEY, KC:
Q. Okay. Now in relation to risk, and you know, what kind of risk, I thought you identified, one of them is regulatory risk. I take it is common to all regulated utilities. Are you aware that – what is your understanding – I'll ask you this. What is your understanding about Newfoundland Power's requests of this Board for capital expenditures over the past 20 years? Do you know if any requests for capital expenditure has ever been denied in the past 20 years?
MR. COYNE:
A. I have not looked at that issue. Have you, in our work?
MR. TROGONOSKI:
A. No, I don't think I've looked at that either. We focus more on the process that they go through with filing their annual capital budget with the Board and getting that approved for the coming year and then also a five-year outlook, but we – I haven't looked at whether there's been any disallowances of those.

COFFEY, KC:
Q. Well, if I was to suggest to you that there was – has not been, certainly in 20 years, a denial of a request for a capital expenditure that Newfoundland Power has made of this Board, would that suggest to you that the Board has demonstrated strong support for Newfoundland Power's continued existence?
MR. COYNE:
A. Well, we say -
COFFEY, KC:
Q. And operation.
MR. COYNE:
A. Well, let me give you your answer in two parts. One is we credit this Board with being constructive in its treatment of Newfoundland Power. So, our view is that it has been a constructive relationship between the Board and the company and credit rating agencies also take note of that. But we have not looked at 20 years of applications for capital projects to see what, if any, issues have been taken with them and what – and to what extent the company has been sent back to the drawing board regarding any of those projects and approvals. So, I couldn't answer that without looking at them.

COFFEY, KC:
Q. Now, sir, in relation to your – the US companies, utilities that you have used as your proxy group, to populate your proxy group, I think it's ten US utilities?
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. And the criteria you used are there. You've listed them. Are they the only companies that met those criteria in the US?
(10:30 a.m.)
MR. COYNE:
A. Yes.
MR. TROGONOSKI:
A. They are.
COFFEY, KC:
Q. Okay. And those companies, are they all holding companies?
MR. COYNE:
A. Yes, they had to be in order to get the capital market's data that we needed to conduct the cost of capital analysis.

COFFEY, KC:
Q. Now, in relation to those companies, what is a 10K?
MR. COYNE:
A. It's an annual filing requirement required by – in the US by the Securities and Exchange Commission that reports financials, business risks, other elements of the company's operations, so management discussion, MD&A around its operating challenges and things of that nature. It's a disclosure document designed to convey to the company's investors the results of its operations and the risks and challenges it faces in those operations.
COFFEY, KC:
Q. And in the K10s, if I was to suggest to you the K10, you know, being filed with the Securities and Exchange Commission, the filer is under a legal obligation to be as accurate as possible?
MR. COYNE:
A. Yes.

COFFEY, KC:
Q. And in fact, if you are knowingly not accurate, there could be consequences, negative consequences?
MR. COYNE:
A. That's correct.
COFFEY, KC:
Q. One of the companies in the proxy group is Duke Energy, isn't it?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. Now, what is Duke Energy? This is a comparator now you're using for Newfoundland Power. What is Duke? Tell the Board please what Duke Energy is.
MR. COYNE:
A. It's a holding company of by and large regulated utility assets that include gas utilities, electric utilities and some pipeline operations as well. Operates in multiple jurisdictions.
COFFEY, KC:
Q. Jurisdiction in the sense, across state lines in the US?

MR. COYNE:
A. Yes. Kentucky, North Carolina, South Carolina are principal operating states. It also operates in Florida, as I recall. Do you recall others? That's a general -
COFFEY, KC:
Q. Oh yes, I'm going to – I have the 10 – I have excerpts from the 10Ks, okay, so I'll be bringing those to the Board's attention. So, it's a vertically integrated company or at least – well, I should say – backup a bit. It's a holding company?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And you have to use the holding company because that's really the financial data that you're limited to, ready access?
MR. COYNE:
A. Yes. When you're running the CAP-M model or the DCF model, you require capital market data and so therefore you need to be publicly traded to have that data available to you.
COFFEY, KC:

Q. Now, in relation to the – it's a holding company, therefore presumably it has operating companies, subsidiaries?
MR. COYNE:
A. That's correct.
COFFEY, KC:
Q. Now, in this context, for the Board, Newfoundland Power would be an operating company and its holding company would be Fortis?
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. So, you would be – in Duke Energy's case, you would be using the equivalent data to the similar sort of data for Fortis, if Fortis fell within your criteria?
MR. COYNE:
A. Right, and of course, because it's the holding company that owns Newfoundland Power, we don't use it. Otherwise we would have been including it in the Canadian proxy group, but we don't include it because it creates circularity of analysis if we were to include it in our proxy group here

because they own Newfoundland Power.
COFFEY, KC:
Q. Now, in relation to Duke Energy, which is in the proxy group, Duke's subsidiaries, and I take it there are quite a number of subsidiaries?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. Are each of those subsidiaries vertically integrated companies?
MR. COYNE:
A. No.
COFFEY, KC:
Q. So, some of them – would some of them be?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. So, perhaps you could explain to the Board in this context what that would mean. Like I'll just pick subsidiary A. It might be -- if it was vertically integrated, what would that mean?
MR. COYNE:
A. Well, let's take the example of Duke Energy

Carolinas that provides electric power service to both North and South Carolina. It owns power plants to satisfy some, but not all the load requirements of meeting its retail load in those states. So, vertically integrated in that context means that it's a generator as well as owning substantial transmission and distribution assets.

COFFEY, KC:

Q. Okay. And the generation might be from different sorts of thermal generation?

MR. COYNE:

A. Yes. In the case of Duke, they own nuclear assets, coal assets, natural gas fired assets, a renewable portfolio as well as contracts that they sign with third parties for power.

COFFEY, KC:

Q. And there are, I'm going to suggest to you, in relation to – like for example nuclear power, there are business risks associated with running a nuclear plant?

MR. COYNE:

A. Yes.

COFFEY, KC:

Q. And those risks, you know, happily they don't come to pass all that often apparently, but when they do come – if such a risk does manifest itself, it can be fairly – the consequences for the company can be fairly dire, can't it?

MR. COYNE:

A. As we saw with Fukushima, yes, it could be.

COFFEY, KC:

Q. And gas generation, natural gas, using natural gas for thermal energy, I'm going to suggest to you again in relation to that, the cost of natural gas, you say it's a commodity, goes up, down, swing – there can be massive swings, can't there?

MR. COYNE:

A. Well, as any commodity, yes. You know, they have fuel costs recovery mechanisms that allow them to pass through those costs on a regular basis to their customers. And the same with their nuclear plant operations and the fuel.

COFFEY, KC:

Q. So, do you know if any of Duke Energy's subsidiaries are involved in generating

electricity through wind power, wind turbines?

MR. COYNE:

A. I don't recall if they have company owned wind or if they have contracts for wind power from third parties. Do you?

MR. TROGONOSKI:

A. I don't.

COFFEY, KC:

Q. And this would – that would be a matter that could be publicly ascertained, if it came to it, but my point being that, you know, in this context that there's a mix – I'll put it this way. There's a mixed bag of generation involved in Duke Energy subsidiaries generating electricity?

MR. COYNE:

A. They have diversified portfolio of generate – as I mentioned, self-owned as well as contracts through third parties and they also acquire power in the wholesale power markets where they operate.

COFFEY, KC:

Q. Now, in relation to the wholesale market, how does that figure into their ability to

recover costs from ratepayers in a regulated environment?

MR. COYNE:

A. Those are also covered under their fuel and purchase power agreements. So, like Newfoundland Power, they maintain accounts that are trued up and it depends on the jurisdiction how often they're trued up, but it's typically on a quarterly basis, and to capture those costs and they would flow through to customers and, as in any jurisdiction, there is a prudency review associated with those costs where the Board or intervenors have the right to challenge them if they don't think that they've been prudently incurred. But it's a cost passthrough along with fuel costs from the company to ratepayers, unless otherwise challenged.

COFFEY, KC:

Q. So, what then – if you could tell the Board please, what exactly is it that is similar between Newfoundland Power and Duke Energy, other than the fact that they produce electricity – well, in Duke's case, it's a subsidiary – produces electricity and deliver it – uses wire to deliver it. What else do they have in common?

MR. COYNE:

A. If you look at the screening criteria that we use in our analysis, they have credit ratings that are at least triple B or plus. So, they're investment grade regulated utilities. They consistently pay quarterly cash dividends and haven't been reduced in the previous two years. They have positive earnings growth projections from at least two sources. At least 70 percent of their operating income is derived from regulated operations and at least 90 percent of their regulated operating income is derived from electric utility service and they were not involved in a merger or significant transformative transaction. So, those are the screening criteria that we used for all the electric utilities that are covered in the value line universe for investors and electric utilities to get to the group that we did. At a more intuitive level, they operate in constructive regulatory

environments where they operate, as is the case in Newfoundland, and by and large, they are subject to the scrutiny of their regulators but when they incur costs to provide reliable service, they're allowed to pass those through their ratepayers and they – I've testified in multiple jurisdictions for Duke and their subsidiaries and I can say that they also enjoy constructive relationships just like here. So, the scope of their operations are broader in the sense that they are vertically integrated in some of those jurisdictions, but they have regulatory mechanisms that allow those costs to be recovered, but they also have substantially higher allowed ROEs and equity ratios than does Newfoundland Power. Their allowed equity ratios are all over 50 percent and their ROEs are in the nine and a half to ten and a half percent range.

COFFEY, KC:

Q. And I'm going to suggest that one of the reasons for that is because they're involved in a much more risky business, running a power plant, running a nuclear power plant

in the United States of America has a certain attendant risk associated with it which Newfoundland Power in Newfoundland does not have.

MR. COYNE:

A. Well, I just testified for one of the Duke subsidiaries and I commented on that issue, but I made no adjustment in my ROE analysis for that because of the diversity of their operations and the fact that they operate over multiple jurisdictions and they're a good nuclear plant operator. They have a good track record and they know how to operate a nuclear power plant well. So, I do not account when I'm testifying for Duke for any additional risk associated with operating those nuclear power plants, nor has the company requested one.

COFFEY, KC:

Q. Certainly, Newfoundland Power doesn't, you know, is a comparator. Newfoundland Power has no such risk.

MR. COYNE:

A. No, as I said, Newfoundland Power has a different set of risks, as I mentioned. The

extraordinary risks that Newfoundland Power has pertaining to its relationship with Hydro, its reliance on a single supplier for 93 percent of its energy and the challenges associated with Muskrat Falls for example the macroeconomic environment look very different. When I go to South Carolina, their concern is about how much load growth they have in the States and the capital investments required to manage them. So, it's a different set of risks, but our position in the analysis we provided is that from an investor standpoint, both from a credit rating standpoint and an equity analyst perspective, they're comparable because of how they go about providing electric distribution services. In the views of an investor, they're reasonable comparators for these purposes. They're one of the ten, of course, in that US group. We also have Eversource in there, for example that's just a pure transmission and distribution utility.

(10:45 a.m.)

COFFEY, KC:

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Q. Now, in relation to risk, I'll take you to- in your rebuttal evidence, rebuttal testimony—if you could, please, could you bring it up please, rebuttal testimony, page 41; rebuttal testimony of Mr. Coyne and Mr. Trogonoski. There's a statement here I'd like to canvas with you. At the top of the page, the question follows says, "do you agree with Dr. Booth that Newfoundland Power's ability to consistently earn its allowed ROE is evidence of the company's low business risk going forward"? The answer is "no, we do not. First, under the regulatory compact, a regulated utility has an opportunity to earn its allowed ROE, not a guarantee. Second the fact that Newfoundland Power has historically been able to earn its authorized ROE in most years through efficient and economical management does not tell us anything about the future, nor should the company be penalized for doing so". Now, the assertion that Newfoundland Power has historically been able to earn its authorized ROE in most years through efficient and economical

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management does not tell us anything about the future. Now, gentlemen, you are all about looking at the past, aren't you, in your professional lives, you examine the past.

MR. COYNE:

A. The past and the future.

COFFEY, KC:

Q. You examine the past. You use the past to predict the future.

MR. COYNE:

A. Well, that's a pretty general statement. If you look at the models that we have used, we have used a combination of forward looking where we have them and we believe that they're most reliable. There are some inputs that are based on history that support that analysis. So, it's a combination of two, but yes, we do consider the past in presenting our analysis.

COFFEY, KC:

Q. And even in predicting the future, you know, other than making something up, you have to look at what happened in the past and what's going on now, don't you?

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MR. COYNE:

A. Can you be more specific; that's a very broad statement.

COFFEY, KC:

Q. Well, in this context, you see, here you said, you've boldly asserted "does not tell us anything about the future". Do you know how many years that Newfoundland Power has been able to earn its authorized ROE?

MR. COYNE:

A. I believe it's on the record in response to a data request, but I don't recall exactly how many years, but I know it's decades.

COFFEY, KC:

Q. I think it was an estimate yesterday, 30 years, but it's certainly north of 20. So, do you have any reason then to believe that, that you can point to, quantitative reason that you can point to, to suggest that Newfoundland Power would not be able to earn its authorized ROE this year or next year or the year after?

MR. COYNE:

A. I believe that as a premise to the company's rate case, it has shown that without the

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rates that are requested in this rate case, it would not earn its authorized, it's currently authorized ROE. So, the only reason I'm aware of is it would be dependent upon the outcome of this rate case because this company has done that analysis, but there are events beyond the company's control that could conceivably prevent them from earning that ROE in the future. And an investor does not look at a company like Newfoundland Power and think that it's a guarantee, although based on the history, they might view it as a strong probability, but it's not a guarantee.

COFFEY, KC:

Q. Exactly. So, it's a strong probability that they will, but not a certainty.

MR. COYNE:

A. That's correct.

COFFEY, KC:

Q. Are you aware of how much excess earnings Newfoundland Power made in 2023, above the band on its ROE?

MR. COYNE:

A. I'm not.

MR. TROGONOSKI:
Q. I'm not either.
COFFEY, KC:
Q. I believe that was a figure brought forward yesterday about five million dollars.
MR. COYNE:
A. Well, I'm not aware of that figure. Are you pointing out to something that was over their cap?
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. If it's a matter of record, in this proceeding, then I have no reason to doubt it.
COFFEY, KC:
Q. CFO of Newfoundland Power advised the Board of that yesterday. So, up until now, where we are in 2024, but certainly up to the end of 2023, Newfoundland Power has been able to earn it allowed ROE. And you would agree, one of the things you point out, I believe, in your rebuttal evidence is that Dr. Booth makes the point that Newfoundland Power, it's track record is such that it does make

its allowed ROE. It's almost, he doesn't say a certainty, but based on past behaviour, that has been Newfoundland Power's record. They have been able to make their allotted ROE.
MR. COYNE:
A. I'm not sure if I understand the question.
COFFEY, KC:
Q. Okay, would you agree that they have been able to make their allowed ROE the past 20 or 30 years, 30 years?
MR. COYNE:
A. Well, in your question you say they have been –
COFFEY, KC:
Q. They have been –
MR. COYNE:
A. They have been allowed to earn –
COFFEY, KC:
Q. No, no –
MR. COYNE:
A. That's how I heard that.
COFFEY, KC:
Q. I apologize, they'd be able to earn their allowed ROE.

MR. COYNE:
A. Then that I would agree with, yes.
COFFEY, KC:
Q. Okay. Could you point me please to where it says that if the ROE, this Board was to decide the ROE stays at 8.5 percent and the equity ratio stays at 45 percent that they would not earn or not be able to earn their ROE or they would not be able to make a profit, put it that way.
MR. COYNE:
A. That's not our evidence. Our evidence is that 8.5 percent is insufficient and does not meet the fair return standard. And so, when you ask your question about are they able to earn their allowed, the way we think about it is, are you able to earn the ROE that would meet the fair return standard. That's what we're tasked with here. And our analysis shows that the fair return standard justifies a higher ROE for the company than is currently allowed today based on capital markets, as we've shown, where the capital cost of everything has increased including for Newfoundland Power. And that's the

basis of our evidence. Okay, so it's important to meet the fair return standard, that that ROE be set to meet the fair return standard and then it's up to the company to be able to operate efficiently to be able to meet it. And also, we're going to construct a regulatory environment, have the opportunity to meet it. So, those are the pieces of the puzzle that all have to come together.
COFFEY, KC:
Q. If I could, we could look at your rebuttal evidence, page 10. Now, this is a figure 1, Dr. Booth's recommendation versus weighted ROE for Canadian IOUs. Now, looking at this, and the Board has seen this already, in in actual live testimony, been referred to it. You have Dr. Booth's recommendation which is the weighted return on equity, it's out there to the left. And Concentric's recommendation which is, if that was to be followed, is—well, in terms of individual companies, is second from the right. Correct?
MR. COYNE:

A. The Concentric recommendation is third from the right.
COFFEY, KC:
Q. Well, in terms of individual companies because the extreme right is US electric average.
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. So, in terms of the enumerated companies, it's the second from the right. So, it would be the second highest of all these companies if the Board was to accept your recommendation.
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. And Dr. Booth's recommendation, it would be the lowest on this chart.
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. Now, I'll just make a point in passing, somebody has to be the lowest. If there's a rank from one to ten, someone has got to the

one and somebody has got to be the ten and assuming there's no one equal within it. Would you agree with that? Mathematically, that is so?
MR. COYNE:
A. When you say "somebody" –
COFFEY, KC:
Q. Somebody or something has to be the lowest on this chart.
MR. COYNE:
A. Of course, there are analysts that will be lower than others who make recommendations, lower than others. But the test here isn't lowest or highest; the test is fair. And I'm not judging Dr. Booth's recommendation based on whether it's the lowest on the Richter scale, it's whether or not it's fair and that's the test that we focus on meeting. It does so happen that he is the lowest out of any of the companies that we have covered here.
COFFEY, KC:
Q. So, it's—but the chart was made and presented, created and presented to create an impression to convey information.

MR. COYNE
A. Yes.
COFFEY, KC:
Q. And it does have—his recommendations have Newfoundland Power the lowest.
MR. COYNE:
A. Right.
COFFEY, KC:
Q. Now, you would agree that some way, on any ranking, has to be the lowest.
MR. COYNE:
A. That's right. One of the—it conveys important information beyond that though. There is—the fair return standard is a three-legged stool. One of the stools is the comparable investment standard, comparability standard as we call it. And this information shows you that if you were to accept Dr. Booth's recommendation, it would be the lowest of any of the utilities that we've considered in this analysis, by far. And therefore, if I can conclude, this chart tells me that from an investor's perspective, that bar to the left is not comparable to the ones to the right. So,

that's one test. And then the other test is based on the financial analysis that we do that shows that the fair return should be. Something else to bear in mind is that these are lagging indicators. These are returns that have all been set, for the most part, a year or two years ago at a time when capital costs have increased significantly. So, even these I would consider to be relatively conservative estimates of what the comparable return standard is today as we sit here. And if you flip to figure 3, I think this is very important, if you don't mind me going there. On page 15, because I know and I recognize for those that don't do this work every day, there are times that this analysis can seem Archean and academic, but I think what's not Archean and academic is what you see in Figure 3 and it shows the periods of time over which is Board has considered the cost of capital for Newfoundland Power and some high level indicators of what the cost of capital is in the economy. And you can see there that going back to 2016 when this Board first set

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its ROE at 8.5 percent, the Bank of Canada overnight rate was .5 percent. And in our chart we had it at 5 percent, they just lowered it last week to 4.75 percent. That's a dramatic increase in the cost of capital for overnight securities. Then if you look at longer term securities, the ten-year bond, it was 1.58 percent; it's now 3.7 as of April. And the 30-year government bond rate that was 2.24 is now 3.6, again as of April. And the A rated utility bond and this is where we focus on utility cost of capital for something that's a lower risk than an equity return, that was 3.89 percent back in 2015 and it's now 4.96 percent. And then you look at the inflation numbers down below. So, at a very intuitive level, this says something that we all know is true and that is that the cost of things has gone up and the cost of capital has gone up as part of that. You read about it, you read about it in the newspaper every day. Our job here is to try to filter that through a reasonable analysis to determine what it means for a company like Newfoundland Power.

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COFFEY, KC:
Q. Now, if I could then, bring you back to Figure 1 on page 10. Newfoundland Power Inc. is there, see it? It's in the color-coded chart as grey.
(11:00 a.m.)
MR. COYNE:
A. It is, yes.
COFFEY, KC:
Q. Now, what figures were used for the rate of return on equity?
MR. COYNE:
A. I think that would have been 8.5 on 45, right, the existing –
MR. TROGONOSKI:
A. It's the current.
MR. COYNE:
A. The current, 8.5 percent on a 45 percent equity ratio.
COFFEY, KC:
Q. So, let's see. And there are –
MR. COYNE:
A. The grey bar is our recommendation.
COFFEY, KC:
Q. And there are how many companies, like

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individual companies here?
MR. COYNE:
A. I could take the time to count them.
COFFEY, KC:
Q. Sure, if you would.
MR. COYNE:
A. I get 21 individual companies.
COFFEY, KC:
Q. That's the entirety.
MR. COYNE:
A. Isn't that your question?
COFFEY, KC:
Q. No, it's the individual companies because some of these are not companies and some of them are multiples because it's Dr. Booth's recommendation versus Concentric's recommendation
CHAIR:
Q. Excuse me, Mr. Coffey, probably time for a break.
COFFEY, KC:
Q. Yes, you're good—right, thank you.
CHAIR:
Q. Thank you.
(BREAK – 11:01 a.m.)

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(11:30 a.m.)
CHAIR:
Q. No preliminary matters?
MR. O'BRIEN:
Q. Mr. Chair, I think there was one issue that was raised just in terms of some testimony given for the transcriber, did you get it?
REPORTER:
Q. Yes.
MR. O'BRIEN:
Q. No preliminary issues.
CHAIR:
Q. Okay, back to Mr. Coffey.
COFFEY, KC:
Q. Thank you very much, Mr. Fagan. This is effectively some housekeeping. Okay, I'm going to show the, well Duke Energy, talking about Duke Energy, asking the witness, Mr. Coyne about Duke Energy.
MS. GLYNN:
Q. So you have item that you want to enter?
COFFEY, KC:
Q. I have 10-K, yeah, if I could.
MS. GLYNN:
Q. So Info No. 9 will be the 10-K for Duke

Energy.
COFFEY, KC:
Q. And I'm not going to take you through this in detail, Mr. Coyne, but do you recognize for the form?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And we told the Board that this is an excerpt, it's not the full document, it goes on at some length. If I could just, though Mr. Coyne, what I would like you to do, please, is look—I think it's in the Table of Contents.
MS. GLYNN:
Q. Is there a page number, Mr. Coffey?
COFFEY, KC:
Q. Actually it's difficult to tell. It's the fourth piece of paper, I know that.
MS. GLYNN:
Q. I think Ms. Bown might—has it up there on the screen.
COFFEY, KC:
Q. Thank you, yes. Mr. Coyne, just looking at the Table of Contents, it's form 10-K for

the yearend December 31, 2022. I will tell you, Mr. Coyne, although 2023's 10-Ks do exist on line, I used 2022s for that year ending, December 31, 2022 because that was the latest available, I believe, when you did your report in November of '23?
MR. COYNE:
A. We did our direct in –
COFFEY, KC:
Q. Yes, your direct.
MR. COYNE:
A. That would have been November 2023, so that would have been the most recent, yes.
COPFEY, KC:
Q. The most recent, so this would be—this sort of information would have been available to Concentric?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. Okay, and we looked down through that, just the Table of Contents, glossary of terms at page 9 and it goes all the way up to page 228 and as well, index, exhibit index E1 and signature is E2. Just looking at the top,

after Glossary of terms, Part 1, Business, Duke Energy General, Business Segments, Human Capital Management, Executive Officers, Environmental Matters and various Duke Energies, Duke Energy Carolinas, I believe, Mr. Coyne, you referred to. Progress Energy, Duke Energy Progress, Duke Energy Florida, Duke Energy Ohio, Duke Energy Indiana, Piedmont, and then risk factors, Section 1A or Part 1A and I believe that is up to, that's as much as this is in this excerpt, as I'm going to explain to the Board I did not include the properties, the legal proceedings and so on because it was a massive amount of information for each of these companies, in addition to what's here. But it's included because the excerpt covers the general description of the subsidiaries and the risk factors. So if the Board members, Mr. Coyne, choose to go through this, I'm going to suggest that they could go through it and look at what, for example, Duke Carolina--Duke Energy Carolinas does on page 22, you'd be able to go through and have a description of what they're involved

in, a subsidiary.
MR. COYNE:
A. And is your question whether or not the Board could do that?
COFFEY, KC:
Q. Yeah, the Board can do that if it's here.
MR. COYNE:
A. Certainly.
COFFEY, KC:
Q. And as an example, I'll just go to page 22, I'll pick one because you have already referred to it. And, unfortunately, at the bottom of—if you flip through the pages, at the bottom of, one of the pages has 21 and then 22 itself is at the top of a page, it's the page before page 22. The way electronically this works doesn't actually match the actual paper when it's printed out. Yes, Environmental matters, thank you. Duke Energy Carolinas, scroll down the page please a little bit, I believe that's one of the companies, one of the subsidiaries you actually describe, Mr. Coyne?
MR. COYNE:
A. I did.

COFFEY, KC:
Q. Earlier.
MR. COYNE:
A. I did, yes.
COFFEY, KC:
Q. And it's a regulated public utility, primary engaged in the generation of transmission and distribution of sale of electricity in portions of North Carolina and South Carolina, Duke Energy Carolina service area covers 24,000 square miles, supplies electric services to 2.8 million, residential, commercial and industrial customers. For information, it refers to other parts, substantially all of Duke Energy Carolinas operations are regulated and qualify for regulatory accounting. Duke Energy Carolinas operates one reportable business segment EU&I for additional information and it refers you elsewhere. And then the same thing occurs here for Progress Energy, Duke Energy Progress, if you go down through, Duke Energy Ohio, on the next page, Duke Energy Florida, Duke Energy Ohio and Duke Energy Indiana and

Piedmont. And then at the bottom of that page, page 23, Item 1A, Risk Factors. And so we can look through, again if the Board wishes to get some sense of who Duke Energy is and what they see as their risks, these are all described here, aren't they, is that correct, Mr. Coyne?
MR. COYNE:
A. Well, I don't have, when you say what's described here, all of their risks
COFFEY, KC:
Q. No, no, well they purport to describe their risks, I don't know about all all, but they purport to describe their risks?
MR. COYNE:
A. Well, not to mince words, but there are specific reporting requirements associated with the 10-K that I believe that the Duke Energy, that Duke Energy is satisfying with this reporting. When you say all their risks, there could be others that aren't here, I don't know. I assume that these are the material risks that they feel they need to disclose for these purposes.
COFFEY, KC:

Q. And, now again for the record and again, Mr. Chair, I don't propose to go through each of them but because they are in the proxy group, the American companies in the proxy group, I'm going to refer to each one and have it entered. The equivalent documents for each and I'll have the witness identify, confirm that that is the case. This is at form 10-K, fiscal ending December 31, 2022 for Alliant Energy.
MR. COYNE:
A. These documents were provided to counsel, we have them all, so –
MR. O'BRIEN:
Q. We have to put them on the record.
COFFEY, KC:
Q. Yeah, put them on the record at this point.
MR. O'BRIEN:
Q. I'm sorry.
COFFEY, KC:
Q. Oh, no, no, I appreciate your question.
MS. GALARNEAU:
Q. If you want me to take them away, I can take them –
MR. COYNE:

A. Well, no, that way we'll have two copies, we'll stay with that.
MS. GALARNEAU:
Q. Okay, all right, thank you so much.
MR. O'BRIEN:
Q. Mr. Coffey, it was Alliant Energy, is that the one you're –
COFFEY, KC:
Q. Yes, Alliant Energy.
MR. O'BRIEN:
Q. Okay, thank you.
COFFEY, KC:
Q. No. 10.
MS. GLYNN:
Q. So that will be entered as Information No. 10.
COFFEY, KC:
Q. Okay, thank you.
MS. GLYNN:
Q. So, Mr. Coffey, you don't intend to get the witness to speak to these?
COFFEY, KC:
Q. Not in a detailed way like I did with Duke Energy, just in terms so the Board has available to it and it may be in submissions

ultimately here that, you know, submissions will be made concerning the nature of the businesses that each of these individual companies are involved in, but rather than actually have the witness read in each of those and me read them to the witness and then confirm that I'm reading correctly? No, I don't propose to.

MS. GLYNN:
Q. So unless there's an objection?
MR. O'BRIEN:
Q. Perhaps you can ask the witness, they were given those documents last night, and they can confirm that each one of them are along the same lines as the Duke?
COFFEY, KC:
Q. Oh yes.
MR. O'BRIEN:
Q. So that way you don't have to review it and I have no objection on that basis.
COFFEY, KC:
Q. Thank you. So while we're at it, Information 10 –
MS. GLYNN:
Q. Information No. 10, Alliant Energy.

COFFEY, KC:
Q. Mr. Coyne, can you confirm that that is the 10-K apparently filed by Alliant Energy for the period December 31, 2022 with the US Securities and Exchange Commission? This is an excerpt from it.
MR. COYNE:
A. Yes, it is.
COFFEY, KC:
Q. Okay, thank you.
MS. GLYNN:
Q. I wonder whether we could do this in a more effective and efficient way, perhaps by an undertaking if we could take each of the documents, have Mr. Coyne and Mr. Trogonoski review them later and then we can enter them through an undertaking, as opposed to having to go through, I think, eight more.
COFFEY, KC:
Q. It would be almost as fast with the eight, actually, if I go the right way.
MS. GLYNN:
Q. Well then could we have all the documents at once and just present them –
MR. O'BRIEN:

Q. That's what I was going to suggest and maybe give them a minute to go through it and confirm it, if that works, Mr. Chair. They've seen them, so –
CHAIR:
Q. Okay.
MR. O'BRIEN:
Q. And then we can do it one by one then.
MS. GLYNN:
Q. And Mr. Coffey, do they need to be entered as separate information items?
COFFEY, KC:
Q. Yes.
MS. GLYNN:
Q. You want to be able to –
COFFEY, KC:
Q. Because it makes it easier to go after, be able to identify. So that would be exhibit –
MR. O'BRIEN:
Q. Which one is that, Bern?
COFFEY, KC:
Q. That is, the one I just gave out is Entergy, you have it, Mr. Coyne, you have Entergy in front of you?

MR. COYNE:
Q. Yes.
COFFEY, KC:
Q. You do? Okay, thank you. The next one is, Mr. O'Brien, is American Electric Company Inc. So if I could –
MS. GLYNN:
Q. So Information No. 11 is Entergy; Information No. 12 is American Electric Company.
COFFEY, KC:
Q. Thank you. The next one is Eversource Energy.
MS. GLYNN:
Q. Information item No. 13.
(11:45 a.m.)
COFFEY, KC:
Q. The next one is OGE Energy Corp.
MS. GLYNN:
Q. Information item No. 14.
MR. O'BRIEN:
Q. Sorry, Mr. Coffey, was that OGE?
COFFEY, KC:
Q. Yeah, it's OGE Energy Corp.
MR. O'BRIEN:

Q. Okay, thank you.
MR. COYNE:
A. And what is the exhibit number for OGE?
MS. GLYNN:
Q. No. 14.
MR. COYNE:
A. 14, I must have lost track.
COFFEY, KC:
Q. The next one is Evergy.
MS. GLYNN:
Q. Sorry, Ever?
COFFEY, KC:
Q. Evergy.
MS. GLYNN:
Q. Information item No. 15.
COFFEY KC:
Q. The next one is Nextera Energy Inc. and Florida Power & Light Company.
MS. GLYNN:
Q. Information item No. 16.
COFFEY, KC:
Q. The next item is Pinnacale West Capital Corporation, an Arizona public service company.
MS. GLYNN:

Q. Information No. 17.
COFFEY, KC:
Q. And finally, last but not least, Portland General Electric Company.
MS. GLYNN:
Q. And that would be Information item No. 18.
MR. COYNE:
A. Just so I can keep track based on exhibit numbers, was Duke No. 9 or 10.
MS. GLYNN:
Q. Duke was No. 9 and Alliant was No. 10.
MR. COYNE:
A. And Alliant was No. 10, and 11 was Entergy?
MS. GLYNN:
Q. Entergy.
MR. COYNE:
A. 12 was Eversource?
MS. GLYNN:
Q. No, 12 was American Electric Company. 13 was Eversource.
MR. COYNE:
A. And Eversource is 13.
MS. GLYNN:
Q. No. 14 was OGE.
MR. COYNE:

A. And 15?
MS. GLYNN:
Q. No. 15 was Evergy.
MR. COYNE:
A. Evergy, I think that in the passing of paper we somehow missed America Electric Power which is No. 12. I want to make sure that others didn't –
MR. COYNE:
A. Does the Board have American Electric Power?
MS. GALARNEAU:
Q. I do, yeah.
MR. COYNE:
A. We have another copy, but I just want to make sure that it's been distributed.
MS. GALARNEAU:
Q. Do you want a copy?
MR. COYNE:
A. Yes, just to complete my stack, along with Mr. Trogonoski's who is well stacked over there as it is.
CHAIR:
Q. Just let us know when you're ready, Mr. Coyne.
MR. COYNE:

Q. I think we have all the paper that was intended.
CHAIR:
Q. Okay.
COFFEY, KC:
Q. Thank you very much, Mr. Coyne, Mr. Chair. Now if we could return to Figure 1 on the rebuttal evidence page 10, which is where we left off. We were going to count up the companies, Mr. Chair. And by my count, and I stand to be corrected, there are 19 individual companies there without the US electric average, which is to the extreme right, and without Dr. Booth's recommendation and without Concentric's recommendation there are 19 companies there. Does that sound right?
MR. COYNE:
A. We agree.
COFFEY, KC:
Q. Now, and again, if one just holds up the page, Newfoundland Power Inc, as it currently is, is I believe No. 1 counting from the bottom.
MR. COYNE:

A. That's correct.
COFFEY, KC:
Q. And with Concentrics recommended ROE and equity ratio, you would be No. 2, Newfoundland Power would be No. 2.
MR. COYNE:
A. That's correct.
COFFEY, KC:
Q. Other than, can you in plain words tell this Board why you believe Newfoundland Power should vault from No. 1 to No. 18?
MR. COYNE:
A. Sure, I would be glad to. As I mentioned the, you know, the guiding principle of our work is determination of what ROE and equity ratio would meet the fair return standard and our recommendation would do both. When you look at this comparison, I think it's important to note that existing ROEs and equity ratios are, especially ROEs are lagging indicators and it's especially important now when capital costs have been increasing over the course of the last several years, and as a result of that, it's a lagging indicator of where, in our view,

the cost of capital is today. And case in point, if I were to look at these companies, one, two, three, four, five, six, seven, eight of them are currently in progress, either with intentions to file that have been noted or in the course of active consideration by their board in terms of whether or not these ROEs or equity ratios should be adjusted, so it's a moving target and I'll go up the scale and tell you about that, for example, all the Ontario utilities are currently involved in an extensive cost of capital proceeding, the impact is gas distributor Embridge, all 60 of the electric distributors in Ontario, the Ontario power generator as well was electricity transmitters are all that, before that board right now and the board was raised 22 issues to be addressed in expert evidence and that evidence will be submitted over the course of the next month, they will provide updates to the cost of capital for the entirety of Ontario's utility sector.
COFFEY, KC:
Q. Before you go on, so that would be Hydro One

Distribution?
MR. COYNE:
A. That would be Embridge Gas, Hydro One Distribution, the Ontario electric distributors which is actually 60 companies, thereabouts, and Newfoundland Power, in addition to that OPG which is not on here because they're a special company. In addition to that, Nova Scotia Power has indicated that it's getting ready to prepare a generic filing in its case where it will be updating its cost of capital parameters and in BC they're currently in phase 2 of their generic cost of capital proceeding where they will be resetting the ROE and capital structure for Pacific Northern Gas in all three of its sub-jurisdictions. So a lot of these are under active consideration and in light of the capital market data that I have discussed here, I think these are lagging indicators and there will be upward pressures across each jurisdiction to reconsider whether or not they're currently meeting the fair return standard.
COFFEY, KC:

Q. If I could, so in relation then to, I believe you said Hydro One Distribution, Ontario Electric which is the distributors are two there in a state of application or flux.
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. So they would actually have to have their ROEs be increased or their equity ratios increased in order to catch up with where Newfoundland Power currently is.
MR. COYNE:
A. That's right. Right now their equity—their ROE under the formula has been reset to 2024 and that number is -
COFFEY, KC:
Q. 9.21 percent.
MR. COYNE:
A. And then there's 22 issues the Board is asking is the formula still working is that 9.28 percent.
COFFEY, KC:
Q. And that 9.28 percent though doesn't involve 45 percent equity, does it?

MR. COYNE:
A. Currently it involves 40 percent equity for the electric distributors and 45 percent for OPG.
COFFEY, KC:
Q. And I think you just said OPG doesn't count.
MR. COYNE:
A. I didn't say they didn't count –
COFFEY, KC:
Q. But they don't count for this, in this –
MR. COYNE:
A. They're not on this chart.
COFFEY, KC:
Q. Yeah, in this chart. Now, I want to discuss with you, please, Figure 3 which is at page 15 and you referred to it. And in relation to that, just again to give the Board some sense of how life changes, and it can change fairly quickly, even based upon this data. Looking at the, for example, the Consumer Price Inflation of Canada, the bottom row, do you see that?
MR. COYNE:
A. Yes.
COFFEY, KC:

Q. March of 2021 inflation is based upon a figures you're using is 2.2 percent, 16, 17, maybe 18 months later, August of 2023 it's 4 percent which it hasn't quite doubled from 2 to 4 but it's coming close, and then by April of 2024 it's down to 2.9 percent, right?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And the trend has been downward from 4.
MR. COYNE:
A. That's right.
(12:00 p.m.)
COFFEY, KC:
Q. Now would you agree that in terms of being able to predict interest rates, I'm going to put a little scenario to you and see if you're aware of it, Tiff Macklem who is the chairman of the Bank of Canada, famously or infamously, depending on your view in this country, several years ago publicly said that Canadians can count on interest rates being low into the foreseeable future or for an extended period of time. You're nodding

your head, so I take it you're aware of that?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And I think it's fair to say that he's publicly acknowledged since he got that wrong.
MR. COYNE:
A. I'm not aware of the public acknowledgement.
COFFEY, KC:
Q. But he certainly did get it wrong in terms of interest rates went up, but to be fair here, interest rates have started to go down, haven't they?
MR. COYNE:
A. They have. Well, when you say go down, you know, they're still higher than they were prior to the COVID period and everybody knows that COVID was an outlier, but interest rates have gone down from the peak of during the COVID period.
COFFEY, KC:
Q. And it was an outlier and is it fair to say that it being an outlier that the economic

data are heading back to where they were pre-COVID?
MR. COYNE:
A. No, that's what's interesting.
COFFEY, KC:
Q. Inflation hasn't dropped?
MR. COYNE:
A. You said going back to where they were before.
COFFEY, KC:
Q. No, well going back, heading back to where they were before, they're heading back down. Here's an example, if I could, inflation pre-COVID was at a certain rate, then we had COVID, it spiked and it's on its way back toward where, not necessarily going to arrive there, but toward where it was pre-COVID.
MR. COYNE:
A. Toward, yes. And the reason, you know, it's an important distinction because investors when we talk about, you know, we could talk about what the banks are doing and what investors believe. Investors do not believe that the back of inflation has been broken

and as a result of that, we see prevailing higher interest rates. Heading back toward doesn't mean that we're there or that we're going to be able to stay there because there are a lot of supply pressures that remain in our economy that continue to drive inflation rates that are higher than they were previously. So toward is different than the same.

COFFEY, KC:
Q. But toward is the operative word here in the context of my question, we are heading back down toward where we were pre-COVID with interest rates, is that correct?

MR. COYNE:
A. Well now you're talking about interest rates, you were talking about inflation –

COFFEY, KC:
Q. I'll go to inflation and then I'll come back to interest rates. Inflation, am I correct in that?

MR. COYNE:
A. Well, if you go back to 2015 you can see CPI was at 1.3 percent. 2.9 percent is down from 4, but nowhere near as close as to

where we were during that period, but it has receded from its highs during the COVID period. It was much higher than 4 percent as we note.

COFFEY, KC:
Q. And you're just playing with numbers, 2.9 is 1.1 less than 4 over a, I want to say an eight-month period, eight or nine months, eight months, and over another eight month period, from April 2024 it's entirely conceivable that another 1.1 drop could occur, isn't it?

MR. COYNE:
A. Conceivable?

COFFEY, KC:
Q. Yes. You may not expect it, but it's conceivable.

MR. COYNE:
A. I would be surprised based on the economy in Canada if we were to see a drop another 1.1 percent in that period. I think there is still too much supply—there's still too many constraints in the economy that, in my view, would prevent that from happening. Now, I don't think the Central Bank of Canada

believes that, otherwise they wouldn't have reset the rate to 4.75 percent. Why wouldn't they have set it to a half percent where they were pre –

COFFEY, KC:
Q. Well, I –

MR. COYNE:
A. I'm trying to answer your question.

COFFEY, KC:
Q. Well, Mr. Coyne –

MR. COYNE:
A. You've asked me conceivably and I want to give you the context. The context is that I don't believe that the Central Bank of Canada believes that that is a likely outcome, nor do I believe investors think so. So when you say conceivably, it could happen, but I don't think that's probable.

COFFEY, KC:
Q. And about three or four minutes ago you acknowledged that the head of the Bank of Canada within the last three years, three, four years, certainly since COVID, you know is predicting low interest rates for any extended period of time, so you know, what

the Central Bank or the Bank of Canada thinks about or predicts about inflation rates, I'm just suggesting to you based upon the numbers you have here, that went 2.2, went up by 1.8 before and has dropped by 1.1, correct?

MR. COYNE:
A. That's a fact.

COFFEY, KC:
Q. That's inflation. Interest rates, here the numbers are there on the page, generally since certainly March of 2021 there was an increase August of 2023 and there's been, with the exception of generally the rates have stayed more or less where they were based on your chart here, the bond rates and so on where they were in August of 2023.

MR. COYNE:
A. Yes, interest rates.

COFFEY, KC:
Q. Interest rates.

MR. COYNE:
A. Yes, even though inflation has come down considerably and that's the point that I'm making, interest rates have not come down to

the same degree and the reason for that, which I think is important, is that I don't think the market believes that inflation is permanently—that the degree of inflation that existed prior to COVID or lack of inflation is going to be a permanent market state, so the market is building in an expectation of higher inflation rates and also higher real returns in those interest rates in the future and that's why they haven't, they've settled where they are and not back to one or two percent where they were prior to COVID.

COFFEY, KC:
Q. Isn't it true that in increasing interest rates, like the Bank of Canada increasing interest rates, isn't it true that there's a lag time, expected lag time in terms of it causing inflation to drop, increasing rates, it doesn't happen, you don't increase the rate today and have inflation drop by an apportion of amount the next day, isn't that correct?

MR. COYNE:
A. You'll have to repeat that question.

COFFEY, KC:
Q. Isn't there a lag time involved in having the Bank of Canada's interest rates affect inflation by way of forcing it or causing it to go down? They increased the rates to slow down inflation and to reverse it, isn't that correct?

MR. COYNE:
A. That was part of their strategy yes, and I would expect some lag in that relationship.

COFFEY, KC:
Q. And therefore, the current rate of 4.75 percent, its effect on causing the inflation rate, well again if you look, if you look at cause and effect, April of 2023, 5 and inflation 4 percent, 5 percent, 4 percent. April 2024, 5 percent, inflation, 2.9 percent. So by keeping the overnight rate at 5 percent, I don't know if there's a cause and effect but there's a correlation here between 4 and 2.9, isn't there? Over time it caused inflation or inflation has dropped.

MR. COYNE:
A. One of the factors, yes, but it was more

than just the overnight bank rate, that's one of the factors, yes, that's the purpose of Central Bank policy and as the Central Bank of Canada and United States has announced it's the policy of these central banks to try and reel inflation back in to some thing that they believe is sustainable, which is generally considered around 2 percent and until we reach that 2 percent target, I believe that it's likely that the Bank of Canada, because it's their stated policy, and the Central Bank in the United States will keep higher interest rates to try and dampen the economy because that's one of the principle tools they have to battle inflation.

COFFEY, KC:
Q. And there has been a recent decrease by the Bank of Canada in its overnight rate.

MR. COYNE:
A. Yes, they lowered it 25 basis points last week to 4.75.

COFFEY, KC:
Q. And in relation to that then for all we know, in a year's time the Bank of Canada

overnight rate could be 3 percent, 2 percent, isn't that correct, for all you and I know.

MR. COYNE:
A. Well you're asking me to speculate –

COFFEY, KC:
Q. You don't know the answer to that, you don't know whether or not the, what the Bank of Canada overnight rate is going to be in a year's time.

MR. COYNE:
A. Of course not. But that's why we have markets. It's not our job to guess the future, but that's what markets do. Investors take positions in the market and when you look at what's going on with 10 year and 30 year Government of Canada bonds, they remain at—today at 3.28 percent for the 10-year bond and 3.26 percent, so the markets don't believe that those rates are going to come back down to where they were pre-COVID and as a result, we've enjoyed 20 years of fabulously low inflation and fabulously low interest rates that companies have taken advantage of and consumers have

taken advantage of, but we're no longer in that capital market environment and that's what this data suggests.
COFFEY, KC:
Q. Now in the capital market environment, are you familiar with the Labrador Island Link?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And Emera's interest in it, Emera's partnership interest in it.
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And do you know what the ROE is for Emera in relation to its investment as a partner in the Labrador Island Link?
MR. COYNE:
A. My understanding is it's linked to the rates set by this Board for Newfoundland Power
COFFEY, KC:
Q. Which is currently 8.5 percent?
MR. COYNE:
A. That's right.
COFFEY, KC:

Q. And are you aware that May 28th, 2024 that Emera and KKR and Newfoundland and Labrador Hydro announced that KKR was buying Emera's interest in the LIL?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. And are you aware, generally aware of the financial details?
MR. COYNE:
A. Well, I'm aware of what's in the public domain pertaining to those details.
COFFEY, KC:
Q. Could you tell the Board what you know about it?
MR. COYNE:
A. Well you've provided us with a press release that I think has the highlights, I could read from that.
COFFEY, KC:
Q. Okay, thank you.
MR. COYNE:
A. Which would be better than my memory.
COFFEY, KC:
Q. And I appreciate that. If I could, Mr.

O'Brien, this is the one I failed to—Mr. Chair, I omitted to send that around yesterday afternoon. I did last night and Mr. O'Brien has graciously agreed to -
MR. O'BRIEN:
Q. I have no objection to –
CHAIR:
Q. Okay, have it put in.
MS. GLYNN:
Q. Information No. 19 will be the –
COFFEY, KC:
Q. It's No. 19?
MS. GLYNN:
Q. No. 19 is the press release on the new investor in the Labrador Island Link.
COFFEY, KC:
Q. And as well, if I could, again for the sake of completeness because they announced they were going to do the deal and it was an actual, I have the documents here, I distributed these yesterday, announcing that they closed the deal.
MS. GLYNN:
Q. So Information No. 20.
COFFEY, KC:

Q. One announcement is by Emera, one is by KKR.
MS. GLYNN:
Q. Information No. 20 is the announcement from Emera.
MR. O'BRIEN:
Q. The second one was distributed earlier, that was distributed earlier, right, that was the one that was –
COFFEY, KC:
Q. Yes.
MR. O'BRIEN:
Q. Is it this one? No, it's not, sorry.
MS. GLYNN:
Q. No. 20 is the Emera release.
MR. O'BRIEN:
Q. That's 20, this is 19. That's the same one. Sorry, Mr. Chair, I think I have the same one twice. I got it there, okay.
MS. GLYNN:
Q. And Information item 21 is the KKR release.
MR. O'BRIEN:
Q. So we have three?
MS. GLYNN:
Q. The joint release is Information No. 19.
MR. O'BRIEN:

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Q. This is 19, okay. Emera is 20, okay, and KKR is 21, okay.
CHAIR:
Q. Okay, we're good?
COFFEY, KC:
Q. We're good, thank you, Mr. Chair.
MR. COYNE:
A. I think I have only seen the version, what we're calling No. 19. If there are two additional versions of this, I don't believe that I've seen them.
COFFEY, KC:
Q. I know 20 and 21 were sent around, they just haven't—it's just a closing, but perhaps you could give the witness those please, thank you. It's just an announcement, Mr. Coyne, confirmation that they had closed the deal.
MR. O'BRIEN:
Q. And, Mr. Chair, maybe we could give the witness an opportunity to review that.
COFFEY, KC:
Q. To have a look at it.
CHAIR:
Q. Sure. Take your time to review.
MR. COYNE:

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A. And was there a second announcement after this?
COFFEY, KC:
Q. Mr. Coyne, there were two on the same day, June 2nd, I think, KKR confirmed they closed the deal and Emera confirmed they closed the deal, they confirmed it separately.
MR. O'BRIEN:
Q. On June 4th, was it? Yeah, okay.
(12:15 p.m.)

COFFEY, KC:
Q. It was June 4th, I apologize. Great, thanks. So you had seen the announcement, well the 20 and 21, they're just there for the record where they closed the deal. The deal they closed is described in No. 19, Information No. 19. Perhaps you can describe for the Board, generally, based on this what your understanding is of what happened. At the end of the last month what's in—today is the 18th, I believe, so it's about three weeks ago. Perhaps you can tell us what happened?
MR. COYNE:
A. You want me to describe it?

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COFFEY, KC:
Q. Yes, if you would.
MR. COYNE:
A. Well, my understanding is that Emera had an ownership interest in the Labrador Island Link and it has reached an agreement with KKR to sell those ownership interests effective, as we've just learned, June 4th, but it looks like Emera will also remain, as they say actively involved in the partnership, along with Hydro, continuing to provide sustaining capital investments to support ongoing operations. So I don't know exactly what that means without looking at all the legal documents around how that separation occurred, but the ownership rights have transferred to KKR for a sum of 1.19 billion Canadian.
COFFEY, KC:
Q. Now the first, like a larger paragraph below the bullets, the last sentence of that paragraph, it reads "The transaction value is 1.19 billion Canadian made up of 957 million Canadian in cash and 235 million Canadian for assuming Emera's obligation to

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fund the remaining initial capital investment." And this, and Mr. Coyne, is your understanding that this is being, the income flow in relation to this investment by Emera and now by KKR, is based on the 8.5 ROE, 8.5 percent ROE that this Board sets that it currently has for Newfoundland Power?
MR. COYNE:
A. That is my understanding.
COFFEY, KC:
Q. Just a moment, I apologize Mr. Chairman and members of the Board. Oh yeah, here it is.
CHAIR:
Q. I don't think you can get anything else in that box.
MR. O'BRIEN:
Q. Must be empty by now.
COFFEY, KC:
Q. Your point is well taken.
MR. COYNE:
A. I share that view, Mr. Chair.
MS. GLYNN:
Q. Information item No. 22 is Emera's Management Discussion and Analysis.

COFFEY, KC:
Q. Okay, Mr. Coyne, you got No. 22 in front of you?
MR. COYNE:
A. I do.
COFFEY, KC:
Q. Thank you. And this appears to be a document, Emera Management's Discussion and Analysis as at May 13, 2024. So it was about, let me see, 15 days before the announcement of the Emera and KKR deal of the LIL. I'd ask you to turn to page 11, please, the bottom, right there, that's it, and at the top of the page there, there's a heading "LIL" and could you read that out loud please?
MR. COYNE:
A. "Equity earnings from the LIL are expected to be higher in 2024 compared to 2023, resulting from an increased investment in LIL planned for 2024. Equity earnings from the LIL investment are based on the book value of the equity investment and the approved ROE of 8.5 percent. Emera's current equity investment is 750 million

comprised of 410 million in equity contribution and 340 million in accumulated equity earnings. Emera's total equity contribution in the LIL, excluding accumulated equity earnings, is estimated to be 650 million once the final costing has been confirmed by Nalcor to determine the amount of the remaining investment."
COFFEY, KC:
Q. Okay, now when you – you're a financial sort. So, perhaps you could explain to the – well, at least explain to me, when you combine this information in those two paragraphs, particularly the second paragraph of No. 22, with the financial information in No. 19 in the first paragraph, first full paragraph, the one dealing with the 1.19 billion Canadian, made up of 957 million Canadian and 235 million Canadian, could you tell us what your understanding is of what happened here, in terms of who paid what – who paid whom what for how much and still owes people money? Perhaps you could just explain to us.
MR. COYNE:

A. My understanding is that KKR is paying 100 – 1.19 billion Canadian for obtaining Emera's ownership interest in LIL and as a result of that, it will have various rights and obligations, some of which Emera will retain, some of which the new owner will acquire, including the right to an income stream that's – well, I know more than what's in this paragraph because there's a statute behind this and there are contracts that are complex behind this.
COFFEY, KC:
Q. Yeah.
MR. COYNE:
A. So, that knowledge tells me that what the Board does pertaining – under current statute and under the current contracts, what the Board does here also affects the LIL's allowed rate of return.
COFFEY, KC:
Q. Yes, and in relation though – so, looking at this, in terms of the amount of money involved and how it's calculated or how it was – how it all kind of fits together, looking at No. 22, Emera's current equity

investment is 750 million and then it breaks it down, 410 and 340. 410 and 340 add up to the 750. So, Emera currently has 750 million invested and if you look back at No. 19, Emera, according to this transaction value made up of 957 million Canadian and 235 million for Emera's – assuming Emera's obligation to fund the remaining initial capital investment. In other words, Emera is going to – has to put in, or now KKR has to put in another 235 million to add up – so, 957 and they're going to put in 235. Am I correct? Based upon -
MR. COYNE:
A. You'll have to repeat your question.
COFFEY, KC:
Q. Okay, sure. What I'm getting at is is – here, I'll ask it this way perhaps, easier way to do it. Based on what's there, can you tell whether or not KKR is paying any kind of a premium for Emera's interest?
MR. COYNE:
A. In order to determine what, if any, kind of a premium they paid, you need to know more than what's here. You need to know what

assets they've acquired, what the book value of those assets is. It's a press release. It's not an accounting analysis, which is what a premium – how a premium would be determined. So, I can't tell based on what's here how much of a premium or any premium has been paid.

COFFEY, KC:
Q. And in relation to this though, in terms of your understanding of the contracts that exist, as you – well, you didn't allude to it, in fact you referred to your knowledge otherwise. Within the past month then, is it fair to say that KKR was prepared to put almost 1.2 billion dollars into buying an interest in the LIL, the payment return on equity of which is currently eight and a half percent?

MR. COYNE:
A. That's true. That's right here. Now, what that doesn't tell us is what their expectations are for the future around that ROE.

COFFEY, KC:
Q. Yeah.

MR. COYNE:
A. If they were to do their due diligence, they would have been aware of this filing and they would be aware of capital markets and they would have studied – knowing KKR, they would have studied them at great – at some depth in order to develop a forward view. So, it would be – I would be shocked if KKR were to assume that it would always be 8.5.

COFFEY, KC:
Q. And well, in theory, it might go down.

MR. COYNE:
A. That's right.

COFFEY, KC:
Q. So, but KKR, the thing they did know when they announced the deal and when they closed it is that actual ROE that exists is eight and a half. They knew that and -

MR. COYNE:
A. But doing this work, that's one point in an Excel spreadsheet for one year and that year would have been 2024, and beyond that, they would have had some really smart analysts that would have looked at capital market information and developed a projection

regarding what those returns are going to be in the future, and it wouldn't have been – they wouldn't have just assumed that the status quo today would last indefinitely into the future.

COFFEY, KC:
Q. We don't -

MR. COYNE:
A. What their assumptions were – if I could finish. What their assumptions were, we can't know based on what's here.

COFFEY, KC:
Q. Exactly. We don't know.

MR. COYNE:
A. We don't know.

COFFEY, KC:
Q. The only thing we do know, the only thing we can be certain of is they would have known that the current return is eight and a half?

MR. COYNE:
A. And they would have known -

COFFEY, KC:
Q. Is that correct? They would have known the current return is eight and a half?

MR. COYNE:

A. They would have known that the current return is eight and a half and they would have also known that Newfoundland Power had a request in to this Board to update its required ROE and then after that, they would make their own judgments concerning what the future would be.

COFFEY, KC:
Q. Now, one other thing they would have known was this, wouldn't they, if they're – you know, due diligence sort of people, they would have known that – I think it was on May 16th of 2024 the rate mitigation implementation was announced. They would have known that.

MR. COYNE:
A. They would know that.

COFFEY, KC:
Q. And so, as it turns out, 12 days after that's announced, this deal is announced publicly and one aspect, I'm going to suggest to you, of the rate mitigation plan is – involves the investors, in this context Emera, context of my question Emera, realizing that "God, we're going to paid

until – at least till the end of 2030",
because there's a plan in place to pay the
bond holders and the equity owners at least
until the end of 2030, isn't it?
(12:30 p.m.)
MR. COYNE:
A. This process would have been in place for
months before they reached this agreement.
COFFEY, KC:
Q. Well -
MR. COYNE:
A. Can I answer please?
COFFEY, KC:
Q. Well, if I could, how much do you know about
actual mergers and acquisitions big time?
MR. COYNE:
A. Quite a bit.
MR. O'BRIEN:
Q. Mr. Chair -
COFFEY, KC:
Q. Okay. Do you know then -
MR. O'BRIEN:
Q. I'm having a difficulty as to what – how far
we're going down this road in terms of
speculation as to what the witness would

know in terms of this transaction. It's
okay to say what a public announcement is
about the details of a transaction.
Everybody can see that. But as to what the
individuals would know about that
transaction, unless this witness is involved
in that transaction himself, I'm not certain
it's appropriate to ask him to speculate.
CHAIRMAN:
Q. My issue is more about giving him an
opportunity to answer the question probably,
but the – but Mr. Coyne can present his
opinion. I think you just got to let him –
give him time.
MR. O'BRIEN:
Q. Sure.
COFFEY, KC:
Q. Go ahead, Mr. Coyne.
MR. COYNE:
A. It might be beneficial if you could repeat
your question, so I -
COFFEY, KC:
Q. Yes, thank you. Thank you very much.
Thanks for that. Perhaps I'll retrench a
bit. What we do know is on May 16, 2024,

the rate mitigation implementation plan was
announced, correct?
MR. COYNE:
A. Correct.
COFFEY, KC:
Q. And until the – now, upshot of that is –
outcome to that is that it would be fair to
say that the bond holders, of course their
money is guaranteed by the Federal
Government anyway, the Muskrat Falls bond
holders, there'd be some assurance there
that, in any case, that the bonds are going
to be paid and the equity interests in the
project are going to be paid in accordance
with the contracts until the end of 2030.
Is that your understanding of what rate
mitigation involves?
MR. COYNE:
A. No.
COFFEY, KC:
Q. The debts are going to be paid by – the
ratepayers are not going to themselves bear
the full burden of it, by a long shot.
MR. COYNE:
A. The latter part I understand. The former

part, I do not understand. I don't know
what contractual provisions are in the rate
mitigation plan that would guarantee LIL
payments beyond – beyond the 2.25 percent
rate increase that's baked in there. So, I
don't know what, if any, contract provisions
were in the rate mitigation plan that were
pertain to the LIL.
COFFEY, KC:
Q. And in any case, KKR, for reason or reasons,
and I take Mr. O'Brien's point, it would be
speculation on my part, but whatever reason
or reasons, the eight and a half percent
that you've agreed they did know about, ROE,
and they bought in at what is currently
eight and a half? Whatever they might
expect to happen in the future, I don't
know. You don't know. So, they bought in
at eight and a half.
MR. COYNE:
A. What I do know is that they bought in at
eight and a half percent today and had to
develop an expectation of what that was
going to be in the future in order to
complete a transaction like this.

COFFEY, KC:
Q. And they might very well – it's entirely possible that they would have concluded that eight and a half is eight and a half and it's going to stay at eight and a half.
MR. COYNE:
A. Well, that could be.
COFFEY, KC:
Q. It's possible.
MR. COYNE:
A. Yeah. But they – you know, here's the issue with an investor like KKR or any investor, if they're looking at the LIL, this is a – most transmission assets are 50-year transmission facilities and this one was just completed. So, they would need to have developed a 50-year view of the economics of this transmission line and today, at eight and a half percent, and all the other conditions surrounding the LIL would have just been the starting point of the economic and financial analysis. A concern that they would have had to have considered is whether or not the Muskrat Falls Project, under the rate mitigation plan, was going to be

sufficient so that the economic viability of that line would withstand the future challenges associated with rolling the full investment for Muskrat Falls into rates. So, it would have been a complex consideration of business, financial and political risks that they would have needed to have considered and not just the simple ROE today.
COFFEY, KC:
Q. Yeah, and having considered it all, they bought in apparently.
MR. COYNE:
A. They did.
COFFEY, KC:
Q. Now, earlier today when you were explaining how it is that your reports, your report got prepared, I take it – I should ask this. The rebuttal report was a similar sort of process as the – between the two of you gentlemen followed? Mr. Trogonoski, when you did the rebuttal, was it similar to the first report in terms of your cooperation?
MR. TROGONOSKI:
A. Yes, it was.

COFFEY, KC:
Q. Okay. I assumed. I assumed that and I just wanted to confirm it. In the course of explaining that, Mr. Coyne, you indicated that it's your practice to have gone back over like prior Board decisions, get a sense of – I don't think you used this phrase, but to get a sense of the room, as it were, in terms of how things had transpired before?
MR. COYNE:
A. We always do. We always go back as far as we have – as far as we have decisions, not just in this jurisdiction, but also other Canadian decisions, just to make sure that we understand what the concerns are, how they've been addressed, the evidence that's been presented to boards, what boards have found to be credible for purposes of making these decisions and ask ourselves how is it that we can present evidence that's of greatest value to these boards in making these determinations. So, for us, it's always an evolving process.
COFFEY, KC:
Q. Now, in relation to the – you were involved

in the 2016 GRA here?
MR. COYNE:
A. That's right.
COFFEY, KC:
Q. Like you testified during it?
MR. COYNE:
A. I did.
COFFEY, KC:
Q. As did Dr. Booth, who's sitting here.
MR. COYNE:
A. I remember.
COFFEY, KC:
Q. And in the course of that, the Board's ruling on that application, there's a sentence that appears. "The Board accepts the use of US data, but only with adjustment, and will apply a 50 to 100 basis points downward adjustment to results based on US data where appropriate." Do you remember -
MR. COYNE:
A. I do.
COFFEY, KC:
Q. Okay. And has anything in principle changed in relation to that, since 2016? Has

anything -
MR. COYNE:
A. Yeah, I was asking -
COFFEY, KC:
Q. Oh, sorry.
MR. COYNE:
A. - John a question here. Anticipating where you're going, I think there was a question from the Board on this issue.
MS. GLYNN:
Q. Mr. Coffey, would you like to bring that up on the screen?
COFFEY, KC:
Q. Sure, why not.
MR. COYNE:
A. Do you have the number in front of you?
COFFEY, KC:
Q. No, not off the top of my head. Ms. Greene is always good for that kind of stuff.
MS. GLYNN:
Q. It's at P.U.18 (2016)
COFFEY, KC:
Q. Thank you. Oh yes, the actual decision itself. I had a copy here.
MR. COYNE:

A. Oh, that's the decision itself, yeah.
MR. O'BRIEN:
Q. You're looking for the RFI.
COFFEY, KC:
Q. There was an RFI is what – no, that's – look, what I'm interested in is this: is that from your perspective, Mr. Coyne and Mr. Trogonoski, what, in principle, if anything, has changed? Why should the Board change its position?
MR. COYNE:
A. On an adjustment for US data?
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. I think a few things. You know, one is in the march of time, and this is almost a decade ago now, there has been a greater understanding of the degree of the integration of Canadian and US capital markets, an understanding of the degree of integration of US and Canadian utility operations. As these businesses have become much more cross border, it's apparent that these companies are raising capital both in

the US and Canada to fund their operations and we have data on that issue and responses to some of these requests, and I think in general, a pragmatic recognition on behalf of regulators that if you're going to use capital market based information, there is a paucity of information available on Canadian companies that are good comparators for companies such as Newfoundland Power. So, I think the combination of recognition of the greater integration of capital markets, the fact that these companies are operating like Fortis and Emera in multiple jurisdictions in both Canada and the US. Also recognition that the regulatory environments have been studied extensively over that period of time and both credit rating agencies, as well as equity analysts and our own work have shown that these regulatory environments are, as the NEB surmised, more alike than not. So, one at a time, we've seen Canadian regulators recognize that issue and as a result of that, we no longer see Canadian regulators feeling the need to make an adjustment for US data when presented for

these purposes, as long as care is presented, as we have here, with taking Canadian inputs and US inputs where appropriate to populate these models. And in our analysis, that's how we're very careful to present the Canadian proxy group with largely Canadian data, in addition to US proxy groups with US data and then a combined one, which we call the North American proxy group. We presented that recently in that fashion in Alberta. We've been doing this for sometime, but I think there's been more penetration of the thinking, but both the Alberta Commission recently and the BC Commission recently both acknowledged the use and value of US data, but this goes back for a longer period of time than that, with the NEB and the Ontario Energy Board as other examples where there's been a recognition that no such adjustment was required.
COFFEY, KC:
Q. Well, back in the 2016 hearing, you made the same pitch to the Board and the Board rejected it, didn't they?

MR. COYNE:
A. No, I -
COFFEY, KC:
Q. In terms of complete equity -
MR. COYNE:
A. No, no, you're – no, I would reject your characterization of "the same pitch". It was we'd listen to this Board back in 2016 that raised these concerns about comparability of US and Canadian data and since then, have done extensive work around that issue so that we can come back and shed further light on it.
COFFEY, KC:
Q. Well, if I could, Mr. Coyne, in 2016, your position was that American data should be used here.
MR. COYNE:
A. Yes, it was.
COFFEY, KC:
Q. Yes. So, as I said, made the pitch, that was the pitch.
MR. COYNE:
A. Well -
COFFEY, KC:

Q. And the Board – listen, it does – I accept that you went away -- you read what the Board said, determined, and you went away and, you know, took it into account, and here we are again. We're back again.
MR. COYNE:
A. Well, and not just here. Through extensive hearings and multiple jurisdictions across Canada, that's no longer current thinking regarding the use of US data in Canadian jurisdictions.
COFFEY, KC:
Q. Well -
MR. COYNE:
A. And I'll just – I went through – I have just gone through – we have gone through two extensive hearings in Alberta and BC where this issue was raised and neither of those commissions found it necessary to make an adjustment for using US data.
COFFEY, KC:
Q. So, you prevailed most recently in two – your view prevailed most recently in – before two other boards?
MR. COYNE:

A. Correct, yeah.
COFFEY, KC:
Q. And you're suggesting then that that should influence this Board then to follow these other boards?
MR. COYNE:
A. No, my answer was broader than that. You've asked me what's changed and I indicated that since then we've done a lot of work on this issue and there's been a lot of thinking that's gone on. You know, I go to CAMPUT most years and I know Board members here and others do as well. There's been an exchange of thinking on this and other broad policy issues in Canada and pragmatically speaking, if you are sitting in a commissioner's seat and relying on expert evidence on the cost of capital, it's inevitable even witnesses such as Dr. Booth, who as I know prefers Canadian data when he can use it, find it necessary to use North American market data when it comes to making these determinations because otherwise you just don't have credible capital market information that would allow you to do so. But that's why we

always accompany our work with business risk analysis that compares the characteristics of these companies with Newfoundland Power, in this case, to make sure that those companies are representative, and if any adjustments need to be made, they can be made.
COFFEY, KC:
Q. If I could, sir, credible – I'm sorry, what did you say, credible data?
MR. COYNE:
A. Yes.
COFFEY, KC:
Q. Credible market data?
MR. COYNE:
A. Credible evidence and market data.
COFFEY, KC:
Q. Okay. Now, in relation to that, so you went looking and looked at ten companies in the US, correct?
MR. COYNE:
A. Yeah, we looked at 30 companies in the US and we screened them carefully -
COFFEY, KC:
Q. Oh, screened them.

MR. COYNE:
A. - to get down to ten that were most – that were comparable to Newfoundland Power from a financial business risk perspective.
COFFEY, KC:
Q. Under those – well, under the criteria you listed.
(12:45 p.m.)
MR. COYNE:
A. The screening criteria that we used, yes.
COFFEY, KC:
Q. Yes. Now, in terms of ten, ten is not really a reliable sample of most anything, is it, statistically?
MR. COYNE:
A. When it comes to cost of capital analysis, you know, there is – I'm not aware of any statistical measure that would say what is the minimum number. FERC has studied this issue and their view, which has carried weight in US jurisdictions, is four to five is the limit and then beyond that, you need to be concerned about the robustness of the proxy group. From our own work, and I know this because we do a lot of work on gas

utilities as well, the number of gas utilities you have that are publicly traded now typically results in about a proxy group of about six. And in my view, six is getting very close to that measure. But ten, plus combined with the four Canadian companies that we have, 14 is more than adequate for these purposes.
COFFEY, KC:
Q. And how many did you have – how many proxy companies were you using in 2016?
MR. COYNE:
A. I'd have to go back and check, unless you know off the top of your head, John?
MR. TROGONOSKI:
A. I don't know for sure. I think it was a similar number.
MR. COYNE:
A. What we didn't – and again, I'll have to check my memory on this, is again, we came away thinking around this issue and that's when we went to the concept of a North American proxy group where you combined – again, because these companies are both operating and raising capital in the US and

Canada, to combine them into one proxy group of Canadian and US companies for the benefit of seeing that impacts results. That's the first change we made and then the second change we've made is to study a Canadian proxy group separately from the US, so you can see in our results what difference it would make. And if you go to our results page, and I think this is pretty important on this issue. So, if we could just take a moment to do that. If you go to Figure 43, which is on page 86 of our direct testimony, you could see – that's pretty – yeah, if we could go to Figure 43 in direct.
CHAIRMAN:
Q. This one's rebuttal.
MR. COYNE:
A. I don't know if that's in rebuttal, is it, John?
MR. TROGONOSKI:
A. No.
GREENE, KC:
Q. No, it's in the original.
MS. GLYNN:
Q. What she has up -

CHAIRMAN:
Q. No, I meant what's on the screen was rebuttal. That's all.
MR. COYNE:
A. That's Figure 3 in rebuttal. Yeah, if we could go to Figure 43 in direct.
MR. O'BRIEN:
Q. In direct.
MR. COYNE:
A. It's on page 86 in the hard copy. Yeah, just above that. Great, thank you. So, to look at this issue, we also study a Canadian utility proxy group and both reveals the problems as well as the contrast. If you solve using a Canadian utility proxy group only -- and I think there are six companies in that group, John, is that right?
MR. TROGONOSKI:
A. Right.
MR. COYNE:
A. You get an ROE of 9.87 percent, which is two basis points higher than our North American proxy group that we feel is more reliable. It's a mix of Canadian and US electric companies in that group. You have to take

in some gas utilities in the Canadian utility proxy group. But the reason we don't rely on that Canadian utility proxy group, and therefore that would take this issue off the table, Mr. Coffey, is that you have to rely on companies that aren't – you raised concerns with Duke Energy, for example, as a comparator. If you look at a Canadian utility proxy group, you have companies that are engaged in pipeline operations. The primary business is not the electric utility business. So, the trade-offs you have to make in doing so, in our view, make it a much less reliable proxy group than using the US proxy group, but we like to keep Canadian content. By going – by adding the electric, four electric companies in Canada to the ten in the US, we get this North American proxy group. So, if this Board were to say, "I only want to place reliance on Canadian proxy group", then we have that answer here, but we think it's a less reliable one than relying on the North American proxy group.

COFFEY, KC:

Q. Now in relation to banding or bands, I'm going to ask you about bands. Your recommendation is 9.85 percent plus or minus what?

MR. COYNE:

A. There isn't a plus or minus. It's 9.85 percent.

COFFEY, KC:

Q. 9.85. And how do the band – the banding, does the banding figure under this at all?

MR. COYNE:

A. No, it's – that point, that's a point estimate from within the range of results from the North American electric proxy group.

COFFEY, KC:

Q. Oh no, I'm not – I'm not talking about what's on the screen here now. I'm talking about generally your recommendation is 9.85 and plus or minus so many points.

MR. COYNE:

A. No.

COFFEY, KC:

Q. No, okay. So, how does banding – you're familiar with the idea of bands?

MR. COYNE:

A. Yes. Well, when you say the idea of bands, there are many types. I don't want to get cute, but -

COFFEY, KC:

Q. Well, in relation to here, right now it's 8.5 percent, the ROE, and there's plus or minus so many basis points. Then we have band.

MR. COYNE:

A. Oh, the earnings band?

COFFEY, KC:

Q. Earnings band, yes. Oh yeah.

MR. COYNE:

A. Yeah.

COFFEY, KC:

Q. Okay. Well so -

MR. COYNE:

A. If that were to continue to apply, then there would be a cap over and above that 9.85.

COFFEY, KC:

Q. And what is the current earnings band in place here?

MR. COYNE:

A. Is it 40 or 50 basis points? I believe it's either 40 or 50, but I'll test my memory. We have it in here. I think it's in Figure – yeah, we have it as 40 to 50. It's in Figure 2. We have it as 40 to 50 basis points and in our Figure 2 in our rebuttal is that earnings band. I'm on page 11 of our rebuttal in Figure 2.

CHAIRMAN:

Q. Excuse me. I just want to get some clarity because it's been discussed a couple of times about a cap on return on equity, which doesn't exist legislatively here. It's return on rate base. So, I just – so, I don't get too confused on it because the witnesses may not be as familiar with the return on rate base standard with regard to excess earnings in this jurisdiction. I think there's a comparable range to the range of return on rate base that's this plus or minus 40. So, it's – but the actual excess earnings is defined as a return on rate base methodology, which creates additional complexity. But so, there is no defined cap on a band with regard to return on equity. So, I just wanted to put that out there for clarification.

COFFEY, KC:
Q. Yes, yeah, it's a cap on earnings. Yeah, and I appreciate the point, Mr. Chair. Is there any reason why the – and I guess you have it here at – a dead band, as you put it, of 40 to 50 percent. Is there any magic in 40 to 50? Could it be 10 to 20?

MR. COYNE:
A. We haven't provided evidence or recommendation on that issue, but in our experience, if the dead band – dead bands are often established to provide some incentive for a utility to look – seek for improved productivity performance. And if the company can make changes in its operations that would both generate – that would generate earnings in a short run, but be returned to customers when rates are rebased, that's deemed as being a good thing. And in consideration of the magnitude of those dead bands, 40 to 50 is about as – the most narrow. As you can see from our examples here, most of them are

broader than that, much broader than that. The view, the public policy view on this has been that the broader the dead band, the stronger that incentive, and from a consumer interest standpoint, the question gets asked, you know, why do I want to make that a larger dead band? Why don't I want to make an absolute cap at 10. – you know, whatever the ROE is. And the trade-off there is that if you create a stronger incentive, there may be short term earnings gains for the company in the near term, but again, they'll be rebased to that level of expenditure that generated those earnings the next time they come in for rates and that'll be returned to customers in the long run. So, when – we haven't been asked to do so here, but we typically – we would typically recommend something larger than 50 basis points for those reasons, to make sure it's a strong enough incentive to be effective.

COFFEY, KC:
Q. In principle, there's no reason why it couldn't be lower?

MR. COYNE:
A. Well, if it's lower, then I think you're really diminishing – if you want – you're looking for an incentive there, then you're really making it a minimal incentive compared to something that's broader. Also, it's generally viewed as being good public policy to make it a symmetric dead band, so it's effective on both the low side and the upside, to be fair to both consumers and to the company. And you can see in Canada, these dead bands are much broader by way of examples than they are currently here.

COFFEY, KC:
Q. In your rebuttal, there's a – yes, in the rebuttal report, if we can bring that up, please, page three. I think actually page three of the report. There's a question, "are there areas in which you and Dr. Booth are in agreement?" and as we go down the place – a bit further please – "an adjustment of 50 basis points for floatation costs and financing flexibility is reasonable and appropriate". Now, did Dr. Booth actually say that in relation to

Newfoundland Power itself?

MR. COYNE:
A. He has included it in his analysis and I don't know that he used those words, but my presumption was that because it's in his analysis that he – that he is in agreement that it's reasonable and appropriate. Otherwise, he wouldn't have included it.

COFFEY, KC:
Q. Okay. Well, if we look at Dr. Booth's report, please? It's page 71 of the report. Now at lines 5 and 6, the question is posed "what is the evidentiary support for an issue cost allowance of .5 percent, .50 percent?" and if we go down at the bottom of page 71, line 24, Dr. Booth says, "for the last ten years or so, witnesses seem to have settled on 0.5 percent. However, in answer to CA-NP" – it should be 086, "NP admitted that it has never issued any new common shares to Fortis and it maintains its equity ratio simply by adjusting its dividend payments to Fortis. So, as a matter of fact, there's no evidence of NP incurring" – if you go on the next page, please, "So, as

a matter of fact, there's no evidence of NP incurring a floatation or issue cost. It is therefore questionable as to why NP would be allowed cost recovery for floatation or issue costs when NP incurs no such cost." So, that's actually what Mr. – what Dr. Booth said about floatation costs vis-à-vis Newfoundland Power. Were you aware that that was the position he had taken?
(1:00 p.m.)
MR. COYNE:
A. Yes. If you go further down the page to line 12, adjustment to ROE, you see 50 basis points.
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. And so, I guess Mr. Booth will have an opportunity to explain that difference. If he feels that way, why he's putting 50 basis points into his analysis.
COFFEY, KC:
Q. Right.
MR. COYNE:
A. I would say, and again, without putting

words in Dr. Booth's mouth, which is not necessary, he's referring to floatation costs and that's one piece of what that 50 basis points is. It's historically both for floatation and financial flexibility and I've seen Dr. Booth testify for many years and he's never varied from that position.
COFFEY, KC:
Q. And but in this context, in relation to at least one aspect of the floatation costs, Newfoundland Power does not incur that expense?
MR. COYNE:
A. Their parent incurs that expense.
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. Fortis. That's the way equity works. The parent company, for all these companies, is the entity that issues equity and then it funds the subsidiary operations at the operating company level through transfer of equity into the operation, in this case Newfoundland Power. Newfoundland Power repays its parent through dividend payments

that it flows back up to the parent company as a way of compensation.
COFFEY, KC:
Q. Well, on page – at the bottom of page 71, what Dr. Booth actually said is, "Newfoundland Power admitted it never issued any new common shares to Fortis. It maintains its equity ratio simply by adjusting its dividend payments to Fortis."
MR. COYNE:
A. Well, of course, Newfoundland Power does not issue any common shares. Those common shares are issued at the parent company level and then, in layman's terms, it writes cheques and sends funds as necessary to fund Newfoundland Power's operations and Newfoundland Power in return dividends back up to the company. That's how equity works between a parent company and subsidiary. Newfoundland Power is not large enough to issue its own equity. Newfoundland Power is not even large enough to issue its debt in public markets. It relies on private placements. So, it would be virtually impossible for a company like Newfoundland

Power, in my estimation, to issue its own equity.
COFFEY, KC:
Q. Here is an assertion that by adjusting its dividend payments, which would be Newfoundland Power's dividend payments to Fortis, not Fortis's injection of equity.
MR. COYNE:
A. I'm not sure if I understand the question.
COFFEY, KC:
Q. Well, so, your position is that Newfoundland Power's ratepayers should contribute to this half a percentage point that's attributable to floatation costs because its parent company incurs floatation costs.
MR. COYNE:
A. Floatation and well as other costs of issuing equity into historic -
COFFEY, KC:
Q. But it's because its parent company does, not because it does.
MR. COYNE:
A. That's right, yes. It would be very inefficient for Newfoundland Power to issue equity or impossible.

COFFEY, KC:
Q. Mr. Coyne, as a consultant to Newfoundland Power, and you have been since I think it was 2015-2016 era, do you take into account in any way the ability to ratepayers – your perception of the ability of ratepayers to pay the extra cost associated with going to 9.85 and staying at 45? Do you take that into account at all?
MR. COYNE:
A. When you say, "take into account", do you mean in the analysis?
COFFEY, KC:
Q. Yes.
MR. COYNE:
A. No. The fair return standard has three prongs. And it -
COFFEY, KC:
Q. And so, it -
MR. COYNE:
A. It is not one of the three prongs. However, we are aware of the financial impacts of rate increases and the issues that they create for consumers, and we're aware of the broader responsibilities of the Board when

it comes to setting just and reasonable rates, but the Supreme Court of Canada has been very clear about what the fair return standard means and how it should be set and what those three prongs are. So, those are the ones that we abide by, and it's the same in the United States. They're the same principles.
COFFEY, KC:
Q. And -
MR. COYNE:
A. It's a cost, and like other costs, they need to be borne in rates by the company's ratepayers as long as they're prudently incurred and in the case of the cost of capital, as long as it's deemed to be a fair return. So, those are the standards that guide the Board in that regard and they also guide our work.
COFFEY, KC:
Q. So, if I could then, and you have me in the room, but the Board has heard, people in the room have heard in questioning and in answers by Newfoundland Power's witnesses to date that, you know, recently, in the recent

year, the year just passed, Newfoundland Power made a profit of about 48 million dollars. If, you know, your recommendation is implemented, the Board was to adopt it in full, I believe by 2026, profits will have risen to around 63 million. That's my memory. I stand to be corrected on that, but I think it is a question put, and you can do the arithmetic fairly quickly, and that's a significant profit increase percentage wise, isn't it? It's 25-30 percent.
MR. COYNE:
A. Well, couple things in your question. You're characterizing it as a profit. It's – I view it differently. It's a cost of capital -
COFFEY, KC:
Q. Well, well -
MR. COYNE:
A. - and that's different than a profit.
COFFEY, KC:
Q. If I could, would you -
MR. COYNE:
A. Could I finish?

COFFEY, KC:
Q. No, no, you know, I'm asking this question. I'm asking this question and you can respond afterward.
MR. O'BRIEN:
Q. Mr. Chair, if -
COFFEY, KC:
Q. If I could?
MR. O'BRIEN:
Q. I think that the response – you asked about a profit and he's trying to give you a response on a profit.
COFFEY, KC:
Q. Well, I'm -
MR. O'BRIEN:
Q. And how he characterizes that.
CHAIRMAN:
Q. I mean, he can do it in two stages, Mr. Coffey, if you like. So, at least – so, if there's two questions, then kind of do it in two questions. It's tough when you start a question and he starts to answer and then you try modify the question.
COFFEY, KC:
Q. Well, I appreciate the admonition, Mr.

Chair, but the – I asked him about profit, and he's gone on about something else. So, about profit here, if I could, in terms of that the financial statements refer to profit. Newfoundland Power's financial statements do identify profit, net revenue, call it whichever, whatever one likes.

MR. COYNE:

A. I would be surprised on a financial statement that it's called – what we're talking about here might be called net income.

COFFEY, KC:

Q. Net income.

MR. COYNE:

A. Or it might be equity earning, but the word you're using is not a financial term as we're applying it here. It's a cost of capital in the context of a regulatory proceeding and that's an important distinction. I only raise it because it is important. It's a cost of the capital, the equity capital that the company is using to fund its operations.

COFFEY, KC:

Q. Well, I'm talking about is on the financial statements, when you look at their financials, you'll see that it refers to net income, net revenue, some such term, and generically, most people would see it as that's the profit in that year, right. So, they most recently have made about 48 million, just under a million a week. You're telling us that, of course, that's not your concern. And fair enough, it may not be, but that's not your concern.

MR. COYNE:

A. That was not my answer.

COFFEY, KC:

Q. Okay. Your concern is – what was the phrase, fair -

MR. COYNE:

A. Fair return.

COFFEY, KC:

Q. Fair return.

MR. COYNE:

A. Well, it's not – and it's not my concern. It's -

COFFEY, KC:

Q. It's a legal -

MR. COYNE:

A. It's the law of the country of Canada that that's – that governs this Board's actions in this regard, and that's the one that we are using to guide our work. It's the cost of equity.

COFFEY, KC:

Q. And in relation though, in relation to this matter, would you – I understand from an earlier comment you'd made that you were prepared to accept or would accept or believe that ultimately, it's up to the Board to decide. Whatever you might feel is a fair, you know, fair return, it's up to the Board to decide, you know, bearing in mind your evidence, Dr. Booth's evidence and perhaps the general state of affairs in terms of the perception of people's ability to pay, the ratepayers, that the Board could take the position that "we've listened to everyone and we're going to keep the profits – we're going to come up with a figure and keep the profits where they are, the net revenue where it is". That's open to the Board, isn't it?

MR. COYNE:

A. I don't know how to respond to that question because there's so many aspects of it that I could just repeat what I said previously.

COFFEY, KC:

Q. Okay. Well, you know -

MR. COYNE:

A. But I'm not sure that that's constructive, but this Board has discretion, I would say, when it comes to determining the cost of capital and fortunately for the Board, it's guided by longstanding legal precedent and regulatory precedent in Canada about reaching those determinations and expert evidence and examination of capital markets is an important part of those considerations and it has broader responsibilities when it comes to ratepayer interests, but when it comes to setting the cost of capital, the fair return standard is the guiding principle.

COFFEY, KC:

Q. And – thank you, Mr. Chair.

CHAIRMAN:

Q. Thank you.

MS. GLYNN:
Q. Mr. Chair, I understand that -- I don't think Hydro would finish in the 15 minutes that we have left.
SIMMONS, KC:
Q. It's – it would be close, but probably not quite and I understand that Ms. Greene may have a few questions too. So, it sounds like we're coming back tomorrow anyway. So, it's been a long morning. Might be just as well to break now, Mr. Chair.
CHAIRMAN:
Q. You have a lot of compassion there, Mr. Simmons. I think we'll agree with you there and we'll take a break for today. Thank you.
UPON CONCLUSION AT 1:13 P.M.

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript of hearing in the matter of Newfoundland Power Inc. 2025-2026 General Rate Application heard on June 18th, 2024 before the Newfoundland and Labrador Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland and Labrador this 18th day of June, 2024

Judy Moss

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